



200 Pine Street, Suite 300
San Francisco, CA 94104
Phone: 415.543.3379
Fax: 415.956-9022
www.ylc.org

May 30, 2014

By Facsimile Transmission and U.S. Mail

Honorable Tom Ammiano, Chair
Assembly Public Safety Committee
1020 N Street, Room 111
Sacramento, California 95814

Executive Director
JENNIFER RODRIGUEZ

Senior Director
Strategic Initiatives
CAROLE SHAUFFER

Managing Director
MARIA F. RAMIU

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Administrator
MEHRZAD KHAJENOORI

Administrative Assistant
ROBIN BISHOP

Re: S.B. 838 (Beall) - Sentencing in Juvenile Sex Cases - Oppose

Dear Chairman Ammiano:

This letter is written on behalf of the Youth Law Center to express our opposition to S.B. 838 (Beall). Our office is a national, non-profit, public interest law firm working on behalf of youth in the juvenile and child welfare systems. We have been involved in California juvenile justice policy for more than three decades through legislation, litigation and work with public officials. We are concerned that S.B. 838, as amended May 27, 2014, would undermine the most fundamental principles of our juvenile justice system, and would drastically limit the options for juvenile courts to address the needs of juveniles who have committed sex offenses.

The May 27th amendments impose a mandatory minimum confinement of at least two years for juveniles adjudicated for certain sex offenses, and significantly restrict the juvenile court's dispositional options. This approach completely ignores the very reason we have a separate juvenile court system. Unlike the adult criminal system, where punishment is the stated purpose, our juvenile court law requires individualized "care, treatment and guidance" in which punishment is permitted, but the overarching purpose is rehabilitation of the young person. (Welf. & Inst. Code § 202.) Mandatory minimums have no place in this scheme.

Further, the latest amendments to S.B. 838 significantly limit the court's dispositional options. As now written, the bill provides that "the court shall order the minor to out-of-home placement for a minimum of two 2 years, which may include commitment of the minor to a juvenile hall, juvenile home,



ranch, camp, or any institution operated by a county juvenile probation department where the minor shall receive treatment appropriate to the circumstances of his or her offense, including, but not limited to, sex offender treatment.” The problem with this is that, of all the possible dispositional choices juvenile courts have, these are the *least appropriate* for long term confinement, and are the least likely to have sex offender treatment.

Juvenile halls are designed for the detention of youth pending the outcome of juvenile court proceedings (Welf. & Inst. Code § 850). They are roughly the equivalent of jails for children. The vast majority of juvenile halls are built with little provision for the kinds of programming and living spaces or services needed for long term confinement. Most juvenile halls have only the most basic mental health services, and we are unaware of any that feature sex offender treatment programs. Similarly, county camp/ranch programs are generally designed for periods of a few months up to a year. (Welf. & Inst Code § 880). We are unaware of any camp programs offering sex offender treatment, and suspect that some counties may screen out sex offenders from camp eligibility. Superimposing a two-year minimum commitment on these county programs is ill-conceived and likely to result in legal challenges when counties are unable to provide the requisite level of care. It is a setup for failure in every possible direction.

Moreover, the substantial costs associated with mandatory minimum confinement would interfere with county efforts to provide a broad continuum of care in local communities using S.B. 81 realignment funds. Quite simply, mandatory confinement would divert precious resources away from other needed services – including sex offender treatment and victim awareness programs. A 2012 survey conducted by the Board of State and Community Corrections found that the weighted average daily cost of confinement per youth among all Juvenile Halls was \$352.06. *A two-year minimum of 730 days in juvenile hall would cost an average of \$257,003.80, per youth.* The average daily cost is actually much higher in some counties (\$550.56 in Sacramento; \$561.00 in San Mateo; \$526.75 in Los Angeles), so the two-year costs would be even greater in those counties. The same 2012 survey found that the weighted average daily cost of confinement per youth in all camps/ranches was \$288.11 per day. *A two-year minimum of 730 days in a camp or ranch would cost an average of \$210,320.30 per youth.* The average daily cost is actually much higher in some counties (\$505.38 in Santa Clara; \$498.00 in San Bernardino; \$561.00 in San Mateo), so the two-year costs would be even greater in those counties. (The survey for juvenile halls and camps/ranches is available on line at <http://www.bscc.ca.gov/programs-and-services/fso/resources/>).

An earlier version of the bill would have permitted confinement in the state Division of Juvenile Facilities or in group homes. Those options were deleted from the current version of the bill at the Senate Appropriations Committee stage, we expect because of the potential state costs. Ironically, in terms of the purported goals of the bill, those are the settings most appropriate for long-term confinement and those are the settings most likely to provide sex offender treatment.

The Legislature enacted S.B. 81 juvenile realignment in 2007 to help communities expand their local continuums of care to provide evidence-based services closer to young people's families and communities. S.B. 838 would take us in exactly the opposite direction in requiring lengthy mandatory commitments at the highest and most expensive levels of care, without regard to whether that length of stay will produce the desired outcomes. While some juvenile sex offenders might well require a two-year commitment, others would be better served by other interventions, and this bill takes away the ability of probation and the court to decide what is needed in individual cases.

In addition, the idea that lengthy confinement improves public safety has been soundly trounced. We now know that the effectiveness of juvenile institutional programs is related to the content of the program itself, and that extended confinement does not increase effectiveness. (National Research Council, *Reforming Juvenile Justice: A Developmental Approach* (2013), pp. 157-158.) Extended confinement in locked or highly restrictive institutions interferes with young people's ability to go through the developmental experiences needed for healthy maturation, and to develop skills and competencies needed for adulthood. (*Id.*, at pp. 179-180.) In imposing a one-size-fits-all approach to certain juvenile sex offenses, S.B. 838 actually works against the goal of enabling young people to become self-sustaining, law-abiding members of the community.

While much of this letter has focused on the mandatory minimum provisions of S.B. 838, we also remain opposed to the other provisions in the bill. S.B. 838 would open juvenile court proceedings to the public for youth alleged to have committed specific sex offenses. Our office does not support further erosion of juvenile court confidentiality, and for a variety of reasons we strongly believe that cases involving sex offenses are among those most deserving of confidentiality. The bill would also restrict eligibility for deferred entry of judgment (Welf. & Inst. Code § 790 et seq. - a form of diversion based on admitting the charges and then fulfilling specified conditions) for youth alleged to have committed specified sex offenses. Similarly, we do not support excluding whole classes

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of youth from eligibility for deferred entry of judgment based simply on the nature of the alleged offense. Juvenile sex cases are not all the same, and while some youth might not be appropriate for the program, the facts and characteristics of the youth in other cases might make it a suitable program.

We are sympathetic to the circumstances that led to this bill, but we cannot support this very misguided response. We urge a "no" vote. Thank you for your consideration, and please let us know if we can provide any further information about our views or the underlying issues.

Sincerely,

Sue Burrell

Sue Burrell, Staff Attorney

YOUTH LAW CENTER

cc: *(By Facsimile Transmission)*

Members of the Assembly Public Safety Committee

Honorable Jim Beall (Attention: Kenton Stanhope)

Greg Pagan, Chief Counsel, Assembly Public Safety Committee