
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 2448 **Hearing Date:** June 26, 2018
Author: Gipson
Version: February 14, 2018
Urgency: No **Fiscal:** Yes
Consultant: EC

Subject: *Juveniles: Rights: Computing Technology*

HISTORY

Source: Youth Law Center

Prior Legislation: AB 811 (Gipson), 2017, vetoed by the Governor
SB 1250 (Yee), Chapter 522, Statutes of 2008
SB 518 (Migden), Chapter 649, Statutes of 2007
SB 889 (Liu), Chapter of 683, Statutes of 2001

Support: Advokids; American Academy of Pediatrics, California; American Civil Liberties Union of California; Aspiranet; California Court Appointed Special Advocate Association; California Public Defenders Association; Center on Juvenile and Criminal Justice; Children Now; Children's Defense Fund; Children's Law Center of California; Electronic Frontier Foundation; John Burton Advocates for Youth; Law Foundation of Silicon Valley; Los Angeles LGBT Center; National Association of Social Workers; National Center for Lesbian Rights; National Center for Youth Law; Pacific Juvenile Defender Center; Young Women's Freedom Center; Youth Law Center

Opposition: None known

Assembly Floor Vote: 50 - 24

PURPOSE

The purpose of the bill is to grant youth in or committed to specified juvenile facilities and foster care, the right to reasonable access to computer technology and the Internet.

Existing law establishes a list of 17 rights for youth confined in a facility of the Division of Juvenile Facilities, including the right to have counsel, to attend all court hearings pertaining to them, to receive a quality education, and to make and receive confidential phone calls. (Welf. & Inst. Code, § 224.71.)

Existing law requires every county to maintain a suitable home, known as juvenile hall, for the detention of wards and dependent children of the juvenile court, as specified. (Welf. & Inst. Code, § 850.)

Existing law provides that the juvenile hall is under the management and control of the probation officer. (Welf. & Inst. Code, § 852.)

Existing law permits a county to establish juvenile ranches, camps or forestry camps to which wards of the court may be committed. (Welf. & Inst. Code, § 881.)

Existing law establishes a list of 27 rights for minors and nonminors in foster care, including the right to live in a safe, healthy and comfortable home where he or she is treated with respect, to be free from physical, sexual, emotional or other abuse or corporal punishment, to contact with family members, social workers and attorneys, and to visit and contact brothers and sisters. (Welf. & Inst. Code, § 16001.9.)

Existing law provides that every child adjudged a dependent child of the juvenile court is entitled to participate in age-appropriate extracurricular, enrichment, and social activities and that a child's designated caretaker must use the reasonable and prudent parent standard in giving permission to participate. (Welf. & Inst. Code, § 362.05, subd. (a).)

Existing law defines "reasonable and prudent parent" or "reasonable and prudent parent standard" as "the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities." (Welf. & Inst. Code, § 362.05, subd. (c)(1).)

This bill provides that every child adjudged a dependent child of juvenile court shall be entitled to access to computer technology and the Internet.

This bill allows a short-term residential therapeutic program or a group home administrator, a facility manager, or their responsible designee, and a caregiver to use a reasonable and prudent parent standard in determining whether to give permission for a foster child to participate in computer technologies and the Internet.

This bill states that a state or local regulation or policy shall not prevent, or create barriers to, participation in those events.

This bill provides that minors detained in or committed to a juvenile hall shall be provided with access to computer technology and Internet for the purposes of education and maintaining relationships with family.

This bill provides that minors in or committed to a juvenile ranch, camp, or forestry camp shall be provided with access to computer technology and the Internet for the purposes of education and maintaining relationships with family.

This bill does not limit the authority of the chief probation officer, or their designee, to limit or deny access to computer technology or the Internet for safety and security or staffing reasons.

COMMENTS

1. Need for This Bill

The author states:

Technological development and internet access allow people to obtain information that helps them grow and learn, stay in contact with family members and friends, and connect with supportive services that enhance their wellbeing. The United Nations has gone so far as to declare access to the Internet a human right, noting that technology must be recognized as part of our right to freedom of expression. Foster youth in out-of-home placements and juveniles in local detention facilities may be cut off from internet access for years at a time. Crucial to their educational success and connectivity to support systems is a basic right to which they are currently denied.

