

## Suitability of Facilities for the Confinement of Juveniles

### Welfare and Institutions Code Section 209 is amended to read:

(a) (1) The judge of the juvenile court of a county, or, if there is more than one judge, any of the judges of the juvenile court shall, at least annually, inspect any jail, juvenile hall, lockup, special purpose juvenile hall, camp, ranch, or secure youth treatment facility situated in this state that, in the preceding calendar year, was used for confinement, for more than 24 hours, of any juvenile.

(2) The judge shall promptly notify the operator of the jail, juvenile hall, lockup, special purpose juvenile hall, camp, ranch, or secure youth treatment facility of any observed noncompliance with minimum standards for juvenile facilities adopted by the Board of State and Community Corrections under Sections 210, 875, 885, and subdivision (e) of Section 207.1. Based on the facility's subsequent compliance with the provisions of subdivisions (d) and (e), the judge shall thereafter make a finding whether the facility is a suitable place for the confinement of juveniles and shall note the finding in the minutes of the court.

(3) (A) The Board of State and Community Corrections shall conduct, at a minimum, a biennial inspection of each jail, juvenile hall, lockup, special purpose juvenile hall, camp, ranch, or secure youth treatment facility situated in this state that, during the preceding calendar year, was used for confinement, for more than 24 hours, of any juvenile. The board shall promptly notify the operator of any jail, juvenile hall, lockup, special purpose juvenile hall, camp, ranch, or secure youth treatment facility of any noncompliance found, upon inspection, with any of the minimum standards for juvenile facilities adopted by the Board of State and Community Corrections under Section 210, 210.2, 875, 885, or subdivision (e) of Section 207.1.

(B) Any duly authorized officer, employee, or agent of the board may, upon presentation of proper identification, enter and inspect any area of any juvenile local detention facility, without notice, to conduct an inspection ~~required~~ authorized by this paragraph.

(4) If either a judge of the juvenile court or the board, after inspection of a jail, juvenile hall, special purpose juvenile hall, lockup, camp, ranch, or secure youth treatment facility finds that it is not being operated and maintained as a suitable place for the confinement of juveniles, the juvenile court or the board shall give notice of its finding to all persons having authority to confine juveniles

pursuant to this chapter and, commencing 60 days thereafter, the facility shall not be used for confinement of juveniles until the time the judge or board, as the case may be, finds, after reinspection of the facility, that the conditions that rendered the facility unsuitable have been remedied, and the facility is a suitable place for confinement of juveniles.

(5) The custodian of each jail, juvenile hall, special purpose juvenile hall, lockup, camp, ranch, or secure youth treatment facility shall make any reports as may be requested by the board or the juvenile court to effectuate the purposes of this section.

(b) (1) The Board of State and Community Corrections may inspect any law enforcement facility that contains a lockup for adults and that it has reason to believe may not be in compliance with the requirements of subdivision (b) of Section 207.1 or with the certification requirements or standards adopted under Section 210.2. A judge of the juvenile court shall conduct an annual inspection, either in person or through a delegated member of the appropriate county or regional juvenile justice commission, of any law enforcement facility that contains a lockup for adults that, in the preceding year, was used for the secure detention of any juvenile. If the law enforcement facility is observed, upon inspection, to be out of compliance with the requirements of subdivision (b) of Section 207.1, or with any standard adopted under Section 210.2, the board or the judge shall promptly notify the operator of the law enforcement facility of the specific points of noncompliance.

(2) If either the judge or the board finds after inspection that the facility is not being operated and maintained in conformity with the requirements of subdivision (b) of Section 207.1 or with the certification requirements or standards adopted under Section 210.2, the juvenile court or the board shall give notice of its finding to all persons having authority to securely detain juveniles in the facility, and, commencing 60 days thereafter, the facility shall not be used for the secure detention of a juvenile until the time the judge or the board, as the case may be, finds, after reinspection, that the conditions that rendered the facility unsuitable have been remedied, and the facility is a suitable place for the confinement of juveniles in conformity with all requirements of law.

(3) The custodian of each law enforcement facility that contains a lockup for adults shall make any report as may be requested by the board or by the juvenile court to effectuate the purposes of this subdivision.

(c) The board shall collect biennial data on the number, place, and duration of confinements of juveniles in jails and lockups, as defined in subdivision (g) of Section 207.1, and shall publish biennially this information in the form as it deems appropriate for the purpose of providing public information on continuing compliance with the requirements of Section 207.1.

