SENATE COMMITTEE ON PUBLIC SAFETY
Senator Loni Hancock, Chair
2015 - 2016 Regular

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Author:	Leno		
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Urgency:	No	**Fiscal:**	Yes
Consultant:	LT		

Subject: ***Juveniles: solitary confinement***

HISTORY

Source: Ella Baker Center for Human Rights

Prior Legislation: SB 1363 (Yee) (2012) – failed passage, Senate Public Safety
SB 61 (Yee) (2013) – died in the Assembly
SB 970 (Yee) (2014) – died in the Senate

Support: Youth Law Center; Legal Services for Children; American Civil Liberties Union; Lawyers' Committee for Civil Rights of the San Francisco Bay Area; Legal Services for Prisoners with Children; Peace Over Violence; GSA Network; Friends Committee on Legislation of California; Violence Prevention Coalition; Children Now; Fair Chance Project; Center for Educational Excellence in Alternative Settings; Nollie Jenkins Family Center; Wilks Law; Los Angeles Community Action Network; American Friends Service Committee; Californians United for a Responsible Budget; Children's Defense Fund; Forward Together; The W. Haywood Burns Institute; National Center for Youth Law; National Religious Campaign Against Torture; A New Way of Life Re-Entry Project; Urban Peace Movement; Center on Juvenile and Criminal Justice; Children's Law Center of California; Resurrection Catholic Community; Riverside Temple Beth El; Bend the Arc for Justice; Human Rights Watch; California Civil Liberties Council; Alameda County Board of Supervisors; Center on Juvenile and Criminal Justice; National Religious Campaign Against Torture; Manifest Works; Conference of California Bar Associations; Coalition for Engaged Education; Aptos Temple Beth El; Fair Chance Project; Starting Over Inc.; Public Counsel; California Council of Churches IMPACT; California Public Defenders Association; Policy Link; Office of Restorative Justice of the Archdiocese of Los Angeles; Drug Policy Alliance; National Association of Black Social Workers; Harvey Milk LGBT Democratic Club; The Association of Black Psychologists; California Catholic Conference, Inc.; Rosie the Riveter High School Youth Build; Every Child Foundation; California Immigrant Policy Center; California Families Against Solitary Confinement; Justice Not Jails; Prisoner Hunger Strike Solidarity; California Attorneys for Criminal Justice; California Alliance for Youth and Community Justice; Mental Research Institute; Life After Uncivil Ruthless Acts; several individuals

Opposition: California Correctional Peace Officers Association; State Coalition of Probation Organizations; Chief Probation Officers of California

PURPOSE

The purpose of this bill is to 1) establish standards and protocols for the use of solitary confinement in state and local juvenile facilities for the confinement of delinquent wards, as specified; and 2) make changes to the composition and duties of local juvenile justice commissions, as specified.

Existing law provides generally that the purpose of the juvenile court law "is to provide for the protection and safety of the public and each minor under the jurisdiction of the juvenile court and to preserve and strengthen the minor's family ties whenever possible, removing the minor from the custody of his or her parents only when necessary for his or her welfare or for the safety and protection of the public. If removal of a minor is determined by the juvenile court to be necessary, reunification of the minor with his or her family shall be a primary objective. If the minor is removed from his or her own family, it is the purpose of this chapter to secure for the minor custody, care, and discipline as nearly as possible equivalent to that which should have been given by his or her parents . . . ¶ . . . 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 interest of the public. Minors under the jurisdiction of the juvenile court as a consequence of delinquent conduct shall, in conformity with the interests of public safety and protection, 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 . . . (Welfare and Institutions Code ("WIC") § 202.)

Existing law provides that minors under the age of 18 years may be adjudged to be a ward of the court for violating "any law of this state or of the United States or any ordinance of any city or county of this state defining crime," as specified. (WIC § 602.)

Existing law generally provides that when a minor is adjudged a ward of the court on the ground that he or she is delinquent, the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the minor, including medical treatment, subject to further order of the court, as specified. (WIC § 727(a).)

