
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: AB 2176 **Hearing Date:** June 11, 2024
Author: Berman
Version: May 23, 2024
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Juvenile court schools: chronic absenteeism rates*

HISTORY

Source: Santa Clara County Office of Education

Prior Legislation: AB 2417 (Ting), Ch. 786, Stats. 2022
SB 716 (Mitchell), Ch. 857, Stats. 2019
AB 2448 (Gipson), Ch. 997, Stats. 2018
SB 1143 (Leno), Ch. 726, Stats. 2016
SB 518 (Migden), Ch. 649, Stats. 2007

Support: ACLU California Action; Alliance for Children’s Rights; Association of California School Administrators; California County Superintendents; California Public Defenders Association; California Teachers Association; East Bay Community Law Center; Ella Baker Center for Human Rights; Fresh Lifelines for Youth; The Children’s Initiative; Youth Justice Education Clinic, Center for Juvenile Law and Policy, Loyola Law School; Youth Law Center

Opposition: None known

Assembly Floor Vote: 65 - 0

PURPOSE

The purpose of this bill is to require the Office of Youth and Community Restoration (OYCR) to develop an annual report on chronic absenteeism rates in juvenile court schools; to require OYCR, subject to available funding, to investigate the reasons for absenteeism at juvenile court schools with chronic absenteeism rates, as specified; to require OYCR to provide technical assistance, subject to available funding, to ameliorate the identified causes of the chronic absenteeism; and to requires the OYCR ombudsperson to include reports on chronic absenteeism in its reports to the Legislature.

Existing law establishes a fundamental right to education in California. (*Serrano v. Priest* (1971) 5 Cal.3d 584.)

Existing law defines juvenile court schools as public schools or classes in any juvenile hall, juvenile home, day center, juvenile ranch, juvenile camp, regional youth educational facility, or

specified Orange County youth correctional center serving the single or composite populations of juvenile court school pupils detained therein. (Ed. Code, § 48645.1.)

Existing law requires county boards of education to provide for the administration and operation of juvenile court schools. (Welf. & Inst. Code, § 889; Ed. Code, §§ 48645, 48645.2.)

Existing law provides it is the intent of the Legislature that pupils in juvenile court schools have a rigorous curriculum that includes a course of study preparing them for high school graduation and career entry, and fulfilling the requirements for admission to the University of California and the California State University. (Ed. Code, § 48645.3, subd. (d).)

Existing law defines a “juvenile” as:

- A person under 18 years of age;
- A person under the maximum age of juvenile court jurisdiction who is not currently an incarcerated adult, as specified; or,
- A person whose case originated in the juvenile court and is held in secure detention, in a county juvenile facility until the person reaches 25 years of age.
(Welf. & Inst. Code, § 208.55, subd. (a)(1).)

Existing law defines “juvenile facility” as a local juvenile hall, special purpose juvenile hall, ranch or camp, secure youth treatment facility, or any other juvenile facility that is subject to compliance monitoring by the state administrative agency designated to implement the federal Juvenile Justice and Delinquency Prevention Act of 1974. (Welf. & Inst. Code, § 208.55, subd. (a)(2).)

Existing law defines “juvenile facility” for purposes of applicability of the Youth Bill of Rights as a place of confinement that is operated by, or contracted for, the county probation department or juvenile court for the purpose of the confinement of youth who are taken into custody and alleged to be within the jurisdiction of the juvenile court who are adjudged to be a ward of the court. (Welf. & Inst. Code, § 224.70, subd. (b).)

Existing law establishes the Youth Bill of Rights, which applies to youth confined in a juvenile facility, and provides that these youth have the following rights, among others, which are established by law and regulation:

- To not be deprived of education;
- To receive a rigorous, quality education that complies with law and prepares them for high school graduation, career entry, and postsecondary education;
- To attend appropriate level school classes and vocational training;
- To have access to postsecondary academic and career technical education courses and programs;
- To have access to computer technology and the internet for purposes of education to continue to receive educational services while on disciplinary or medical status; and,
- To have access to information about the educational options available to youth.
(Welf. & Inst. Code, § 224.71, subs. (m) & (n).)

