

BOARD of SUPERVISORS



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MEMORANDUM

TO: William Scott, Police Chief
Chesa Boudin, District Attorney
Manohar Raju, Public Defender
Katherine Miller, Chief Probation Officer
Samuel K. Feng, Presiding Judge, Superior Court

FROM: Brent Jalipa, Assistant Clerk
Youth, Young Adult, and Families Committee

DATE: May 7, 2021

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Youth, Young Adult, and Families Committee has received the following proposed legislation, introduced by Supervisor Ronen:

File No. 210494

Ordinance amending the Administrative Code to require the Police Department to consult with the San Francisco District Attorney ("DA") on all juvenile delinquency cases under California Welfare and Institutions Code, Section 651, and provide the DA the opportunity to commence proceedings in the juvenile delinquency court in the San Francisco Superior Court.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: brent.jalipa@sfgov.org.

c: Rowena Carr, Police Department
Lili Gamero, Police Department
Diana Oliva-Aroche, Police Department
David Campos, Office of the District Attorney
Tera Anderson, Office of the District Attorney
Sheryl Cowan, Juvenile Probation Department
Anne-Christine Massullo, Assistant Presiding Judge, Superior Court

1 [Administrative Code - Consultation Regarding Filing of Juvenile Delinquency Cases]

2

3 **Ordinance amending the Administrative Code to require the Police Department to**
 4 **consult with the District Attorney (“DA”) on all juvenile delinquency cases under**
 5 **California Welfare and Institutions Code, Section 651, and provide the DA the**
 6 **opportunity to commence proceedings in the juvenile delinquency court in the San**
 7 **Francisco Superior Court.**

8

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
 10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
 11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
 12 **Board amendment additions** are in double-underlined Arial font.
 13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
 14 **Asterisks (* * * *)** indicate the omission of unchanged Code
 15 subsections or parts of tables.

16

17 Be it ordained by the People of the City and County of San Francisco:

18

19 Section 1. The Administrative Code is hereby amended by adding Chapter 96D,
 20 consisting of Sections 96D.1, 96D.2, 96D.3, and 96D.4, to read as follows:

21

22 **CHAPTER 96D: PRESENTATION OF YOUTH CASES**

23

24 **SEC. 96D.1. BACKGROUND AND FINDINGS.**

25

26 *(a) As a result of multiple scientific studies on the neurological development of children and*
 27 *young adults, and a shift in public opinion, the Legislature has, over recent years, approved several*
 28 *pieces of legislation, signed into law, that have significantly altered the juvenile justice system in*
 29 *California. The central focus is now rehabilitation and the best interest of the youth. For example,*
 30 *Senate Bill 823 (2020) stated: “It is the intent of the Legislature and the administration for counties to*
 31 *use evidence-based and promising practices and programs that improve the outcomes of youth and*
 32 *public safety, reduce the transfer of youth into the adult criminal justice system, ensure that*

1 dispositions are in the least restrictive appropriate environment, reduce and then eliminate racial and
2 ethnic disparities, and reduce the use of confinement in the juvenile justice system by utilizing
3 community-based responses and interventions.”

4 (b) Further, Senate Bill 395 (2017) stated: “Developmental and neurological science
5 concludes that the process of cognitive brain development continues into adulthood, and that the
6 human brain undergoes “dynamic changes throughout adolescence and well into young adulthood”
7 (see Richard J. Bonnie, et al., Reforming Juvenile Justice: A Developmental Approach, National
8 Research Council (2013), page 96, and Chapter 4). As recognized by the United States Supreme Court,
9 children “‘generally are less mature and responsible than adults’” (J.D.B. v. North Carolina (2011)
10 131 S.Ct. 2394, 2397, quoting Eddings v. Oklahoma (1982) 455 U.S. 104, 115); “they ‘often lack the
11 experience, perspective, and judgment to recognize and avoid choices that could be detrimental to
12 them’” (J.D.B., 131 S.Ct. at 2397, quoting Bellotti v. Baird (1979) 443 U.S. 622, 635); “they ‘are more
13 vulnerable or susceptible to... outside pressures’ than adults” (J.D.B., 131 S.Ct. at 2397, quoting
14 Roper v. Simmons (2005) 543 U.S. 551, 569); they “have limited understandings of the criminal justice
15 system and the roles of the institutional actors within it” (Graham v. Florida (2010) 560 U.S. 48, 78);
16 and “children characteristically lack the capacity to exercise mature judgment and possess only an
17 incomplete ability to understand the world around them” (J.D.B., 131 S.Ct. at 2397).”