Existing law authorizes the court to place a ward of the court in a juvenile hall, ranch, camp, forestry camp, secure juvenile home, or the Division of Juvenile Facilities, as specified. (WIC§ 726.)

Confinement of Detained Minors

Existing law 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." (WIC § 210.)

Existing law requires the BSCC to "adopt and prescribe the minimum standards of construction, operation, programs of education and training, and qualifications of personnel for juvenile ranches, camps, or forestry camps . . ." (WIC § 885.)

This bill would enact new statutory provisions regulating the use of "solitary confinement" in juvenile facilities with the following features and requirements:

Definition and Scope

This bill would define "solitary confinement" to mean "the placement of an incarcerated person in a locked room or cell alone with minimal or no contact with persons other than guards, correctional facility staff, and attorneys. Solitary confinement does not include confinement of a person in a single-person room or cell for brief periods of locked-room confinement necessary for required institutional operations, including, but not limited to, shift changes, showering, and unit movements."

This bill would define "juvenile facility" as including any of the following:

(1) A juvenile hall, as described in Section 850;
(2) A juvenile camp or ranch;
(3) A facility of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities;
(4) A regional youth educational facility, as specified;
(5) A youth correctional center, as specified; and
(6) Any other local or state facility used for the confinement of minors or wards.

This bill would define "minor" to mean a person who is any of the following:

(1) A person under 18 years of age;
(2) A person under the maximum age of juvenile court jurisdiction who is confined in a juvenile facility; or
(3) A person under the jurisdiction of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

This bill would define "ward" to mean a person who has been declared a delinquent ward of the court, as specified.

Limits on Solitary Confinement

This bill would provide that "solitary confinement shall not be used for the purposes of discipline, punishment, coercion, convenience, or retaliation by staff."

Standards for Solitary Confinement Placement and Duration

This bill would provide that a person may be held in solitary confinement if:

(1) The person poses an immediate and substantial risk of harm to the security of the facility;
(2) Poses an immediate and substantial risk of harm to others that is not the result of a mental disorder; or
(3) The person poses a risk of harm to himself or herself that is not the result of a mental disorder.

This bill would provide that “a person confined in any juvenile facility who is a danger to himself, herself, or others as a result of a mental disorder, or who is gravely disabled, as specified, shall not be subject to solitary confinement and shall be transported to, and evaluated at, a designated mental health treatment facility, as specified.

This bill would provide that a person may only be held in solitary confinement if all other less-restrictive options to address the risk have been attempted and exhausted.

Standards During Solitary Confinement

This bill would provide that “solitary confinement” be done in accordance with the following guidelines:

(1) The person may be held in solitary confinement only for the minimum time required to address the risk, and for a period of time that does not compromise the mental and physical health of the minor or ward, but not to exceed four hours. After the person is held in solitary confinement, the person shall be returned to regular programming or placed in individualized programming that does not involve solitary confinement. If it appears during the time a person is held in solitary confinement that the person is suffering from a mental disorder, and consultation with a qualified mental health professional determines that it is appropriate, the person shall be transported to a mental health facility.

(2) If a person in solitary confinement poses a risk of harm to himself or herself that is not a result of a mental disorder, the condition of the person shall be monitored closely by a qualified mental health professional. If a qualified mental health professional determines that the person cannot be safely released from solitary confinement, the person shall be transported to a mental health facility or hospital for the development and implementation of an individualized suicide crisis intervention plan.

(3) The use of consecutive periods of solitary confinement shall be prohibited.

Documentation

This bill would require that each local and state juvenile facility shall document the usage of solitary confinement, including all of the following:

(1) The name of the person subject to solitary confinement;
(2) The date and time the person was placed in solitary confinement;
(3) The date and time the person was released from solitary confinement;
(4) The name and position of person authorizing the placement of the person in solitary confinement;
(5) The names of staff involved in the incident leading to the use of solitary confinement;
(6) A description of circumstances leading to use of solitary confinement;
(7) A description of alternative actions and sanctions attempted and found unsuccessful; and,
(8) The dates and times when staff checked in on the person when he or she was in solitary confinement and the person’s behavior during the check.

