

Date of Hearing: March 29, 2022

Counsel: Liah Burnley

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Reginald Byron Jones-Sawyer, Sr., Chair

AB 2321 (Jones-Sawyer) – As Introduced February 16, 2022

SUMMARY: Redefines the exception to room confinement in juvenile facilities for brief periods to a brief period lasting no more than one hour when necessary for institutional operations, and ensures that minors and wards confined at juvenile facilities are provided reasonable access to toilets at all hours, including during normal sleeping hours.

EXISTING LAW:

- 1) Grants all people certain inalienable rights, including pursuing and obtaining safety, happiness, and privacy. (Cal. Const., art. I, § 1.)
- 2) Prohibits the deprivation of life, liberty, or property without due process of law or the denial of equal protection of the laws. (U.S. Const., 5th & 14th Amends.; Cal. Const., art. I, § 7.)
- 3) Prohibits the infliction of cruel and unusual punishment. (U.S. Const., 8th Amend.; Cal. Const., art. I, § 17.)
- 4) States 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 and that minors under the jurisdiction of the juvenile court who are in need of protective services shall receive care treatment and guidance consistent with their best interest and the best interests of the public. (Welf. & Inst. Code, § 202, subs. (a), (b).)
- 5) Defines “Juvenile facility” as juvenile hall, juvenile camp or ranch, a facility of the CDCR, Division of Juvenile Facilities, a regional youth educational facility, a youth correctional center, a juvenile regional facility or any other local or state facility used for the confinement of minors or wards. (Welf. & Inst. Code, § 208.3, subd. (a).)
- 6) Authorizes the court to place a ward of the court in juvenile facility, as specified. (Welf. & Inst. Code, § 726.)
- 7) Provides that juvenile halls shall not be deemed to be, nor be treated as, penal institutions and that juvenile halls shall be safe and supportive homelike environments. (Welf. & Inst. Code, § 851.)
- 8) Requires the Board of State and Community Corrections (BSCC) to adopt minimum standards for the operation and maintenance of juvenile halls for the confinement of minors. (Welf. & Inst. Code, § 210.)

- 9) Defines “Room confinement” as the placement of a minor or ward in a locked sleeping room or cell with minimal or no contact with persons other than correctional facility staff and attorneys. (Welf. & Inst. Code, § 208.3, subd. (a).)
- 10) Requires the placement of a minor or ward in room confinement to be accomplished in accordance with the following guidelines:
 - a) Room confinement shall not be used before other less restrictive options have been attempted and exhausted, unless attempting those options poses a threat to the safety or security of any minor, ward, or staff;
 - b) Room confinement shall not be used for the purposes of punishment, coercion, convenience, or retaliation by staff; and,
 - c) Room confinement shall not be used to the extent that it compromises the mental and physical health of the minor or ward. (Welf. & Inst. Code, § 208.3, subd. (b).)
- 11) Provides that a minor or ward may be held up to four hours in room confinement. After the minor or ward has been held in room confinement for a period of four hours, staff is required to do one or more of the following:
 - a) Return the minor or ward to general population;
 - b) Consult with mental health or medical staff; and,
 - c) Develop an individualized plan that includes the goals and objectives to be met in order to reintegrate the minor or ward to general population. (Welf. & Inst. Code, § 208.3, subd. (c).)
- 12) States that if room confinement must be extended beyond four hours, staff shall do the following:
 - a) Document the reason for room confinement and the basis for the extension, the date and time the minor or ward was first placed in room confinement, and when he or she is eventually released from room confinement;
 - b) Develop an individualized plan that includes the goals and objectives to be met in order to reintegrate the minor or ward to general population; and,
 - c) Obtain documented authorization by the facility superintendent or his or her designee every four hours thereafter. (Welf. & Inst. Code, § 208.3, subds. (d).)
- 13) States that room confinement does not include confinement of a minor or ward in a single-person room or cell for brief periods of locked room confinement necessary for required institutional operations. (Welf. & Inst. Code, § 208.3, subd. (a).)
- 14) Provides that the restrictions on room confinement do not apply to single-person rooms or cells for the housing of minors or wards in juvenile facilities and do not apply to normal

sleeping hours. (Welf. & Inst. Code, § 208.3, subd. (e).)

