

AB 2813 (Bloom)

Equitable Detention Standards for Foster Youth

Fact Sheet

PROBLEM

In California, foster youth are often detained in juvenile hall pending a detention hearing – and sometimes, detained when a non-foster youth would be released to his or her parents. This is significant considering the harmful effects of detention. Detention increases a foster youth's risk of spiraling deeper into the juvenile justice system and experiencing poor education and employment outcomes after exiting the system

Under current law, foster youth are sometimes detained as a response to minor incidents and typical adolescent behavior that would not normally result in a youth spending a single day in juvenile hall. When a youth is arrested, the youth is transported to juvenile hall, where a probation officer may decide to detain the youth pending a hearing before the juvenile court. If the youth does not meet the detention criteria, the probation officer must immediately release the youth to his or her parent, relative, or legal guardian. However, foster youth are often held in juvenile hall even when they do not meet the detention criteria, simply because they do not have a parent or guardian to be released to or because a placement has not yet been found for them.

In 2014 California passed AB 388, a bill that addressed the over-detention of foster youth at the detention hearing stage. However, the bill neglected to address one of the most important stages of detention: the probation officer's initial decision to detain. AB 2813 is necessary to harmonize the detention criteria used by probation with those used by the court at the detention hearing and create equitable detention standards for foster youth when probation is making the decision to detain.

Foster children should not be unfairly and disproportionately detained and pulled even deeper into the criminal justice system due to typical teen misbehavior that would not trigger such dire consequences for youth living at home with a parent. AB 2813 would address excessive detention of foster youth in juvenile halls by ensuring that probation's detention and release decisions are not based on a youth's foster care status.

SUMMARY

AB 2813 would protect children and youth in foster care from being needlessly detained in juvenile halls solely due to their foster care status. The Bill provides equitable detention standards for foster youth when probation is making the decision to detain the youth.

Specifically, this bill would:

- Prohibit probation officers from considering a minor's status as a foster youth or current availability of a placement when making the decision whether or not to detain.
- Require probation officers to immediately release a minor to the custody of the child welfare services department, a caregiver, or a foster parent unless it can be demonstrated that the minor's detention is necessary.

EXISTING LAW

Existing law requires probation officers to release a youth to the custody of his or her parent, legal guardian, or responsible relative unless it can be demonstrated that continuance in the home is contrary to the minor's welfare and one or more specified conditions apply.

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