This bill would subject these records without identifying information to public disclosure as specified.

Miscellaneous

This bill would provide that its provisions are not intended to limit the use of single-person rooms or cells for the housing of persons in juvenile facilities.

This bill would provide that its provisions are not to apply to minors or wards in court holding facilities or adult facilities.

This bill would provide that its provisions not be construed to conflict with any law providing greater or additional protections to minors or wards.

Local and Regional Juvenile Justice Commissions

Existing law provides that in each county there shall be a juvenile justice commission consisting of not less than 7 and no more than 15 citizens. Current law requires that two or more of the members be persons who are between 14 and 21 years of age, "provided there are available persons between 14 and 21 years of age who are able to carry out the duties of a commission member in a manner satisfactory to the appointing authority". (WIC § 225)

This bill would require that two or more of the members shall be persons who are 14 to 21 years of age, inclusive; two or more of the members to be parents or guardians of previously or currently incarcerated youth; one member shall be a licensed psychiatrist, licensed psychologist, or licensed clinical social worker with expertise in adolescent development.

Existing law provides that in lieu of county juvenile justice commissions, the board of supervisors of two or more adjacent counties may agree to establish a regional juvenile justice commission consisting of not less than eight citizens.

This bill would require the regional juvenile justice commission to consist of no less than ten members.

Existing law provides that two or more of the members shall be persons who are between 14 and 21 years of age, provided there are available persons between 14 and 21 years of age who are able to carry out the duties of a commission member in a manner satisfactory to the appointing authority.
This bill would require two or more of the members to be 14 to 21 years of age, inclusive. Two or more of the members shall be parents or guardians of previously or currently incarcerated youth. One member shall be a licensed psychiatrist, licensed psychologist, or licensed clinical social worker, with expertise in adolescent development.

Existing law provides that it shall be the duty of a juvenile justice commission to inquire into the administration of the juvenile court law in the county or region in which the commission serves.

Existing law provides that a juvenile justice commission shall annually inspect any jail or lockup within the county which in the preceding calendar year was used for confinement for more than 24 hours of any minor.

This bill would revise this section to expressly include a "facility" within its scope.

This bill would revise this section to include a probation commission as defined in WIC Section 240 to inquire into the administration of the juvenile court law in the county or region in which the commission serves.

Existing law provides that a "juvenile justice commission may recommend to any person charged with the administration of any of the provisions of this chapter such changes as it has concluded, after investigation, will be beneficial. A commission may publicize its recommendations."

This bill would revise this provision to authorize a juvenile justice commission or probation commission to publicize its recommendations on the county government's Internet Web site or other publicly accessible medium.

Existing law provides that counties having a population in excess of 6,000,000 in lieu of a county juvenile justice commission, there shall be a probation commission consisting of no less than seven members who shall be appointed by the same authority as that authorized to appoint the probation officer in that county.

This bill would revise this provision so that two or more of the members shall be 14 to 21 years of age, inclusive. Two or more of the members shall be parents or guardians of previously or currently incarcerated youth. One member shall be a licensed psychiatrist, licensed psychologist, or licensed clinical social worker with expertise in adolescent development.

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past eight years, this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state's ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its "ROCA" policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In February of this year the administration reported that as "of February 11, 2015, 112,993 inmates were housed in the State's 34 adult institutions, which amounts to 136.6% of design bed capacity, and 8,828 inmates were housed in out-of-state facilities. This current population is now below the court-ordered reduction to 137.5% of design bed capacity."(Defendants' February 2015 Status Report In Response To February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).

