



AB-811 Juveniles: rights: computing technology. (2017-2018)

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CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL

NO. 811

Introduced by Assembly Member Gipson

February 15, 2017

An act to amend Sections 362.05 and 727 of, and to add Sections 224.75, 851.1, and 889.1 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 811, Gipson. Juveniles: rights: computing technology.

Existing law, the Youth Bill of Rights, enumerates various rights for youth confined in a facility of the Division of Juvenile Justice, including, among others, the right to maintain frequent and continuing contact with family members and the right to receive a quality education.

This bill would require a youth confined in a facility of the Division of Juvenile Justice, commencing January 1, 2021, to be provided reasonable access to computer technology and the Internet for the purposes of education and maintaining contact with family members. The bill would also require a minor detained in or committed to a juvenile hall or juvenile ranch, camp, or forestry camp, to be provided with reasonable access to computer technology and the Internet for the purposes of education, and would allow him or her to be provided with reasonable access to computer technology and the Internet for the purpose of maintaining

relationships with family. The bill would specify that these provisions do not limit the authority of the Director of the Division of Juvenile Justice or the chief probation officer, or his or her designee, to limit or deny reasonable access to computer technology or the Internet for safety and security or staffing reasons. By requiring counties to provide minors in their custody access to computer technology and the Internet, the bill would impose a state-mandated local program.

Under existing law, every child adjudged a dependent child of the juvenile court and every minor adjudged a ward of the juvenile court is entitled to participate in age-appropriate extracurricular, enrichment, and social activities.

This bill would require that these age-appropriate extracurricular, enrichment, and social activities include reasonable access to computer technology and the Internet. By requiring counties to provide reasonable access to computer technology and Internet to dependent children and wards of the juvenile court, this bill would impose a state-mandated local program.

This bill would incorporate additional changes to Sections 362.05 and 727 of the Welfare and Institutions Code proposed by AB 404 to be operative only if this bill and AB 404 are enacted and this bill is enacted last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 224.75 is added to the Welfare and Institutions Code, to read:

224.75. (a) Minors confined in a facility of the Division of Juvenile Justice shall be provided with reasonable access to computer technology and the Internet for the purposes of education and maintaining contact with parents, guardians, siblings, children, and extended family members.

(b) Subdivision (a) does not limit the authority of the Director of the Division of Juvenile Justice, or his or her designee, to limit or deny reasonable access to computer technology or the Internet for safety and security or staffing reasons.

(c) This section shall become operative on January 1, 2021.

SEC. 2. Section 362.05 of the Welfare and Institutions Code is amended to read:

362.05. (a) (1) Every child adjudged a dependent child of the juvenile court shall be entitled to participate in age-appropriate extracurricular, enrichment, and social activities, including, but not limited to, reasonable access to computer technology and the Internet. A state or local regulation or policy may not prevent, or create barriers to, participation in those activities. Each state and local entity shall ensure that private agencies that provide foster care services to dependent children have policies consistent with this section and that those agencies promote and protect the ability of dependent children to participate in age-appropriate extracurricular, enrichment, and social activities, including, but not limited to, reasonable access to computer technology and the Internet. A group home administrator, a facility manager, or his or her responsible designee, and a caregiver, as defined in paragraph (1) of subdivision (a) of Section 362.04, shall use a reasonable and prudent parent standard in determining whether to give permission for a child residing in foster care to participate in extracurricular, enrichment, and social activities, including, but not limited to, reasonable access to computer technology and the Internet. A group home administrator, a facility manager, or his or her responsible designee, and a caregiver shall take reasonable steps to determine the appropriateness of the activity in consideration of the child's age, maturity, and developmental level.

(2) Training for caregivers shall include knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities, consistent with this section and Section 671(a)(24) of Title 42 of the United States Code.

(b) A group home administrator or a facility manager, or his or her responsible designee, is encouraged to consult with social work or treatment staff members who are most familiar with the child at the group home in applying and using the reasonable and prudent parent standard.

(c) (1) "Reasonable and prudent parent" or "reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time

encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities.

(2) The term "age or developmentally appropriate" means both of the following:

(A) Activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group.

