



NATIONAL CENTER FOR LESBIAN RIGHTS

SB 518 FACT SHEET

Comprehensive Bill Of Rights to Protect Youth in California Juvenile Justice Facilities from Discrimination and Harassment Based On Sexual Orientation and Gender Identity

In 2006, the National Center for Lesbian Rights (NCLR) began working with Equality California to develop legislation to ensure that all youth in California's juvenile justice facilities are protected from bias and harassment and are better equipped to identify and report violations of their rights. This collaboration resulted in the passage of **SB 518, the California Juvenile Justice Safety and Protection Act**.¹ The governor signed SB 518 on October 13, 2007 making California the first state to adopt a comprehensive bill of rights for young people confined in juvenile justice facilities² and one of the only states with a statute that prohibits discrimination and harassment based on sexual orientation and gender identity in juvenile justice facilities.³

What Is Mandated Under SB 518?

There are four components to SB 518:

First, SB 518 prohibits harassment and discrimination based on actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, and HIV status in all California Department of Juvenile Justice (DJJ) facilities.⁴ That means that all DJJ facilities must ensure the safety and dignity of every youth in their care, and must provide care, placement, and services to youth without discriminating on these bases.

Second, SB 518 establishes a Youth Bill of Rights that explains the many rights that youth confined in DJJ facilities have under state law and the United States Constitution. The Youth Bill of Rights is a detailed listing of seventeen basic fundamental rights for youth, including the right to live in a safe, healthy, and clean environment that is conducive to treatment and rehabilitation and where they are treated with dignity and respect.⁵ (See Appendix for complete listing of these rights.)

Third, SB 518 requires all DJJ facilities to inform youth about their rights during orientation and to give youth a copy of these rights.⁶ Each facility must also post the Youth Bill of Rights in a place where young people can see it.⁷ Currently, we are working with the DJJ Ombudsperson to design this poster so that it is clear and easy for youth to understand. Each poster will also include the Ombudsperson's toll-free telephone number so that youth can call to report rights violations and unlawful conditions in facilities.⁸

Finally, SB 518 requires the DJJ ombudsperson to monitor this toll-free helpline and investigate all complaints from youth and parents. The ombudsperson is required to document the number, source, nature, and resolution of all helpline complaints and make this information available to the legislature and to the public.⁹

For more information about your rights in the juvenile justice system or if you have additional questions, contact the National Center for Lesbian Rights: 415.392.6257; 800.528.6257 (toll-free); info@nclrights.org; www.nclrights.org

Endnotes

¹ The bill was authored by Senator Carole Migden (D- San Francisco), sponsored by Equality California, and had broad support from youth and LGBT advocates from across California. SB 518 went into effect on January 1, 2008.

² Other states, such as Michigan and Virginia, have departmental policies that articulate the rights of youth in state juvenile facilities. See Michigan Bureau of Juvenile Justice, Rights for Youth under our Custody (available at http://www.michigan.gov/documents/FIA-BJJ-Rights_117329_7.pdf); Virginia Board of Juvenile Justice Policy, Policy: 17-001: Youth's Rights (available at http://www.djj.state.va.us/About_Us/Initiatives/ombudsman.cfm).

³ See e.g., OR. REV. STAT. § 179.750 (2) (prohibiting discrimination based on sexual orientation and gender identity in state institutions, including juvenile justice facilities); R.I. GEN. LAWS § 28-5.1-7 (a) ("Every state agency shall render service to the citizens of this state without discrimination based on race, color, religion, sex, sexual orientation, gender identity or expression, age, national origin, or disability. No state facility shall be used in furtherance of any discriminatory practice nor shall any state agency become a party to any agreement, arrangement, or plan which has the effect of sanctioning those patterns or practices."); MINN. STAT. § 363A.02 (4) (prohibiting discrimination in public services based on race, color, creed, religion, national origin, sex, marital status, disability, sexual orientation, and status with regard to public assistance).

⁴ See CAL. WELF. & INST. CODE §§ 224.71(i), 224.73.

⁵ Section 224.71 of California's Welfare and Institution Code provides:

"It is the policy of the state that all youth confined in a facility of the Division of Juvenile Facilities shall have the following rights:

(a) To live in a safe, healthy, and clean environment conducive to treatment and rehabilitation and where they are treated with dignity and respect.

(b) To be free from physical, sexual, emotional, or other abuse, or corporal punishment.

(c) To receive adequate and healthy food and water, sufficient personal hygiene items, and clothing that is adequate and clean.

(d) To receive adequate and appropriate medical, dental, vision, and mental health services.

(e) To refuse the administration of psychotropic and other medications consistent with applicable law or unless immediately necessary for the preservation of life or the prevention of serious bodily harm.

(f) To not be searched for the purpose of harassment or humiliation or as a form of discipline or punishment.

