
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair

2021 - 2022 Regular

Bill No: AB 2417 **Hearing Date:** June 21, 2022
Author: Ting
Version: February 17, 2022
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Juveniles: Youth Bill of Rights*

HISTORY

Source: Anti-Recidivism Coalition
California Association of Student Councils
California Youth Connection
Equality California
Human Rights Watch
National Center for Lesbian Rights
National Center for Youth Law
Pacific Juvenile Defender Center
W. Haywood Burns Institute
Young Women's Freedom Center

Prior Legislation: SB 92 (Comm. on Budget & Fiscal Review), Ch. 18, Stats. 2021
SB 823 (Comm. on Budget & Fiscal Review), Ch. 337, Stats. 2020
SB 1143 (Leno), Ch. 726, Stats. 2016
SB 518 (Midgen), Ch. 649, Stats. 2007

Support: ACLU California Action; All Saints Church Foster Care Project; Alliance for Children's Rights; Aspiranet; Bend the Arc: Jewish Action; California Association of Christian Colleges and Universities; California Attorneys for Criminal Justice; California Catholic Conference; California Coalition for Youth; California Federation of Teachers AFL-CIO; California Public Defenders Association; Californians for Safety and Justice; Care First California; Center on Juvenile and Criminal Justice; Ceres Policy Research; Children Now; Children's Advocacy Institute, University of San Diego; Commonwealth Juvenile Justice Program; Communities United for Restorative Youth Justice; County Behavioral Health Directors Association; County of Los Angeles; Drug Policy Alliance; East Bay Community Law Center; Ella Baker Center for Human Rights; Empowering Pacific Islander Communities; Freedom 4 Youth; Fresh Lifelines for Youth; Fresno Barrios Unidos; Fresno County Public Defender's Office; Friends Committee on Legislation of California; Human Rights Watch; IGNITE; Immigrant Legal Resource Center; Initiate Justice; John Burton Advocates for Youth; Justice Policy Institute; Juvenile Law Center; Kids in Common; National Association of Social Workers, California Chapter; National Juvenile Justice Network; Santa Cruz Barrios Unidos; The Children's Initiative; The Gathering for Justice; The Young Women's Freedom Center; UnCommon Law; Urban Peace Institute; Youth Alive!; Youth Forward

Opposition: None known

Assembly Floor Vote: 70 - 0

PURPOSE

The purpose of this bill is to make the Youth Bill of Rights applicable to youth confined in any juvenile justice facility.

Existing law provides that the purpose of the juvenile court system is to provide for the protection and safety of the public and each minor under the jurisdiction of the juvenile court. Requires minors under the jurisdiction of the juvenile court as a consequence of delinquent conduct to receive care, treatment, and guidance that is consistent with their best interest, that holds them accountable for their behavior, and that is appropriate for their circumstances. (Welf. & Inst. Code, § 202, subds. (a) & (b).)

Existing law provides that juvenile halls shall not be deemed to be, nor be treated as, penal institutions. Requires that a juvenile hall be safe and supportive homelike environments. (Welf. & Inst. Code, § 851.)

Existing law establishes the Youth Bill of Rights, which applies to youth confined at Division of Juvenile Justice (DJJ), and provides that these youth have the following rights:

- To live in a safe, healthy, and clean environment conducive to treatment and rehabilitation and where they are treated with dignity and respect.
- To be free from physical, sexual, emotional, or other abuse, or corporal punishment.
- To receive adequate and healthy food and water, sufficient personal hygiene items, and clothing that is adequate and clean.
- To receive adequate and appropriate medical, dental, vision, and mental health services.
- To refuse the administration of psychotropic and other medications consistent with applicable law or unless immediately necessary for the preservation of life or the prevention of serious bodily harm.
- To not be searched for the purpose of harassment or humiliation or as a form of discipline or punishment.
- To maintain frequent and continuing contact with parents, guardians, siblings, children, and extended family members, through visits, telephone calls, and mail.
- To make and receive confidential telephone calls, send and receive confidential mail, and have confidential visits with attorneys and their authorized representatives, ombudspersons and other advocates, holders of public office, state and federal court personnel, and legal service organizations.
- To have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.
- To have regular opportunity for age-appropriate physical exercise and recreation, including time spent outdoors.

