

AB2756



CATHOLIC CHARITIES

DIOCESE OF OAKLAND
433 Jefferson Street, Oakland, California 94607
Telephone (415) 834-5656

FILE 2 - 0788

March 2, 1984
RE: AB 2756

Assemblyman Steve Peace
State Capitol
Sacramento, CA 95814

Dear Assemblymember Peace:

We would like to convey to you our concerns and go on record in opposition to your bill, AB 2756, which would repeal the existing provision in the Welfare and Institutions Code, Section 202, which sets forth the purposes of the Juvenile Court Law.

The Office For Prisoner and Community Justice of Catholic Charities, serving Alameda and Contra Costa counties works closely with juvenile justice issues. Most specifically, our chaplaincy work at the Alameda County Juvenile Hall and camps puts us in direct contact with youth offenders who would be affected by your legislation.

We are concerned about the change in the focus of the juvenile justice system that your bill suggests in the rewriting of the Section 202 of the Welfare and Institutions Code. We believe in a separate system for juveniles which, unlike the adult system, is not only concerned about the protection of the community but also the problems and causes of the delinquent behavior in the youth.

Your bill places the primary focus of the juvenile court on the protection of the community. We, too, are concerned about the protection of the community, however, we are also concerned when the express intent of the juvenile court system does not include a focus on the youth and his or her needs, whether the youth dependent or delinquent. Because youth are yet-maturing and not considered fully responsible adults, and because youth are not guaranteed the same constitutional rights as are adults, any interaction by the courts in the lives of these youths must be done so only when necessary and in the best interests of the youth.

We feel that it is important that the Code continue to specifically state the need to preserve and strengthen the minor's family ties whenever possible, that the most preferable manner in treating and judging the youth is in his or her home and that the removal of the minor from the custody of his or her parents be done so only when necessary for his or her own welfare or for the safety and the protection of the public.

We are extremely concerned about the introduction of punishment as a form of guidance. We feel that the notion of punishment is contrary and detrimental to the treatment and habilitation of youth. Punishment means the infliction of pain, and from our Christian perspective, we cannot condone the use of punishment, especially institutional punishment which opens itself up to an array of abuses. We strongly feel that any long lasting change in a person

Catholic Social Equity
Alternative Action
Criminal Justice
Department of the Handicapped
Bay Area Jobs
Job Training
Bay Area Youth Counselor
Southeast Asian
Resettlement Program

Catholic Social Service—
Counseling
Oakland Office
Hayward Office
Fremont Office
Richmond Office
Pittsburg Office
East Lake and Outreach Office
A.R.C. — Alcoholism Program

Empower
TAP Center
Concord House
Satellite #1
Satellite #2
Satellite #3
Satellite #4
U.S.A.
Special Religious
Nursing Program
Case Management

Parish Outreach

Campaign for
Human Development

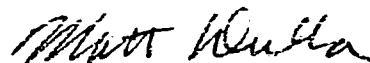
Support Arm
Administration
Appeals
Office Manager
Accounting

comes from love. Punishment has a negative backlash that often leads to resentment and noncooperation. If we are to attempt to help the youth become responsible adults, it must be done by care and understanding, not coercion.

We are also concerned about the constitutional rights of youth. It is our understanding that the Supreme Court has stated that you cannot punish someone without affording them the right to a jury trial and bail. AB 2756 seems to want to thwart the rehabilitative potential of the juvenile justice system and mirror it after the punitive adult system. This we feel, would not be in the best interest of our communities.

We would like to suggest that the existing version of Section 202 remain. We feel that it better states what the purpose of the Juvenile Court Law should be. It not only states the importance of protecting the community from criminal behavior (mentioned twice) but stresses the need for court intervention to be done in the interest of the youth and with recognition of their needs in the attempt to help them become responsible and contributing members of the community.

Sincerely,



Matt Dulka
Office For Prisoner And
Community Justice

cc: Criminal Law and Public Safety Committee
California Conference of Catholic Charities
Catholic Detention Ministers

DEPARTMENT OF YOUTH AUTHORITY
4241 Williamsborough Drive
Sacramento, CA 958



March 23, 1984

The Honorable Stephen J. Peace
Assemblyman, 80th District
State Capitol, Room 4121
Sacramento, CA 95814

List as support
3-30-84
per Dorrine
Davis

Dear Mr. Peace:

We have reviewed your bill AB 2756 which changes the statement of purpose of the Juvenile Court Law to include the concept of punishment and are in support of the bill if amended.

