



1-1-2008

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## Recommended Citation

39 McGeorge L. Rev. 671

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## **Anti-Gang Violence Parenting Classes: Early Parental Involvement Versus Career Criminals**

*Corey Ordoñez*

### *Code Section Affected*

Welfare and Institutions Code § 727.7 (new).  
AB 1291 (Mendoza); 2007 STAT. Ch. 457.

### I. INTRODUCTION

The decision to join a gang confronted two youths of similar ethnicity, age, and socioeconomic background.<sup>1</sup> One of the young men followed a path that led to his eventual death in a gang-related drive-by shooting, while the other young man obtained an education, became a school teacher, and was eventually elected to the California State Assembly.<sup>2</sup> The two young men were cousins who took very different paths, resulting in very different outcomes.<sup>3</sup>

What was the difference between the two young men mentioned above? According to State Assembly Member Tony Mendoza, the author of Chapter 457, his mother's active role in his life kept him in line and out of trouble.<sup>4</sup> Her intervention allowed him to adopt a career path that eventually led him to the California Legislature.<sup>5</sup>

Parental involvement at an early age is a proactive measure which can reduce gang enrollment as well as juvenile violence.<sup>6</sup> Chapter 457 creates a mechanism for educating parents about the possible warning signs and inherent dangers of gang involvement.<sup>7</sup>

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1. See Aurelio Rojas, *Gang Bill Seeks Improved Parenting*, SACRAMENTO BEE, June 18, 2007, at A3 (discussing cousins who took separate paths; one eventually died in a gang-related incident and the other, Assembly Member Tony Mendoza, became a teacher and elected official).

2. *Id.*

3. *Id.*

4. *Id.*

5. *Id.*

6. See SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 1291, at G (July 3, 2007) (explaining that early intervention will prevent juveniles from joining gangs).

7. See CAL. WELF. & INST. CODE § 727.7(b) (enacted by Chapter 457) (stating that parents may be required to take classes involving the identification of gang activity, as well as informing them of punishments for gang-related crimes).

## II. LEGAL BACKGROUND

### A. Various State Laws

Many states impose sentence enhancements when a person commits a gang-related offense.<sup>8</sup> However, there are very few laws that require parental involvement or otherwise hold parents accountable for the gang-related offenses of their children.<sup>9</sup> In Salt Lake City, Utah, parents can be held liable for failing to properly supervise their children.<sup>10</sup> Likewise, St. Louis, Missouri, holds parents responsible when juveniles violate a court imposed curfew or house arrest.<sup>11</sup>

### B. Existing California Law

Like many other states, California law provides sentence enhancements for gang-related offenses.<sup>12</sup> For example, gang-associated offenders who intend to promote or assist in any type of criminal conduct are subject to sentence enhancements of one, two, or three years in state prison.<sup>13</sup> In addition, California law holds parents criminally responsible for failing to adequately supervise their children.<sup>14</sup>

California law permits a judge to order the parents or guardians of convicted minors to attend classes or counseling with the convicted minor.<sup>15</sup> The juvenile offender must be a ward of the court, and the parents must retain custody of the juvenile.<sup>16</sup> The parent must also be given adequate notice of the proceedings, as well as notice of potential programs or counseling opportunities.<sup>17</sup> The programs may be “operated by community colleges, school districts, or other appropriate agencies designated by the court.”<sup>18</sup>

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8. See Inst. for Intergovernmental Research, *Compilation of Gang-Related Legislation*, <http://www.iir.com/nygc/gang-legis/> (last visited Dec. 17, 2007) (on file with the *McGeorge Law Review*) (listing gang-related legislation by state).

9. See Inst. for Intergovernmental Research, *Parental Responsibility*, <http://www.iir.com/nygc/Municipal%20Codes/municipal%20codes--parent%20responsibility.htm> (last visited Dec. 17, 2007) (on file with the *McGeorge Law Review*) (listing parental responsibility laws of various cities).

