



County of Los Angeles CHIEF EXECUTIVE OFFICE

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SACHI A. HAMAI
Chief Executive Officer

August 26, 2016

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From: Sachi A. Hamai 
Chief Executive Officer

SACRAMENTO UPDATE

Executive Summary

This memorandum contains a report on the following:

- **Legislation of County Interest.** A report on three measures of interest to the County related to: 1) the truancy prevention program funded by Proposition 47; 2) detention and interrogation of minors; and 3) citizen redistricting commissions.
- **Budget Trailer Legislation of County Interest.** A report on budget trailer legislation related to: 1) changes to the health and human services portions of the State Budget Act of 2016; and 2) bond financing mechanism for the No Place Like Home Program.
- **State Audit Report.** A report on a State audit related to foster children and psychotropic medications released on August 23, 2016.

Legislation of County Interest

AB 1014 (Thurmond), which as amended on June 23, 2016, would specify the process and standards by which the State would solicit proposals and award grants for the truancy prevention program funded by Proposition 47 of 2014, passed the Assembly Floor, in concurrence of Senate amendments, by a vote of 62 to 16 on August 24, 2016. This measure now proceeds to the Governor.

SB 1052 (Lara and Mitchell), which as amended on August 18, 2016, would require that a minor under the age of 18 consult with legal counsel prior to a custodial interrogation and before waiving their Miranda rights.

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Under current law, a peace officer may take a minor into temporary custody when the officer has reasonable cause to believe that the minor has committed a crime or violated an order of the juvenile court. The officer is required to inform the minor of his or her constitutional rights, including their right to remain silent, right to counsel present during any interrogation, and right to have counsel appointed if he or she is unable to afford counsel (also known as Miranda rights).

SB 1052 would provide that before interrogation and the waiver of any Miranda rights, a minor under 18 years of age is required to consult with legal counsel. Specifically, this measure would require that minors consult with counsel in person, by telephone, or by video conference to assist them to understand their rights and the consequences of waiving those rights. The provisions of this bill would not apply to the admissibility of a minor's statement if the interrogating officer reasonably believed that the answers to limited questions were necessary to protect life or property from a substantial threat.

According to the Assembly Appropriations Committee analysis, SB 1052 would result in significant non-reimbursable annual costs, potentially in the millions of dollars, to local agencies to provide legal counsel to minors prior to custodial interrogations. However, the analysis does note that it is not yet known to what extent these new local costs would qualify for reimbursement by the State under Proposition 30 of 2012. Proposition 30 includes provisions meant to protect local agencies from future unfunded costs to administer programs realigned under 2011 Public Safety Realignment. To date, the applicability of these provisions has not been interpreted through the formal court process.

The Office of the Public Defender (PD) supports SB 1052, indicating that it would establish an important protection to ensure that children in custody fully understand their legal rights. The PD reports that widely accepted research shows that young people are less likely to appreciate legal decisions, and more likely to confess to crimes they did not commit. The PD notes that at least 10 other states have already enacted legislation to provide either parental or legal assistance prior to a waiver of a child's Miranda rights. According to PD, by providing legal counsel prior to interrogation, SB 1052 would resolve any doubts about the voluntariness of a confession and would simplify the investigative process.

The Office of the District Attorney (DA), which opposes the bill, reports concerns that SB 1052 would unduly complicate investigations and cast doubts on voluntary confessions introduced at trial. The DA notes that existing Federal and State law already contains provisions that guard against unlawfully obtained juvenile confessions. Finally, the DA notes that this measure would violate the Supremacy Clause of the United States Constitution. The DA notes that only the U.S. Supreme Court may impose the kind of restrictions on Miranda waivers for juveniles that SB 1052 seeks to implement.

SB 1052 is co-sponsored by the Human Rights Watch and Silicon Valley De-Bug, and supported by over 30 organizations, including: California Public Defenders Association; Californians for Safety and Justice; Children's Defense Fund – California; Ella Baker Center for Human Rights; Youth Justice Coalition, among others. It is opposed by: California State Association of Counties; California District Attorneys Association; California State Sheriffs' Association; and Los Angeles County District Attorney's Office.

SB 1052 is currently on the Senate Floor, pending concurrence of Assembly amendments.

SB 1108 (Allen), which as amended on June 8, 2016, would allow counties and cities to establish a citizens redistricting commission consisting of county or city residents to change the boundaries of supervisorial or council districts, passed the Senate Floor, in concurrence of Assembly amendments, by a vote of 33 to 3 on August 24, 2016. This measure now proceeds to the Governor.

