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JOHN P. KEARNS
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May 19, 1986

Law and Legislative Committee
City Council
Sacramento, CA 95814

Honorable Members In Session

SUBJECT: Request for Support of Senate Bill 883

SUMMARY

During the current session of the State Legislature, Senator Presley introduced Senate Bill 883. The main thrust of SB 883 as proposed, is that a status offender (601 W&I) can be held in a secure facility beyond the 72 hours already authorized by law, subsequent to a probable cause hearing, where it is determined that the minor is adjudged to be a ward of the court and has violated dispositional orders of the juvenile court after wardship was declared. The bill would authorize continued secure detention of such a ward for a maximum of five days if the supplemental petition is sustained, as specified.

BACKGROUND

Existing law provides that a minor taken into custody on the grounds that he or she may be adjudged a ward of the court on the basis of noncriminal conduct (so-called "status offenders") may be held in a secure facility for periods of 12 to 72 hours for various purposes, such as determining whether there are outstanding wants, warrants, or holds against the minor and locating the minor's parent or guardian to arrange for the return of the minor.

This bill would (also) provide that such a minor may be held in a secure facility for up to 72 hours subsequent to a probable cause hearing, pending a hearing on the merits that would be required where it is alleged that certain minors adjudged wards of the court on the basis of noncriminal conduct have violated dispositional orders of the juvenile court subsequent to that declaration of wardship, as specified. The bill also would authorize continued secure detention of such a ward for a maximum period of five days if the supplemental petition is sustained, as specified. It would require new and increased reports by county officers in this connection, thus establishing state-mandated local programs.

RECOMMENDATION

I request the Law and Legislative Committee to support this legislation by corresponding with our elected representatives and request they vote for Senate Bill 883.

Sincerely,


JOHN P. KEARNS
CHIEF OF POLICE

JPK:lf

Ref: 5-45

SENATE BILL 883

AMENDED IN SENATE JANUARY 21, 1986

AMENDED IN SENATE JANUARY 7, 1986

Introduced by Senator Presley

March 6, 1985

An act to amend Sections 207, 727, and 777 of the Welfare and Institutions Code, relating to juvenile court law.

LEGISLATIVE COUNSEL'S DIGEST

(SB 883, as amended, Presley. Juveniles. Existing law provides that a minor taken into custody on the grounds that he or she may be adjudged a ward of the court on the basis of noncriminal conduct (so-called "status offenders") may be held in a secure facility for periods of 12 to 72 hours for various purposes, such as determining whether there are outstanding warrants, or holds against the minor and locating the minor's parent or guardian to arrange for the return of the minor.

This bill would <also> provide that such a minor may be held in a secure facility for up to 72 hours subsequent to a probable cause hearing, pending a hearing on the merits that would be required where it is alleged that certain minors adjudged wards of the court on the basis of noncriminal conduct have violated dispositional orders of the juvenile court subsequent to that declaration of wardship, as specified. The bill also would authorize continued secure detention of such a ward for a maximum period of 5 days if the supplemental petition is sustained, as specified. It would require new and increased reports by county officers in this connection, thus establishing state-mandated local programs.) It also would make related changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$500,000 statewide and other procedures for claims whose statewide costs exceed \$500,000.

This bill would provide that reimbursement for costs mandated by the bill shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$500,000, shall be payable from the State Mandates Claims Fund.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 207 of the Welfare and Institutions Code is amended to read:

207. (a) No court, judge, referee, or peace officer shall knowingly detain in any jail or lockup any person under the age of 18 years, unless a judge of the juvenile court determines that there are no other proper and adequate facilities for the care and detention of that person, or unless the person has been transferred by the juvenile court to another court for proceedings not under the juvenile court law and has been charged with or convicted of a felony. If any person under the age of 18 years is transferred by the juvenile court to another court and is charged with or convicted of a felony and is not released pending hearing, he or she may be committed to the care and custody of a sheriff, constable, or other peace officer who shall keep him or her in the juvenile hall or in such other suitable place as the latter court may direct, provided that no such person shall be detained in or committed to any hospital except for medical or other remedial care and treatment or observation.

