**COMMONWEAL**

**The Juvenile Justice Program □** [***www.comjj.org***](http://www.comjj.org)

**JUVENILE JUSTICE** **AND**

**RELATED YOUTH PROGRAM BILLS**

**in the 2019 Session of the California Legislature**

**October 13, 2019— Governor’s final action on tracked legislation**

This bulletin covers the Governor’s final action to sign or veto bills we have been tracking on the subjects of juvenile justice, youth crime and violence prevention, probation foster care and related matters. October 13th was the final day for the Governor to act on bills passed by both houses and awaiting his decision. This bulletin covers bills that were pending before the Governor or were previously signed into law; a more extensive review of bills that did not survive the session or remain viable as “two year” bills can be found in our previous reports.

Two of the bills on our tracking have now been vetoed—SB 284 (Beall, county fees for DJJ commitments) and AB 927 (Jones-Sawyer, ability to pay court fines and fees). We have included the chapter number for signed bills except where that information has yet to be posted on the state legislative website—this information will be added later in an updated edition. The full text of any bill can be found on the state legislative website at [www.leginfo.legislature.ca.gov](http://www.leginfo.legislature.ca.gov). More information on legislation, budget and policy affecting a range of youth justice subjects is available on the Commonweal Juvenile Justice Program website-- [www.comjj.org](http://www.comjj.org).

**Assembly bills**

***🗹 AB 175 (Gipson, D.- Carson).*** ***Foster care bill of rights.*** AB 175 started out by making multiple changes to the foster care “bill of rights” at Welfare and Institutions Code Section 16001.9. The revisions included new rights on placement (including a new right to be placed in the least restrictive possible setting), privacy regarding gender identity and sexual orientation, access to health care and grooming products and other rights. In June the bill was amended into a still more expansive list, increasing the total number of listed foster care rights from 29 (including sub-rights) to 45. New items on the list include the right to a placement that utilizes trauma-informed and evidenced-based de-escalation techniques; the right have law enforcement intervene only where there is an imminent threat to life or safety; the right to attend school and to “remain in the child’s school of origin”; new rights of attorney representation including the right to “investigate and report to the court in legal interests beyond the scope of the juvenile proceeding”; and additional rights in the areas of access to health and reproductive health care. The bill also includes specified rights for Indian tribal youth. AB 175 also expands the responsibilities of the Office of the State Foster Care Ombudsman to include providing training and technical assistance on foster care rights to a broad range of youth, providers and public agency personnel and including a mandate to compile and disseminate additional data on foster care rights complaints. ***Passed the Assembly (final vote) 61-10-8; passed the Senate 30-8-2). Signed into law, Stats. of 2019, Chapter 416.***

***🗹 AB 413 (Jones-Sawyer, D. – L.A.). Code references to at-risk youth.*** As introduced, AB 413 amended multiple sections of the Education and Penal codes to replace references to “at-risk” or “high-risk” children or youth with “at-promise” and “high-promise” children or youth. As finally amended, the bill deletes the new references to “high-promise” children and youth while retaining changes in multiple code sections replacing references to “at-risk” children and youth with “at-promise” children and youth.  ***Passed the Assembly (66-4-9). Passed the Senate (34-2-9). Enrolled to the Governor 9/3. Signed into law, Stats. of 2019, Chapter \_\_\_.***

***🗹 AB 439 (Stone, D. – Santa Cruz). Competency determinations and placements of minors with developmental disabilities*.** AB 439 amends current law on the competency of minors in delinquency proceedings by deleting the requirement that a regional center director or designee must pre-approve the placement of a developmentally disabled minor in a center or facility operated by the State Department of Developmental Disabilities. The bill adds a clarifying provision stating that a determination of a minor’s competency by the director of regional center or his/her designee is neither authorized nor required under revised competency provisions adopted in Welfare and Institutions Code Section 709 last year. ***Signed into law, Stats. of 2019, Chapter 161.***