- To contact attorneys, ombudspersons and other advocates, and representatives of state or local agencies, regarding conditions of confinement or violations of rights, and to be free from retaliation for making these contacts or complaints.
- To participate in religious services and activities of their choice.
- To not be deprived of any of the following as a disciplinary measure: food, contact with parents, guardians, or attorneys, sleep, exercise, education, bedding, access to religious services, a daily shower, a drinking fountain, a toilet, medical services, reading material, or the right to send and receive mail.
- To receive a quality education that complies with state law, to attend age-appropriate school classes and vocational training, and to continue to receive educational services while on disciplinary or medical status.
- To attend all court hearings pertaining to them.
- To have counsel and a prompt probable cause hearing when detained on probation or parole violations.
- To make at least two free telephone calls within an hour after initially being placed in a facility of the Division of Juvenile Facilities following an arrest.
(Welf. & Inst. Code, § 224.71)

Existing law requires every DJJ facility to provide each youth who is placed in the facility with an age and developmentally appropriate orientation that includes an explanation and a copy of the rights of the youth. (Welf. & Inst. Code, § 224.72, subd. (a).)

Existing law requires the Office of the Ombudspersons of DJJ to design posters and provide the posters to each DJJ facility. Requires that these posters include the toll-free phone number of the Office of the Ombudspersons of DJJ. (Welf. & Inst. Code, § 224.72, subd. (b).)

Existing law requires the Office of the Ombudsperson of DJJ to investigate and attempt to resolve complaints made by or on behalf of youth in the custody of DJJ, related to their care, placement, or services, or in the alternative, refer appropriate complaints to another agency for investigation. (Welf. & Inst. Code, § 224.74, subd. (a).)

Existing law requires the Office of the Ombudsperson of DJJ to compile and make available to the Legislature and the public all data collected over the course of the year, regarding the complaints made. (Welf. & Inst. Code, § 224.74, subd. (a).)

Existing law requires all DJJ facilities to ensure the safety and dignity of all youth in their care and to provide care, placement, and services to youth without discriminating on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status. (Welf. & Inst. Code, § 224.73.)

Existing law provides that a minor or ward may be held up to four hours in room confinement in a juvenile facility, as specified. (Welf. & Inst. Code, § 208.3.)

Existing law establishes the Office of Youth and Community Restoration, to support the juvenile justice realignment and to promote trauma responsive, culturally informed services for youth involved in the juvenile justice system that support the youths' successful transition into adulthood and help them become responsible, thriving, and engaged members of their communities. (Welf & Inst. Code, § 2200.)

This bill makes the Youth Bill of Rights applicable to youth confined in any juvenile justice facility and eliminates references to DJJ.

This bill defines “juvenile justice facility” to mean a place of confinement that is operated by, or contracted for, the county probation department or juvenile court for the purpose of confinement of youth who are taken into custody.

This bill adds rights to the Youth Bill of Rights, including but not limited to, the following:

- The right to receive clean water at any time, have timely access to toilets, access to daily showers, clean bedding, and requires that clothing, grooming, and hygiene products be adequate and respect the child’s culture, ethnicity, and gender identity and expression;
- The right to timely reproductive care;
- The right not to be searched to verify the youth’s gender, and to searches that preserve the privacy and dignity of the person;
- Specifies that youth may be provided with access to computer technology to maintain contact with family members and guardians as an alternative to but not replacement for in-person visits;
- Extends the anti-discrimination provisions to also prohibit discrimination on the basis of a youth’s language, gender expression, and immigration status;
- The right to daily opportunities for physical education and recreation;
- The right to exercise the religious or spiritual practice of their choice and to refuse to participate in religious services and activities;
- The right to not be deprived of clean water, toilet access, or hygiene products as a disciplinary measure and to not to be subject to room confinement as a disciplinary measure;
- Expands the right of youth to receive an education to the right to receive a rigorous education that prepares them for high school graduation, career entry, and postsecondary education; to attend age-appropriate appropriate level school classes; to have access to postsecondary academic and career technical education courses and programs; to have access to computer technology and the internet for the purposes of education; and to have access to information about the educational options available to youth; and
- Adds family and reproductive rights including, the right to information about their rights as parents, including available parental support, reunification advocacy, and opportunities to maintain or develop a connection with their children; to access educational information or programming about pregnancy, infant care, parenting, and breast-feeding, and childhood development; to proper prenatal care, diet, vitamins, nutrition, and medical treatment; to counseling for pregnant and post-partum youth; to not be restrained by the use of leg irons, waist chains, or handcuffs behind the body while pregnant or in recovery after delivery; to not be restrained during a medical emergency, labor, delivery, or recovery unless deemed necessary for their safety and security, and to have restraints removed when a medical professional determines removal is medically necessary; and to access written policies about pregnant, post-partum, and lactating youth.

