

**TO: Chairman and Members**

**DATE: January 17, 2013**

**SUBJECT:**

**Welfare and Institutions Code, 209(d)  
Juvenile Hall Determinations of Suitability**

**AGENDA ITEM: G**

**ACTION:  
INFORMATION: X**

**RESOURCE PERSON: Gary Wion**

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**Summary:** The Welfare and Institutions Code (WIC) requires the Board of State and Community Corrections (BSCC) make a determination of suitability for the confinement of minors whenever a juvenile hall fails to rectify areas of noncompliance identified during the biennial inspection within the time limits specified in Section 209(d), WIC. This agenda item will provide the BSCC members with information to assist them when making determinations of suitability.

**Background:** Section 209, WIC mandates that facilities utilized for the detention of local juvenile offenders are subject to biennial inspections by the BSCC. Section 209 has several sub-sections and is provided in its entirety in Attachment A. The focus of this agenda item will be on sub-section (d). This section identifies specific timelines that counties are required to follow as they bring identified areas of noncompliance into compliance. WIC Section 209(d) reads:

*Except as provided in subdivision (e), a juvenile hall, special purpose juvenile hall, law enforcement facility, or jail shall be unsuitable for the confinement of minors if it is not in compliance with one or more of the minimum standards for juvenile facilities adopted by the Board of Corrections under Section 210 or 210.2, and if, within 60 days of having received notice of noncompliance from the board or the judge of the juvenile court, the juvenile hall, special purpose juvenile hall, law enforcement facility, or jail has failed to file an approved corrective action plan with the Board of Corrections to correct the condition or conditions of noncompliance of which it has been notified. The corrective action plan shall outline how the juvenile hall, special purpose juvenile hall, law enforcement facility, or jail plans to correct the issue of noncompliance and give a reasonable timeframe, not to exceed 90 days, for resolution, that the board shall either approve or deny. In the event the juvenile hall, special purpose juvenile hall, law enforcement facility, or jail fails to meet its commitment to resolve noncompliance issues outlined in its corrective action plan, the board shall make a determination of suitability at its next scheduled meeting.*

There have been eight (8) instances since 2008 when the Board has been required to make a determination of the suitability of a juvenile hall for the confinement of minors. In each of these instances the Board has deemed the facility suitable. Prior to making that determination, Board members had had lengthy discussions regarding the identified issues of noncompliance and their effect on safety and security of the minors housed. On four of these instances, the Board required

specific county administrators and/or staff return for subsequent meetings to provide progress reports as the facility moved into full compliance.

Based on prior Board action, it is evident that a local juvenile detention facility may have not yet fulfilled its corrective action regarding a particular regulation, yet still be a suitable place for the confinement of minors. In making a suitability determination, it is important that Board members weigh all factors related to the compliance issue and rely on BSCC staff for current information regarding the health and safety of the minors housed as well as the facility's progress towards compliance. The Field Representative will provide the Board members with a recommendation regarding suitability.

The Board must determine the facility either 1) suitable for the confinement of minors or 2) unsuitable for the confinement of minors before moving to the next agenda item. In the event that the Board determines a facility as a suitable place for the confinement of minors and there are remaining areas of noncompliance, the Board does have the prerogative of placing the matter on a future BSCC meeting agenda for the purpose of reviewing the counties progress rectifying the identified compliance issue.

In the event that the Board determines the facility unsuitable for the confinement of minors, then the Board shall give notice of its finding to all persons having authority to confine minors at the facility and commencing 60 days thereafter the facility shall not be used for confinement of minors until the time the BSCC determines that the conditions that rendered the facility unsuitable have been remedied.

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**Recommendation/Action Needed:** Information only

## WELFARE AND INSTITUTIONS CODE

### § 209. Inspection of juvenile detention facilities for suitability; minimum standards.

- (a) The judge of the juvenile court of a county, or, if there is more than one judge, any of the judges of the juvenile court shall, at least annually, inspect any jail, juvenile hall, or special purpose juvenile hall that, in the preceding calendar year, was used for confinement, for more than 24 hours, of any minor.

The judge shall promptly notify the operator of the jail, juvenile hall, or special purpose juvenile hall of any observed noncompliance with minimum standards for juvenile facilities adopted by the Board of Corrections under Section 210. Based on the facility's subsequent compliance with the provisions of subdivisions (d) and (e), the judge shall thereafter make a finding whether the facility is a suitable place for the confinement of minors and shall note the finding in the minutes of the court.

The Board of Corrections shall conduct a biennial inspection of each jail, juvenile hall, lockup, or special purpose juvenile hall situated in this state that, during the preceding calendar year, was used for confinement, for more than 24 hours, of any minor. The board shall promptly notify the operator of any jail, juvenile hall, lockup, or special purpose juvenile hall of any noncompliance found, upon inspection, with any of the minimum standards for juvenile facilities adopted by the Board of Corrections under Section 210 or 210.2.