***🗹 AB 748 (Gipson, D. – Carson). Dependency disposition hearings for minors who turn 18.*** AB 748 has been stripped of multiple provisions redefining nonminor dependents and their eligibility for continuing foster care benefits beyond age 18. As amended, the bill establishes a disposition hearing process for youth who were found to be dependent wards of the court before turning 18, with a disposition hearing pending. Under the revised process at Welfare and Institutions Code Section 358 (d), the youth may opt out of the foster care system and request that dependency jurisdiction be terminated. Alternatively, the new procedure establishes a link that would permit the individual to qualify as a nonminor dependent. A June amendment provides that the nonminor dependent’s right to be represented by counsel continues after attaining age 18. ***Passed the Assembly (79-0-0). Passed the Senate (40-0-0). Signed into law, Stats. of 2019, Chapter 682.***

***🗹 AB 927 (Jones-Sawyer, D. – L.A.). Ability to pay fines or fees in juvenile proceedings.*** AB 927 requires the criminal court, prior to imposing a fine or fee on a defendant for a misdemeanor or felony, to determine that the defendant has the ability to pay the fine or fee based on criteria specified in the bill. The bill applies these requirements to fines or fees imposed in juvenile delinquency proceedings as well. ***Passed the Assembly (63-5-11), passed the Senate (32-5-3). VETOED by the Governor. In his veto message, the Governor that while it is “important to tackle the issue of burdensome fines, fees and assessments that disproportionately drag low income individuals deeper into debt…I do not believe that requiring a hearing on the defendant’s ability to pay is the best approach in every case”.***

***🗹 AB 965 (Stone, D.- Santa Cruz). Credits reducing wait time for youth offender parole hearings.*** Under current law a person serving a long or life prison term for a controlling offense committed while age 25 or younger is eligible (after 15, 20 or 25 years of incarceration depending on the nature of the conviction) for a youth offender parole hearing at which the Board of Parole Hearings may set a new or revised release date. As introduced, AB 965 reduced the net wait time for a youth offender parole hearing by the number of days of credit earned by the inmate for participation in CDCR rehabilitation or education programs. As amended in August, the mandatory time-credit provisions were deleted. Now the bill defers to CDCR to adopt future regulations that would determine what if any program time-credits an eligible prisoner would receive to advance his or her youthful offender parole hearing date. ***Passed the Assembly (concurrence, 47-27-5). Passed the Senate (26-12-2). Signed into law, Stats. of 2019, Chapter 577.***

***🗹 AB 1061 (Gipson, D. – Carson). Foster care placement change protections for probation youth.*** Legislation enacted in 2018 mandated new protections for youth facing abrupt or unnecessary changes in foster placements. These protections, added at Welfare and Institutions Code Section 16010.7, require the social worker or placing agency, prior to a change in placement, to develop and implement a placement preservation strategy to preserve the current placement. This bill modifies these provisions by now requiring that the placement preservation strategy be developed by the social worker or probation officer with the caregiver in consultation with the relevant child and family team. A change in placement could then only be made if found necessary after attempted implementation of the plan to preserve the current placement and after14 days’ notice to the child’s parent/guardian/caregiver, to the child (if over age 10) and to other listed parties. Under AB 1061, the placement preservation strategy can be bypassed if the existing placement is determined by the social worker or probation officer to pose an imminent risk to the health or safety of the child or others in the facility, if the child or child’s representatives waive the process or if the change in placement is pursuant to Section 777 (supplemental petition) finding or to hospitalization. ***Passed the Assembly (79-0-0), passed the Senate (37-0-3). Signed into law, Stats. of 2019, Chapter \_\_\_.***