Although the Youth Authority supports the addition of the concept of punishment to juvenile court law, AB 2756 is unclear in its present form. Punishment could be read to include physical punishment as well as sanctions for behavior such as fines or limitations on the minor's liberty. In addition, the bill eliminates the important purpose of preservation of the family unit.

We suggest the following amendment be added to AB 2756 to clearly define the concept of punishment as follows:

Add Section 202.1 to the Welfare and Institutions Code to read:

202.1 (a) As used in this chapter, "punishment" means the imposition of sanctions which include at least one of the following:

- (1) Payment of a fine by a minor.
 - (2) Rendering of compulsory service without compensation performed for the benefit of the community by the minor.
 - (3) Limitations on the minor's liberty imposed as a condition of probation or parole.
 - (4) Commitment to local detention or treatment facility such as juvenile hall, camps, or ranches.
 - (5) Commitment of the minor to the Department of the Youth Authority.
- (b) "Punishment," for the purposes of this chapter, shall not include retribution.

We regret we are unable to support the bill unless amended for the above reasons. If you have any question regarding the above, please contact Dorrine Davis, the Department's Legislative Liaison at 445-8518.

Sincerely,

cc: The Hon. Byron Sher, Chairman, Assembly Criminal Law & Public Safety Committee
James Rowland, Director

STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL

COPY

March 27, 1984

Assemblyman Steve Peace

A.B. 2756 - Conflict

The above measure, introduced by you, which is now set for hearing in the Assembly Criminal Law and Public Safety Committee appears to be in conflict with the following other measure(s):

A.B. 3724 - Nolan

ENACTMENT OF THESE MEASURES IN THEIR PRESENT FORM MAY GIVE RISE TO A SERIOUS LEGAL PROBLEM WHICH PROBABLY CAN BE AVOIDED BY APPROPRIATE AMENDMENTS.

WE URGE YOU TO CONSULT OUR OFFICE IN THIS REGARD AT YOUR EARLIEST CONVENIENCE.

Very truly yours,
BION M. GREGORY
LEGISLATIVE COUNSEL

cc: Committee
named above
Each lead author
concerned

california
attorneys
for
criminal
justice

D
CPDA

California Public Defenders Association

Legislative Office
9341 Premier Way
Sacramento, CA 95826
(916) 366-6444

March 28, 1984

Assembly Member Steve Peace
State Capitol
Sacramento, California 95814

Withdrawn
3/30/84

RE: AB 2756--OPPOSE UNLESS AMENDED

Dear Assembly Member Peace:

The California Attorneys for Criminal Justice and the California Public Defenders Association are both opposed to AB 2756 in its current form.

CACJ and CPDA urge that AB 2756 be amended to retain the language of the present Section 202 with regard to maintaining family ties, wherever possible. Specifically, we would like to see the following language retained: "to preserve and strengthen the minor's family ties whenever possible, removing the minor from the custody of his or her parents only when necessary for his or her welfare or for the safety and protection of the public; and, when the minor is removed from his or her own family, to secure for the minor custody, care, and discipline as nearly as possible equivalent to that which should have been given by his or her parents. This chapter shall be liberally construed to carry out this purpose."

We acknowledge that public safety and protection are significant goals of the juvenile court law, but urge the legislature to re-affirm, as a stated purpose of the law, to preserve the family structure whenever possible. This is consistent with the acknowledged goal of the law to provide the least restrictive alternative to punishment, where consistent with public safety concerns, in juvenile commitment proceedings. In re Aline D., (1975) 14 Cal3d 557.

If you or your staff have any questions about the CACJ/CPDA position, please do not hesitate to call me.

