

RESOLUTION 09-11-06

DIGEST

Juvenile Delinquency Court: Confidential Information for Demonstration Project in Los Angeles County

Adds Welfare and Institutions Code section 831 to establish a demonstration project for the exchange of confidential information among agencies involved in treating juveniles in the justice system.

**RESOLUTIONS COMMITTEE RECOMMENDATION
APPROVE IN PRINCIPLE**

History:

No similar resolutions found.

Reasons:

This resolution adds Welfare and Institutions Code section 831 to establish a demonstration project for the exchange of confidential information among agencies involved in treating juveniles in the justice system. This resolution should be approved because it creates a pilot project to improve the diagnosis and treatment of juveniles in the delinquency court.

The resolution would create an exception to existing laws protecting the confidential physical and mental health, social welfare, statements and other information of juveniles under the jurisdiction of juvenile delinquency court. Specifically it would allow the probation department to use all the information available, including exculpatory and significant physical, mental and environmental conditions, so that the delinquency disposition responds to the juvenile’s needs a whole person, not just as a defendant to be punished. The new code section protects the rights of juveniles by its provision that confidential information and statements shall not be admissible against the minor at any hearing.

California’s juvenile justice system has followed a failed strategy of piecemeal evaluation and ineffective punishment. This resolution should be approved so that a new approach within the delinquency system can be tried.

TEXT OF RESOLUTION

RESOLVED, that the Conference of Delegates of California Bar Associations recommends that legislation be sponsored to add Welfare and Institutions Code Section 831, to read as follows:

- 1 831.
- 2 (a) Notwithstanding any other provision of law, in order to enable a demonstration
- 3 project to test methods and procedures of providing efficient and effective services,
- 4 including mental health and risk assessment, diagnosis and treatment to minors who are
- 5 subject to the jurisdiction of the juvenile delinquency court due to the filing of a petition
- 6 pursuant to Welfare and Institutions Code sections 601 or 602, the County of Los Angeles

7 may conduct a demonstration project with the objective of facilitating the exchange of
8 information and documents that might otherwise be confidential according to state law or
9 regulations. The implementation of the demonstration project requires the adoption of a
10 resolution by the Los Angeles County Board of Supervisors.

11 (b) For the purposes of this section, the persons and entities who may receive
12 otherwise confidential information include the Los Angeles County Probation Department,
13 the Los Angeles County Department of Mental Health, and the Los Angeles County Health
14 Services Department, including Alcohol and Drug Program Administration.
15 Notwithstanding any other law, the confidential information so provided remains
16 confidential and may only be used in the specific case in which it was provided and may
17 only be used for the purpose of determining the services and treatment that are appropriate
18 for the minor.

19 (c) Any resolution adopted by the Board of Supervisors authorizing the
20 implementation of the demonstration project shall require that the project meet all of the
21 following requirements:

22 (1) In connection with the administration of justice, mental health and social services
23 for minors subject to the jurisdiction of the delinquency court, the project shall permit
24 representatives of the Los Angeles County Probation Department and other necessary
25 agencies to exchange information that might otherwise be confidential according to state law
26 or regulation.

27 (2) This project shall cover records, files and information concerning a minor under
28 the jurisdiction of the juvenile delinquency court, obtained by probation and other agencies
29 for the purpose of diagnosis, examination, evaluation, treatment, or referral for treatment of
30 a minor because of the initiation of a juvenile petition.

31 (3) Any statement made by a minor and any mental health data obtained from the
32 minor during the administration of a mental health or probation screening instrument shall
33 not be admissible against the minor at any hearing, and the person administering the
34 screening instrument shall inform the minor that any statement made by the minor and any
35 mental health data obtained is not admissible against the minor at any hearing, whether on
36 the current petition or a future case.

37 (4) Probation and other agencies who receive the information set forth in paragraph
38 (c)(2) shall be under the same privacy and confidentiality obligations and subject to the
39 same penalties for violating those obligations as the person who prepared, disclosed or
40 provided the information or writings. The information obtained shall be maintained in a
41 manner which ensures the protection of confidentiality, and shall not be further disclosed.

42 (5) Recommendations for treatment and services based on information set forth in
43 paragraph (c)(2) may be provided to the juvenile delinquency court by probation and/or the
44 minor's counsel.

45 (6) An objective evaluation of the impact of the demonstration project on the quality
46 of juvenile justice, health and mental health services, educational and public social services
47 provided to the minors shall be prepared for review by the Board.

48 (7) The project shall not exceed five years duration unless the Board of Supervisors,
49 having reviewed the evaluation of the demonstration project, determines that the quality of
50 services to minors has been enhanced and the project should continue.

(Proposed new language underlined; language to be deleted stricken.)

PROPONENT: Los Angeles County Bar Association

STATEMENT OF REASONS

Existing Law: Restricts the amount and type of information which may be shared with the probation department and this impairs the ability of probation to properly evaluate minors and made treatment recommendations. Confidential information that is disclosed loses its confidentiality.

This Resolution: Allows the Los Angeles County Board of Supervisors to authorize a demonstration program to better treat minors through the sharing of otherwise confidential information. Allows confidential information to retain its confidentiality.

The Problem: Current statutes and regulations often prevent agencies from sharing confidential information about minors with the probation department, thus preventing probation from providing appropriate mental health evaluations, recommendations and treatment for minors subject to the jurisdiction of the delinquency court. This resolution would allow the sharing of confidential information with the Los Angeles County Probation Department by providing that the information provided can be used by Probation solely to make recommendations for treatment and services to the juvenile delinquency court in the pending proceeding, and cannot be further disclosed.

IMPACT STATEMENT

This proposed resolution does not directly affect any other law, statute or rule.

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