10. See *id.* (citing SALT LAKE CITY, UTAH, CODE § 11.60.020 (1995)).

11. See *id.* (citing ST. LOUIS CITY, MO., REV. CODE § 15.110.040 (1996)).

12. CAL. PENAL CODE § 666.7(b)(1) (West 1999); see Inst. for Intergovernmental Research, *Compilation of Gang-Related Legislation, California*, <http://www.iir.com/nygc/gang-legis/california.htm> (last visited Dec. 17, 2007) (on file with the *McGeorge Law Review*) (listing gang-related legislation in California).

13. CAL. PENAL CODE § 666.7(b)(1).

14. See *id.* § 272(a) (West 1999 & Supp. 2007) (stating that parents have “the duty to exercise reasonable care, supervision, protection, and control over their minor child”).

15. CAL. WELF. & INST. CODE § 727(b) (West 1998 & Supp. 2007).

16. *Id.*

17. See *id.* (requiring that parents be given notice pursuant to the CAL. WELF. & INST. CODE § 661(b)).

18. *Id.*

### III. CHAPTER 457

Similar to existing law, Chapter 457 permits a judge to order the parent(s) or guardian(s) of a juvenile offender to attend anti-gang violence parenting classes in certain circumstances.<sup>19</sup> The minor must have committed a gang-related offense, be a first-time offender, and the minor's parents must retain custody of the minor.<sup>20</sup>

The curriculum for the parenting classes is established by the California Department of Justice.<sup>21</sup> The classes teach parents how to identify potential gang or drug activity, as well as techniques which can be used to facilitate communication with their children.<sup>22</sup> The classes also inform parents of potential resources, such as support agencies that provide job training, educational development, and other positive activities for minors.<sup>23</sup> Parents are also informed of the penalties for gang-related offenses.<sup>24</sup> Furthermore, classes include meetings with victims of gang violence and parents of deceased gang members where attendees share their previous experiences with gang violence.<sup>25</sup>

Chapter 457 requires those parents<sup>26</sup> ordered to attend the classes to pay for the costs.<sup>27</sup> However, the court may waive the costs if it determines that parents lack the financial ability to pay for them.<sup>28</sup>

### IV. ANALYSIS OF CHAPTER 457

#### A. Prevention

Youth involvement in gangs is not a novel pandemic in today's society.<sup>29</sup> It has been suggested that there are multiple factors contributing to a juvenile's participation in gang activity.<sup>30</sup> There is a general consensus that parental

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19. *Id.* § 727.7(a) (enacted by Chapter 457).

20. *Id.* (enacted by Chapter 457).

21. *Id.* § 727.7(b) (enacted by Chapter 457).

22. *Id.* § 727.7(b)(3)-(4) (enacted by Chapter 457).

23. *Id.* § 727.7(b)(5) (enacted by Chapter 457).

24. *Id.* § 727.7(b)(6) (enacted by Chapter 457).

25. *Id.* § 727.7(b)(1)-(2) (enacted by Chapter 457).

26. In addition to parents, the court may hold the "spouse, or other person liable for the support of the minor, the estate of that person, and the estate of the minor" liable for the costs of classes ordered by the court. *Id.* § 727.7(d) (enacted by Chapter 457).

27. *Id.* (enacted by Chapter 457).

28. *See id.* (enacted by Chapter 457) ("[T]he court shall take into consideration the combined household income, the necessary obligations of the household, the number of persons dependent upon this income, and whether reduced monthly payments would obviate the need to waive liability for the full costs.").

29. Irving A. Spengel, *Youth Gangs: Continuity and Change*, 12 CRIME & JUST. 171, 171 (1990).

30. Robert Everett Stanfield, *The Interaction of Family Variables and Gang Variables in the Aetiology of Delinquency*, 13 SOC. PROBS. 411, 411 (1966).

involvement, or lack thereof, may significantly contribute to gang activity.<sup>31</sup> A child's interaction with his or her family may determine the type of social groups with which he or she will choose to associate.<sup>32</sup> If parents fail to adequately supervise their children, the children will tend to engage in delinquent behavior with their peers.<sup>33</sup>

One approach to curbing delinquent and gang-related behavior in juveniles is deterrence; the severity and likelihood of punishment provides a disincentive effectually limiting the juvenile's involvement in delinquent behavior.<sup>34</sup> However, there is very little evidence supporting the theory that severe penalties act as a deterrence of crime.<sup>35</sup>