- 15) Provides that the restrictions on room confinement do not apply during an extraordinary, emergency circumstance that requires a significant departure from normal institutional operations, including a natural disaster or facility-wide threat that poses an imminent and substantial risk of harm to multiple staff, minors, or wards. This exception shall apply for the shortest amount of time needed to address the imminent and substantial risk of harm. (Welf. & Inst. Code, § 208.3, subd. (h).)
- 16) Provides that the restrictions on room confinement do not apply when a minor or ward is placed in a locked cell or sleeping room to treat and protect against the spread of a communicable disease for the shortest amount of time required to reduce the risk of infection, with the written approval of a licensed physician or nurse practitioner, when the minor or ward is not required to be in an infirmary for an illness. (Welf. & Inst. Code, § 208.3, subd. (i).)
- 17) Provides that the restrictions on room confinement do not apply when a minor or ward is placed in a locked cell or sleeping room for required extended care after medical treatment with the written approval of a licensed physician or nurse practitioner, when the minor or ward is not required to be in an infirmary for illness. (Welf. & Inst. Code, § 208.3, subd. (i).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, “California law bans solitary confinement of minors and limits room confinement of minors to brief periods of time for purposes of safety, banning its use for the purposes of punishment, coercion, convenience, or retaliation. In spite of existing law, recorded instances of abuse have shown minors being confined in their rooms for extended periods of time without any documented reason as to why the confinement occurred in the first place. Consequently, the Board of State and Community Corrections has recommended defining what the ‘brief periods of time’ minors can be confined. Thus, AB 2321 will clarify that the ‘brief periods of time’ minors can be confined in their rooms are no longer than one hour. Additionally, with reports of minors using milk cartons and their towels to urinate, this bill will also ensure that minors and wards have access to toilets at all times, especially those who do not have a toilet in their room.”
- 2) **Youth Solitary Confinement is Harmful:** Solitary confinement is defined as the placement of an incarcerated individual in a locked room or cell with minimal or no contact with people other than staff of the correctional facility. (*Solitary Confinement of Juvenile Offenders* American Academy of Child & Adolescent Psychiatry, Juvenile Justice Reform Committee, (Apr. 2012) available at: https://www.aacap.org/AACAP/Policy_Statements/2012/Solitary_Confinement_of_Juvenile_Offenders.aspx [as of March 12, 2022].) Long-term isolation has not been shown to have any rehabilitative or treatment value, and the United Nations has called upon all member countries to ban its use completely on minors. (*Ibid.*) It is a practice that endangers mental health and increases risk of suicide, and is often used as a method to control a correctional environment, and not for any rehabilitative purpose. (*Use of Seclusion is not Evidence-Based Practice* Journal of Child and Adolescent Psychiatric Nursing. Available at

http://www.findarticles.com/p/articles/mi_qa3892/is_200110/ai_n8993463/print [as of March 17, 2022].) It does not properly address disciplinary issues and more often, it increases these behaviors in youth, especially those with mental health conditions. (*Remarks of Steven H. Rosenbaum, Chief, Special Litigation Section, before the Fourteenth Annual National Juvenile Corrections and Detention Forum*, May 16, 1999. Available at <http://www.usdoj.gov/crt/split/documents/juvspeech.htm> [as of March 17, 2022].) In 1999, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) released a study of juvenile facilities across the country which found that 50% of youth who committed suicide were in isolation at the time of their suicide. (*Juvenile Suicide in Confinement: A National Survey*, National Center on Institutions and Alternatives (Feb. 2004).) Further, 62% of the suicide victims had a history of isolation. (*Ibid.*) In a report released by CDCR, prisoners who had spent time in isolation in the Security Housing Units had a higher rate of recidivism than those who had not. (*2012 Adult Institutions Outcome Evaluation Report*, CDCR (Oct. 2012). Available at: http://www.cdcr.ca.gov/adult_research_branch/Research_Documents/ARB_FY_0708_Recidivism_Report_10.23.12.pdf [as of March 17, 2022].)