If either a judge of the juvenile court or the board, after inspection of a jail, juvenile hall, special purpose juvenile hall, or lockup, finds that it is not being operated and maintained as a suitable place for the confinement of minors, the juvenile court or the board shall give notice of its finding to all persons having authority to confine minors pursuant to this chapter and commencing 60 days thereafter the facility shall not be used for confinement of minors until the time the judge or board, as the case may be, finds, after reinspection of the facility that the conditions that rendered the facility unsuitable have been remedied, and the facility is a suitable place for confinement of minors.

The custodian of each jail, juvenile hall, special purpose juvenile hall, and lockup shall make any reports as may be requested by the board or the juvenile court to effectuate the purposes of this section.

- (b) The Board of Corrections may inspect any law enforcement facility that contains a lockup for adults and that it has reason to believe may not be in compliance with the requirements of subdivision (d) of Section 207.1 or with the certification requirements or standards adopted under Section 210.2. A judge of the juvenile court shall conduct an annual inspection, either in person or through a delegated member of the appropriate county or regional juvenile justice commission, of any law enforcement facility that contains a lockup for adults which, in the preceding year, was used for the secure detention of any minor. If the law enforcement facility is observed, upon inspection, to be out of compliance with the requirements of subdivision (d) of Section 207.1, or with

any standard adopted under Section 210.2, the board or the judge shall promptly notify the operator of the law enforcement facility of the specific points of noncompliance.

If either the judge or the board finds after inspection that the facility is not being operated and maintained in conformity with the requirements of subdivision (d) of Section 207.1 or with the certification requirements or standards adopted under Section 210.2, the juvenile court or the board shall give notice of its finding to all persons having authority to securely detain minors in the facility, and, commencing 60 days thereafter, the facility shall not be used for the secure detention of a minor until the time the judge or the board, as the case may be, finds, after reinspection, that the conditions that rendered the facility unsuitable have been remedied, and the facility is a suitable place for the confinement of minors in conformity with all requirements of law.

The custodian of each law enforcement facility that contains a lockup for adults shall make any report as may be requested by the board or by the juvenile court to effectuate the purposes of this subdivision.

- (c) The board shall collect biennial data on the number, place, and duration of confinements of minors in jails and lockups, as defined in subdivision (i) of Section 207.1, and shall publish biennially this information in the form as it deems appropriate for the purpose of providing public information on continuing compliance with the requirements of Section 207.1.
- (d) Except as provided in subdivision (e), a juvenile hall, special purpose juvenile hall, law enforcement facility, or jail shall be unsuitable for the confinement of minors if it is not in compliance with one or more of the minimum standards for juvenile facilities adopted by the Board of Corrections under Section 210 or 210.2, and if, within 60 days of having received notice of noncompliance from the board or the judge of the juvenile court, the juvenile hall, special purpose juvenile hall, law enforcement facility, or jail has failed to file an approved corrective action plan with the Board of Corrections to correct the condition or conditions of noncompliance of which it has been notified. The corrective action plan shall outline how the juvenile hall, special purpose juvenile hall, law enforcement facility, or jail plans to correct the issue of noncompliance and give a reasonable timeframe, not to exceed 90 days, for resolution, that the board shall either approve or deny. In the event the juvenile hall, special purpose juvenile hall, law enforcement facility, or jail fails to meet its commitment to resolve noncompliance issues outlined in its corrective action plan, the board shall make a determination of suitability at its next scheduled meeting.
- (e) Where a juvenile hall is not in compliance with one or more of the minimum standards for juvenile facilities adopted by the Board of Corrections under Section 210, and where the noncompliance arises from sustained occupancy levels that are above the population capacity permitted by applicable minimum standards, the juvenile hall shall be unsuitable for the confinement of minors if the board or the judge of the juvenile court determines that conditions in the facility pose a serious risk to the health, safety, or welfare of minors confined in the facility. In making its determination of suitability, the board or the judge of the juvenile court shall consider, in addition to the noncompliance

with minimum standards, the totality of conditions in the juvenile hall, including the extent and duration of overpopulation as well as staffing, program, physical plant, and medical and mental health care conditions in the facility. The Board of Corrections may develop guidelines and procedures for its determination of suitability in accordance with this subdivision and to assist counties in bringing their juvenile halls into full compliance with applicable minimum standards. This subdivision shall not be interpreted to exempt a juvenile hall from having to correct, in accordance with the provisions of subdivision (d), any minimum standard violations that are not directly related to overpopulation of the facility.

- (f) In accordance with the federal Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. Sec. 5601 et seq.), the Corrections Standards Authority shall inspect and collect relevant data from any facility that may be used for the secure detention of minors.