Chapter 457 takes a proactive approach to reducing gang-related crimes.<sup>36</sup> Intervention at early ages facilitates the process of reducing juvenile deviation.<sup>37</sup> If a child is prevented from joining a gang in the first place, deviant behavior is likely to decrease.<sup>38</sup> Children between the ages of eight to thirteen tend to gravitate toward peer groups that exercise exclusiveness and cohesiveness.<sup>39</sup> Because encasement within youth groups can be difficult to penetrate, there is a need to intervene before the development of severe anti-social behavior.<sup>40</sup>

There are numerous gang prevention programs in effect that aim to educate children about the dangers of gang involvement.<sup>41</sup> However, experts claim that intervention and prevention programs will only be effective if there is parental support at home.<sup>42</sup> A youth may begin immersing himself or herself in gang culture, but the parents may not be able to differentiate between a positive social

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31. Spergel, *supra* note 29, at 236.

32. See Stanfield, *supra* note 30, at 413 (stating that the choice of social groups reflects family relationships).

33. *Id.* at 416 (stating when a father's discipline is relaxed or erratic, the percentage of convictions for delinquency is forty-three percent, compared to sixteen percent when the father's discipline is consistent).

34. Peter W. Greenwood, *Responding to Juvenile Crime: Lessons Learned*, FUTURE CHILD., Winter 1996, at 75, 78.

35. *Id.*

36. See SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 1291, at G (July 3, 2007) ("This bill promotes parental intervention as a key way of keeping children out of gangs.").

37. See James C. Howell & J. David Hawkins, *Prevention of Youth Violence*, 24 CRIME & JUST. 263, 295 (1998) (stating that one method of "preventing gang contributions to the spread of violence among adolescents [is] preventing adolescents from joining gangs").

38. *Id.*

39. Ruth S. Tefferteller, *Delinquency Prevention Through Revitalizing Parent-Child Relations*, 322 ANNALS AM. ACAD. POL. & SOC. SCI. 69, 70 (1959).

40. *Id.*

41. See Howell & Hawkins, *supra* note 37, at 295-300 (listing and explaining numerous programs implemented throughout the country which aim to reduce gang involvement amongst youths).

42. SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF AB 1291, at G (July 3, 2007).

group and a group promoting violence.<sup>43</sup> This problem makes it necessary to educate parents so that they can understand the symptoms of gang involvement.<sup>44</sup>

Law enforcement agencies claim the most important step in combating gang violence is prevention.<sup>45</sup> By educating parents in the early stages of child development, they will have the necessary tools to identify gang-related behavior.<sup>46</sup>

## B. Constitutionality

The constitutionality of parental responsibility laws are drawn into question, given their somewhat intrusive nature into parental discretion.<sup>47</sup> Opponents argue that parental responsibility laws encroach on a parent's autonomy within his or her family,<sup>48</sup> but this does not mean that the state cannot intercede in certain circumstances.<sup>49</sup> The state has a right to intercede in circumstances of child abuse or other child welfare issues.<sup>50</sup> The state is therefore required to evaluate the constitutionality of a parental responsibility law by examining the balance between respect for the integrity of the family, protecting the child, and the interest of the greater society.<sup>51</sup> The interest of society must be compelling, as the Due Process Clause of the Fourteenth Amendment gives parents the right to raise their children as they see fit.<sup>52</sup> Despite any honorable goals underlining the criminalization of poor parenting skills, it is difficult for lawmakers to regulate the conduct of parents without raising due process concerns.<sup>53</sup>

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43. See Tefferteller, *supra* note 39, at 72 ("Parents need help in understanding the difference between a constructive boys' club of the useful variety and one which is fast developing into a young gang.").

44. *Id.*

45. Letter from Leroy D. Baca, Sheriff, L.A. County Sheriff's Dep't, to Assembly Member Tony Mendoza, Cal. State Assembly (May 10, 2007) [hereinafter Baca Letter] (on file with the *McGeorge Law Review*).