(b) Notwithstanding the provisions of subdivision (a), no minor shall be detained in any jail, lockup, juvenile hall, or other secure facility who is taken into custody solely upon the ground that he or she is a person described by Section 601 or adjudged to be such or made a ward of the juvenile court solely upon that ground, except as provided in subdivision (c). If any such minor, other than a minor described in subdivision (c), is detained, he or she shall be detained in a sheltered-care facility or crisis resolution home as provided for in Section 654, or in a nonsecure facility provided for in subdivision (a), (b), (c), or (d) of Section 727.

(c) A minor taken into custody upon the ground that he or she is a person described in Section 601, or adjudged to be a ward of the juvenile court solely upon that ground, may be held in a secure facility, other than a facility in which adults are held in secure custody, in any of the following circumstances:

(1) For up to 12 hours after having been taken into custody for the purpose of determining if there are any outstanding wants, warrants, or holds against the minor in cases where the arresting officer or probation officer has cause to believe that the wants, warrants, or holds exist.

(2) For up to 24 hours after having been taken into custody, in order to locate the minor's parent or guardian as soon as possible and to arrange the return of the minor to his or her parent or guardian.

(3) For up to 24 hours after having been taken into custody, in order to locate the minor's parent or guardian as soon as possible and to arrange the return of the minor to his or her parent or guardian, if his or her parent or guardian is a resident outside of the state in which the minor was taken into custody. The period may be extended to no more than 72 hours when the return of the minor cannot reasonably be accomplished within 24 hours due to the distance of the parents or guardian

from the county of custody, difficulty in locating the parents or guardian, or difficulty in locating resources necessary to provide for the return of the minor.

(4) For up to 72 hours, excluding nonjudicial days, pending a hearing under paragraph (2) of subdivision (f) of Section 777, where the minor has been declared a ward of the court under subdivision (a) of Section 601 and is alleged to have violated a related dispositional order, if, within 24 hours, excluding nonjudicial days, a probable cause hearing is held under paragraph (1) of subdivision (f) of Section 777.

(d) Any minor detained in juvenile hall pursuant to subdivision (c) may not be permitted to come or remain in contact with any person detained on the basis that he or she has been taken into custody upon the ground that he or she is a person described in Section 602 or adjudged to be such or made a ward of the juvenile court upon that ground.

(e) Minors detained in juvenile hall pursuant to Sections 601 and 602 may be held in the same facility provided they are not permitted to come or remain in contact within that facility.

(f) Every county shall keep a record of each minor detained under subdivision (c), the place and length of time of the detention, and the reasons why the detention was necessary. Every county shall report, on a monthly basis, this information to the Department of the Youth Authority, on forms to be provided by that agency.

The Youth Authority shall not disclose the name of the detainee, or any personally identifying information contained in reports sent to the Youth Authority under this subdivision.

SEC. 2. Section 727 of the Welfare and Institutions Code is amended to read:

727. (a) When a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 601 or Section 602 the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of such a minor, including medical treatment, subject to further order of the court.

The court shall order the care, custody, and control of the minor to be under the supervision of the probation officer who may place the minor in any of the following:

(1) The home of a relative.

(2) A suitable licensed community care facility.

(3) With a home-finding agency to be placed in a suitable licensed home or exclusive use home which has been certified by the agency as meeting licensing standards.

(b) Where the court has ordered a specific minor placed under the supervision of the probation officer and the probation officer has found that the needs of the child cannot be met in any available licensed or exempt facility, including emergency shelter, the minor may be placed in a suitable family home that has filed a license application with the State Department of Social Services, provided that all the following certification conditions are met:

(1) A preplacement home visit is made by the probation officer to determine the suitability of the family home.

(2) The probation officer verifies to the licensing agency in writing that the home lacks any deficiencies which would threaten the physical health, mental health, safety, or welfare of the

minor.

