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CLIENT BULLETIN

URGENT: MEET & CONFER NOW ON SB 823

October 30, 2020

The abrupt implementation of juvenile justice realignment in California under Senate Bill 823 requires an urgent response from probation peace officer associations to protect the rights, working conditions and safety of the members. Since SB 823 was a budget trailer bill, many of its most consequential provisions went into effect immediately on September 30, 2020, when the governor signed the legislation. **The time is now** to evaluate the effect of SB 823 on your county juvenile detention facilities and initiate meet and confer with your chief probation officer and juvenile facility superintendent over its impacts.

Of greatest immediate impact on your membership is a provision in the new law revising **Welfare & Institutions Code 208.5** to require county juvenile detention facilities to hold minors currently in custody **up to the age of 25** instead of transferring them to jail when they become adults. Instead of requiring youth who become adults while in juvenile custody to be transferred from juvenile hall to county jail, the new statute puts the burden on the probation department to show why the minor cannot be held in the hall past 19.

SB 823 further amends existing law to provide that any adult up to age 25 **who is arrested** on a warrant or violation of probation for a juvenile case may be booked into juvenile hall instead of county jail. Public defenders have seized on this provision to petition courts to transfer adults held on juvenile offenses from county jail to juvenile hall.

The requirement that sworn staff in juvenile facilities now supervise adults is **out of class** work. The job descriptions for juvenile detention officer, group counselor, juvenile correctional counselor, and the like, do not include supervising adult prisoners. For some staff, supervising adults up to age 25 presents physical and emotional challenges for which the officers are not suited; for others, supervising adults is too dangerous a job and not what they signed up to do. Housing adults in juvenile facilities affects everything from staffing and training to programming, school, outdoor activities and work schedules.

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County probation departments, like any other local government agency, are required by state law to meet and confer with employee associations over the adverse impacts of changes to working conditions. This means chief probation officers and facility superintendents are **required to meet and confer in good faith** with your probation associations *before* they implement new policies and procedures relating to SB 823.

“Good faith” meet and confer, to be effective, must “continue for a reasonable period of time” and include an exchange of proposals, information and opinions in an attempt to reach agreement. (Gov. Code § 3506.) The failure to reach agreement may be subject to local impasse procedures and **factfinding arbitration** under the MMBA.

SB 823 transfers responsibility for supervision of minors housed by the state Division of Juvenile Justice (DJJ) from the state to the counties, **effective July 1, 2021**. Adult supervision in a juvenile facility will become more common, as well as more complicated, after that date because adults between 18-25 who are sentenced on juvenile cases also will end up in juvenile detention. The DJJ will stop accepting minors no later than July 1, 2021; in the meantime, minors currently housed with DJJ may return to local facilities.

By engaging in meet and confer now, you can prevent your county or department from using **“emergency” conditions** created by SB 823’s abrupt implementation to change working conditions without association consent. You may be able to work with your chief, superintendent or county to mitigate the worst effects of the new law on your members as well as work toward pay increases and other benefits related to new duties imposed by the statute.

Your role as probation association leaders is **critical** to protecting the health, safety and welfare of your members as SB 823 is implemented in your county. SCOPO’s executive board, general counsel and legislative advocate all are available to assist your association board with the meet and confer process.

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