While significant gains have been made in reducing the prison population, the state now must stabilize these advances and demonstrate to the federal court that California has in place the "durable solution" to prison overcrowding "consistently demanded" by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants' Request For Extension of December 31,

2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee's consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Author's Amendments

The author intends to amend this bill in Committee as follows:

- Revise the bill's provisions to require that if it appears during the time a person is held in solitary confinement that the person is suffering from a mental disorder, the juvenile facility shall consult with a qualified mental health professional to determine whether the person suffers from a mental disorder. If the person suffers from a mental disorder that may warrant a higher level of care than can be provided at the juvenile facility and the person continues to pose a risk of harm, the juvenile facility shall transport the person to a mental health facility.

- Revise the bill's provisions to require that if a person in solitary confinement poses a risk of harm to himself or herself that is *not* a result of a mental disorder, the condition of the person shall be monitored by custody staff instead of a qualified mental health professional.

- Revise the bill's provisions to add age, race, and gender to the criteria for documentation on the use of solitary confinement.

2. Stated Need for This Bill

The author states:

Solitary confinement is an extremely harmful measure, widely condemned as torture, but overused in California state and local juvenile justice systems. Without even a legal definition of solitary confinement, local governments have no standard to prevent abuse, related injuries or deaths, or to avoid costly lawsuits.

In 2011, the United Nations called on all countries to ban solitary confinement of prisoners except in exceptional circumstances and for brief periods, with an absolute prohibition in the case of juveniles and people with mental disabilities. In 2013, the U.S. Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights convened the first hearing on the use of solitary confinement in the United States.

Despite a long standing consent decree, abuses in California youth prisons continue. A 2011 audit found that youth were often isolated in their cells for 23 hours a day or more. During a 15-week period, there were 249 separate recorded incidents of solitary confinement at five different facilities. In one case, a youth reported receiving only one hour out of his cell in a 10-day period. In a recent 2014 report released by Barry Krisberg of the Warren Institute at UC Berkeley School of Law, youth in the most restrictive program known as "Behavior Treatment Program" were typically there for 60 days. A federal lawsuit has been filed against Contra Costa County's juvenile hall for youth placed in solitary for 23 hours a day in a 12 by 12 foot cell and denied education as punishment.

Solitary confinement endangers mental health and increases risk for suicide. Nationally, over half of the youth who committed suicide in a correctional facility were in solitary confinement at the time. Sixty-two percent had a history of being placed in solitary confinement.

Six states ban solitary confinement for "punitive reasons" and New York City has banned solitary confinement for people under 21. The federal bipartisan "Redeem Act" was introduced in the 2014 congressional session to curb the use of solitary confinement for youth.

3. What This Bill Would Do

As explained in detail above, this bill generally addresses two areas in the juvenile law: first, it establishes standards and protocols for the use of solitary confinement in state and local juvenile facilities for the confinement of minors who have been detained or committed as juvenile offenders, as specified; and second, it makes some changes to the composition and duties of local juvenile justice commissions.

4. Isolating Juvenile Offenders

As noted by the author and supporters of this measure, solitary confinement for juveniles in detention facilities raises very serious issues. In 2005, comments on proposed revised regulations limiting the length of time a juvenile may be placed in isolation in New Jersey explained:

It is worth noting at the outset that the American Correctional Association (ACA), which establishes professional standards for adult correctional and juvenile justice facilities, limits isolation of juveniles to a maximum of 5 days. The ACA is a leading national association and its standard amply supports the proposed regulations . . . It is also noteworthy that international law prohibits the use of isolation as a disciplinary tool, holding that "all disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned.

As reflected in social science literature and testimony, there is ample basis for severely limiting the use of isolation with juveniles. Simply put, isolation is not an evidence-based practiced. In fact, the evidence shows that isolation causes harm to juveniles and increases the risk of suicide.