This bill requires the Division of the Ombudsperson of the Office of Youth and Community Restoration to develop standardized information explaining these rights by July 1, 2023.

This bill makes related and conforming cross-references to the Ombudsperson of Office of Youth and Community Restoration, including to investigate and attempt to resolve complaints made by

or on behalf of youth in the custody of any juvenile justice facility and to compile and make available to the Legislature and the public all data collected over the course of the year, regarding the complaints made.

This bill prohibits discrimination against youths confined at juvenile justice facilities on the basis of gender, gender expression, or immigration status.

COMMENTS

1. Need For This Bill

According to the author:

Everyone deserves basic human rights. AB 2417 creates a Youth Bill of Rights for incarcerated youth so that they know their rights, and have easier access to that information. Under current law, there is a “Youth Bill of Rights” for youth incarcerated at the Division of Juvenile Justice (DJJ); however, there is not anything similar for youth incarcerated at the local level. The state legislature passed SB 823 mandating the closure of DJJ. Starting in 2023, all youth who are incarcerated will be held in county facilities. Consequently, once DJJ closes, the Youth Bill of Rights will no longer exist. A Bill of Rights is an essential step to treating our youth with dignity and respect. Youth who are incarcerated deserve to know their rights. Being incarcerated as a young person is very difficult. It exacerbates existing trauma, and separation from family, teachers, and other adults in the community can make a youth feel despairingly alone. The simple act of providing a youth a list of their rights and a number for the ombudsman can convey that they are not alone, and they will get the care they deserve.

2. Youth Bill of Rights

Under existing law, the Youth Bill of Rights enumerates the following rights for individuals detained in a DJJ facility:

- To live in a safe, healthy, and clean environment conducive to treatment and rehabilitation and where they are treated with dignity and respect.
- To be free from physical, sexual, emotional, or other abuse, or corporal punishment.
- To receive adequate and healthy food and water, sufficient personal hygiene items, and clothing that is adequate and clean.
- To receive adequate and appropriate medical, dental, vision, and mental health services.
- To refuse the administration of psychotropic and other medications consistent with applicable law or unless immediately necessary for the preservation of life or the prevention of serious bodily harm.
- To not be searched for the purpose of harassment or humiliation or as a form of discipline or punishment.
- To maintain frequent and continuing contact with parents, guardians, siblings, children, and extended family members, through visits, telephone calls, and mail.
- To make and receive confidential phone calls, send and receive confidential mail, and have confidential visits with attorneys and their authorized representatives,

ombudspersons and other advocates, holders of public office, state and federal court personnel, and legal service organizations.

- To have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.
- To have regular opportunity for age-appropriate physical exercise and recreation, including time spent outdoors.
- To contact attorneys, ombudspersons and other advocates, and representatives of state or local agencies, regarding conditions of confinement or violations of rights, and to be free from retaliation for making these contacts or complaints.
- To participate in religious services and activities of their choice.
- To not be deprived of food, contact with parents, guardians, or attorneys, sleep, exercise, education, bedding, access to religious services, a daily shower, a drinking fountain, a toilet, medical services, reading material, or the right to send and receive mail as a disciplinary measure
- To receive a quality education that complies with state law, to attend age-appropriate school classes and vocational training, and to continue to receive educational services while on disciplinary or medical status.
- To attend all court hearings pertaining to them.
- To have counsel and a prompt probable cause hearing when detained on probation or parole violations.
- To make at least two free telephone calls within an hour after initially being placed in a facility of the Division of Juvenile Facilities following an arrest.