- 3) **Existing Law and Regulations on Juvenile Room Confinement:** SB 1143 (Leno), Chapter 726, Statutes of 2016, established statutory guidelines and limits for confining a minor or ward in a juvenile facility in a locked sleeping room or cell. Under existing law a minor or ward may be held up to four hours in room confinement. (Welf. & Inst. Code, § 208.3.) After the minor or ward has been held in room confinement for a period of four hours, staff shall either return the minor or ward to general population; consult with mental health or medical staff; or develop an individualized plan that includes the goals and objectives to be met in order to reintegrate the minor or ward to general population. (*Ibid.*)

If room confinement must be extended beyond four hours, staff is required to document the reason for room confinement and the basis for the extension, the date and time the minor or ward was first placed in room confinement, and when he or she is eventually released from room confinement; develop an individualized plan that includes the goals and objectives to be met in order to reintegrate the minor or ward to general population, and obtain documented authorization by the facility superintendent or his or her designee every four hours thereafter. (Welf. & Inst. Code, § 208.3.)

Room confinement shall not be used before other less restrictive options have been attempted and exhausted, unless those options pose a threat to the safety or security of any minor, ward, or staff; shall not be used for the purposes of punishment, coercion, convenience, or retaliation by staff; and, shall not be used to the extent that it compromises the mental and physical health of the minor or ward. (Welf. & Inst. Code, § 208.3.)

Under section 208.3, room confinement does not include confinement of a minor or ward in a single-person room or cell for brief periods of locked room confinement necessary for required institutional operations. These rules also do not apply to normal sleeping hours, during emergency circumstances that require a significant departure from normal institutional operations, including a threat that poses an imminent and substantial risk of harm to multiple staff, minors, or wards, or when required for extended care for medical treatment. (Welf. & Inst. Code, § 208.3.)

Title 15 of the California Code of Regulations regarding Minimum Standards for Juvenile

Facilities, does not provide specific guidelines around the use of room confinement, oftentimes used interchangeably with terms like “separation,” “room confinement,” and “safety rooms.”

Room Confinement (Cal. Code Regs., tit., 15 § 1354.5). Section 1354.5 requires the facility administrator to develop and implement written policies and procedures addressing the confinement of youth in their room that are consistent with state law. (Cal. Code Regs., tit., 15 § 1354.5.) The regulations on room confinement are identical to the state law provisions and provide no further guidelines or limitations. (Compare Welf. & Inst. Code, § 208.3 with Cal. Code Regs., tit., 15 § 1354.5.)

Separation (Cal. Code Regs., tit., 15 § 1354). Title 15 charges facility administrators to develop written policies and procedures regarding the use of separation. (Cal. Code Regs., tit. 15, § 1354.) Under §1354, the facility administrator of a juvenile facility is required to develop and implement written policies and procedures that address separation of youth for reasons that include, but are not be limited to, medical and mental health conditions, assaultive behavior, disciplinary consequences and protective custody and consideration of positive youth development and trauma-informed care. (*Ibid.*) Section 1354 provides minimal guidelines and provides that separated youth shall not be denied normal privileges available at the facility, except when necessary to accomplish the objective of separation. (*Ibid.*)

Discipline (Cal. Code Regs., tit., 15 § 1390): Section 1390 provides, when separating the youth for disciplinary reasons, discipline shall be imposed at the least restrictive level which promotes the desired behavior and shall not include corporal punishment, group punishment, physical or psychological degradation.

Safety Rooms (Cal. Code Regs., tit., 15 § 1359). Title 15 also requires the facility administrator, in cooperation with the responsible physician, to develop and implement written policies and procedures governing the use of “safety rooms.” (Cal. Code Regs., tit., 15 § 1359.) Section 1359 provides that the safety room shall be used to hold only those youth who present an immediate danger to themselves or others, who exhibit behavior which results in the destruction of property, or reveals the intent to cause self-inflicted physical harm. (*Ibid.*) A safety room shall not be used for punishment or discipline, or as a substitute for treatment. (*Ibid.*) This section specifies that the policies and procedures shall include provisions for administration of necessary nutrition and fluids, access to a toilet, and suitable clothing to provide for privacy; provide for approval of the facility manager, or designee, before a youth is placed into a safety room; provide for continuous direct visual supervision and documentation of the youth's behavior and any staff interventions every 15 minutes, with actual time recorded; provide that the youth shall be evaluated by the facility manager, or designee, every four hours; provide for immediate medical assessment, where appropriate, or an assessment at the next daily sick call; and, provide a process for documenting the reason for placement, including attempts to use less restrictive means of control, and decisions to continue and end placement. (*Ibid.*)

Section 1359 further requires that the placement of a youth in the safety room shall not be used before other less restrictive options have been attempted and exhausted, unless attempting those options poses a threat to the safety or security of any youth or staff; shall

not be used for the purposes of punishment, coercion, convenience, or retaliation by staff; and, shall not be used to the extent that it compromises the mental and physical health of the youth.

