

AMENDED IN ASSEMBLY MAY 22, 2017

AMENDED IN ASSEMBLY APRIL 4, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 878

Introduced by Assembly Member Gipson

February 16, 2017

An act to add Section 210.6 to the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 878, as amended, Gipson. Juveniles: restraints.

Under existing law, a female ward of a local juvenile facility who is known to be pregnant or in recovery from delivery may not be restrained, unless deemed necessary for the safety and security of the inmate, the staff, or the public.

This bill would ~~prohibit~~ *authorize* the use of restraints on a minor during transportation outside of a local *secure* juvenile facility, camp, ranch, or forestry camp, ~~except as provided: only upon a determination that restraints are necessary to prevent physical harm to the juvenile or another person or due to a substantial risk of flight.~~ The bill would authorize the use of restraints during a juvenile court proceeding if the court determines that the individual minor's behavior in *custody or in court* establishes a manifest need to use restraints to prevent ~~flight risk, threats of violence, or disruptive behavior,~~ and would prohibit this determination from being based on the minor's custodial status, inadequacy of the courtroom facilities, or the lack of available security personnel. *physical harm to the juvenile or another person or due to a substantial risk of flight. If restraints are used pursuant to these*

provisions, the bill would require that the least restrictive form of restraint be used under the circumstances. The bill would require documentation of the reasons for the use of certain restraints, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 210.6 is added to the Welfare and
 2 Institutions Code, to read:

3 210.6. (a) (1) ~~Except as provided in paragraph (2), instruments~~
 4 *Instruments* of restraint, including, but not limited to, handcuffs,
 5 chains, irons, straitjackets or cloth or leather restraints, and other
 6 similar items, ~~may not be used on a minor during transportation~~
 7 ~~outside of a local juvenile facility, camp, ranch, or forestry camp.~~
 8 *be used on a minor detained in or committed to a local secure*
 9 *juvenile facility, camp, ranch, or forestry camp during*
 10 *transportation outside of the facility only upon a determination*
 11 *made by the probation department, in consultation with the*
 12 *transporting agency, that restraints are necessary to prevent*
 13 *physical harm to the juvenile or another person or due to a*
 14 *substantial risk of flight.*

15 ~~(2) Handcuffs may be used during the transportation of a minor~~
 16 ~~outside of a local juvenile facility, camp, ranch, or forestry camp~~
 17 ~~upon a determination made by the probation department that~~
 18 ~~handcuffs are necessary to prevent physical harm to the juvenile~~
 19 ~~or another person or due to a substantial risk of flight. However,~~
 20 ~~handcuffs may not be fastened behind a minor's back. The~~
 21 ~~determination and the reasons for the determination shall be~~
 22 ~~documented.~~

23 (2) *If a determination is made that mechanical restraints are*
 24 *necessary, the least restrictive form of restraint shall be used*
 25 *consistent with the legitimate security needs of each minor. In each*
 26 *case in which mechanical restraints other than handcuffs are used,*
 27 *the reasons for the use of restraints and the instrument or*
 28 *instruments of restraint used shall be documented.*

29 (3) *This subdivision does not apply to restraints used by medical*
 30 *care providers in the course of medical treatment or transportation.*

- 1 (b) (1) Restraints may only be used during a juvenile court
2 proceeding if the court determines that the individual minor's
3 behavior ~~in court establishes a manifest need to use restraints to~~
4 ~~prevent flight risk, threats of violence, or disruptive behavior.~~
5 *custody or in court establishes a manifest need to use restraints*
6 *to prevent physical harm to the juvenile or another person or due*
7 *to a substantial risk of flight.*
- 8 ~~(2) The determination may not be based on the minor's custodial~~
9 ~~status, inadequacy of the courtroom facilities, or the lack of~~
10 ~~available security personnel.~~
- 11 ~~(3)~~
- 12 (2) It is the prosecution's burden to demonstrate need.
- 13 ~~(4) When~~
- 14 (3) *If the court makes a determination that restraints are*
15 *necessary, the least restrictive alternative shall be used. mechanical*
16 *restraints are necessary, the least restrictive form of restraint shall*
17 *be used and the reasons for the use of restraints shall be*
18 *documented on the record.*