18 (c) As a result of the above legislation, and pursuant to section 202 of the California Welfare
19 and Institutions Code, juvenile courts and other public agencies charged with enforcing, interpreting,
20 and administering the juvenile court law shall consider the safety and protection of the public, the
21 importance of redressing injuries to victims, and the best interests of the minors in all deliberations.
22 Minors under the jurisdiction of the juvenile court shall receive care, treatment, and guidance
23 consistent with their best interests and the best interests of the public. Further, all punishment must be
24 consistent with a rehabilitative objective.

1 (d) The people of the City and County of San Francisco every four years elect a district
2 attorney, who has the duty to prosecute those who commit crimes and do harm to people and property
3 in San Francisco. Through this democratic process, the district attorney is selected, based not only on
4 candidates' respective legal credentials but also on their respective values and visions for the criminal
5 justice system, including the juvenile justice system. This ordinance intends to validate the sovereignty
6 of San Francisco voters in their selection of the district attorney and to ensure that, barring preemption
7 by state or federal law, the district attorney (including deputies acting on behalf of the district attorney)
8 is the only one who should make the decision of where and when to prosecute juveniles who have
9 committed crimes in San Francisco.

10 **SEC. 96D.2. THE DISTRICT ATTORNEY'S RIGHT OF FIRST REFUSAL.**

11 The Police Department ("SFPD") shall consult with the San Francisco District Attorney
12 ("DA") on all juvenile delinquency cases in which California Welfare and Institutions Code Section
13 651 permits commencing proceedings in juvenile delinquency court in San Francisco Superior Court or
14 another county; provide the DA the opportunity to weigh the safety and protection of the public, the
15 importance of redressing injuries to victims, and the best interests of the minor; and provide the DA the
16 opportunity to decide whether to file a petition in the San Francisco Superior Court. SFPD shall not
17 present a case covered by this Section 96D.2 to a district attorney in another county without the DA's
18 (or DA designee's) consent.

19 **SEC. 96D.3. UNDERTAKING FOR THE GENERAL WELFARE.**

20 In enacting and implementing this Chapter 96D, the City is assuming an undertaking only to
21 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an
22 obligation for breach of which it is liable in money damages to any person who claims that such breach
23 proximately caused injury.

24 **SEC. 96D.4. SEVERABILITY.**

LEGISLATIVE DIGEST

[Administrative Code - Consultation Regarding Filing of Juvenile Delinquency Cases]

Ordinance amending the Administrative Code to require the Police Department to consult with the District Attorney (“DA”) on all juvenile delinquency cases under California Welfare and Institutions Code, Section 651, and provide the DA the opportunity to commence proceedings in the juvenile delinquency court in the San Francisco Superior Court.

Existing Law

There is no local law that address this issue. Under state law, delinquency proceedings for a juvenile may be commenced either in the juvenile court for the county in which a minor resides, or in which a minor is found, or in which the circumstances exist or acts take place to bring a minor within jurisdiction of the juvenile court.

Amendments to Current Law

If this legislation passes, the Police Department (“SFPD”) shall consult with the San Francisco District Attorney (“DA”) on all juvenile delinquency cases in which California Welfare and Institutions Code Section 651 permits commencing proceedings in juvenile delinquency court in San Francisco Superior Court or another county. This will provide the DA the opportunity to weigh the safety and protection of the public, the importance of redressing injuries to victims, and the best interests of the minor; and provide the DA the opportunity to decide whether to file a petition in the San Francisco Superior Court. SFPD is prohibited from presenting a case covered by this ordinance to a district attorney in another county without the DA’s (or DA designee’s) consent.

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Subject:

The text is listed:

Signature of Sponsoring Supervisor:

For Clerk's Use Only