Existing law requires the board of supervisors in every county to provide and maintain, at the expense of the county, in a location approved by the judge of the juvenile court or in counties

having more than one judge of the juvenile court, by the presiding judge of the juvenile court, a suitable house or place for the detention of wards and dependent children of the juvenile court and of persons alleged to come within the jurisdiction of the juvenile court. Provides that such house or place be known as the “juvenile hall” of the county. (Welf. & Inst. Code, § 850.)

Existing law authorizes a county board of supervisors to establish public elementary schools or secondary schools in connection with any juvenile hall, juvenile house, day center, juvenile ranch, juvenile camp, or residential or nonresidential boot camp for the education of the children in those facilities. (Welf. & Inst. Code, § 856.)

Existing law requires that minors detained in or committed to a juvenile hall, juvenile ranch, camp, or forestry camp are provided with access to computer technology and the Internet for purposes of education. Provides that this does not limit the authority of the chief probation officer to limit or deny access to computer technology or the Internet for safety and security or staffing reasons. (Welf. & Inst. Code, §§ 851.1, 889.1.)

Existing law requires county probation departments, in collaboration with county offices of education, and in partnership with the California Community Colleges or the California State University, or in voluntary partnership with the University of California, to ensure that juveniles with a high school diploma or California high school equivalency certificate who are detained in, or committed to, a juvenile hall, secure youth treatment facility, juvenile ranch, camp, or forestry camp have access to, and can choose to participate in, public postsecondary academic and career technical courses and programs. (Welf. & Inst. Code, §§ 858, subd. (b)(1), 889.2, subd. (b)(1).)

Existing law provides that boards of supervisors in counties with populations of five million or more may provide and maintain schools at a juvenile ranch or camp or residential or nonresidential boot camp under the control of the probation officer for the purpose of meeting the special educational needs of wards and dependent children of the juvenile court. (Welf. & Inst. Code, § 893, subd. (a).)

Existing law establishes the OYCR in the California Health and Human Services Agency, whose mission is to promote trauma responsive, culturally informed services for youth involved in the juvenile justice system that support their successful transition to adulthood and help them become responsible, thriving, and engaged members of the community. (Welf. & Inst. Code, § 2200, subs. (a), (b).)

Existing law provides that OYCR has the following responsibility and authority:

- To develop a report on youth outcomes in the juvenile justice system.
 - To identify policy recommendations for improved outcomes and integrated programs and services to best support delinquent youth.
 - To identify and disseminate best practices to help inform rehabilitative and restorative youth practices, including education, diversion, re-entry, religious and victims’ services.
 - To provide technical assistance as requested to develop and expand local youth diversion opportunities to meet the varied needs of the delinquent youth population, including but not limited to sex offender, substance abuse, and mental health treatment.
 - To report annually on the work of the office.
- (Welf. & Inst. Code, § 2200, subd. (c).)

Existing law requires OYCR to have an ombudsman who shall have the authority to investigate complaints from youth, families, staff, and others about harmful conditions or practices, violations of law and regulations governing facilities, and circumstances presenting an emergency. (Welf. & Inst. Code, § 2200, subd. (d).)

Existing law requires the ombudsperson to publish and provide regular reports to the Legislature about all data collected over the course of the year, including, but not limited to, contacts to the office, complaints received, including the type and source of those complaints, investigations performed by the ombudsperson, the time to investigate and resolve complaints, the number and types of complaints referred to other agencies, the trends and issues that arose in the course of investigating complaints, pending complaints, and subsequent findings and actions taken, and a summary of the data received by the ombudsperson. Requires data to be disaggregated by gender, sexual orientation, race, and ethnicity of the complainants to the extent this information is available. (Welf. & Inst. Code, § 2200.5, subd. (a).)

Existing law requires the ombudsperson to include recommendations consistent with the data above for improving the juvenile justice system. (Welf. & Inst. Code, § 2200.5, subd. (b).)

Existing law requires the compiled data and recommendations to be posted so that it is available to the public on the office's existing internet website. (Welf. & Inst. Code, § 2200.5, subd. (c).)

Existing law defines "chronic absentee" to mean a pupil who is absent on 10 percent or more of the schooldays in the school year when the total number of days a pupil is absent is divided by the total number of days the pupil is enrolled and school was actually taught in the regular day schools of the district. (Ed. Code, § 60901, subd. (c)(1).)