(B) In the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

SEC. 2.5. Section 362.05 of the Welfare and Institutions Code is amended to read:

362.05. (a) (1) Every child adjudged a dependent child of the juvenile court shall be entitled to participate in age-appropriate extracurricular, enrichment, and social activities, including, but not limited to, reasonable access to computer technology and the Internet. A state or local regulation or policy may not prevent, or create barriers to, participation in those activities. Each state and local entity shall ensure that private agencies that provide foster care services to dependent children have policies consistent with this section and that those agencies promote and protect the ability of dependent children to participate in age-appropriate extracurricular, enrichment, and social activities, including, but not limited to, reasonable access to computer technology and the Internet. A short-term residential therapeutic program or a group home administrator, facility manager, or his or her responsible designee, and a caregiver, as defined in paragraph (1) of subdivision (a) of Section 362.04, shall use a reasonable and prudent parent standard in determining whether to give permission for a child residing in foster care to participate in extracurricular, enrichment, and social activities, including, but not limited to, reasonable access to computer technology and the Internet. A short-term residential therapeutic program or a group home administrator, facility manager, or his or her responsible designee, and a caregiver shall take reasonable steps to determine the appropriateness of the activity in consideration of the child's age, maturity, and developmental level.

(2) Training for caregivers shall include knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities, consistent with this section and Section 671(a)(24) of Title 42 of the United States Code.

(b) A short-term residential therapeutic program or a group home administrator, facility manager, or his or her responsible designee, is encouraged to consult with social work or treatment staff members who are most familiar with the child at the group home in applying and using the reasonable and prudent parent standard.

(c) (1) "Reasonable and prudent parent" or "reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities.

(2) The term "age or developmentally appropriate" means both of the following:

(A) Activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group.

(B) In the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

SEC. 3. Section 727 of the Welfare and Institutions Code is amended to read:

727. (a) (1) If a minor or nonminor is adjudged a ward of the court on the ground that he or she is a person described by Section 601 or 602, the court may make any reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the minor or nonminor, including medical treatment, subject to further order of the court.

(2) In the discretion of the court, a ward may be ordered to be on probation without supervision of the probation officer. The court, in so ordering, may impose on the ward any and all reasonable conditions of behavior as may be appropriate under this disposition. A minor or nonminor who has been adjudged a ward of the court on the basis of the commission of any of the offenses described in subdivision (b) or paragraph (2) of subdivision (d) of Section 707, Section 459 of the Penal Code, or subdivision (a) of Section 11350 of the Health and Safety Code, shall not be eligible for probation without supervision of the

probation officer. A minor or nonminor who has been adjudged a ward of the court on the basis of the commission of any offense involving the sale or possession for sale of a controlled substance, except misdemeanor offenses involving marijuana, as specified in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, or of an offense in violation of Section 32625 of the Penal Code, shall be eligible for probation without supervision of the probation officer only when the court determines that the interests of justice would best be served and states reasons on the record for that determination.

(3) In all other cases, the court shall order the care, custody, and control of the minor or nonminor to be under the supervision of the probation officer.

(4) It is the responsibility pursuant to 42 U.S.C. Section 672(a)(2)(B) of the probation agency to determine the appropriate placement for the ward once the court issues a placement order. In determination of the appropriate placement for the ward, the probation officer shall consider any recommendations of the child and family. The probation agency may place the minor or nonminor in any of the following:

(A) The approved home of a relative or the approved home of a nonrelative, extended family member, as defined in Section 362.7. If a decision has been made to place the minor in the home of a relative, the court may authorize the relative to give legal consent for the minor's medical, surgical, and dental care and education as if the relative caregiver were the custodial parent of the minor.

(B) A foster home, the approved home of a resource family as defined in Section 16519.5, or a home or facility in accordance with the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(C) A suitable licensed community care facility, as identified by the probation officer, except a runaway and homeless youth shelter licensed by the State Department of Social Services pursuant to Section 1502.35 of the Health and Safety Code.

(D) A foster family agency, as defined in subdivision (g) of Section 11400 and paragraph (4) of subdivision (a) of Section 1502 of the Health and Safety Code, in a suitable certified family home or with a resource family.

(E) Commencing January 1, 2017, a minor or nonminor dependent may be placed in a short-term residential therapeutic program as defined in subdivision (ad) of Section 11400 and paragraph (18) of subdivision (a) of Section 1502 of the Health and Safety Code. The placing agency shall also comply with requirements set forth in paragraph (9) of subdivision (e) of Section 361.2, which includes, but is not limited to, authorization, limitation on length of stay, extensions, and additional requirements related to minors. For youth 13 years of age and older, the chief probation officer of the county probation department, or his or her designee, shall approve the placement if it is longer than 12 months, and no less frequently than every 12 months thereafter.