A 2001 survey of the literature concluded that "the research has found seclusion to be harmful to patients and not related to positive patient outcomes . . . There is no research to support a theoretical foundation for the use of seclusion with children. Evidence has been building for more than 30 years that the practice of seclusion does not add to therapeutic goals and is in fact a method to control the environment instead of a therapeutic intervention." Reinforcing this point, a leading official from the Civil Rights Division of the United States Department of Justice has stated that "[t]he use of extended isolation as a method of behavior control, for example, is an import from the adult system that has proven both harmful and counterproductive when applied to juveniles. It too often leads to increased incidents of depression and self-mutilation among isolated juveniles, while also exacerbating their behavior problems. We know that the use of prolonged isolation leads to increased not decreased, acting out, particularly among juveniles with mental illness.

The most dramatic potential consequence of isolation is the increased risk of suicide. In 1999, the Office of Juvenile Justice and Delinquency Prevention of the United States Justice Department commissioned "the first comprehensive effort to determine the scope and distribution of suicides by youth in our public and private juvenile facilities throughout the country." The study found that 50 percent of victims were in isolation at the time of their suicide, and 62 percent of victims had a history of isolation.[1]

In October of last year, the American Civil Rights Union and Human Rights Watch issued a report describing the incidence and effects of solitary confinement concerning young people. That report included the following information:

Experts assert that young people are psychologically unable to handle solitary confinement with the resilience of an adult. And, because they are still developing, traumatic experiences like solitary confinement may have a profound effect on their chance to rehabilitate and grow. Solitary confinement can exacerbate, or make more likely, short and long-term mental health problems. The most common deprivation that accompanies solitary confinement, denial of physical exercise, is physically harmful to adolescents' health and well-being.

Human Rights Watch and the American Civil Liberties Union estimate that in 2011, more than 95,000 youth were held in prisons and jails. A significant number of these facilities use solitary confinement—for days, weeks, months, or even years—to punish, protect, house, or treat some of the young people who are held there. Solitary confinement of youth is, today, a serious and widespread problem in the United States.

This situation is a relatively recent development. It has only been in the last 30 years that a majority of jurisdictions around the country have adopted various charging and sentencing laws and practices that have resulted in substantial numbers of adolescents serving time in adult jails and prisons. These laws and policies have largely ignored the need to treat young people charged and sentenced as if adults with special consideration for their age, development, and rehabilitative potential.[2]

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[1] http://www.njisj.org/document/testimonyyouthdetention-9-16-05.pdf. (citations omitted.)

[2] ACLU and Human Rights Watch, *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States* (Oct. 2012.)

5. Current Laws and Regulations — Local Facilities

As noted above, current statute requires the BSCC to promulgate regulations establishing minimum standards in juvenile halls. Current regulations pertaining to the segregation of confined minors provide:

The facility administrator shall develop written policies and procedures concerning the need to segregate minors. Minors who are segregated shall not be denied normal privileges available at the facility, except when necessary to accomplish the objectives of segregation. Written procedures shall be developed which provide a review of all minors to determine whether it is appropriate for them to remain in segregation and for direct visual observation. When segregation is for the purpose of discipline, Title 15, Section 1390 shall apply.[3]

Current regulations further provide:

The facility administrator shall develop written policies and procedures for the discipline of minors that shall promote acceptable behavior. Discipline shall be imposed at the least restrictive level which promotes the desired behavior. Discipline shall not include corporal punishment, group punishment, physical or psychological degradation or deprivation of the following:

(a) bed and bedding;
(b) daily shower, access to drinking fountain, toilet and personal hygiene items, and clean clothing;
(c) full nutrition;
(d) contact with parent or attorney;
(e) exercise;
(f) medical services and counseling;
(g) religious services;
(h) clean and sanitary living conditions;
(i) the right to send and receive mail; and,
(j) education.

The facility administrator shall establish rules of conduct and disciplinary penalties to guide the conduct of minors. Such rules and penalties shall include both major violations and minor violations, be stated simply and affirmatively, and be made available to all minors. Provision shall be made to provide the information to minors who are impaired, illiterate or do not speak English.[4]

Thus, current law generally requires local juvenile detention administrators to develop written policies and procedures for segregating detained youth, including providing for a review to determine whether it is appropriate for them to remain in segregation and subject to direct visual observation. Segregated youth cannot be denied normal privileges "except when necessary to accomplish the objectives of segregation." Similarly, current law requires administrators of local juvenile facilities to develop written policies and procedures for discipline. As described above, the regulations prohibit corporal punishment, group punishment, physical or psychological degradation, or deprivation of specified basic provisions.