(3) The probation officer notifies the licensing agency of the proposed placement and determines that the foster family home applicant has filed specific license application documents prior to and after the placement of the minor. If the license is subsequently denied, the minor shall be removed from the home immediately. The denial of the license constitutes a withdrawal of the certification.

When a minor has been adjudged a ward of the court on the ground that he or she is a person described in Section 601 or 602 and the court finds that notice has been given in accordance with Section 661, and when the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer, the parent or guardian may be required to participate with such minor in a counseling or education program including, but not limited to, parent education and parenting programs operated by community colleges, school districts or other appropriate agencies designated by the court.

(c) The juvenile court may direct any and all reasonable orders to the parents and guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out the provisions of subdivisions (a) and (b), including orders to appear before a county financial evaluation officer.

When counseling or other treatment services are ordered for the minor, the parent, guardian, or foster parent shall be ordered to participate in those services, unless participation by the parent, guardian, or foster parent is deemed by the court to be inappropriate or potentially detrimental to the child.

(d) Where a minor has been adjudged a ward of the juvenile court under subdivision (a) of Section 601 and a supplemental petition alleging the violation of a related dispositional order has been sustained at a hearing described in paragraph (2) of subdivision (f) of Section 777, the court may order that the minor shall be detained in a secure juvenile facility for a period not to exceed five days, for any of the following purposes:

(1) For the protection of the minor, where the court finds that the minor must be securely detained for his or her safety.

(2) For the evaluation of the minor's need for counseling, medical, or other remedial services.

(3) For arrangement of the referral of the minor to obtain remedial services from public or private agencies in the community.

(4) For delivery of short-term remedial services to the minor while in the secure facility.

Prior to making an order for the secure detention of the minor under this subdivision, the court shall consider whether referral of the minor to a nonsecure facility or program where treatment can be provided would be appropriate for the needs of the minor and the community. Continued secure detention may be ordered only upon a finding by the court that <no nonsecure facility or > <program would be appropriate for the needs of the minor and the > <community; however, continued> [SERVICES APPROPRIATE FOR THE] [NEEDS OF THE MINOR ARE AVAILABLE AND CAN BE DELIVERED TO THE] [MINOR DURING THE PERIOD OF CONFINEMENT; HOWEVER, CONTINUED] secure detention may not be ordered solely upon a finding by the

court that no nonsecure facility or program is available.

If the minor is held under this subdivision in a secure facility operated by the probation department, the [PROBATION] [OFFICER SHALL DELIVER OR ARRANGE FOR DELIVERY OF SERVICES TO] [THE MINOR IN ACCORDANCE WITH THE PURPOSE FOR WHICH THE MINOR] [WAS DETAINED. ADDITIONALLY, THE] probation officer shall record the purposes for which the minor was securely detained and shall keep a record of the efforts made to evaluate the minor, arrange for referral to remedial services, or deliver short-term remedial services during detention, as the case may be.

A minor may not be placed in secure detention under this subdivision for more than two 5-day periods during any 12 months.

SEC. 3. Section 777 of the Welfare and Institutions Code is amended to read:

777. An order changing or modifying a previous order by removing a minor from the physical custody of a parent, guardian, relative, or friend and directing placement in a foster home, or commitment to a private institution or commitment to a county institution, or an order changing or modifying a previous order by directing commitment to the Youth Authority shall be made only after noticed hearing upon a supplemental petition.

(a) The supplemental petition shall be filed by the probation officer, where a minor has been declared a ward of the court or a probationer under Section 601, and by the prosecuting attorney at the request of the probation officer where a minor has been declared a ward or probationer under Section 602, in the original matter and shall contain a concise statement of facts sufficient to support the conclusion that the previous disposition has not been effective in the rehabilitation or protection of the minor.