(F) (i) Every minor adjudged a ward of the juvenile court shall be entitled to participate in age-appropriate extracurricular, enrichment, and social activities, including, but not limited to, reasonable access to computer technology and the Internet. A state or local regulation or policy shall not prevent, or create barriers to, participation in those activities. Each state and local entity shall ensure that private agencies that provide foster care services to wards have policies consistent with this section and that those agencies promote and protect the ability of wards to participate in age-appropriate extracurricular, enrichment, and social activities, including, but not limited to, reasonable access to computer technology and the Internet. A group home administrator, a facility manager, or his or her responsible designee, and a caregiver, as defined in paragraph (1) of subdivision (a) of Section 362.04, shall use a reasonable and prudent parent standard, as defined in paragraph (2) of subdivision (a) of Section 362.04, in determining whether to give permission for a minor residing in foster care to participate in extracurricular, enrichment, and social activities, including, but not limited to, reasonable access to computer technology and the Internet. A group home administrator, a facility manager, or his or her responsible designee, and a caregiver shall take reasonable steps to determine the appropriateness of the activity taking into consideration the minor's age, maturity, and developmental level.

(ii) A group home administrator or a facility manager, or his or her responsible designee, is encouraged to consult with social work or treatment staff members who are most familiar with the minor at the group home in applying and using the reasonable and prudent parent standard.

(G) For nonminors, an approved supervised independent living setting as defined in Section 11400, including a residential housing unit certified by a licensed transitional housing placement provider.

(5) The minor or nonminor shall be released from juvenile detention upon an order being entered under paragraph (3), unless the court determines that a delay in the release from detention is reasonable pursuant to Section 737.

(b) (1) To facilitate coordination and cooperation among agencies, the court may, at any time after a petition has been filed, after giving notice and an opportunity to be heard, join in the juvenile court proceedings any agency that the court determines has

failed to meet a legal obligation to provide services to a minor, for whom a petition has been filed under Section 601 or 602, to a nonminor, as described in Section 303, or to a nonminor dependent, as defined in subdivision (v) of Section 11400. In any proceeding in which an agency is joined, the court shall not impose duties upon the agency beyond those mandated by law. The purpose of joinder under this section is to ensure the delivery and coordination of legally mandated services to the minor. The joinder shall not be maintained for any other purpose. Nothing in this section shall prohibit agencies that have received notice of the hearing on joinder from meeting prior to the hearing to coordinate services.

(2) The court has no authority to order services unless it has been determined through the administrative process of an agency that has been joined as a party, that the minor, nonminor, or nonminor dependent is eligible for those services. With respect to mental health assessment, treatment, and case management services pursuant to an individualized education program developed pursuant to Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of Division 4 of Title 2 of the Education Code, the court's determination shall be limited to whether the agency has complied with that chapter.

(3) For the purposes of this subdivision, "agency" means any governmental agency or any private service provider or individual that receives federal, state, or local governmental funding or reimbursement for providing services directly to a child, nonminor, or nonminor dependent.

(c) If a minor has been adjudged a ward of the court on the ground that he or she is a person described in Section 601 or 602, and the court finds that notice has been given in accordance with Section 661, and if the court orders that a parent or guardian shall retain custody of that minor either subject to or without the supervision of the probation officer, the parent or guardian may be required to participate with that minor in a counseling or education program, including, but not limited to, parent education and parenting programs operated by community colleges, school districts, or other appropriate agencies designated by the court.

(d) The juvenile court may direct any reasonable orders to the parents and guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out subdivisions (a), (b), and (c), including orders to appear before a county financial evaluation officer, to ensure the minor's regular school attendance, and to make reasonable efforts to obtain appropriate educational services necessary to meet the needs of the minor.

If counseling or other treatment services are ordered for the minor, the parent, guardian, or foster parent shall be ordered to participate in those services, unless participation by the parent, guardian, or foster parent is deemed by the court to be inappropriate or potentially detrimental to the minor.

(e) The court may, after receipt of relevant testimony and other evidence from the parties, affirm or reject the placement determination. If the court rejects the placement determination, the court may instruct the probation department to determine an alternative placement for the ward, or the court may modify the placement order to an alternative placement recommended by a party to the case after the court has received the probation department's assessment of that recommendation and other relevant evidence from the parties.

SEC. 3.5. Section 727 of the Welfare and Institutions Code is amended to read:

727. (a) (1) If a minor or nonminor is adjudged a ward of the court on the ground that he or she is a person described by Section 601 or 602, the court may make any reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the minor or nonminor, including medical treatment, subject to further order of the court.

