
THIRD READING

Bill No: AB 2321
Author: Jones-Sawyer (D)
Amended: 5/19/22 in Assembly
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/28/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 67-0, 5/26/22 - See last page for vote

SUBJECT: Juveniles: room confinement

SOURCE: Author

DIGEST: This bill redefines the exception to room confinement in juvenile facilities for brief periods to a brief period lasting no more than two hours when necessary for institutional operations, and ensures that minors and wards subject to room confinement are provided reasonable access to toilets at all hours, including during normal sleeping hours.

ANALYSIS:

Existing law:

- 1) 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. (Welf. & Inst. Code, § 202.)
- 2) Defines “juvenile facility” as juvenile hall, juvenile camp or ranch, a facility of the Division of Juvenile Justice, 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).)

- 3) Authorizes the court to place a ward of the court in juvenile facility, as specified. (Welf. & Inst. Code, § 726.)
- 4) 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.)
- 5) 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.)
- 6) 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)(3).)
- 7) Provides 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).)
- 8) 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).)
- 9) Provides that a minor or ward may be held up to four hours in room confinement. Requires staff to do one or more of the following after the minor or ward has been held in room confinement for a period of four hours:

- a) Return the minor or ward to general population.
 - b) Consult with mental health or medical staff.
 - 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).)
- 10) Requires staff to do the following if room confinement must be extended beyond four hours:
- 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, subd. (d).)
- 11) Provides that the restrictions on room confinement are not intended to limit the use of 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).)
- 12) 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. Provides that this exception applies for the shortest amount of time needed to address the imminent and substantial risk of harm. (Welf. & Inst. Code, § 208.3, subd. (h).)
- 13) 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. 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).)

This bill:

- 1) Provides that room confinement does not include confinement of a minor or ward in a locked single-person room or cell for a brief period lasting no longer, than two hours when it is necessary for required institutional operations.
- 2) Requires that minors and wards subject to room confinement be provided reasonable access to toilets at all hours, including during normal sleeping hours.

Background

Existing Room Confinement Statute

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, subd. (c).) After the minor or ward has been held in room confinement for a period of four hours, staff are required to 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. (*Id.*) 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, subd. (d).)

Existing law additionally provides that room confinement cannot 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; cannot be used for the purposes of punishment, coercion, convenience, or retaliation by staff; and, cannot 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).) Existing law provides 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)(3).) 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, subs. (e), (h), (i).)

Existing Regulations

Title 15 of the California Code of Regulations contains the minimum standards that apply to juvenile facilities and does not provide specific guidelines regarding the use of room confinement.

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 mirror Welfare and Institutions Code section 208.3 and provide no further guidelines or limitations.

Title 15 requires facility administrators to develop written policies and procedures regarding the use of separation 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. (Cal. Code Regs., tit. 15, § 1354.) Section 1354 prohibits separated youth from being denied normal privileges available at the facility, except when necessary to accomplish the objective of separation. (*Ibid.*) The policies and procedures are required to ensure a daily review of separated youth to determine if separation remains necessary. (*Ibid.*)

Section 1390 requires that discipline be imposed at the least restrictive level which promotes the desired behavior and shall not include corporal punishment, group punishment, physical or psychological degradation.

Section 1359 requires the facility administrator, in cooperation with the responsible physician, to develop and implement written policies and procedures governing the use of “safety rooms.” Regulations required that the safety room 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. (Cal. Code Regs., tit. 15, § 1359.) A safety

room is prohibited from being used for punishment or discipline, or as a substitute for treatment. (*Ibid.*) Section 1359 prohibits the placement of a youth in the safety room from being 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, prohibits the use of a safety room for the purposes of punishment, coercion, convenience, or retaliation by staff, and prohibits the use of a safety room to the extent that it compromises the mental and physical health of the youth.

Similar to the statutory limits regarding the use of room confinement, a youth may only be held in the safety room for up to four hours. (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 develop an individualized plan and the goals and objectives to be met in order to integrate the youth to general population. (*Ibid.*)

This bill was introduced in response to investigations by the Attorney General's Office and BSCC of Los Angeles County's juvenile halls which found violations of state and federal laws and noncompliance with Title 15. This bill redefines the exception to room confinement in juvenile facilities for "brief periods" to a brief period lasting *no more than two hours* when necessary for institutional operations, and explicitly requires that that minors and wards subject to room confinement are provided reasonable access to toilets at all hours, including during normal sleeping hours.

FISCAL EFFECT: Appropriation: No Fiscal Com.:Yes Local:Yes

According to the Senate Appropriations Committee:

Possible ongoing reimbursable costs in the hundreds of thousands of dollars to county probation offices in additional staff or overtime costs to supervise and, if needed, transport wards between cells or bathroom facilities after two hours and during normal sleeping hours. (General Fund, Local Funds). The average salary for a probation officer in California is approximately \$70,000 annually. If this bill requires a county to hire one new probation officer to comply with the requirements of this bill, the cost per county would be \$70,000 before

benefits. Larger counties may require more additional staff or overtime. Small counties with low juvenile populations may not require any additional staff. Costs to the General Fund will depend on whether the duties imposed by this bill constitute a reimbursable state mandate, as determined by the Commission on State Mandates.

SUPPORT: (Verified 8/11/22)

California Catholic Conference
California Public Defenders Association
Ella Baker Center for Human Rights
Joint Council of Supervising Deputy Probation Officers, SEIU Local 721
Los Angeles County District Attorney's Office
Los Angeles County Probation Officers Union, AFSCME Locals 685, 1587, and 1967
National Association of Social Workers, California Chapter

OPPOSITION: (Verified 8/11/22)

None received

ASSEMBLY FLOOR: 67-0, 5/26/22

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cunningham, Megan Dahle, Daly, Davies, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Salas, Santiago, Seyarto, Stone, Ting, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, Choi, Cooper, Flora, Mathis, O'Donnell, Ramos, Rodriguez, Smith, Valladares, Villapudua

Prepared by: Stephanie Jordan / PUB. S. /
8/13/22 11:24:29

**** END ****