Yours sincerely,

LARRY BRISKIN
Legislative Advocate

cc: Assemblyman Byron Sher, Chairman
Criminal Law and Public Safety Committee
Member, Criminal Law and Public Safety Committee

D -

CALIFORNIA PROBATION, PAROLE AND CORRECTIONAL ASSOCIATION

1722 J Street Suite 18 • Sacramento, California 95814
Telephone 916 442 4121

March 30, 1984

The Honorable Steve Peace
Member of the Assembly
State Capitol, Room 4121
Sacramento CA 95814

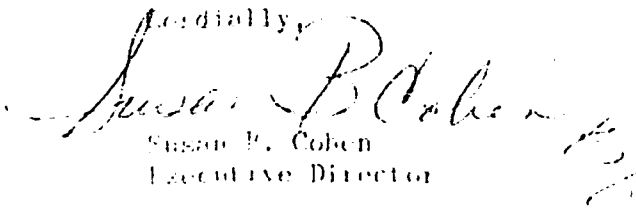
Dear Mr. Peace:

The California Probation, Parole and Correctional Association unfortunately will have to oppose unless amended, AB 2756. We support the provisions of this bill dealing with holding minors accountable for their actions, continued parental support of their children while they are wards of the court and public safety and protection as part of the purpose statement of the juvenile court law.

However, CPPCA cannot support this bill's inclusion of "punishment" as a purpose of the juvenile court law, unless there is a clear definition of punishment and unless there are procedural due process rights included in the juvenile court law.

We appreciate your consideration of these concerns.

Sincerely,



Susan P. Cohen
Executive Director

Enc:

cc: The Honorable Byron Sher, Criminal Law and Public Safety Committee

AB 2706

3 30 84 TC w/ Dorrine Lewis
w/ amendments, list CYA in supp.
of bill

3 30 84 TC w/ Briskin
^{opp. w/}
withdraw amendments discussed in
his letter.

3 30 84 TC w/ Mandy
Agrees to form. ties & pen. def.
amendments.

ASSEMBLY CRIMINAL LAW AND
PUBLIC SAFETY COMMITTEE

BYRON D. SHER, CHAIRMAN

STATE CAPITOL, ROOM 2136
(916) 445-3268

BILL NO: AB 2756

FISCAL: NO

URGENCY: NO

HEARING
DATE: 4/4/84

BILL NO: AB 2756 (As Amended April 3, 1984)

AUTHOR: PEACE

SUBJECT: SHOULD THE PURPOSE STATEMENT FOR THE JUVENILE COURT
LAW RECOGNIZE THAT IMPOSITION OF PUNISHMENT IS ONE
ACCEPTABLE METHOD OF ACHIEVING REHABILITATION OF
YOUTHFUL OFFENDERS?

DIGEST:

This bill would repeal the existing purpose statement contained in the Arnold-Kennick Juvenile Court Law and enact a new purpose statement. The new purpose statement would include several provisions similar or identical to provisions contained in existing law, but it would also recognize that punishment may be imposed on a youthful offender when such punishment is consistent with the rehabilitative objective of the Juvenile Court Law.

STAFF COMMENTS:

1. Purpose. California's juvenile justice system currently has as its goals protection of society and rehabilitation of youthful offenders. Punishment is not recognized as a goal of the juvenile justice system. This bill would make clear that punishment can be an appropriate and effective method to rehabilitate youthful offenders. This change has been recommended by a recent Rand Corporation study and by the Commission for the Revision of the Juvenile Court Law. The author also believes that this change reflects what participants in the system already believe to be the case: Youthful offenders are sentenced to the California Youth Authority or to juvenile hall or to a county camp to punish them for their criminal activity. This is done because it is believed that punishment may cause youthful offenders to see the error of their ways and ultimately cause them to reform. This bill seeks to recognize this reality and to put it into law.
2. Juvenile Justice Reform Package. This bill is part of the bipartisan Juvenile Justice Reform Program of 1984.
3. Comparison With Present Law. Under current law, the purposes of the Juvenile Court Law are listed as:

- a. Securing for each minor care that will serve his or her spiritual, emotional, mental and physical welfare and the best interests of the state.
- b. Protecting the public from criminal conduct by minors.
- c. Imposing on the minor a sense of responsibility for his or her own acts.
- d. Preserving and strengthening the minor's family ties when possible, removing the minor from parental custody only when necessary for public protection or the minor's welfare.

This bill includes each of these objectives in a similar or identical form, although somewhat streamlined. In addition, the bill includes a statement that the care and guidance provided to delinquent minors may include punishment "when the punishment is deemed by the juvenile court to be consistent with rehabilitative objectives."

4. Preservation of Family Ties. In response to concerns expressed by the Youth Authority and by the defense bar, the bill was recently amended to incorporate language contained in existing law recognizing that one purpose of the Juvenile Court Law is preservation of family ties. The provision now contained in the bill on this point is identical to existing law, including recognition that when the minor must be removed from the family, he or she should be provided with care as nearly equivalent as possible to that which should have been given by his or her parent. (See In re Aline D. (1975) 14 Cal. 3d 557.)