Further, a youth may only be held up to four hours in the safety room. (Cal. Code Regs., tit., 15 § 1359.) After the youth has been held in the safety room for a period of four hours, staff is required to return the youth to general population, consult with mental health or medical staff, and develop an individualized plan that includes the goals and objectives to be met in order to reintegrate the youth to general population. (*Ibid.*) If confinement in the safety room must be extended beyond four hours, staff is required to develop an individualized plan and the goals and objectives to be met in order to integrate the youth to general population. (*Ibid.*)

- 4) **California Attorney General Lawsuit:** A Complaint for Injunctive and Other Equitable Relief (Complaint) was brought by the California Attorney General against the County of Los Angeles in January 2021 that alleges that the county unlawfully placed youth in segregation as punishment or discipline without due process of law, failed to provide youth in room confinement basic needs such as clean facilities, mental health and medical care, education, phone calls, and visitation, failed to properly document use of room confinement, among other egregious violations. (See, Complaint in *State of California, et. al. v. Los Angeles County, et. al.*, Los Angeles Superior Court Case No. 21STCV01309, filed on Jan. 1, 2021, at p. 44, ¶ 190.)

In October 2018, the AG’s office began an investigation to determine whether Los Angeles County complied with state and federal laws with respect to conditions of confinement for their youth in their care at two Juvenile hall facilities, Barry J. Nidorf and Central Juvenile Halls. (Complaint, at pp. 3-4, ¶ 6.) The AG conducted multiple site visits to the Juvenile Halls, interviewed more than 80 witnesses, and reviewed thousands of pages of documents, and retained three experts in various aspects of juvenile justice facility operations, who reviewed thousands of pages of documents, interviewed multiple witnesses, and conducted site visits. (*Ibid.*) The AG found that Los Angeles County “endangered youth safety and provided insufficient protection from harm,” and “failed to provide a home-like environment for youth by subjecting them to conditions of confinement that must be reserved for adult penal institutions and depriving youth of their basic needs.” (*Id.*, at p. 4, ¶¶ 7, 8.)

Notably, the AG found that Los Angeles County “has used room confinement improperly for punishment in violation of California law, including with respect to youth with disabilities.” (Complaint, at p. 4, ¶ 9.) According to the AG, youth in the Los Angeles County juvenile halls have been subjected to multiple days of room confinement, including after incidents of rule breaking, and not for the intended short term de-escalation use. (*Id.*, at p. 32, ¶ 124.) Moreover, some youth placed in room confinement have been denied access to education and programming. (*Ibid.*) The AG also found that some youth were confined for more than 72 hours, and in some cases youth were confined for 100 hours or longer. (*Id.*, at ¶ 128.) Youths were unlawfully denied access to leave their cells except to eat or shower, others were only permitted to leave their cells for school, eating, and showering. (*Id.*, at ¶ 129.)

Also, the AG reviewed monthly records which noted reasons for confinement including “out-of-bounds,” “possession of contraband,” and “suspended from school”—situations which are unlikely to require de-escalation. (Complaint, at p. 33, ¶ 127.) Legally required

documentation was not accurate and failed to include critical information including when medical or mental health staff were consulted, the reasons for room confinement that went beyond four hours and any necessary approvals to do so, and whether or when the youth was given a hearing before long-term confinement. (*Id.*, at ¶ 30.) Logs for March through May 2019 did not reflect any youth receiving programming while in room confinement, and reflect only one youth received a mental health assessment. (*Id.*, at ¶ 131.) And, records indicate a large number of confined youth had developmental disabilities or were experiencing mental health needs. (*Id.*, at p. 34, ¶ 133.)

