

June 29, 2004

Steinberg Juvenile Justice-Mental Health Bill Approved By Key California Legislative Committee

AB 2019, by Assemblyman Darrell Steinberg (D.- Sacramento), was redrafted in June to incorporate several general policy recommendations made by Commonwealth, Youth Law Center, Protection & Advocacy and other juvenile justice/youth mental health advocates. The new version (as amended 6/22/04) narrows the scope of what was, before that, a somewhat dysfunctional measure that listed a broad range of new services for mentally disordered juvenile justice clients, then made them optional so that counties did not have to provide them.

Recent amendments re-structure the process for assessing mental and developmental disorders in juvenile delinquency proceedings.

As amended, AB 2019 establishes a coherent California procedure, within the delinquency courts, for the identification, assessment and disposition of minors with serious mental and emotional disturbances or developmental disabilities. The focus of the redraft is to guide juvenile court judges toward the selection of dispositions which are consistent both with the minor's mental health needs and (because a crime is usually involved) with the need for public protection. The process outlined in the current version of AB 2019 works like this:

- The judge may, at any time in a delinquency proceeding (under WIC Section 601 or 602), request a professional mental health evaluation of any minor who appears to have a serious emotional disturbance or developmental disability. The evaluation must be completed within seven days of the referral, by a licensed mental health professional.
- Based on the evaluator's report, the judge then determines whether the minor is severely emotionally disturbed (using the criteria in Welfare and Institutions Code Section 5600.3) or has a developmental disability (as defined in WIC Section 4512).
- If the determination is made by the judge, the case then proceeds on a special juvenile justice/mental health disposition planning track. The minor's case will be reviewed by a multi-disciplinary team (MDT), including probation, education, welfare, mental health and other agency representatives as appropriate. The MDT must produce an individual treatment plan and disposition recommendation, which is presented to the court.
- The court must then select a case disposition (sentence) that is compatible with the minor's treatment needs and with the public safety risks presented by the minor. The bill does not authorize new dispositions, but it does include a priority order of placements for minors who meet the mental or developmental disability definitions in the bill. For minors who meet these definitions, the judge cannot order placement in a secure youth correctional facility, such as the Youth Authority, unless certain protective findings are made by the court (for example, that the youth correctional facility has programming available that can meet the minor's treatment needs as identified by the MDT).

As redesigned, AB 2019 draws to some extent from the successful juvenile Mental Health Court model established in Santa Clara County, under the auspices of Judges Leonard Edwards and Raymond Davilla and psychiatrist David Arredondo.

AB 2019 also includes a judicial education provision, encouraging the California Judicial Council to provide education on mental health and developmental disorder issues to delinquency court personnel. This judicial training provision is, however, not mandatory, since it is conditioned on the level of resources the Judicial Council has available to provide such training.

Cost concerns draw opposition

On June 29th, at its hearing in the Senate Public Safety Committee, AB 2019 was opposed by CSAC (the County Supervisors' Association) and by the state Mental Health Directors Association, based on concerns about local costs. County officials worry that the multi-disciplinary team requirements of the bill (including meetings, reports and treatment plans) are essentially an unfunded mandate of additional services. -but the MDT provisions are new. The counties want to be able to opt-out of MDT reviews if they prove to be too costly under current budget restraints. In the Senate Public Safety Hearing, author Steinberg agreed to fashion opt-out language that would apply to the multi-disciplinary team elements of his bill-but only if the Board of Supervisors votes to opt-out of these provisions. This was viewed as necessary concession to budget crunch, and the loss of state funds, counties are now facing.

AB 2019 fills a gap in current law, by establishing a specific process for the identification, assessment and sentencing of WIC 601/602 minors having defined mental or developmental disorders. It also provides a mechanism for judicial training and education on mental health issues affecting juvenile offenders and their families. The bill has already passed the Assembly. Its next hearing will be in the Senate Appropriations Committee, most likely after the Legislature returns from its summer break in early August.

1 By contrast, the initial referral by the court for a mental health evaluation is not a new program or "higher level of service" since juvenile courts already have that authority under current law.