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[3] 15 CCR § 1354.
[4] 15 CCR 1390.

6. Division of Juvenile Facilities

The provisions of this bill would apply to the Division of Juvenile Facilities ("DJF"). Historically, the use of solitary confinement in DJJ has posed significant issues and concerns. Fifteen years ago, this Committee investigated a number of issues relating to conditions at what was then the California Youth Authority ("CYA"). On May 16, 2000, this Committee conducted a joint informational hearing with the Assembly Public Safety Committee regarding conditions at CYA. A former CYA ward testified about his experience on "lock-down" at CYA in the early-to-mid 1990s:

I spent ten months on the Taft lock-down unit for assaultive wards. I was considered a threat to regular staff. For the first month-and-a-half that I was there, I came out of my room for one hour a day. As soon as the shift came on, which is about 6 o'clock in the morning, I would have my handcuffs removed out of my room to shower. My shower would count as part of my hour, as part of my large muscle exercise. I would sometimes have to eat in my handcuffs in front of the TV. That would be part of my large muscle exercise. That would be it. For a month-and-a-half I did that.[5]

That hearing also included the following testimony from Sue Burrell, staff attorney for the Youth Law Center:

California is completely off the charts in its use of lockdown for kids . . . Youth Authority is one of only 4 percent of state training schools that has no limit on the period in which kids are held in isolation.

I have had letters from kids who were, for example, in Sacramento Hall at Chaderjian for ten months. It is not unusual to find kids that are in for five or six months, and many of these kids are in for reasons, such as we heard this morning, where maybe they're a Sureño and they're in the north or vice-versa. They wind up essentially in protective custody, locked down 23 hours a day. They get the wonderful educational services which are basically a sham, to have a teacher come to the crack in your door for ten minutes a day. You get out of your cell for maybe an hour in which time you are required to do your showering and your recreational exercise. And at Chaderjian, that happens outside in a cage. And other kids are not there in protective custody but they're there because they've messed up in other programs. Some of the kids are in what are called 'recalcitrant programs' but it's kind of like the Emperor's New Clothes because there is no program. You are basically just locked down.[6]

As part of comprehensive litigation involving conditions at DJF which commenced in 2003 – *Farrell v. Cate* – DJF is required to adopt reformed methods for dealing with containment or isolation of wards. (*See Consent Decree, Farrell v. Allen* (Nov. 19, 2004) *(http://www.prisonlaw .com /pdfs/farrellcd2.pdf.)*; *Safety and Welfare Remedial Plan: Implementing Reform in California* (July 10, 2006) *http://www. prisonlaw.com/pdfs/SafetyPlanFinal.pdf.)* In her most recent (and 30th) report in the *Farrell* case in November of 2014, Special Master Nancy Campbell wrote in part:

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[5] Transcript, *Joint Oversight Hearing of the Senate and Assembly Committees on Public Safety Regarding the California Department of the Youth Authority,* (May 16, 2000.)
(http://spsf.senate.ca.gov/jointinformationalhearingon thecaliforniayouthauthoritymay162000.)
[6] *Id.*

There have been significant reductions in the reliance on solitary confinement in DJJ since 2005. The older and discredited policy and practice of confining youth in a lockup unit for 23 hours a day with minimal services is gone. In its place, the DJJ has developed a range of options that constitute a short term limitation on the program of youth who are in some kind of crisis and who may be a danger to themselves or others. These alternatives include a very short term "cool down period in the youngster's room (or in a separate room) in those few remaining dormitory units. Another option for staff is to utilize "room confinement" in which the youth stays in their own room, usually for less than a day. Youth needing more specialized attention are managed in the Treatment Intervention Program (TIP) that is designed to last only a few days.

