

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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Current law and this draft treat similarly situated minors differently depending on whether the minor has been admitted privately or with state or county involvement. Specifically, under current law, a minor 14 or over, whether admitted privately or with state or county involvement, must be discharged on request; while a minor under 14 is entitled to a hearing on the continued appropriateness of his or her admission only if the minor has been admitted with state or county involvement, but not if the minor has been admitted privately. Similarly, under this draft, a minor of any age who has been admitted with state or county involvement is entitled to a hearing on the continued appropriateness of his or her admission; while a minor of any age who has been admitted privately is not so entitled. Do you want to grant the right to a hearing to a minor admitted privately so as to place such a minor on the same due process footing as a minor admitted with state or county involvement? Because a private admission does not involve state action, there is no constitutional requirement that a privately admitted minor receive a hearing. Accordingly, this policy decision is entirely up to your discretion.

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