



County of Los Angeles CHIEF EXECUTIVE OFFICE

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Chief Executive Officer

August 13, 2018

Board of Supervisors
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First District

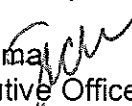
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To: Supervisor Sheila Kuehl, Chair
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Supervisor Mark Ridley-Thomas
Supervisor Janice Hahn
Supervisor Kathryn Barger

From: Sachi A. Hamai 
Chief Executive Officer

MOTION TO SUPPORT SB 439 (MITCHELL AND LARA) RELATED TO JUVENILE COURT JURISDICTION (ITEM NO. 63-C, SUPPLEMENTAL AGENDA OF AUGUST 14, 2018)

Item No. 63-C on the August 14, 2018, supplemental agenda is a motion by Supervisors Solis and Kuehl recommending that the Board of Supervisors direct the Chief Executive Office through the Legislative Affairs Division, in collaboration with County Counsel, to prepare and submit a 5-signature letter to the Governor, Senators Holly Mitchell and Ricardo Lara, and the County's Legislative Delegation in support of SB 439.

Approval of this motion is a matter of Board policy determination.

Background

Under current law, any minor who is under 18 years of age when he or she violates any law is subject to the jurisdiction of the juvenile court and to adjudication as a ward. In addition, under current law, it is presumed that minors under the age of 14 are not capable of committing crimes, except when there is clear proof that at the time of committing the act, he or she knew its wrongfulness. In determining whether a minor knew of the wrongfulness, the court must consider the minor's age, experience, and understanding.

According to a report by the California Department of Justice, in 2016, there were 804 arrests made of children who were under 12 years of age. Of these arrests, 279 minors were charged with felonies, 453 with misdemeanors, and 72 with status offenses (such as truancy, running away from home, violating curfew, underage use of alcohol, and general ungovernability). There were 95 arrests for violent felonies, consisting of 3 arrests for rape, 23 for robbery, and 69 for assault. Of the 804 arrests for minors under 12 years of age, 587 children were referred to a probation department, 205 were counseled and released, and 12 were turned over to another agency.

SB 439 - Minimum Age for Juvenile Court Prosecution in California

SB 439 (Mitchell and Lara), which as amended on June 6, 2018, would: 1) prohibit the prosecution of children under the age of 12 years in juvenile court, except in cases of murder or rape by force; and 2) require counties to provide the least restrictive responses, services, and/or treatment that may be used instead of, or in addition to, releasing these minors to their parent, guardian, or caregiver.

According to the author's office, SB 439 would protect young children from the negative impacts of formal justice system involvement by diverting them to alternative school, health, and community-based child-serving systems.

County Impact

The Office of the Public Defender (PD) strongly recommends supporting SB 439, noting that it would protect the most vulnerable youth in the system, those under age 12, from criminalization. The PD reports that because their office has represented juveniles for decades, they know from experience that criminalizing young children increases rather than reduces recidivism. PD indicates that SB 439 is a needed step in ensuring that younger youth are immediately connected to the critical services and interventions they need, as opposed to languishing in the juvenile court system which is not well-equipped to deal with the needs of younger children.

The Office of the Public Defender further notes that minors under 12 are often not competent to understand legal proceedings, and the result is that their juvenile delinquency cases are often protracted while counsel litigates competency issues. Moreover, PD notes that since current law presumes that minors under 14 are incapable of committing criminal offenses due to their young age, SB 439 would save precious court resources by essentially diverting youth under 12 out of the juvenile system and directly into services that these youths desperately need. PD notes they recognize that while SB 439 may incur costs to the County in other ways, the reality is that SB 439 would reduce court costs, expert witness expenses, and eliminate detention expenses for these minors.

The Probation Department is supportive of SB 439, noting that in 2017 only 104 minors under the age of 12 were referred to the Department. Of these 104 minors, only 2 were for rape, 70 were age 11, and 37 had multiple arrest occurrences across various ages. Probation notes that in implementing SB 439, the County would need to consider whether it has in place, or can readily put in place, the services and treatment to serve these children outside of court mandated programs. Probation indicates that in addition to mental health needs, the Department of Children and Family Services (DCFS) would be highly involved, in particular as the vast majority of minors under 12 would likely be diverted at the very onset. Finally, Probation notes that appropriate planning would need to be in place for the very rare cases of extreme violence or behavior issues, including identifying secure treatment centers that would better accommodate the minors' needs while still protecting the public.

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The Department of Children and Family Services reports that they do not have any concerns with SB 439, noting that there is already child welfare intervention in some serious cases and/or when a parent cannot control a child. In addition, DCFS notes that the Department also manages dual DCFS/Probation cases.

The District Attorney (DA) reports that the DA opposes SB 439, noting that without court mandated treatment, many of these minors would not receive needed services. The DA indicates that this would be the case, in part, because: 1) some guardians may not comply without a court mandate; 2) many community based providers do not take minors under 12; and 3) the DA believes the County does not currently have the programs and infrastructure to handle very young minors who commit crimes and often have very complex behavioral and familial issues.

The Sheriff's Department reports that they do not have a position on SB 439; however, they concur with the DA's concerns.

Support/Opposition

SB 439 is co-sponsored by the: Anti-Recidivism Coalition; Children's Defense Fund, California; Center on Juvenile and Criminal Justice; National Center for Youth Law; W. Haywood Burns Institute; and Youth Justice Coalition. It is supported by over 40 organizations, including the: Alliance for Boys and Men of Color; ACLU; California Public Defenders Association; Compton Unified School District; Drug Policy Alliance; League of Women Voters of California; Western Center on Law and Poverty; Youth Law Center; among others.

This measure is opposed by the: California District Attorneys Association; California Police Chiefs Association; Los Angeles County District Attorney; and San Diego County District Attorney.

Status

SB 439 is scheduled to be heard in the Assembly Appropriations Committee on August 16, 2018.

Conclusion

There is no existing Board-approved policy to support legislation that would prohibit the prosecution of children under the age of 12 years in juvenile court. **Therefore, approval of this motion is a matter for Board policy determination.**

SAH:JJ:MR
OR:PC:lm

c: Executive Office, Board of Supervisors
County Counsel