Data on TIP for June 2014 revealed that more than half of the youngsters assigned to this program were returned to regular programs within one day and only 18% were in TIP for more than 3 days. Most important, the TIP program includes educational services, mental health services and is designed to return youth back to their regular programs as soon as possible. The goal of TIP is not punishment, but closely monitored separation for a very short duration to assist the youth to return to a more appropriate program placement and treatment services. These limited program options permitted DJJ to eliminate Temporary Detention that had been a regular feature of past DJJ practice. Further, these programs rely on delivery of counseling and mental health interventions, not depravation of basic services. Youth in TIP generally spend a large number of waking hours out of their rooms and engaged in education, recreation and other positive activities. This approach is consistent with the best professional thinking and the growing literature on the harm to adolescents of extreme isolation.

The most restrictive level of limited programming is the Behavioral Treatment Program (BTP). These youth have engaged in repeated and very serious disciplinary infractions. The BTP program had 65 youngsters assigned to it in June 2014. The 22 youth in the OHCYCF BTP stayed an average of 37 days. At NACYCF there were 15 residents of the BTP, who stayed an average of 106 days and at the VYCF there were 28 youth who stayed an average of 106 days. These average lengths of stay figures are greatly affected by a very small number of young people who might remain in the BTP for a very long period. More typical BTP assignments are for less than two months.

Before the Farrell reforms took hold, the DJJ lockup units had as many as 400 youth on any given day and the length of stay was at least 270 days. In the "bad old days" the lockup units included a wide range of youth who had engaged in serious assaults, had defied staff orders, evidenced severe mental health issues, or were in the lockup unit in protective custody. The BTP is now almost reserved exclusively for very assaultive young people and the DJJ uses its other programming options for other young people in the BTPs markedly improved.

DJJ introduced more services, counseling and groups in the BTP units that focused on cognitive behavioral skills, anger management and preparation for community reentry. Staff assigned to the BTPs have embraced its new philosophy of increasing mental health services, improving youth communication and conflict resolution skills, and providing opportunities for vocational and educational achievements.

Opposition

Opponents generally argue solitary confinement of juvenile offenders already has been adequately addressed in California. California Correctional Peace Officers Association, states for example:

> We recognize that many parties believe that solitary confinement was overused in the past within the Department of the Youth Authority and the Division of Juvenile Facilities. However those issues were addressed by the Farrell court and subsequently by DJJ. In our view, the DJJ has adopted a far reaching set of policies governing the isolation of wards. These policies are specifically designed to keep wards safe and, when necessary, place a ward in a treatment program run by staff who are trained in evidence based curriculum to address the ward's violent or aggressive behavior … While in many respects the apparent goals of SB 124 are similar to the goals of the new policies, SB 124 would complicate the operational aspects of these policies and treatment programs. In addition, the four hour minimums contained in the SB 124 would jeopardize the safety and security of wards that are conforming to expected standards of behavior, of staff, and would compromise the programming of the general ward population.

Similarly, The State Coalition of Probation Organizations submits:

> Given the on-going regulation of juvenile separation, and the need to ensure the safety of all youth and staff, we believe that (SB 124) will present obstacles to the effective and limited use of separation and programming restrictions. These restrictions will potentially compromise the health and safety of youth and staff alike in juvenile facilities.

Members may wish to discuss the effect of *Farrell* on the use of solitary confinement in DJJ facilities, and whether *Farrell* reforms have adequately addressed this issue. Similarly, members may wish to discuss whether existing local juvenile facility regulations adequately regulate the use and conditions of solitary confinement in local juvenile facilities.

Local Juvenile Justice Commissions

As explained above, this bill would change the composition of local juvenile justice commissions to include family members and certain mental health professionals, as specified. The current statutes only specify the inclusion of certain young people, "provided there are available persons between 14 and 21 years of age who are able to carry out the duties of a commission member in a manner satisfactory to the appointing authority."

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