For example, foster youth are often abruptly moved from one out-of-home placement to another, leaving behind friends and family that they have no means of communicating with effectively. They may not be able to access required online school information or other educational materials needed to succeed academically, graduate, and continue their education.

Similarly, juveniles in local detention facilities are at a critical juncture of rehabilitation and personal growth. Family members may have barriers to visiting juveniles who are often left socially isolated. Academic opportunities may be lost because the youth do not have online access. Social isolation and lost academic opportunities fail to rehabilitate youth or prepare them for a productive life when they re-enter the community.

AB 2448 would help ensure that youth in out-of-home placements are able to access technology so they take advantage of online education opportunities, gain vital skills needed for the work world, and maintain connections with supportive people in their lives. AB 2448 would require that a child who is a dependent of the court or a ward of the juvenile court in foster care is entitled to access to computer technology and the internet as part of age-appropriate extracurricular, enrichment, and social activities.

This bill also requires that minors detained in or committed to a juvenile hall, juvenile ranch, camp, or forestry camp are provided with access to computer technology and the internet for educational purposes and clarifies that access may also be provided to maintain relationships with family. For purposes of public safety, AB 2448 clarifies that local probation departments may limit access for safety and security or staffing reasons.

2. Youth Bill of Rights

In 2007, California enacted SB 518 (Migden) establishing the Youth Bill of Rights. The Youth Bill of Rights states that all youth confined in a facility of the Division of Juvenile Facilities have all the following rights:

- 1) To live in a safe, healthy, and clean environment conducive to treatment and rehabilitation and where they are treated with dignity and respect;
- 2) To be free from physical, sexual, emotional, or other abuse, or corporal punishment;
- 3) To receive adequate and healthy food and water, sufficient personal hygiene items, and clothing that is adequate and clean;
- 4) To receive adequate and appropriate medical, dental, vision, and mental health services;
- 5) 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;
- 6) To not be searched for the purpose of harassment or humiliation or as a form of discipline or punishment;
- 7) To maintain frequent and continuing contact with parents, guardians, siblings, children, and extended family members, through visits, telephone calls, and mail;
- 8) 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;
- 9) 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;
- 10) To have regular opportunity for age-appropriate physical exercise and recreation, including time spent outdoors;
- 11) 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;
- 12) To participate in religious services and activities of their choice;
- 13) 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;

- 14) 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;
- 15) To attend all court hearings pertaining to them;
- 16) To have counsel and a prompt probable cause hearing when detained on probation or parole violations; and
- 17) 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.

3. Technology and Youth

In 2010, the Pew Research Center described a distinguishing feature of the millennial generation from their previous generations as “technological exceptionalism.” The generation does not only wield technological gadgets for convenience, but also, infuse their social lives into technology and social networks. Caution must be given when attributing characteristics to an entire generation however; millennials are trending towards becoming “digital natives”.¹

4. Internet Access and Youth in the Juvenile Justice System

Education and rehabilitation is vital for youth confined to juvenile secure care facilities. Access to educational technology has been largely standardized amongst schools. While some Internet restrictions must be adopted to maintain a student’s safety and security, the restrictions of computer technologies and the Internet may prove detrimental to students in the educational and social foundation. Juvenile facilities may create barriers to providing comparable educational experiences to students without access to the internet.

According to a joint report published by the U.S. Departments of Education in Justice in 2014:

Integrating technology-enhanced learning in the secure care classroom is critical to achieving positive outcomes for youths in these settings. Although security concerns have been identified as potential barriers to high-quality education that includes Internet-based coursework and supplemental materials, many facilities have identified strategies to implement technology-enhanced learning while maintaining a secure learning environment....Today’s students and teachers use the Internet in many facets of the teaching-learning process, and allowing system-involved youths to be deprived of this educational tool promotes inequities.²

¹ Cesia Roche, J. Mitchell Vaterlaus, and Jimmy A. Young, “A Foster Care Alumna’s Past and Present Technological Experience: A Feminist Case Study Approach,” *SAGE Open* 5, no. 2 (April 1, 2015): 2158244015584946, <https://doi.org/10.1177/2158244015584946>.

² “Guiding Principles for Providing High-Quality Education in Juvenile Justice Secure Care Settings,” accessed June 14, 2018, <https://ed.gov/policy/gen/guid/correctional-education/guiding-principles.pdf>.