***🗹 AB 1235 (Chu, D. – San Jose). Youth Homelessness Prevention Centers.*** This bill renames the “runaway and homeless youth shelter” category of community care facilities licensed by the state Department of Social Services (DSS). The new name given to these licensed group-care facilities is “Youth Homelessness Prevention Centers”. In addition, the service mission for these facilities is expanded to include “y*outh who are at risk of homelessness, youth who are exhibiting status offender behavior, or runaway youth”.*  “Youth at risk of homelessness” is broadly defined to include youth meeting one or more criteria on a long list that includes identification as “LGBTQ”, having financial stress, child or sexual abuse, mental health or substance abuse problems, unemployment and even “problematic gambling”. Services may be offered for up to 90 days (rather than the current short-term service limit of 21 days). Conforms multiple code sections to the new name. ***Passed the Assembly (74-0-5), passed the Senate (39-0-1). Signed into law, Stats. of 2019, Chapter 341.***

***🗹 AB 1354 (Gipson, D. – Carson). Education planning and transition requirements for juvenile justice youth.*** AB 1354 augments and expands the requirements of Education Code Section 48647 regarding transition plans and services for youth involved with the juvenile justice system. Current law requires each county office of education and county probation department to have a joint transitional planning policy to support the transition from court schools to public schools in the community. AB 1354 requires county offices of education to collaborate “as needed” with the probation department, and with local education agencies, to take specific steps to support swift enrollment, records transfer, appropriate coursework and other links to mainstream or public schools. The bill also requires local education and probation departments to produce an individualized transition plan, as defined, for each juvenile detained for more than 20 school days, and it provides additionally for transfers of specified records and other information within 72 hours of release from custody. ***Passed the Assembly (64-8-8), passed the Senate (31-8-1). Signed into law, Stats. of 2019, Chapter \_\_\_.***

***🗹 AB 1390 (Stone, D. – Santa Cruz). Young Adult Deferred Entry of Judgment juvenile hall program—age of eligibility.*** AB 1390 raises the age of eligibility for young adults participating in the deferred entry of judgment juvenile hall pilot program, from a top age of 20 to a top age of 24 (“under 25”). An adult offender between the ages of 21-24 may be offered participation in the juvenile hall program only upon the recommendation of the multi-disciplinary team that oversees local pilot program. This six-county pilot program was established 2016, allowing pilot counties to place young adult felony offenders in juvenile hall custody programs for up to one year as an alternative to serving a local jail sentence. Those offered the program must consent to participation, must not be charged with a listed serious offense and must initially plead guilty to the charge on a “deferred entry of judgment” basis that provides for dismissal of the charge(s) upon satisfactory completion of the program. Juveniles must be sight/sound separated from adults in the juvenile hall. The six counties currently in the pilot program include Ventura, Alameda, Santa Clara, Butte, Napa and Nevada, though the program has not been implemented actively in all these sites. Non-fiscal bill. ***Signed into law, Stats. of 2019, Chapter 129.***

***🗹 AB 1394 (Daly, D. – Anaheim). Ban on fees charged for juvenile record sealing petitions.*** AB 1394 prohibits the court or the probation department from charging an applicant fee for filing a petition to seal a juvenile record under WIC Section 781. The bill also repeals WIC Section 903.3 which authorizes the court or the county to charge a petitioner age 26 or older for investigation costs related to the filing of a record sealing petition under Section 781.***Passed the Assembly (77-2-0), passed the Senate (37-3-0). Signed into law, Stats. of 2019, Chapter 582.***

***🗹 AB 1423 (Wicks, D. – Oakland). Returns to juvenile court from adult criminal court.*** AB 1423 adds Section 707.5 to the Welfare and Institutions Code, establishing a new process for returning cases to juvenile court from adult criminal court. The returns come into play where the adult court action did not result in conviction on a transfer-eligible offense. Under AB 1423, the case must be returned to the juvenile court for disposition if the individual was found to have committed only misdemeanors in the adult court. A different process applies where the individual is found by the adult court to have committed a felony offense not listed in WIC Section 707 (b)—i.e. not a transfer-eligible offense. Where the person is convicted only of a non-707 (b) felony, the adult court has discretion to return the case to the juvenile court for disposition. In considering whether to return the case to the juvenile court under these circumstances, the criminal court is must determine “by a preponderance of evidence that a juvenile disposition is in the interests of justice and the welfare of the person”. As amended the same discretionary court criteria for return to juvenile court apply where the juvenile defendant pleads guilty only to one or more non-707 (b) felonies and/or misdemeanors (usually as the result of a plea bargain), except that in these situations the return to juvenile court must also be “upon agreement and request of the parties”. ***Passed the Assembly (68-0-11), passed the Senate (38-0-2). Signed into law, Stats. of 2019, Chapter 583.***