The Youth Bill of Rights additionally requires all DJJ facilities to ensure the safety and dignity of all youth in their care and to provide care, placement, and services to youth without discriminating on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status. Every DJJ facility is required to provide each youth an age and developmentally appropriate orientation that includes an explanation and a copy of their and that addresses their questions and concerns.

3. Closure of DJJ

In 2007, the Youth Bill of Rights was established via SB 518 (Migden), Chapter 649, Statutes of 2007. SB 518 was introduced in response to the conditions inside of DJJ facilities, including violence, ward suicides, and DJJ's failure to provide mandated education and treatment. Under current law, the Youth Bill of Rights applies to youths incarcerated at DJJ; there is no bill of rights that applies to youths incarcerated at local juvenile facilities.

The May Revision of the 2020-2021 Budget included a proposal to close DJJ entirely and shift responsibility for all youth held in the state's custody to the counties. (*California's 2021-21 May Revision to the Governor's Budget* (May 14, 2020), p. 88 <<http://www.ebudget.ca.gov/2020-21/pdf/Revised/BudgetSummary/FullBudgetSummary.pdf>> [as of Jun. 14, 2022].) The May Revision proposed to stop intake of new juvenile offenders effective January 1, 2021 and begin the closure of all three state juvenile facilities and the fire camp through the attrition of the current population. (*Ibid.*)

In September 2020, Governor Newsom signed SB 823 (Committee on Budget and Fiscal Review), Chapter 337, Statutes of 2020, which operationalized the realignment of the DJJ to the counties. In May 2021, Governor Newsom signed SB 92 (Committee on Budget and Fiscal Review), Chapter 18, Statutes of 2021, which sets a closure date for DJJ of June 30, 2023, and requires the DJJ Director to develop a plan for the transfer of jurisdiction of youth remaining at DJJ as of that date.

Beginning in 2023, all youth who are incarcerated will be held in county facilities, and the youth still remaining at DJJ will be transferred. Given that all youth will soon be confined in juvenile facilities at the local level, the proponents of the bill contend that the Youth Bill of Rights should be amended to reflect that change. Further, recent investigations by the Attorney General and BSCC revealed violations of the room confinement rules at juvenile facilities in Los Angeles County. (California Attorney General, *Attorney General Becerra, Los Angeles County Enter into Groundbreaking Settlements to Protect the Rights of Youth in the Juvenile Justice System* (Jan. 13, 2021) <<https://oag.ca.gov/news/press-releases/attorney-general-becerra-los-angeles-county-enter-groundbreaking-settlements>> [as of Jun. 14, 2022].) It has also been reported that some county juvenile facilities are not giving youth meaningful access to outdoor recreation, and have denied them access to toilets. (James Quealy, *Another L.A. Juvenile Hall Fails Inspection Weeks after Central Juvenile Hall Evacuation*, Los Angeles Times (April 4, 2022) <<https://www.latimes.com/california/story/2022-04-01/another-l-a-juvenile-hall-fails-inspection-weeks-after-central-juvenile-hall-evacuation>> [as of Jun. 14, 2022].) Advocates argue that these types of issues are not limited to Los Angeles County, and that the rights of youth confined in county juvenile facilities need to be expressly delineated in statute and youth need to be made aware of their rights.

4. Effect of This Bill

This bill would make the existing Youth Bill of Rights applicable to youth confined at all juvenile justice facilities and would expand these rights to include, among other things, extending the anti-discrimination provisions to also prohibit discrimination on the basis of a youth's ethnicity, gender, gender expression, and immigration status; adding family and reproductive rights; and adding the right of youth to receive a rigorous education, including access to postsecondary education. This bill would also make other conforming changes to reflect the closure of DJJ and the role of the Ombudsperson in the newly established Office of Youth and Community Restoration.

-- END --