Shortly after the Complaint was filed, Los Angeles County reached a settlement agreement with the AG's office to improve conditions at juvenile facilities. (*Attorney General Becerra, Los Angeles County Enter into Groundbreaking Settlements to Protect the Rights of Youth in the Juvenile Justice System*, California Attorney General, (Jan. 13, 2021). Available at: <https://oag.ca.gov/news/press-releases/attorney-general-becerra-los-angeles-county-enter-groundbreaking-settlements> [as of March 17, 2022].)

- 5) **BSCC Investigation:** In February 2021, an investigation by the BSCC determined that the Los Angeles County Probation Department had not complied with some policies under Title 15, including those regarding juvenile room confinement. (*September 16, 2021 Board Meeting Minutes*, BSCC, at p. 2. Available at: <https://www.bscc.ca.gov/wp-content/uploads/Special-Order-of-Business-WIC-209d-Suitability-Determination-FINAL.pdf> [as of March 17, 2022].) BSCC staff reviewed instances of room confinement and determined that the documentation lacked clarity for placing the youth in a locked room at the actual time of placement and did not indicate compliance with regulations. (*Special Order of Business—Supplemental Report*, BSCC at pp.18-19 (Sept, 16, 2021). Available at: <https://www.bscc.ca.gov/wp-content/uploads/Supplemental-Report-WIC-209d-Suitability-Determination-Supplemental-Report-Final-9-15-21.pdf> [as of March 17, 2022].)

In September 2021, as part of the follow up inspection process, BSCC staff had conversations with youth who reported that, at times, youth were being placed in their locked rooms for long periods of time after fights, during visiting, before and during showers, at shift change, and to split the group to minimize the possibility of unit disturbance and incidents. (*Special Order of Business—Supplemental Report*, BSCC (Nov.18, 2021), at pp. 19-20.) These placements were not documented as “room confinement” by Los Angeles County Probation, which is required by law. (*Ibid.*) With respect to the above-referenced placements, Los Angeles County Probation asserted that these incidents were not documented because they did not constitute “room confinement” because the placement was either brief or was “necessary for required institutional operations.” (*Ibid.*; see also Welf. & Inst. Code, § 208.3, subd. (a) [authorizing room confinement “for brief periods “necessary for institutional operations”].) While some of these incidents could be described as “brief” and “necessary for required institutional operations,” after reviewing video and speaking with facility staff and youth, BSCC staff determined that many of these placements could not be reasonably characterized as brief or necessary for required institutional operations. (*Ibid.*) For example, probation staff would frequently leave youth in their rooms for unreasonably long periods of time even though transition activities could be completed in significantly less time. (*Ibid.*) Accordingly, BSCC staff recommended further defining the terms “brief periods” and “required institutional operations.” (*Ibid.*)

Further, during a February 3, 2022 site visit and investigation, BSCC staff identified at least one minor who was placed in room confinement for over 20 hours without access to programming, exercise, and recreation outside of the room. (*Notice of Noncompliance at the Los Angeles County Probation Department Central Juvenile Hall: Welfare and Institutions Code section 209*, BSCC (Feb. 8, 2022). Available at: <https://www.bscc.ca.gov/wp-content/uploads/2022.2.08-LA-CJH-Notice-of-Non-Compliance-s.pdf> [as of March 17, 2022].)

That fact that the investigations by the Attorney General and BSCC revealed violations at juvenile facilities in Los Angeles County does not preclude the likelihood that similar violations are occurring at juvenile facilities throughout the State.

Also, given the State's plans for the closure of the Division of Juvenile Justice (DJJ), all juveniles will be held in county facilities. Now more than ever, it is crucial to set clear standards for all counties in order to avoid the potential for the mistreatment of youth.

6) **Need for this Bill:**

- a) **One Hour Rule:** Under existing law, a minor or ward may be held up to four hours in room confinement. (Welf. & Inst. Code, § 208.3, subd. (c).) This bill would not make any changes to this rule, nor would it set a one-hour maximum confinement limit.

Currently, the rules limiting room confinement to four hours do not include the instances in which a minor or ward is confined in a single-person room or cell “for brief periods” of locked room confinement “necessary for required institutional operations.” (Welf. & Inst. Code, § 208.3, subd. (a).) For example, minors can be confined in a locked room for a “brief period of time” during staff shift changes. Existing law does not define “brief periods of time.” This bill would clarify that the “brief periods of time” in which minors can be confined in their rooms, must be no longer than one hour.