***🗹 AB 1454 (Jones-Sawyer, D. – L.A.). (Added in this edition). Youth Reinvestment Grant Program.*** This bill sets out the terms for a new round of Youth Reinvestment Grants. Last year’s budget provided $37 million for local grants supporting juvenile justice diversion programs operated by community-based agencies working in concert with local government “lead” agencies, with a $1 million set-aside for Indian Tribal diversion programs. First-round grants were awarded by the Board of State and Community Corrections (BSCC) to 30 local jurisdictions and two Indian Tribes submitting successful proposals. The FY 19/20 budget appropriates new state funds for the YRG Program including $5 million for local diversion program grants and $10 million for Indian Tribal diversion program grants. AB 1454 lays out revised terms for the local youth diversion grant program. The most notable change is that community-based agencies will be able to apply directly to BSCC for diversion program funds. Local government agencies continue to be eligible to apply directly for funds as well, subject to the current requirement that 90 percent of awarded funds must pass through to CBO partners. ***Passed the Assembly (79-0-9, passed the Senate (39-0-1). Signed into law, Stats. of 2019, Chapter 584.***

*🗹* ***AB 1537 (Cunningham, R. – San Luis Obispo). Prosecutor “Brady” access to sealed juvenile records.*** AB 1537 adds a process by which the prosecutor can access a sealed juvenile record in order to meet a statutory or constitutional obligation to disclosure exculpatory information to the defense in a pending criminal case. “Brady” refers to the US Supreme Court ruling that requires disclosure of exculpatory evidence to the defense by prosecutors. As introduced, the bill provided that an adult criminal court could rule on the prosecution’s Brady request to access a sealed juvenile record. As finally amended, the determination on Brady access by the prosecutor will be made only by the juvenile court, not the adult criminal court. Protective language remains in place, including that the prosecutor must specify a rationale for requesting the Brady information; that the person with the sealed record must be notified of the request to access the record and afforded an opportunity to respond; that the court must identify the portions of the sealed record subject to access; and that a disclosure order of the court must include appropriate limits on the use of the sealed record to protect the confidentiality of the person having the sealed record. Amendments have conformed this new process across four affected record-sealing code sections: WIC Section 786 (“auto-sealing”); WIC 781 (sealing by petition); WIC 793 (sealing related to deferred entry of judgment); and Penal Code Section 851.7 (sealing of misdemeanor records). ***Signed into law by the Governor on July 1, Stats. of 2019, Chapter 50.***

***🗹 AB 1603 (Wicks, D. – Oakland). California Violence Intervention and Prevention Program.*** AB 1603 codifies the existing CalVIP grant program which has previously been managed and appropriated through the budget process. The CalVIP grant program has allocated an average of $9.2 million per year in competitive grants awarded by the Board of State and Community Corrections (BSCC) to cities and CBOs providing a range of youth violence prevention and crime reduction services. AB 1603 restates CalVIP objectives to include funding preferences for communities with high rates of homicides, shootings or community violence. It re-defines the target population served by the grants as cities that are “disproportionately impacted by violence” based on the number or rate of homicides as specified in the bill, while also allowing grants to applicants who otherwise demonstrate “unique and compelling need for additional resources to address the impact of homicides, shootings and aggravated assaults in the applicant’s community”. Preference must be given to applicants that demonstrate the greatest likelihood that their programs will reduce the incidence of homicides, shootings and aggravated assault. Applicants may be cities or community-based agencies. Requires BSCC to establish a grant selection advisory committee of listed representatives. The FY 19-20 state budget allocates $30 million to the CalVIP program. ***Passed the Assembly (79-0-0), passed the Senate (40-0-0). Signed into law, Stats. of 2019, Chapter \_\_\_.***