(b) Notwithstanding the provisions of subdivision (a), if the petition alleges a violation of a condition of probation by a person who has been declared a ward of the court or placed on probation pursuant to Section 602 and is for the commitment of a minor to a county juvenile institution for a period of 30 days or less, or for a less restrictive disposition, it is not necessary to allege and prove that the previous disposition has not been effective in the rehabilitation or protection of the minor. However, before any period of commitment in excess of 15 days is ordered, the court shall determine and consider the effect that an extended commitment period would have on the minor's schooling, including possible loss of credits, and on any current employment of the minor. In order to make such a commitment the court must, however, find that the commitment is in the best interest of the minor. The provisions of this subdivision may not be utilized more than twice during the time the minor is a ward of the court.

(c) Upon the filing of a supplemental petition, the clerk of the juvenile court shall immediately set the hearing on the petition within 30 days, and the probation officer shall cause notice of the hearing to be served upon the persons and in the manner prescribed by Sections 658 and 660.

(d) An order for the detention of a minor who has been declared a ward of the court or placed on probation pursuant to Section 602 pending adjudication of the petition may be made only after a hearing is conducted pursuant to Article 15 (commencing with Section 625) of this chapter.

(e) The filing of a supplemental petition and the hearing

thereon shall not be required for the commitment of a minor who has been declared a ward of the court or placed on probation pursuant to Section 602 to a county institution for a period of 30 days or less pursuant to an original or a previous order imposing a specified time in custody and staying the enforcement of the order subject to subsequent violation of a condition or conditions of probation, provided that in order to make the commitment, the court finds at a hearing that the minor has violated a condition of probation.

(f) Where a minor who has been declared a ward of the juvenile court pursuant to subdivision (a) of Section 601 is alleged to have violated a related dispositional order of the court and the minor is detained in a secure facility by the probation officer pending the outcome of proceedings on a supplemental petition, the court shall do the following:

(1) Within 24 hours of the initial detention, excluding nonjudicial days, the court shall hold a hearing to determine whether probable cause exists that the minor has violated a dispositional order of the juvenile court subsequent to being declared a ward of the court. At the hearing, the court shall examine the circumstances relating to the allegation of the probation officer that the minor has violated the dispositional order, and if it finds that there is probable cause to believe that the minor has violated the order, the court may order the continued detention of the minor in a secure facility, pending the hearing required by paragraph (2).

(2) Within 72 hours of the initial detention, excluding nonjudicial days, the court shall hold a hearing on the supplemental petition to determine whether the minor has violated a dispositional order of the juvenile court subsequent to being declared a ward of the court. Prior to and during the hearing, the minor shall have, in addition to any other rights required by the state and federal constitutional <quarantees> [GUARANTEES] of due process of law, all of the following rights:

(A) The right to have the charges against the minor in writing served upon him or her a reasonable time before the hearing.

(B) The right to a hearing before the court.

(C) The right to an explanation of the nature and consequences of the proceeding.

(D) The right to legal counsel and, if indigent, the right to have counsel appointed by the court <if indigent>.

(E) The right to confront witnesses.

(F) The right to present witnesses.

(G) The right to have a transcript or record of the proceedings.

(H) The right of appeal to an appropriate court.

At the conclusion of the hearing required by paragraph (2), the court shall make its findings and shall, prior to any order for the continued secure detention of the minor under subdivision (d) of Section 727, consider whether referral of the minor to a nonsecure facility or program for treatment would be appropriate for the needs of the minor and the community. Continued secure detention of the minor may be ordered by the court only upon a finding by the court that <no nonsecure facility or program> <would be appropriate for the needs of the minor and the> <community; however, continued> [SERVICES APPROPRIATE FOR THE] [NEEDS OF THE MINOR ARE AVAILABLE AND CAN BE DELIVERED TO THE]

[MINOR DURING THE PERIOD OF CONFINEMENT; HOWEVER, CONTINUED]
secure detention may not be ordered solely upon a finding by the court that no nonsecure facility or program is available.

SEC. 4. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), shall be made from the State Mandates Claims Fund.

END OF BILL TEXT