Critics of the bill claim that one hour is an insufficient amount of time under certain circumstances in order to maintain safety and order groups and individuals are shuffled in and out of their rooms to prevent confrontations, and oversized gatherings that could lead to loss of control. However, under existing law, room confinement for a period of up to 4 hours (or more, if certain requirements are met), is permissible situations that pose a threat to the safety or security of any minor, ward, or staff, and in emergencies. (Welf. & Inst. Code, § 208.3, subds. (b)(1), (h).) This bill would not change these provisions.

- b) **Access to Bathrooms:** In a letter to the Governor and the Legislature, the Los Angeles County Probation Department denied that they deprived the youth in their care the ability to use the restroom. (Letter Regarding BSCC Compliance and Bathroom Access (Nov. 30, 2021). Available at <https://www.afscmelocal685.com/post/local-685-tells-ca-gov-legislature-youth-need-modern-facilities> [as of March 17, 2022].)

However, according to the AG's investigation of Los Angeles County's juvenile facilities, youth reported that probation staff deny them access to bathrooms. (Complaint, at pp. 25-26, ¶ 89.) At one facility youths described being forced to relieve themselves in their cells when staff fail to open their cell doors at night. (*Ibid.*) Some youths have resorted to saving milk cartons to use in the middle of the night. (*Ibid.*) If they do not

have milk cartons, the youths will bunch up a towel or item of clothing to urinate on. (*Ibid.*) They stated that some staff are slow to respond to their need for the bathroom or water at night in order to penalize them. (*Ibid.*) The AG also found that youth have been punished for resorting to relieving themselves in their cells. (*Ibid.*) This practice is particularly traumatizing to teenage girls during their menstrual cycle. (*Ibid.*)

Not only is forced retention of bodily waste a painful and humiliating experience, according to the Centers for Disease Control and Prevention, it carries serious health risks, including urinary tract infections and incontinence, as well as other bladder, bowel, and kidney problems. (Bathroom Breaks, CDC (Nov. 22, 2019). Available at: <https://blogs.cdc.gov/niosh-science-blog/2019/11/22/bathroom-breaks/> [as of March 17, 2022].) This bill would ensure that minors at juvenile facilities have access to toilets at all times. This bill recognizes the importance of respecting the bodily autonomy, health, and dignity.

- 7) **Argument in Support:** According to *Juvenile Court Judges of California (JCJC)*, “Beginning in 2018, and to the present, the California Attorney General’s Office has investigated how minors are housed in juvenile facilities in Southern California. The Office discovered egregious abuses, including using room confinement and isolation as punishment or even without cause. As recently as February 3 of this year, the Board of State and Community Corrections (BSCC) found minors in room confinement for a period of 11 days, and even when staff were made aware of this error the minor was still left in confinement for an additional 22 hours. Investigation has also found additional maltreatments such as inadequate access to toilets.

“Currently an exception is contained in Welfare and Institutions Code Section 208.3(a)(3) where room confinement is allowed for a ‘brief period of locked room confinement when it is necessary for required institutional operations.’ This bill would change this language from ‘a brief period’ to a ‘period lasting no longer than one hour.’ It also adds a new Welfare and Institutions Code Section 203(f): “Minors and wards who are confined shall be provided reasonable access to toilets at all hours, including during normal sleeping hours.”

“Juvenile Court Judges have oversight responsibilities under Welfare and Institutions Code Section 209 to inspect juvenile facilities and determine that they are a suitable place for confinement. This bill clears up ambiguity, sets better practices, and would impose only minor adjustments for probation to comply with these limitations.”

- 8) **Argument in Opposition:** According to *AFSCME, AFL-CIO*, “AFSCME Locals 685, 1587, and 1967, and the Joint Council of Supervising Deputy Probation Officers, SEIU Local 721, urge reconsideration of the one-hour maximum confinement limit and an amendment to allow up to three hours of maximum time for potential institutional operations. Further, the strict enforcement of confinement should only be enforced during the between the working hours of 9:00am 5:00pm, unless institutional operations or circumstances require otherwise. Juvenile(s) should be supervised and a ‘special incident report’ completed documenting the circumstances of the confinement.