**Senate bills**

***🗹 SB 284 (Beall, D.- San Jose). Increased county cost to send juveniles to the Division of Juvenile Justice (DJJ).*** SB 284 raises the statutory cost or charge to a county for certain commitments of juveniles to the state youth corrections system (DJJ). Currently, under Welfare and Institutions Code Section 912, a county committing an eligible juvenile to DJJ must pay the state a statutory fee which is set at $24,000 per youth per year, until age 23. This bill would raise the county charge for DJJ commitments to $125,000 per year for any juvenile who was under the age of 16 at the time of the offense or who, regardless of age, is committed on the basis of an offense that would earn less than seven years of imprisonment if the case had resulted in an adult court conviction on the commitment charge. The current $24,000 per youth/per year cost would remain in place for commitments of juveniles who are both over age 16 at the time of the offense and whose commitment offense would earn fewer than seven years of incarceration if processed as an adult court conviction. County charges are incurred for the full term of commitment (up to age 23) which is controlled by the state Board of Juvenile Hearings (BJH). Applies to commitments made after 1/1/20. The average length of stay for all DJJ juvenile court commitments in 2017 was 32 months. The goals of the bill are to disincentivize DJJ commitments of younger juveniles and those with lower-level offenses that qualify for admission to DJJ, and to encourage retention of custody and supervision in local settings. ***Passed the Senate (30-8-0); passed the Assembly (50-23-6).***

***VETOED by the Governor. In his veto message, the Governor states that there should not be a “blanket financial disincentive” toward meeting the needs of state-committed youth given the spotty availability of county-level services for those youth and the need to re-evaluate how those youth may be served under the Department of Youth and Community Restoration that replaces the Division of Juvenile Justice next year.***

***🗹 SB 419 (Skinner, D. – Berkeley). Limits on suspension of pupils for school disruption or defiance.*** Current law prohibits suspension of a pupil grades K-3, or recommended expulsion for pupils in grades 1-12, for disrupting school activities or otherwise willfully defying the authority of school personnel. SB 419 would, beginning July 2020, extend theses protections to include pupils to charter schools. Beginning in July 2020, the bill adds protection against suspension for willful defiance or disruption to pupils in grades 4-5 (including charter schools). It would also ban suspension of any pupil in grades 6-8 including charter schools for these reasons from July of 2020 through July of 2024. The bill is similar to a bill carried by Senator Skinner last year that was vetoed by Governor Brown (SB 607). ***Passed the Senate (31-8-1), passed the Assembly (50-17-4). Signed into law, Stats. of 2019, Chapter 279.***

***🗹 SB 485 (Beall, D. – San Jose). Elimination of driving privilege restrictions for listed offenses.*** Under current law the Court, or the Dept. of Motor Vehicles (DMV) upon the court’s order, may or must restrict or suspend driving privileges as a penalty related to the commission of listed crimes and tax delinquencies. SB 485 would prohibit the DMV or the court from suspending or delaying a driver’s license based on conviction of listed criminal offenses including vandalism, certain alcohol and drug offenses and firearm use. As amended, the bill also eliminates the authority of the court to suspend a driving privilege for prostitution or lewd/lascivious conduct involving use of a vehicle within 1000 feet of a private residence. The bill if enacted will apply only to DMV or court license determinations made on or after January 1, 2020.***Passed the Assembly (52-24-3), passed the Senate on concurrence (29-10-1). Signed into law, Stats. of 2019, Chapter 505.***