This bill requires OYCR to develop an annual report on chronic absenteeism rates in juvenile court schools at juvenile facilities. Allows OYCR to work with the state Department of Education and county offices of education to include data for all juvenile court schools.

This bill requires OYCR, subject to available funding, to investigate the reasons for absenteeism at juvenile court schools with chronic absenteeism rates of 15 percent or more, including, but not limited to, an investigation of whether the juvenile facility has provided sufficient staff to support transportation and access to educational services and whether policies or practices have been implemented that withhold educational services from youth as a means of individual or group punishment. Requires OYCR to include a summary of the findings of any investigation it conducts in the annual report.

This bill requires OYCR to provide technical assistance, subject to available funding, to ameliorate the identified causes of the chronic absenteeism if the office determines, after an investigation, that insufficient staff, transportation, punitive policies, or any policies under the juvenile facility's control are contributing to chronic absenteeism rates.

This bill requires the OYCR ombudsperson to include reports on chronic absenteeism in its reports to the Legislature.

COMMENTS

1. Need For This Bill

According to the author:

Children in California have a constitutional right to an equitable education, but some incarcerated youth are excluded from school because of punishments or policies imposed by officers at the juvenile hall, and thus denied their constitutional right. AB 2176 will use data to shine a light on the causes of chronic absenteeism. This information can then be used to provide technical assistance to the facilities with the highest rates of chronic absenteeism to help get students back in the classroom. In light of the significant negative impacts of chronic absenteeism on a student's academic achievement, California must strengthen state oversight to ensure incarcerated children can access an equitable education with their peers. No longer can we allow probation and detention facility policy decisions to keep kids out of school.

2. Chronic Absenteeism in Court Schools

Chronic absenteeism in the state's schools has significantly increased in recent years. (Carolyn Jones, *Soaring chronic absenteeism in California schools is at a 'pivotal moment'* (Sept. 7, 2023) available at <<https://calmatters.org/education/k-12-education/2023/09/soaring-chronic-absenteeism-in-california-schools-is-at-pivotal-moment/>>.) Prior to the COVID-19 pandemic, the state Department of Education (CDE) reported a statewide chronic absentee rate during the 2018-2019 school year of 12.1%. (CDE, *2018-2019 Chronic Absenteeism Rate* available at <<https://dq.cde.ca.gov/dataquest/DQCensus/AttChrAbsRate.aspx?agglevel=State&cds=00&year=2018-19>>.) The chronic absentee rate increased to an all-time high of 30% during the 2021-2022 school year before decreasing to 24.9% during the 2022-2023 school year. (CDE, *2021-2022 Chronic Absenteeism Rate* available at <<https://dq.cde.ca.gov/dataquest/DQCensus/AttChrAbsRate.aspx?agglevel=State&cds=00&year=2021-22>> CDE, *2022-2023 Chronic Absenteeism Rate* available at <<https://dq.cde.ca.gov/dataquest/DQCensus/AttChrAbsRate.aspx?agglevel=State&cds=00&year=2022-23>>.)

Similarly, California's court schools have experienced an increase in chronic absenteeism rates—rising from 12.9% in the 2018-2019 school year to 16.8% in the 2021-2022 school year. (Youth Law Center, *Out of Sight, Out of Mind* (Nov. 15, 2023), p. 3 available at <<https://www.ylc.org/resource/out-of-sight-out-of-mind/>>.) During both of these school years, there were a number of court schools where the chronic absenteeism rate exceeded 30%. (*Ibid.*) In fact, one court school had a 65.2% rate of chronic absenteeism and another had a 65.2% rate of chronic absenteeism in the 2021-2022 school year. (*Id.* at p. 21.) As noted in the report, chronic absenteeism in the context of court schools should be distinguished from chronic absenteeism in the general public school context because “unlike in community-based public schools, students in court schools are almost all incarcerated and under constant supervision ... [and] *any* chronic absenteeism in a court school ... indicates that students who literally have nowhere else to go are somehow *still* not attending school.” (*Id.* at p. 3.)

The report described some of the reasons for chronic absenteeism in the state's court schools:

[Y]outh in juvenile court schools experience unexcused absences, missed classes, and tardiness for many different reasons. Sometimes there exist unlawful facility practices that prevent class attendance, some absences are due to insufficient facility procedures and limited oversight, and there may be instances in which youth decline to attend school. In juvenile court schools, student attendance at school involves coordination among the youth, probation staff, and school staff. Breakdowns in coordination between probation and school staff can cause youth to completely miss school or be brought to school late. (*Id.* at p. 21.)