(2) In the discretion of the court, a ward may be ordered to be on probation without supervision of the probation officer. The court, in so ordering, may impose on the ward any and all reasonable conditions of behavior as may be appropriate under this disposition. A minor or nonminor who has been adjudged a ward of the court on the basis of the commission of any of the offenses described in subdivision (b) or paragraph (2) of subdivision (d) of Section 707, Section 459 of the Penal Code, or subdivision (a) of Section 11350 of the Health and Safety Code, shall not be eligible for probation without supervision of the probation officer. A minor or nonminor who has been adjudged a ward of the court on the basis of the commission of any offense involving the sale or possession for sale of a controlled substance, except misdemeanor offenses involving marijuana, as specified in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, or of an offense in violation of Section 32625 of the Penal Code, shall be eligible for probation without supervision of the probation officer only when the court determines that the interests of justice would best be served and states reasons on the record for that determination.

(3) In all other cases, the court shall order the care, custody, and control of the minor or nonminor to be under the supervision of the probation officer.

(4) It is the responsibility pursuant to 42 U.S.C. Section 672(a)(2)(B) of the probation agency to determine the appropriate placement for the ward once the court issues a placement order. In determination of the appropriate placement for the ward, the probation officer shall consider any recommendations of the child and family. The probation agency may place the minor or nonminor in any of the following:

(A) The approved home of a relative or the approved home of a nonrelative, extended family member, as defined in Section 362.7. If a decision has been made to place the minor in the home of a relative, the court may authorize the relative to give legal consent for the minor's medical, surgical, and dental care and education as if the relative caregiver were the custodial parent of the minor.

(B) A foster home, the approved home of a resource family as defined in Section 16519.5, or a home or facility in accordance with the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(C) A suitable licensed community care facility, as identified by the probation officer, except a runaway and homeless youth shelter licensed by the State Department of Social Services pursuant to Section 1502.35 of the Health and Safety Code.

(D) A foster family agency, as defined in subdivision (g) of Section 11400 and paragraph (4) of subdivision (a) of Section 1502 of the Health and Safety Code, in a suitable certified family home or with a resource family.

(E) A minor or nonminor dependent may be placed in a group home or short-term residential therapeutic program as defined in subdivision (ad) of Section 11400 and paragraph (18) of subdivision (a) of Section 1502 of the Health and Safety Code. The placing agency shall also comply with requirements set forth in paragraph (9) of subdivision (e) of Section 361.2, which includes, but is not limited to, authorization, limitation on length of stay, extensions, and additional requirements related to minors. For youth 13 years of age and older, the chief probation officer of the county probation department, or his or her designee, shall approve the placement if it is longer than 12 months, and no less frequently than every 12 months thereafter.

(F) (i) Every minor adjudged a ward of the juvenile court shall be entitled to participate in age-appropriate extracurricular, enrichment, and social activities, including, but not limited to, reasonable access to computer technology and the Internet. A state or local regulation or policy shall not prevent, or create barriers to, participation in those activities. Each state and local entity shall ensure that private agencies that provide foster care services to wards have policies consistent with this section and that those agencies promote and protect the ability of wards to participate in age-appropriate extracurricular, enrichment, and social activities, including, but not limited to, reasonable access to computer technology and the Internet. A short-term residential therapeutic program or a group home administrator, facility manager, or his or her responsible designee, and a caregiver, as defined in paragraph (1) of subdivision (a) of Section 362.04, shall use a reasonable and prudent parent standard, as defined in paragraph (2) of subdivision (a) of Section 362.04, in determining whether to give permission for a minor residing in foster care to participate in extracurricular, enrichment, and social activities, including, but not limited to, reasonable access to computer technology and the Internet. A short-term residential therapeutic program or a group home administrator, facility manager, or his or her responsible designee, and a caregiver shall take reasonable steps to determine the appropriateness of the activity taking into consideration the minor's age, maturity, and developmental level.

(ii) A short-term residential therapeutic program or a group home administrator, facility manager, or his or her responsible designee, is encouraged to consult with social work or treatment staff members who are most familiar with the minor at the group home in applying and using the reasonable and prudent parent standard.

(G) For nonminors, an approved supervised independent living setting as defined in Section 11400, including a residential housing unit certified by a licensed transitional housing placement provider.

(5) The minor or nonminor shall be released from juvenile detention upon an order being entered under paragraph (3), unless the court determines that a delay in the release from detention is reasonable pursuant to Section 737.