Many juvenile correctional facilities around the country have successfully utilized technology and the Internet successfully and broadened their scope of education programming while maintaining appropriate and effective safeguards for detained youth. Security can be maintained by staff monitoring, firearms, screening software, or review of online history on a monthly basis.³

AB 2447 allows discretion for chief probation officers or their designee to limit or deny access to computer technology or the Internet for safety, security, or staffing reasons. The bill addresses unintended educational and social harms associated with juvenile incarceration while balancing risks unique to the population.

5. Internet Access and Foster Youth

While the internet is a critical educational tool, it is also a medium in which to promote connections and stability for foster youth. Foster youth can maintain contact with their birth families along a continuum of communication methods depending on the needs and abilities of both youth and their birth family. Case workers may help facilitate positive connections with friends and family to help youth remember their histories and foster healthy relationships. Several reports have found that healthy communication and relationships, including those maintained through Internet-based social platforms, can boost the self-esteem and overall positivity of youth in foster care, which is likely to provide long-term benefits.⁴ Access to the internet can normalize foster youth experiences in atypical housing and familial circumstances.

Internet access not only provides benefits for maintaining normalcy regarding relationships, but also for normalcy in education. Students without Internet access face a considerable disadvantage compared to their counterparts because they lack access to important Internet-based resources, such as research databases, educational forums, and online class supplements. In a recent study, researchers found that access to Internet and computer technology had a significant positive impact on student performance and the development of important educational skills. The technological skills that were developed during the study are also skills that are highly marketable in the work force since technology is integrated into the vast majority of occupations in some form or another.⁵

AB 2447 allows discretion for therapeutic programs, group home administrator, facility manager, or their responsible designee, and a caregiver to use reasonable and prudent parent standard in determining whether to give permission for a child residing in juvenile facilities

6. Governor's Veto

AB 811 (Gipson), of the 2017-2018 Legislative Session, was substantially similar to this bill in that it gave youth confined in or committed to certain juvenile facilities, as well as individuals in foster care, the right to reasonable access to computer technology and the Internet. In the Governor's veto message of AB 811, he wrote:

³ "Reentry-Council-Mythbuster-IT-Juveniles.Pdf," accessed June 14, 2018, <https://csgjusticecenter.org/wp-content/uploads/2014/06/reentry-council-mythbuster-IT-juveniles.pdf>.

⁴ Ramona Denby Brinson, Efren Gomez, and Keith A Alford, "Becoming 'Smart' about Relationship Building: Foster Care Youth and the Use of Technology," n.d., 13.

⁵ "1_Laptop_FCC_Evaluation_Report.Pdf," accessed June 14, 2018, http://www.cacollegepathways.org/wp-content/uploads/2015/09/1_Laptop_FCC_Evaluation_Report.pdf.

While I agree with the bill's intent, the inclusion of state facilities alone will cost upwards of \$15 million for infrastructure upgrades. Also the reasonable access standard is vague and could lead to implementation questions on top of the costly state mandate created by the legislation. I therefore urge the proponents to revisit the local aspects of this bill in the future, taking these concerns under advisement. In the meantime, I am directing the Department of Juvenile Justice to present a plan in the coming year to provide computer and Internet as soon as practicable, and that can be budgeted accordingly.⁶

Unlike AB 811, AB 2448 is aimed toward providing computer technology and Internet access to local juvenile facilities and does not include youth confined in state Department of Juvenile Justice facilities.

7. Argument in Support

According to the Center on Juvenile and Criminal Justice:

Technology affects every facet of our lives and is particularly crucial for learning and communication. Without computers or the Internet, youth in out-of-home placements cannot access online school assignments and materials, conduct online research, and engage in normal day-to-day communications with family and friends. They risk falling behind academically and becoming isolated from their communities and supportive connections. At minimal expense and with appropriate supervision, youth in out-of-home placements can access the technology they need to maintain their academic progress and the relationships that are vital to their wellbeing and success.

Existing law gives foster youth and juvenile justice-involved youth certain specified rights, including the right to contact with family members and right to education, yet foster youth in out-of-home placements and justice-involved youth in local detention facilities can be denied access to the Internet for communication. Moreover, AB 2448 will support the future success of youth in out-of-home placements by allowing them to complete school assignments, gain vital career skills, and stay connected to the family members and friends who support their wellbeing and long-term success.

-- END --

⁶ "Bill Status," accessed June 14, 2018, https://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill_id=201720180AB811.