5. Summary of Opposition. Opponents believe that the concept of punishment is contrary to the fundamental goal of the juvenile justice system, which is rehabilitation of youthful offenders. They also believe that recognizing punishment as an appropriate tool of the juvenile court would cause further erosion of the distinction between adult and juvenile proceedings. They do not believe that punitive sanctions can be constitutionally imposed without extending the rights to bail and jury trial to minors.

6. Comparison With AB 3724 (Nolan). Both AB 2756 and AB 3724 seek to recognize and authorize the use of punishment as a legitimate tool to rehabilitate or resocialize youthful offenders. AB 2756 defines its goal in terms of rehabilitation. AB 3724 uses the terms behavior modification and resocialization.

AB 2756 was drafted in response to a recent Rand Corporation study commissioned by the Legislature. The Rand report recommended recognizing use of punishment in the juvenile justice system. AB 3724 was drafted by the Commission for the Revision of the Juvenile Court Law, which also recommended recognizing use of punishment. AB 2756 was recently amended to adopt the

definition of punishment drafted by the Commission. (See staff comment 7.) That definition has been contained in AB 3724 since its introduction.

Both bills include recognition of these goals for the Juvenile Court Law: Protection of the public, protection of the minor, accountability, providing for the welfare of the minor, and recognition of the importance of the family unit. AB 3724 declares that the ultimate objectives of the Juvenile Court Law are behavior modification and resocialization of minors within the court's jurisdiction.

7. Definition Of Punishment. The bill contains the following definition of punishment:

"As used in this chapter, "punishment" means the imposition of sanctions which include at least one of the following:

- (1) Payment of a fine by the minor.
- (2) Rendering of compulsory service without compensation performed for the benefit of the community by the minor.
- (3) Limitations on the minor's liberty imposed as a condition of probation or parole.
- (4) Commitment of the minor to a local detention or treatment facility, such as a juvenile hall, camp or ranch.
- (5) Commitment of the minor to the Department of the Youth Authority.

Punishment, for the purposes of this chapter shall not include retribution."

SOURCE: Assembly Member Peace

SUPPORT: California Youth Authority

OPPOSITION: California Probation, Parole and Correctional Association
Catholic Charities, Diocese of Oakland

CONSULTANT: DIANE M. GRIFFITHS

AP 2756

tam

STATEMENT OF ASSEMBLY MEMBER STEPHEN PEACE
BEFORE ASSEMBLY CRIMINAL LAW AND PUBLIC SAFETY COMMITTEE

AB 2756 AND THE JUVENILE JUSTICE REFORM PROGRAM OF 1984

APRIL 4, 1984

CALIFORNIA'S JUVENILE JUSTICE SYSTEM CURRENTLY HAS AS ITS GOALS PROTECTION OF SOCIETY AND REHABILITATION OF YOUTHFUL OFFENDERS. PUNISHMENT IS NOT RECOGNIZED AS A GOAL OF OUR JUVENILE JUSTICE SYSTEM.

MY BILL, AB 2756, WOULD MAKE CLEAR THAT PUNISHMENT CAN BE AN APPROPRIATE AND EFFECTIVE METHOD TO REHABILITATE YOUTHFUL OFFENDERS. THIS CHANGE HAS BEEN RECOMMENDED BY BOTH THE RAND CORPORATION STUDY AND THE COMMISSION FOR THE REVISION OF THE JUVENILE COURT LAW.

MY BILL ALSO REFLECTS WHAT PARTICIPANTS IN THE SYSTEM ALREADY BELIEVE TO BE THE CASE: WE SENTENCE YOUTHFUL OFFENDERS TO THE CALIFORNIA YOUTH AUTHORITY OR TO JUVENILE HALL TO PUNISH THEM FOR THEIR CRIMINAL ACTIVITY. WE DO THIS BECAUSE WE BELIEVE THAT PUNISHMENT MAY CAUSE YOUTHFUL OFFENDERS TO SEE THE ERROR OF THEIR WAYS AND ULTIMATELY CAUSE THEM TO REFORM. MY BILL RECOGNIZES THIS REALITY AND SEEKS TO PUT IT INTO LAW. IN RESPONSE TO QUESTIONS RAISED ABOUT THE BILL, I HAVE AMENDED IT TO DEFINE THE CONCEPT OF PUNISHMENT AND TO INCLUDE A STATEMENT THAT FAMILY TIES SHOULD BE PRESERVED AND STRENGTHENED WHENEVER POSSIBLE.

