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Attorney for Minor and Appellant,
CHRISTOPHER A.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA,
FIRST APPELLATE DISTRICT, DIVISION TWO

In Re CHRISTOPHER A.,)	No. A108438
)	
A Person Coming Under the Juvenile)	
Court Law.)	
_____)	
)	Contra Costa
PEOPLE OF THE STATE OF CALIFORNIA,)	Superior Court No.
)	J0400898
Plaintiff and Respondent,)	
)	
vs.)	
)	
CHRISTOPHER A.,)	
)	
Defendant and Appellant.)	
_____)	

**APPELLANT’S REQUEST FOR JUDICIAL NOTICE PURSUANT TO
EVIDENCE CODE SECTIONS 452 AND 459**

Appellant, Christopher A., requests this Court take judicial notice of the following documents attached to this application, which are contained in the

legislative history of Welfare and Institutions Code section 202 (“section 202”) added by Stats. 1984, ch. 756, §§ 1, 2 pp. 2726-2727:¹

1. Enrolled Bill Report, dated 8/14/84, from the Youth Authority, Youth and Adult Correctional Agency (pp. 3-4);²

2. Enrolled Bill Report, dated 8/15/84, from the Social Services department of the Health and Welfare Agency (pp. 5-6);

3. Enrolled Bill Report, Dated 8/14/84, Department of Finance (pp. 7-9);

4. Assembly Criminal Law & Public Safety Committee, minority analysis of the bill, 4/2/84 (p. 10);

5. Bill Analysis, Youth and Adult Correctional Agency, Youth Offender Parole Board (pp. 11-12);

6. Bill Analysis, Youth and Adult Correctional Agency, Youth Authority, dated 3/3/84 (pp. 13-14);

7. Report of Assembly Criminal Law and Public Safety Committee, hearing dated 4/4/84 (pp. 15-17);

8. Bill Analysis, Youth Authority, dated April 1984 (p. 18);

9. Digest of Assembly Third Reading of the bill as amended April 24, 1984 (pp. 19-20);

¹ The originals of these documents are in the California State Archives. Please see Secretary of State certification stamp at pages 9, 25, 35, 39, 42.

² All references to page numbers are to the “Bates” stamped number on the bottom right of each page.

10. Report of the Senate Committee on Judiciary, bill as amended April 24, 1984 (pp. 21-24);

11. Report of the Assembly Criminal Law and Public Safety Committee, hearing date, 4/4/84 (pp. 26-29);

12. Report of the Senate Committee on Judiciary, on bill as amended April 24, 1984 (pp. 30-34);

13. June 14, 1984, report of the Senate Republican Caucus on bill as amended on 4/24/84 and passed by Assembly on 4/30/84 (pp. 36-38);

14. June 28, 1984, report of the Senate Democratic Caucus on bill as amended on 4/24/84 and passed by Assembly on 4/30/84 (p. 40-41).

A key issue in the case at bar is whether the legislature, in enacting section 202, intended to allow a court to rely solely on the “punishment” inherent in commitment to the California Youth Authority (“CYA”) for the rehabilitation of a delinquent minor. This became an issue in this case when respondent took the position in its brief that punishment of a minor through a commitment to CYA is, by itself, inherently “rehabilitative.”

Relying on section 202, subdivision (b) and *In re Michael D.* (1987) 188 Cal.App.3d 1392, 1396, respondent argued that, “The rehabilitative value in a CYA commitment lies not only in the programs offered, but in the ‘punishment’ inherent in such a commitment.” (RB 11.) Respondent also argued, “Suffice it to say that the court acted well within its discretion in agreeing with the view that only a CYA commitment would adequately serve both aspects of the Juvenile

Court Law: the protection of society on one hand, and the *rehabilitation of the minor through punishment* and accountability on the other.” (RB 18. Italics added.)

In reply, appellant argued that in enacting section 202, “[R]ather than recognizing ‘punishment’ as a ‘rehabilitative tool,’ the legislature allowed punishment to be a factor considered by the court in fashioning a disposition order *so long as and only if* the punishment was “*consistent with the rehabilitative objectives*” of the juvenile justice system.” (ARB 7.) Appellant has requested oral argument in this matter and expects to further address this issue at that time.

Appellant respectfully submits that resolution of this issue in the case at bar, as framed by the briefs of respondent and appellant, requires this Court to ascertain the legislature’s specific intent when it enacted section 202 and stated that when a delinquent minor is removed from his or her home and ordered into placement, the placement must provide “care, treatment, and guidance” and that the “guidance *may include punishment that is consistent with the rehabilitative objectives of this chapter.*”

This Court’s role is to “ascertain the Legislature’s intent so as to effectuate the purpose of the law.” (*In re J.W.* (2002) 29 Cal.4th 200, 209.)” (*In re Jacob J.* (2005) 130 Cal.App.4th 429, 434.) To do so, the Court “must begin with the words of the statute as they are generally the most reliable indicator of legislative intent.” (*Ibid.* citing *People v. Gardeley* (1996) 14 Cal.4th 605, 621.) “Whether a statute is ambiguous is not always readily ascertainable. A statute must be considered in the context of the relevant statutory framework.” (*People v.*

Valenzuela (2001) 92 Cal.App.4th 768, 775, citing *People v. Goodloe* (1995) 37 Cal.App.4th 485, 490-491.) To determine legislative intent in the judicial review of a statute, it is proper to take notice of those items which are “legitimate indicia” of that intent. (*People v. Patterson* (1999) 72 Cal.App.4th 438, 443.) And, therefore, “[j]udicial notice may properly be taken of legislative history.” (*In re Ge M.* (1991) 226 Cal.App.3d 1519, 1524, fn. 2, citing *Post v. Prati* (1979) 90 Cal.App.3d 626, 634.)

Evidence Code section 459, subdivision (a) authorizes a reviewing court to take judicial notice of any matter specified in Evidence Code section 452. Section 452, subdivision (a) permits a court to take judicial notice of “the resolutions and private acts of the Legislature of this state.” Evidence Code section 452, subdivision (c) allows the court to take judicial notice of “Official acts of the legislative, executive, and judicial departments of ... any state of the United States.” Evidence Code section 452, subdivision (h), allows for judicial notice of “Facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.”

The documents that are the subject of this judicial notice application are of “substantial consequence to the determination” of a key issue on appeal (Evid. Code, §459, subd. (c)), and appellant respectfully submits, support his argument. Thus, appellant respectfully requests this court take judicial notice of, and consider, the materials submitted with this motion.

Date: August 30, 2005

/s/ Rita L. Swenor
RITA L. SWENOR
Attorney for Appellant