***🗹 SB 716 (Mitchell). Access of detained juveniles to post-secondary academic and technical education programs****.* SB 716 is intended to improve the access of detained juveniles to post-secondary academic and career technical programs. The bill requires probation departments and the Division of Juvenile Facilities to ensure that certain youth in their facilities—those who have a high school diploma or equivalency certificate—have access to post-secondary academic and technical programs and courses that are “offered online”. Previously the bill required these programs to be offered directly within the juvenile facility. Instead, the bill now “encourages” probation departments and DJF to develop local partnerships with post-secondary, public campuses to provide instruction on campus and onsite within the juvenile facility. The requirement that probation departments or DJF must collaborate with higher education institutions to ensure access to post-secondary education has been taken out of the bill. The bill’s provisions remain applicable to juvenile halls, probation camps and ranches; however, an August amendment dilutes the application to the new Department of Youth and Community Restoration (successor to DJJ) by stating that access to the on-line education programs will be provided “to the extent feasible using available resources”. The bill specifies that pre-graduation youth are not precluded from participation in the post-secondary programs mandated for those who have high school graduation status. ***Passed the Senate (40-0-0), passed the Assembly (79-0-0). Signed into law, Stats. of 2019, Chapter \_\_\_.***

***🗹 SB 94 – REORGANIZATION OF THE DIVISION OF JUVENILE JUSTICE***

In a plan advanced by Governor Newsom, the state Division of Juvenile Justice (DJJ) has been reorganized, shifting it from the Department of Corrections and Rehabilitation (CDCR) to a newly formed Department of Youth and Community Restoration within the Health and Human Services Agency. The move is a key step in Governor Newsom’s announced plan to reform the state’s juvenile justice system with a greater focus on treatment and rehabilitation. Advocates pressed the Governor for a more aggressive reforms this year, including new disincentives to state commitment and the expansion of community-based diversion and treatment programs. But the change moved by the Administration is more aptly described as the “bare minimum” needed to shift the youth corrections operation from one state agency to another. Here are the details as included in SB 94:

* Effective July 1, 2020 the state Division of Juvenile Justice is removed from CDCR and its operations, facilities and staff are transferred into a new Department of Youth and Community Restoration within the Health and Human Services Agency.
* None of the current statutes or regulations governing DJJ basic operations, commitment laws, facilities or programs are changed—they are simply reactivated “as is” under the authority of the new HHS Department. Code references to the DJJ are automatically re-directed to refer instead to the new HHS Department. As stated in SB 94, the new HHS department *“…succeeds to, and is vested with, all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of the Division of Juvenile Justice”* which ceases to exist on 7/1/20.
* SB 94 authorizes the Governor to appoint a director and chief deputy director of the new Department of Youth and Community Restoration, to serve at the pleasure of the Governor. No criteria or qualifications for these posts are included in SB 94.
* The Board of Juvenile Hearings (BJH) that determines length of confinement and release dates for state-committed wards is moved into HHS under the new Department, with no other changes in the statutes or regulations that govern its operations.
* By October 2019, the state Secretary of HHS must appoint a committee of the state Child Welfare Council “*to provide input and recommendations related to the Department of Youth and Community Restoration’s policies and programs that promote a commitment to improving youth outcomes, reducing youth detention, and reducing recidivism.”*  Members are to include persons experienced in trauma-informed care, youth justice advocates, youth and families with justice system experience and county probation department representatives. Their recommendations are to be included in reports to the budget committees of the legislature until 2025
* There is no language in SB 94 outlining the goals and principles on which the new Department is founded. For “intent” language, you need to look at the Governor’s Budget Summary where his Department of Finance characterizes the move as one that “*better aligns California’s approach with its rehabilitative mission and core values—providing trauma-informed and developmentally appropriate services in order to support a youth’s return to their community, preventing them from entering the adult system and further enhancing public safety*.”
* The state budget includes some funding to effectuate the transfer. This includes $1.2 million in General Fund dollars to plan for the transition and to support an independent institute to train staff on best practices that will further the new Department’s “rehabilitative mission”

That’s about it—all in all a rather coolly-stated and narrowly-framed statutory plan and structure to replace DJJ with the new Department of Youth and Community Restoration next July.

*Bill digests by David Steinhart, Director, Commonweal Juvenile Justice Program. Updated reports are posted on our website at* [*www.comjj.org*](http://www.comjj.org)*.*