



# JUDICIAL COUNCIL OF CALIFORNIA

## GOVERNMENTAL AFFAIRS

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July 19, 2018

Hon. Mark Stone  
Member of the Assembly  
State Capitol, Room 3146  
Sacramento, California 95814

Subject: Assembly Bill 1214, as amended June 20, 2018 – Oppose

Dear Assembly Member Stone:

The Judicial Council regrettably must oppose AB 1214, which seeks to formalize the processes and procedures related to the care and treatment of minors for whom a doubt is cast as to their competence to be involved in the adjudication of petitions against them.

The council opposes AB 1214 because there are several provisions within the bill that do not reflect best practices to be used in juvenile courts to address the needs of minors found to be incompetent. Specifically:

- The language proposed for Welfare & Institutions Code (WIC) section 709(c) regarding stipulation or submission of the parties as to the minor's competency only allows for submission or stipulation as to incompetency, but appears to require an evidentiary hearing on the expert report even if the parties are willing to stipulate that the minor is competent. This will result in unnecessary hearings and delays in these matters.
- WIC section 709(f) requires that a petition against a minor for whom the issue of competence has been raised shall be dismissed if that petition includes only misdemeanor charges. This provision inappropriately limits judicial discretion to work to restore youth to competency who have committed serious misdemeanor offenses such as domestic violence to ensure that

they are served and held accountable to prevent future delinquent or criminal behavior. In addition, it creates incentives for prosecutorial agencies to overcharge minors with felonies to avoid dismissals under this provision. At a minimum, juveniles with wobbler cases would be more likely charged with felonies.

- The language in Section 709(h) “within six months of the receipt of a recommendation” is problematic because the statute elsewhere requires a review every 30 or 45 days, depending on whether the minor is detained, and presumptively at those reviews remediation services providers will be providing recommendations as to whether the minor is still incompetent, or not, and if still incompetent, whether the minor can achieve competency within one year. So, if on day 30 the judge gets a report with an evaluation that the minor is still incompetent, does the judge have six months to set a trial on the issue? What may be intended here is that “within six months of a finding of incompetence” or “within six months of the beginning of restoration of services” the court should receive a recommendation and then must hold an evidentiary hearing on the issue.
- The necessity of an evidentiary hearing at six months is also problematic. If the recommendation is that the minor is not competent but likely to be remediated in three additional months, a trial on that issue likely doesn’t make sense. A better trigger for a trial is when the remediator says either that the minor is now competent, or that the minor is not competent and cannot be remediated with whatever time is left. Upon one of those declarations, if a party disagrees, an evidentiary hearing would make sense.
- WIC section 709(h)(3) states that “the total remediation period shall not exceed one year...” Section 709(h)(5)(C) allows in 707(b) cases (in which a youth is charged with a serious or violent felony) the court to confine, but not provide remediation services to, a minor for up to 18 months. This provision could result in a youth who needs competency services being provided services for one year, and then confined without services for another six months. This result would be untenable and unfair to these minors who have not yet been adjudicated delinquent due to incompetency.

We appreciate having been able to work with staff and the bill’s sponsors on other amendments, and we are available to provide additional input if future and ongoing negotiations take place. However, for the reasons stated above, the Judicial Council opposes AB 1214.

Sincerely,

*Mailed on July 19, 2018*

Cory T. Jaspersen  
Director, Governmental Affairs

Hon. Mark Stone

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cc: Ms. Danielle Sanchez, Legislative Director, Chief Probation Officers of California  
Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor  
Mr. Martin Hoshino, Administrative Director, Judicial Council of California