SENATE COMMITTEE ON JUDICIARY
Barry Keene, Chairman
1983-84 Regular Session

AB 2756 (Peace)
As amended April 24
Welfare and Institutions Code
MFR

A
B
2
7
5
6

PURPOSE OF JUVENILE COURT LAW

HISTORY

Source: Commission for the Revision of the
Juvenile Court Law; Rand Corporation

Prior Legislation: None

Support: Department of the Youth Authority;
CPPCA; California Chief Probation
Officers

Opposition: Friends Committee on Legislation;
CACJ

Assembly Floor Vote: Ayes 68 - Noes 6.

KEY ISSUE

SHOULD THE PURPOSE OF THE JUVENILE COURT LAW BE
CHANGED TO REFLECT THE BELIEF THAT PUNISHMENT,
CONSISTENT WITH REHABILITATION, IS A LEGITIMATE
GOAL OF THE JUVENILE JUSTICE SYSTEM?

PURPOSE

Under existing law the purpose of the juvenile
justice system is to provide minors with care and
guidance and to protect the public.

(More)

This bill would recast the purpose section to emphasize punishment, consistent with rehabilitative objectives, as an appropriate response to delinquent conduct.

The purpose of this bill, which is the part of the Assembly's Juvenile Justice Reform Program of 1984, is to provide an additional emphasis for the juvenile court law.

COMMENT

1. Result of studies

The change proposed by AB 2756 is the result of a recommendation contained in the reports of both the Commission for the Revision of the Juvenile Court Law and the Rand Corporation.

The Commission, which was created by AB 419 (Nolan) of 1981, was composed of juvenile justice practitioners and spent last year studying and revising the juvenile court law.

The Rand Corporation report was undertaken at the behest of the Assembly.

2. Purpose of the juvenile court law

(a) Existing law

Under existing law the purposes of the juvenile justice system are as follows:

- (1) To secure for each minor the care and guidance that will serve her spiritual, emotional, mental, and physical welfare and the best interests of the state;

(More)

- (2) To protect the public from criminal conduct by minors;
- (3) To impose on the minor a sense of responsibility;
- (4) To preserve and strengthen the minor's family ties when possible, removing her from parental custody only when necessary for public protection or the minor's welfare.

(b) AB 2756

AB 2756 would include each of these objectives in a similar form, although in somewhat streamlined syntax.

It would, in addition, specify that the guidance that a delinquent minor would receive could include punishment that was consistent with rehabilitation. Although this punishment could not be retributive, it would include:

- Payment of a fine;
- Rendering of compulsory community service;
- Limiting of the minor's liberty as a condition of probation or parole;
- Commitment of the minor to a local detention or treatment facility or to the Youth Authority.

(More)

3. Accountability of participants

AB 2756 also specifies that participants in the juvenile justice system would hold themselves accountable for its results.

This language was inserted in the bill at the urging of the Commission for the Revision of the Juvenile Court Law.

DO NOT PARTICIPANTS DO SO ALREADY? DOES THIS LANGUAGE CLEARLY EXPRESS A PURPOSE?

4. Opposition concerns

Opponents believe that the concept of punishment is contrary to the fundamental goal of the juvenile justice system--the rehabilitation of youthful offenders. They also state that recognizing punishment as an appropriate tool of the juvenile court would cause further erosion of the distinction between adult and juvenile proceedings. In addition, opponents assert that punitive sanctions may not be constitutionally imposed without according minors the rights to bail and jury trial.

Let. Gott wants AB 2756 to

- 1) Include language from AB 3724, p. 3, ll. 4-7, re holding system accountable
- 2) Clarify that juvenile court need not make specific finding in individual case that punishment would be consistent with rehabilitative objectives of juvenile court

Table

1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

7, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

A/c Criminal Law B Public Safety
AB 2756 1984

SECRETARY OF STATE, BRUCE M. PHERSON
The Original of This Document is in
CALIFORNIA STATE ARCHIVES
1020 "O" STREET
SACRAMENTO, CA 95814