(d) Except as provided in subdivision (e), a juvenile hall, special purpose juvenile hall, camp, ranch, secure youth treatment facility, law enforcement facility, or jail shall be unsuitable for the confinement of juveniles if it is not in compliance with one or more of the minimum standards for juvenile facilities adopted by the Board of State and Community Corrections under Section 210, 210.2, 875, 885, or subdivision (e) of Section 207.1, and if, within 60 days of having received notice of noncompliance from the board or the judge of the juvenile court, the juvenile hall, special purpose juvenile hall, camp, ranch, secure youth treatment facility, law enforcement facility, or jail has failed to file an approved corrective action plan with the Board of State and Community Corrections to correct the condition or conditions of noncompliance of which it has been notified. The corrective action plan shall outline how the juvenile hall, special purpose juvenile hall, camp, ranch, secure youth treatment facility, law enforcement facility, or jail plans to correct the issue of noncompliance and give a reasonable timeframe, not to exceed 90 days, for resolution, that the board shall either approve or deny. The board may delegate the authority to approve or disapprove a corrective action plan to administrative staff of the board. In the event the juvenile hall, special purpose juvenile hall, camp, ranch, secure youth treatment facility, law enforcement facility, or jail fails to meet its commitment to resolve noncompliance issues outlined in its corrective action plan, the board shall make a determination of suitability at its next scheduled meeting.

(e) If a juvenile hall, special purpose juvenile hall, camp, ranch, or secure youth treatment facility is not in compliance with one or more of the minimum standards for juvenile facilities adopted by the Board of State and Community Corrections under Section 210, 875, 885, or subdivision (e) of Section 207.1, and where the noncompliance arises from sustained occupancy levels that are above the population capacity permitted by applicable minimum standards, the juvenile hall shall be unsuitable for the confinement of juveniles if the board or the judge of the juvenile court determines that conditions in the facility pose a serious risk to the health, safety, or welfare of juveniles confined in the facility. In making its determination of suitability, the board or the judge of the juvenile court shall consider, in addition to the noncompliance with minimum standards,

the totality of conditions in the juvenile hall, special purpose juvenile hall, camp, ranch, or secure youth treatment facility, including the extent and duration of overpopulation as well as staffing, program, physical plant, and medical and mental health care conditions in the facility. The Board of State and Community Corrections may develop guidelines and procedures for its determination of suitability in accordance with this subdivision and to assist counties in bringing their juvenile halls, special purpose juvenile hall, camp, ranch, or secure youth treatment facility into full compliance with applicable minimum standards. This subdivision shall not be interpreted to exempt a juvenile hall, special purpose juvenile hall, camp, ranch, or secure youth treatment facility from having to correct, in accordance with subdivision (d), any minimum standard violations that are not directly related to overpopulation of the facility.

(f) When determining whether a facility is suitable for the confinement of juveniles, the Board of State and Community Corrections or the judge of the juvenile court may consider the following:

(1) Whether the conditions at the facility pose a serious risk to the health, safety, or welfare of juveniles confined in the facility;

(2) A facility's failure to submit a corrective action plan;

(3) A facility's failure to implement its corrective action plan;

(4) Whether the facility is in substantial compliance with the board's regulations; and

(5) Whether there is clear and convincing evidence that the facility will be in compliance with the board's regulations within a reasonable timeframe.

~~(f)~~ (g) All reports and notices of findings prepared by the Board of State and Community Corrections pursuant to this section shall be posted on the Board of State and Community Corrections' internet website in a manner in which they are accessible to the public.

~~(g)~~ (h) For the purposes of this section, the following definitions shall apply:

(1) "Juvenile" means a person who meets any of the following criteria:

(A) A person under 18 years of age.

(B) A person under the maximum age of juvenile court jurisdiction who is not currently an incarcerated adult as defined in paragraph (2) of this subdivision.

(C) A person whose case originated in the juvenile court and is subject to Section 208.5.

(2) "Incarcerated adult" means a person who is 18 years of age or older, not subject to the jurisdiction of the juvenile court, and has been arrested and is in custody for, or awaiting trial on, a criminal charge, or has been convicted of a criminal offense, and is not a juvenile defined in subparagraph (C) of paragraph (1) of this subdivision.

(3) "Subject to the jurisdiction of the juvenile court" means a person alleged or found to be subject to Section 601, 602, 607, or 875.

~~(h)~~ (i) This section does not require the judge of the juvenile court or the board to make determinations of suitability for local correctional facilities based on standards adopted pursuant to Section 6030 of the Penal Code.

(j) The Board of State and Community Corrections is authorized to bring a civil action in the superior court in the county in which any facility has been noticed pursuant to paragraph (4) of subdivision (a) to enforce compliance with this section.

(1) Consistent with Section 11040 of the Government Code, the board may request the Attorney General bring or assist in any civil action authorized by this section. This section shall not preclude the Attorney General from conducting independent investigations or bringing suit to address conditions of confinement related to violations of any applicable law. If the Attorney General declines to bring or assist the board in any civil action, the board may pursue a civil action independently pursuant to this section, notwithstanding any requirements under sections 11040 or 11042 of the Government Code.

(2) The board may seek appropriate relief, including injunctive relief, orders compelling compliance, sanctions, and any equitable relief the court deems necessary to protect the health, safety, and welfare of juveniles in custody within the applicable county. The board may also seek attorneys' fees to the extent authorized by existing law.

(3) The remedies provided in this section are in addition to any other remedies available under the law and shall not limit the authority of other agencies or individuals to enforce compliance with this section.

(4) If the board brings an action pursuant to this subdivision, the requirement under paragraph (4) of subdivision (a) that the facility may not be used for

confinement of juveniles may be stayed pending order of the court if the affected county brings a noticed motion to stay and meets its burden under applicable law.