(b) (1) To facilitate coordination and cooperation among agencies, the court may, at any time after a petition has been filed, after giving notice and an opportunity to be heard, join in the juvenile court proceedings any agency that the court determines has failed to meet a legal obligation to provide services to a minor, for whom a petition has been filed under Section 601 or 602, to a nonminor, as described in Section 303, or to a nonminor dependent, as defined in subdivision (v) of Section 11400. In any proceeding in which an agency is joined, the court shall not impose duties upon the agency beyond those mandated by law. The purpose of joinder under this section is to ensure the delivery and coordination of legally mandated services to the minor. The joinder shall not be maintained for any other purpose. Nothing in this section shall prohibit agencies that have received notice of the hearing on joinder from meeting prior to the hearing to coordinate services.

(2) The court has no authority to order services unless it has been determined through the administrative process of an agency that has been joined as a party, that the minor, nonminor, or nonminor dependent is eligible for those services. With respect to mental health assessment, treatment, and case management services pursuant to an individualized education program developed pursuant to Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of Division 4 of Title 2 of the Education Code, the court's determination shall be limited to whether the agency has complied with that chapter.

(3) For the purposes of this subdivision, "agency" means any governmental agency or any private service provider or individual that receives federal, state, or local governmental funding or reimbursement for providing services directly to a child, nonminor,

or nonminor dependent.

(c) If a minor has been adjudged a ward of the court on the ground that he or she is a person described in Section 601 or 602, and the court finds that notice has been given in accordance with Section 661, and if the court orders that a parent or guardian shall retain custody of that minor either subject to or without the supervision of the probation officer, the parent or guardian may be required to participate with that minor in a counseling or education program, including, but not limited to, parent education and parenting programs operated by community colleges, school districts, or other appropriate agencies designated by the court.

(d) The juvenile court may direct any reasonable orders to the parents and guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out subdivisions (a), (b), and (c), including orders to appear before a county financial evaluation officer, to ensure the minor's regular school attendance, and to make reasonable efforts to obtain appropriate educational services necessary to meet the needs of the minor.

If counseling or other treatment services are ordered for the minor, the parent, guardian, or foster parent shall be ordered to participate in those services, unless participation by the parent, guardian, or foster parent is deemed by the court to be inappropriate or potentially detrimental to the minor.

(e) The court may, after receipt of relevant testimony and other evidence from the parties, affirm or reject the placement determination. If the court rejects the placement determination, the court may instruct the probation department to determine an alternative placement for the ward, or the court may modify the placement order to an alternative placement recommended by a party to the case after the court has received the probation department's assessment of that recommendation and other relevant evidence from the parties.

SEC. 4. Section 851.1 is added to the Welfare and Institutions Code, to read:

851.1. (a) (1) Minors detained in or committed to a juvenile hall shall be provided with reasonable access to computer technology and the Internet for the purposes of education.

(2) Minors detained in or committed to a juvenile hall may be provided with reasonable access to computer technology and the Internet for maintaining relationships with family.

(b) This section does not limit the authority of the chief probation officer, or his or her designee, to limit or deny reasonable access to computer technology or the Internet for safety and security or staffing reasons.

SEC. 5. Section 889.1 is added to the Welfare and Institutions Code, to read:

889.1. (a) (1) Minors detained in or committed to a juvenile ranch, camp, or forestry camp shall be provided with reasonable access to computer technology and the Internet for the purposes of education.

(2) Minors detained in or committed to a juvenile ranch, camp, or forestry camp may be provided with reasonable access to computer technology and the Internet for maintaining relationships with family.

(b) This section does not limit the authority of the chief probation officer, or his or her designee, to limit or deny reasonable access to computer technology or the Internet for safety and security or staffing reasons.

SEC. 6. Section 2.5 of this bill incorporates amendments to Section 362.05 of the Welfare and Institutions Code proposed by both this bill and Assembly Bill 404. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2018, (2) each bill amends Section 362.05 of the Welfare and Institutions Code, and (3) this bill is enacted after Assembly Bill 404, in which case Section 2 of this bill shall not become operative.

SEC. 7. Section 3.5 of this bill incorporates amendments to Section 727 of the Welfare and Institutions Code proposed by both this bill and Assembly Bill 404. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2018, (2) each bill amends Section 727 of the Welfare and Institutions Code, and (3) this bill is enacted after Assembly Bill 404, in which case Section 3 of this bill shall not become operative.

SEC. 8. To the extent that this act has an overall effect of increasing certain costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation within the meaning of Section 36 of Article XIII of the California Constitution, it shall apply to local agencies only to the extent that the state provides annual funding for the cost increase. Any new program or higher level of service provided by a local agency pursuant to this act above the level for which funding has been provided shall not require a subvention of funds by the state or otherwise be subject to Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section

