

**AIR-10378**

**BOS Agenda**

**Date: 02/28/2012**

**Consent Item #: 104.**

**Ordinances**

**Time (Duration): 5 Minutes**

**ORDINANCE TO ENACT A DAYTIME CURFEW FOR MINORS IN THE INCORPORATED COUNTY AREA**

**Submitted For:** PUBLIC PROTECTION COMMITTEE

**Department:** County Administrator

**Division:** Administration

**Noticed Public Hearing:** No

**Official Body:** Board of Supervisors

**Presenter/Phone, if applicable:**

**Audio-Visual Needs:**

**Handling Instructions:**

**District:** All Districts

**Contact, Phone:** JULIE ENEA (925) 335-1077

**Information**

**Recommendation(s):**

ADOPT Ordinance No. 2012-05 establishing a daytime curfew for minors and modifying the existing nighttime curfew and DIRECT the Clerk of the Board to publish required legal notices.

**Fiscal Impact:**

Adoption of the ordinance would have minimal fiscal impact, as the ordinance places no additional obligation on local law enforcement but provides additional authority to officers to combat chronic truancy and reduce the rate of juvenile crime and victimization associated with truancy. The ordinance provides authority to levy monetary sanctions, which might generate the nominal amount of revenue sufficient to fund the cost of administration and collections.

**Background:**

This matter was referred to the Board's Public Protection Committee (PPC) on April 12, 2011 at the request of the District Attorney, who suggested under Public Comment at the April 4 PPC meeting that the Committee consider enacting a daytime curfew ordinance to reduce truancy. The Ordinance was introduced at the February 14, 2012 Board meeting and was fixed for adoption today.

There is a great need for students to stay in school and graduate. Failure of students to remain in school and graduate has long-term criminal and financial consequences. Consider that high school dropouts are 3 ½ times more likely to be arrested, over 8 times more likely to be in jail. The community as a whole suffers when a minor student is not attending school, as truancy often leads to vandalism, theft, and other criminal activity. About 68% of state prison inmates across the county have not received a diploma. For each year's worth of high school dropouts, California suffers an estimated \$46 billion in economic losses, including \$12 billion in crime costs alone. The graduation rate in Contra Costa County is 83.8%.

PPC received an in-depth report from the District Attorney on May 2, 2011 and decided to pursue an ordinance for a daytime curfew for minors. Within two months of the May 2 PPC meeting, the City of Concord enacted a daytime curfew ordinance, on which today's proposed ordinance is to a great extent modeled. Following are highlights of the proposed "Curfew for Minors Ordinance of Contra Costa County", prepared by County Counsel:

- Defines daytime curfew hours as the period of the minor's regular scheduled school hours when school is in session, and nighttime curfew hours as the hours between 10 p.m. and 5:00 a.m. Sunday through Thursday and midnight and 5:00 a.m. on Saturday or Sunday for minors (persons under the age of 18 with certain exceptions).
- Generally provides (with some exceptions) that any minor who is supposed to be in school and is found present in or about a public place during daytime curfew hours is guilty of an infraction, that any minor found present in or about a public place during nighttime curfew hours is guilty of an infraction, and any parent who knowingly permits a minor to violate the curfew is also guilty of an infraction.

- Provides that a business or other establishment that knowingly permits a minor to violate the curfew is guilty of an infraction unless the operator asks the minor to leave and reports the minor to the Sheriff if he/she refuses to leave.
- Would permit officers to detain truants and, on first offense, issue a warning citation to their parents, who would have to sign and return the notification with an explanation, if there is one.
- Upon subsequent violations within 12 months of the first violation, a person will be fined up to \$100 for the first subsequent offense, up to \$200 for the second offense, and up to \$500 for any additional violations pursuant to Section 14-8.004(a) of the County Ordinance Code. Parents and business operators who knowingly permit minors to violate the curfew can also be cited and fined under the same schedule.
- Reiterates officers' ability under State law to transport the truants back to school once they are cited.
- Provides a list of reasonable exceptions.
- Adds language that observes First Amendment rights and clarifies and updates language in the original nighttime ordinance; combines daytime and nighttime curfew into one comprehensive and consistent enforcement scheme.

Staff has also considered the possibility of ordering educational classes as a sanction for a curfew violation in lieu of or in addition to monetary sanctions. Such classes might be provided under a pilot program currently under development and discussion by the County's Justice Partners that would target high-risk youth through on-school site presentations at county middle schools.

Staff from the District Attorney's Office presented the District Attorney's recommendations on November 7, 2011. In a follow-up report on December 5, the District Attorney clarified some aspects of the ordinance. For example, the curfew ordinance governing the area where a violation occurs prevails, regardless of where a person lives. Adoption of a daytime curfew ordinance may encourage truants to congregate in those areas of the county that do not have curfews. Alternately, failure to adopt a curfew ordinance for the unincorporated area may make the unincorporated area a magnet for truants.

The Sheriff supports the ordinance in concept but was concerned about setting up unrealistic public expectations about the Sheriff's ability to enforce the ordinance. While the Sheriff appreciates having another "tool in the toolbox", staffing shortages do not support the beat coverage that will allow his office to respond to truancy complaints. The District Attorney's office clarified, in this regard, that the Education Code currently authorizes law enforcement officers to return a child to school if he/she is truant. The curfew ordinance would extend that authority by adding a criminal sanction, ranging from a citation to graduating monetary fines. The ordinance places no additional obligation on local law enforcement but provides additional authority to officers to combat chronic truancy, and consequently, reduce the rate of juvenile crime and victimization.

In response to the Sheriff's concerns, the PPC suggested that the schools might be willing to coordinate with local law enforcement to lessen the burden on beat officers of returning truants to school. It was also suggested that retired police or probation officers might be willing to volunteer part time as school truancy officers. The District Attorney has agreed to meet with the County Office of Education and school truancy officers to facilitate a collaboration between the County and schools on curfew enforcement, and to make a presentation to the Mayors' Conference to encourage adoption of curfews in all cities.

#### **Consequence of Negative Action:**

#### **Children's Impact Statement:**

The recommended action supports the following outcomes by promoting school attendance and reducing juvenile delinquency: (1) Children Ready for and Succeeding in School; (2) Children and Youth Healthy and Preparing for Productive Adulthood; (4) Families that are Safe, Stable and Nurturing; and (5) Communities that are Safe and Provide a High Quality of Life for Children and Families.

Link: [Ordinance No. 2012-05 Daytime Curfew for Minors in the Unincorporated County Area](#)

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