
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: SB 1353 **Hearing Date:** March 19, 2024
Author: Wahab
Version: February 16, 2024
Urgency: No **Fiscal:** No
Consultant: SJ

Subject: *Youth Bill of Rights*

HISTORY

Source: Author

Prior Legislation: AB 2417 (Ting), Ch. 786, Stats. 2022
AB 811 (Gipson), vetoed 2017
SB 1250 (Yee), Ch. 522, Stats. 2008
SB 518 (Migden), Ch. 649, Stats. 2007

Support: American Academy of Pediatrics, California; California Public Defenders Association; Communities United for Restorative Youth Justice; Disability Rights California; Ella Baker Center for Human Rights; LA Defensa; The Steinberg Institute

Opposition: None known

PURPOSE

The purpose of this bill is to add to the Youth Bill of Rights the right to not be deprived of mental health resources, as specified.

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 in a juvenile facility, and provides that these youth have the following rights, which are established by law and regulation:

- To live in a safe, healthy, and clean environment conducive to treatment, positive youth development, and healing 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 meals and snacks, clean water at any time, timely access to toilets, access to daily showers, sufficient personal hygiene items, clean bedding, and clean clothing in good repair, including clean undergarments on a daily basis, and new underwear that fits. Requires clothing, grooming, and hygiene products be adequate and respect the child's culture, ethnicity, and gender identity and expression.
- To receive adequate, appropriate, and timely medical, reproductive, dental, vision, and mental health services provided by qualified professionals and consistent with current professional standards of care.
- 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, a form of discipline or punishment, or to verify the youth's gender. To searches that preserve the privacy and dignity of the person and to have access to a written search policy at any time, including the policy on who may perform searches.
- To maintain frequent and continuing contact with parents, guardians, siblings, children, and extended family members, through visits, phone calls, and mail. Authorizes youth to be provided with access to computer technology and the internet for maintaining relationships with family as an alternative, but not as a replacement for, in-person visiting.
- To make and receive confidential phone calls, send and receive confidential mail, and have confidential visits with attorneys and their authorized representatives, ombudspersons, including the Division of the Ombudsperson of the Office of Youth and Community Restoration (OYCR), 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, housing, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnicity, ancestry, national origin, language, color, religion, sex, sexual orientation, gender identity, gender expression, mental or physical disability, immigration status, or HIV status.
- To have daily opportunities for age-appropriate physical exercise and recreation, including time spent outdoors and access to leisure reading, letter writing, and entertainment.
- To contact attorneys, ombudspersons, including the Division of the Ombudsperson of OYCR, 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 exercise the religious or spiritual practice of their choice and to participate in or refuse to participate in religious services and activities.
- To not be deprived of any of the following as a disciplinary measure: food, contact with parents, guardians, family, or attorneys, sleep, exercise, education, bedding, clothing, access to religious services, a daily shower, clean water, a toilet, hygiene products, medical services, reading material, or the right to send and receive mail; to not be subject to room confinement as a disciplinary measure; to access written disciplinary policies, including the right to be informed of accusations against them, have an opportunity to be heard, present evidence and testimony, and their right to appeal disciplinary decisions.

- To receive a rigorous, quality education that complies with state law, and the abilities of students 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 the purposes of education and 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.
- 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.
- To attend all court hearings pertaining to them.
- To have counsel and a prompt probable cause hearing when detained on probation violations.
- To make at least two free phone calls within an hour after initially being placed in a juvenile facility following an arrest.
(Welf. & Inst. Code, § 224.71)

This bill adds the right to not be deprived of mental health resources, including daily access to counselors, therapists, mentors, or any related services necessary for mental well-being, rehabilitation, and the promotion of positive youth development while detained in a juvenile facility.

COMMENTS

1. Need For This Bill

According to the author:

Mental Health amongst our youth continues to be a high-priority, and we must make it a priority for youth whom the State of California is responsible for. Data shows that juvenile justice-involved youth have a higher prevalence of trauma and Adverse Childhood Experiences than their peers. Diagnoses often include behavior disorders, substance use disorders, anxiety disorder, attention deficit/hyperactivity disorder (ADHD), and mood disorders. We also know that African American and Hispanic children are least likely to be referred for services until they display major behavioral problems, meaning they go undiagnosed and untreated until their disorder becomes unmanageable and unbearable. Incarceration may be the first opportunity a youth has to receive the mental health support and services they need to live whole, healthy, and productive lives. If we want to reduce the long-term interactions youth have with the justice systems as adults, we have to prioritize their mental health.

2. Youth Bill of Rights

Under existing law, the Youth Bill of Rights enumerates several rights for individuals confined in any juvenile facility within the state, including the right to live in a safe, healthy, and clean environment; to be free from various forms of abuse; to receive adequate and healthy meals, clean water at any time, timely access to toilets, access to daily showers, sufficient personal hygiene items, clean bedding, and clean clothing in good repair; to receive adequate, appropriate, and timely medical, reproductive, dental, vision, and mental health services provided by qualified professionals; to not be searched for the purpose of harassment or humiliation, a form of discipline or punishment, or to verify the youth's gender; to maintain frequent and continuing contact with family members; to receive a rigorous, quality education; and to have daily opportunities for age-appropriate physical exercise and recreation, among others.

This bill adds the right to not be deprived of mental health resources. Although existing law provides the right to receive adequate, appropriate, and timely medical, reproductive, dental, vision, and *mental health services* provided by qualified professionals, this bill specifies that mental health resources include daily access to counselors, therapists, mentors, or any related services necessary for mental well-being, rehabilitation, and the promotion of positive youth development while detained in a juvenile facility.

3. Argument in Support

Ella Baker Center for Human Rights writes:

SB 1353 empowers incarcerated youth and promotes public safety by adding to the Youth Bill of Rights the right to not be deprived of mental health resources, including daily access to counselors, therapists, mentors, or any related services necessary for mental well-being and rehabilitation while detained in a juvenile facility. Addressing mental health issues will support these youth in leading whole, healthy, and productive lives upon release.

A July 2020 policy statement published in *Pediatrics* (a publication from the American Academy of Pediatrics) estimates that between 50% and 80% of justice-involved youth have a mental health disorder. A 2017 review from the U.S. Office of Juvenile Justice and Delinquency Prevention concluded that, “having a mental health problem while involved in the system can increase youths’ likelihood of recidivating or engaging in other problem behavior.”

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