Budget Trailer Bill Legislation of County Interest

AB 1625 (Committee on Budget), which as amended on August 15, 2016, would make various changes to the health and human services portions of the State Budget Act of 2016. Among its provisions, this measure contains a proposal by the Administration to ensure State compliance with the Federal requirements of the Child Abuse Prevention and Treatment Act (CAPTA) which requires states that receive CAPTA funds to publicly disclose findings and information regarding child abuse and neglect cases that result in fatalities or near fatalities. AB 1625 passed the Assembly Floor by a vote of 74 to 4 on August 24, 2016, and it now proceeds to the Governor.

AB 1628 (Committee on Budget), which as amended on August 16, 2016, would establish the bond financing mechanism for the "No Place Like Home" Program, passed the Assembly Floor by a vote of 69 to 10 on August 24, 2016. This measure now proceeds to the Governor.

State Auditor's Report - Foster Children and Psychotropic Medications

On August 25, 2015, the Joint Legislative Audit Committee approved a request by Senator Mike McGuire for an audit related to county child welfare services, the California Department of Social Services, and the California Department of Health Care Services' oversight and monitoring of children in foster care who have been prescribed psychotropic medications. The audit also requested a review of the availability and adequacy of other supportive services.

On August 23, 2016, the State Auditor, Elaine Howle, released the audit findings which included the following elements: 1) identification of the respective roles in overseeing the mental health care of foster children of social services, health care services, county child welfare services and probation agencies, as well as county specialty mental health services; 2) examination of the adequacy and the accuracy of data tracked by these agencies on whether foster children who are prescribed psychotropic medications also receive other appropriate non-pharmacological supportive services; and 3) identification of whether county child welfare services agencies ensure that necessary health documentation is transmitted to caregivers, prescribers and other stakeholders when foster children receiving psychotropic medication change placement.

The Auditor reviewed a total of 80 files of children in foster care in the counties of Los Angeles, Madera, Riverside and Sonoma, and reviewed and analyzed available statewide data.

Key audit findings revealed that:

- California has more than 79,000 children in foster care, and nearly 12 percent were prescribed psychotropic medications during FY 2014-15.
- Some foster children were prescribed psychotropic medications in amounts and dosages that exceeded State guidelines, and counties audited did not follow up with the prescribers to ensure the appropriateness of these prescriptions.
- Counties did not always obtain the required court or parental approval for psychotropic medications prescribed for children in foster care as required by State law.
- The State's fragmented oversight structure of its child welfare system has contributed to the weaknesses in the monitoring of foster children's psychotropic medications.
- The California Departments of Social Services and Health Care Services' data systems together cannot completely identify which foster care children are prescribed psychotropic medications.

The Auditor's findings are generally favorable to Los Angeles County. The Auditor notes that the County has adopted guidelines that are very similar to the State guidelines regarding the safe administration of psychotropic medications to foster children. The report states that: "Like the State guidelines, Los Angeles County's guidelines generally only allow foster children to be concurrently prescribed one psychotropic medication per class." The Auditor notes that the State has adopted the

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County's dosage parameters as part of its guidelines, and indicates that the only significant difference between the two sets of guidelines is that the County guidelines allow psychotropic medications for children nine years of age and older, rather than for children 12 years of age and older as recommend by the State. The report contains a response from the County's Juvenile Court Services' medical unit, which notes that the County's guidelines differ, because the County has determined that anxiety disorders often manifest in children around the age of nine.

The Auditor also recognizes Los Angeles County for its efforts to ensure that health care providers comply with the guidelines regarding the use of psychotropic medications through the establishment of the Los Angeles Juvenile Court Services' medical unit which is within the County's Department of Mental Health. According to the Auditor, County staff follows guidelines that are nearly identical to the State's, which require court authorization for the administration of psychotropic medications. The Auditor concludes that this is likely the reason that they did not note any instances in the cases reviewed in which Los Angeles County did not follow up with the providers who prescribed foster children with multiple medications in the same class. The Auditor also notes that, based on a review of statewide data, a lower percentage of children in foster care in the County are prescribed psychotropic medications and received multiple medications from the same class than the statewide average, likely reflecting that the County has adopted the State's guidelines.

A complete copy of the State Auditor's report and recommendations is available at: <http://www.auditor.ca.gov/pdfs/reports/2015-131.pdf>.

We will continue to keep you advised.

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OR:PC:IGEA:lm

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