46. *Id.*

47. S. Randall Humm, *Criminalizing Poor Parenting Skills as a Means to Contain Violence by and Against Children*, 139 U. PA. L. REV. 1123, 1127-28 (1991).

48. *Id.* at 1128.

49. *Parham v. J.R.*, 442 U.S. 584, 603 (1979) ("[A] state is not without constitutional control over parental discretion in dealing with children when their physical or mental health is jeopardized.").

50. Humm, *supra* note 47, at 1128 ("[T]he primary responsibility for child care rests with the parents themselves, . . . with the exception of abuse or severe neglect . . .").

51. *Id.* at 1129.

52. See *Troxel v. Granville*, 530 U.S. 57, 66 (2000) ("[I]t cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children.").

53. Humm, *supra* note 47, at 1132. One issue created by parental responsibility laws is the assumption that parents affect their children's behavior. *Id.* at 1135. This assumption may render a parental responsibility law unconstitutional unless it can be established that acts or omissions of the parents "more likely than not" lead to juvenile delinquency. *Id.* at 1136-37 (stating that the Supreme Court has ruled that criminal statutory presumptions are unconstitutional unless "the presumed fact is more likely than not to flow from the proved fact on which it is made to depend" (quoting *Leary v. United States*, 395 U.S. 6, 36 (1969))). In support of this, numerous studies verify the relationship between parental involvement and juvenile delinquency. *Id.* at 1135.

However, Chapter 457 does not criminalize poor parenting skills or regulate parental duties.<sup>54</sup> Chapter 457 merely allows a judge to send the parents of juvenile offenders to anti-gang violence parenting classes for the purposes of educating and providing them with resources to help make decisions regarding the care of their children.<sup>55</sup> Therefore, it is unlikely that due process will be offended by Chapter 457.

## V. CONCLUSION

Gang involvement leads to youths living marginalized lives of violence and crime.<sup>56</sup> Gang life led Assembly Member Tony Mendoza's cousin to an early death.<sup>57</sup> While there may be numerous ways to prevent a youth from involving himself or herself in a gang,<sup>58</sup> Assembly Member Mendoza authored legislation focusing on the key that kept him out of a gang.<sup>59</sup> Although Assembly Member Mendoza's personal experience is anecdotal evidence, there is no shortage of sociological studies supporting claims that early and positive parental involvement reduces a youth's violence-prone behavior.<sup>60</sup> Chapter 457 helps provide parents with the communication and mentoring skills required to prevent their children from joining gangs.<sup>61</sup> While Chapter 457 does not provide the ultimate solution to gang violence,<sup>62</sup> it alerts parents to the problem, allowing for early detection of gang-related behavior, thus reducing the chances of further gang-involvement.<sup>63</sup>

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54. See CAL. WELF. & INST. CODE § 727.7(a) (enacted by Chapter 457) (explaining that parents of a juvenile offender may be required to attend anti-gang violence parenting classes in certain circumstances).

55. *Id.* (enacted by Chapter 457); see *id.* § 727.7(b) (enacted by Chapter 457) (outlining the curriculum involved in the parenting classes).

56. See Spergel, *supra* note 29, at 174 ("Today's gangs are a violent and insidious new form of organized crime. Heavily armed with sophisticated weapons, they are involved in drug trafficking, witness intimidation, extortion and bloody territorial wars.").

57. See Rojas, *supra* note 1 (discussing cousins who took separate paths; one died in a gang-related incident and the other, Assembly Member Tony Mendoza, became a teacher and politician).

58. Stanfield, *supra* note 30, at 411.

59. Rojas, *supra* note 1.

60. See Humm, *supra* note 47, at 1135 ("Numerous sociological studies attest to the significant influence that parents wield in averting their children from antisocial behavior.").

61. Letter from Rick Ramirez, Mayor, City of Norwalk, to Assembly Member Tony Mendoza, Cal. State Assembly (Apr. 19, 2007) (on file with the *McGeorge Law Review*).

62. Howell & Hawkins, *supra* note 37, at 302 (explaining that early intervention is not the "silver bullet" that will end gang violence).

63. Baca Letter, *supra* note 45 (stating that Chapter 457 "provides [parents] with an educational opportunity to become better parents").