“To be clear, Probation staff do share your concern for the potential misuse of room confinement, and we are happy to discuss the realities of day-to-day operations in our

facilities to help you better understand our concern with AB 2321. The following details a typical weekday in a Los Angeles County Probation facility:

“During the typical weekday in the Los Angeles County Probation facility, the staff attempts to adhere to a rigid schedule that is laid out in the Detention Service Manual (DSM). Our trained staff of public servants rotate in and out of the facility throughout the week and employ a process of information sharing and reporting during shift changes to ensure that each probation professional is fully aware of all developing aspects of their responsibilities before and during their shift. ...

“For perspective, each probation deputy is responsible for the safety and wellbeing of eight (8) individuals in their care, who are also moving throughout their schedules and common areas with numerous other groups of wards. It is simply of out necessity that, throughout the course of the day, in order to maintain safety and order groups and individuals are shuffled in and out of their rooms to prevent confrontations, and oversized gatherings that could lead to loss of control. Further, the ‘one hour’ time limit in ALL scenarios throughout the course of the day is simply predestined to fail based on our experience and understanding of how the facility truly operates. Youth in our care are typically compliant, agreeable, and interested in following the program; BUT we often experience pushback, stubborn behavior, and stall tactics in an effort to rebel and act out. In these situations, we know, from experience, that our best efforts to limit confinement for institutional operations may exceed the proposed one-hour limit as we strive to regain control over the timely schedule. Further, many of these daily activities require staggering of groups to ensure smaller sized groups. ...

“Lastly, Probation staff share your frustration with safely providing access to bathroom facilities at all hours, including during sleeping hours. AFSCME Locals 685, 1587, and 1967, and the Joint Council of Supervising Deputy Probation Officers, SEIU Local 721, have submitted a State Budget augmentation request of \$1 billion to fund, in part, the construction of a modern, state of the art juvenile facility in the County of Los Angeles. Our existing facilities are old, outdated, and in need of replacement. Individual rooms are not currently plumbed for personal toilets or sinks. Youth are required to be escorted individually to the restrooms, upon request, and require safety protocols for staff and other minors to ensure order. It is by no means ‘ideal’. We are also supporting the Governor’s concurrent \$100m augmentation for facility improvements in preparation for ongoing transfer of DJJ youth from the State to the counties, but those funds cannot be used for the major upgrades and retrogrades that we are recommending and strongly advocating for with our Budget request.”

- 9) **Related Legislation:** AB 2632 (Holden), would prohibit involuntarily placing an individual in segregated confinement under specified conditions, including, among others, that the individual has a serious medical condition or that the individual is under 18 years of age. AB 2632 is pending in this Committee.

10) **Prior Legislation:**

- a) SB 1143 (Leno), Chapter 726, Statutes of 2016, limited the use of room confinement in juvenile facilities, and banned its use for the purposes of punishment, coercion, convenience, or retaliation.

- b) SB 124 (Leno), of the 2015-2016 Legislative Session, would have prohibited the use of solitary confinement of minors, and would have allowed a minor confined in a juvenile facility to request a revocable voluntary time out for no longer than two hours in a 24 hour period. SB 124 failed passage in Assembly Appropriations Committee.
- c) SB 61 (Yee), of the 2013-2014 Legislative Session, would have prohibited solitary confinement in juvenile facilities, unless the juvenile posed an immediate and substantial risk of harm to others or the security of the facility. SB 61 died on the Assembly inactive file.
- d) SB 970 (Yee), of the 2013-2014 Legislative Session, would have generally prohibited a minor or ward who is detained in, or sentenced to, any juvenile facility or other secure state or local facility from being subject to solitary confinement, as defined, unless the minor or ward poses an immediate and substantial risk of harm to others or to the security of the facility, and all other less-restrictive options have been exhausted, and only in accordance with specified guidelines. SB 970 was never heard.
- e) SB 1363 (Yee), of the 2011-12 Legislative Session, would have established standards and protocols for the use of solitary confinement in state and local juvenile facilities for the confinement of delinquent minors. SB 1363 failed passage in the Senate Committee on Public Safety.

REGISTERED SUPPORT / OPPOSITION:**Support**

California Catholic Conference
California Judges Association
Ella Baker Center for Human Rights

Oppose

Afscme, Afl-cio
Riverside Sheriffs' Association

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