The report further outlined reasons for court school chronic absenteeism:

Probation and detention facility staffing issues and policy decisions contribute to the high rate of chronic absenteeism in court school programs. Sometimes decisions made by the probation department or facility staff related to entire groups of detained young people prevent youth from attending school. An investigation of the Los Angeles County juvenile halls revealed that there was a practice of barring entire living units of young people from attending school if one of them misbehaved. Similarly, Kern County probation staff blanketly barred all youths labeled “high security status” from attending school and required them to receive education services in their living units instead. Other times the action taken by probation staff is a refusal to timely transport students to school. In April 2023, the California Attorney General filed a motion to enforce specific portions of a 2021 stipulated judgment that required Los Angeles County’s probation department to “[p]rovide timely transport of youth from their units in the juvenile halls to school daily.” (*Id.* at p. 22 (internal citations omitted).)

3. OYCR

In 2020, with the passage of SB 823 (Committee on Budget), the state planned the closure of the Division of Juvenile Justice run by the California Department of Corrections and Rehabilitation and re-aligned the responsibility for managing all youth under the jurisdiction of the juvenile courts to county probation departments. As noted by the California Health and Human Services Agency, as part of this transition:

Effective July 1, 2021, pursuant to Senate Bill 823, a new Office of Youth and Community Restoration (OYCR) operates within the California Health & Human Services (CalHHS) Agency. Supporting the transition of justice involved youth being served in local communities, the OYCR will promote a youth continuum of services that are trauma responsive and culturally informed, using public health approaches that support positive youth development, build the capacity of community-based approaches, and reduce the justice involvement of youth.

By promoting the use evidence-based and promising practices, the OYCR will improve youth and public safety outcomes by

- Reducing the transfer of youth into the adult criminal justice system,
- Reducing racial and ethnic disparities, and
- Increasing community-based responses and interventions.

The OYCR will also assess the efficacy of local programs, provide technical assistance and support, review local Juvenile Justice Realignment Grants, fulfill statutory obligations of an Ombudsperson and develop policy recommendations. (<https://www.chhs.ca.gov/oycr/>)

OYCR is currently responsible for developing a report on youth outcomes; identifying policy recommendations for improved outcomes and integrated programs and services to best support delinquent youth; identifying and disseminating best practices to help inform rehabilitative and restorative youth practices, including education, diversion, re-entry, religious and victims' services; and providing technical assistance to probation departments, as requested. (<https://www.counties.org/node/20061>)

4. Effect of This Bill

This bill primarily seeks to collect data on chronic absenteeism in the state's court schools by requiring OYCR to develop an annual report on chronic absenteeism rates in juvenile court schools at juvenile facilities. This bill additionally requires OYCR, subject to available funding, to investigate the reasons for absenteeism at juvenile court schools with chronic absenteeism rates of 15 percent or more. OYCR is required to include a summary of the findings of any investigation it conducts pertaining to chronic absenteeism in its annual report. Finally, this bill requires OYCR to provide technical assistance, subject to available funding, to address the identified causes of the chronic absenteeism if the office determines, after an investigation, that insufficient staff, transportation, punitive policies, or any policies under the juvenile facility's control are contributing to chronic absenteeism rates.

5. Argument in Support

Youth Law Center writes:

The bill's proposed annual reporting on chronic absenteeism in juvenile court schools is an important start to decreasing the amount of school missed and increasing the public's awareness of the ongoing challenges in court schools. We wanted our report from the fall of 2023 to shine a light on the challenges of students who are too often out of sight, out of mind. Annual reports from OYCR will help ensure these students are not forgotten. Our report also noted the difficulty the public has in tracking chronic absenteeism in court schools, and the reason for this missed instructional time is even harder to discern. Publication of information about chronic absenteeism by OYCR will assist youth, families, county offices of education, probation departments, and advocates in addressing chronic absenteeism in their local communities. The bill also focuses OYCR on identifying and addressing the underlying issues that cause chronic absenteeism in our court schools. While this bill alone will not solve the problem of chronic absenteeism in California court schools, it is an important commitment to ensuring California lives up to its promise to educate *all* of its students.

-- END --