(g) To maintain frequent and continuing contact with parents, guardians, siblings, children, and extended family members, through visits, telephone calls, and mail.

(h) To make and receive confidential telephone calls, send and receive confidential mail, and have confidential visits with attorneys and their authorized representatives, ombudspersons and other advocates, holders of public office, state and federal court personnel, and legal service organizations.

(i) To have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

(j) To have regular opportunity for age-appropriate physical exercise and recreation, including time spent outdoors.

(k) To contact attorneys, ombudspersons and other advocates, and representatives of state or local agencies, regarding conditions of confinement or violations of rights, and to be free from retaliation for making these contacts or complaints.

(l) To participate in religious services and activities of their choice.

(m) To not be deprived of any of the following as a disciplinary measure: food, contact with parents, guardians, or attorneys, sleep, exercise, education, bedding, access to religious services, a daily shower, a drinking fountain, a toilet, medical services, reading material, or the right to send and receive mail.

(n) To receive a quality education that complies with state law, to attend age-appropriate school classes and vocational training, and to continue to receive educational services while on disciplinary or medical status.

(o) To attend all court hearings pertaining to them.

(p) To have counsel and a prompt probable cause hearing when detained on probation or parole violations.

(q) To make at least two free telephone calls within an hour after initially being placed in a facility of the Division of Juvenile Facilities following an arrest.

⁶ See CAL. WELF. & INST. CODE § 224.72(a).

⁷ See CAL. WELF. & INST. CODE § 224.72(b).

⁸ See CAL. WELF. & INST. CODE §§ 224.72(b), 224.74(a)(2), 224.74(a)(6).

⁹ See CAL. WELF. & INST. CODE §§ 224.74(a)(5), 224.74(a)(7).

NCLR's Youth Project has been advocating for LGBTQ youth in schools, foster care, juvenile justice settings, and the mental health system since 1993. The Project provides direct, free legal information to youth, legal advocates, and activists through a toll-free line; advocates for policies that protect and support LGBTQ youth in these different arenas; and litigates cases that are creating new legal protections for youth in schools, foster care, juvenile justice, and other setting.

APPENDIX: YOUTH BILL OF RIGHTS

All facilities of the Division of Juvenile Justice shall ensure the safety and dignity of all youth in their care and shall provide care, placement, and services to youth without discriminating on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

It is the policy of the state of California that when youth are housed in a facility of the Division of Juvenile Justice (DJJ) they have the following rights:

Youth have the right to live in a safe, healthy, and clean environment, where they are:

- treated with dignity and respect.
- free from physical, sexual, emotional, or other abuse, or corporal punishment.
- given fair and equal access to all available services, placement, care, treatment and benefits
- not discriminated against or harassed because of their actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

While in a DJJ facility, youth have the right to:

- have enough healthy food and clean water.
- have an education program that meets state law requirements, attend school classes and vocational training, and to continue to receive educational services while on disciplinary or medical status.
- have regular physical exercise and recreation, including time spent outdoors.
- be provided with clean clothing that fits and is appropriate for the weather, and sufficient personal hygiene items.
- attend religious services and activities of their choice.
- receive adequate and appropriate medical, dental, vision, and mental health services.
- refuse to take psychotropic and other medications (unless the law says otherwise or it is immediately necessary to prevent serious bodily harm or death).

No one at a DJJ facility can punish youth by:

- depriving youth of food, sleep, exercise, education, or pillows and blankets.
- preventing youth from having contact with parents, guardians, or attorneys, or from sending and receiving mail.
- not letting youth have access to religious services, a daily shower, a drinking fountain, a toilet, medical services, or reading material.
- searching youth for the purpose of harassment or humiliation, or for discipline or punishment.

Youth have the right to have regular contact (i.e. frequent visits, telephone calls, and mail) with members of their extended family which includes:

- their parents, guardians, siblings, children, and other adults to whom they are related.
- adults they are not related to but who they have a family or mentoring relationship with, such as godparents, clergy, teachers, neighbors, and family friends.

Youth have the right to make and receive confidential telephone calls, send and receive confidential mail, and have confidential visits with:

- attorneys and people working with them, and legal services organizations.
- ombudspersons and other advocates.
- holders of public office, and people who work at a state or federal court.

Youth have the right to contact attorneys, ombudspersons, other advocates, or representatives of state or local agencies regarding conditions of confinement or violations of rights and to be free from retaliation for doing so.

Youth have other rights too:

- To attend all of their court hearings.
- To make at least two free telephone calls within an hour of getting to a DJJ facility.
- To receive a copy of their rights when they arrive at a facility and have a comprehensive orientation.
- To have their complaints investigated by the Ombudsperson or referred for investigation to another agency and to receive a response in writing.
- To have a prompt hearing to determine if there is enough evidence to hold them for a probation or parole violation, and to have an attorney represent them at that hearing.