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JUVENILE JUSTICE AND RELATED YOUTH PROGRAM BILLS

in the 2020 Session of the California Legislature

October 7, 2020:

2020 SESSION FINAL OUTCOMES:

BILLS SIGNED AND VETOED BY THE GOVERNOR

- ***Governor signs SB 823, the bill to close the California state youth prison system. See our report on the DJJ closure bill starting at page 9.***
- ***Other reforms signed into law include SB 203 (custodial interrogation rights of juveniles), AB 901 (limits on jurisdiction and probation supervision in truancy cases), AB 2425 (sealing juvenile arrest and police records) and AB 2542 (Racial Justice Act- discrimination & remedies in criminal proceedings)***

This report provides a summary of the Governor's final action on bills we have been tracking in the 2020 session of the California Legislature, on the topics of juvenile justice, youth crime prevention, probation foster care and related measures.

On September 30th, the Governor hosted an on-line ceremony in which he signed Senate Bill 823, providing for the closure of the state youth prison system (the Division of Juvenile Justice). He also signed measures that will expand the right to counsel for juveniles in police interrogations, extend sealing law to cover additional juvenile police and arrest records and re-define how truancy cases can be prosecuted or managed by probation departments.

Senate bill 823—the DJJ closure bill—is a complex measure that involves timing issues, big state payments to counties, the creation of a new juvenile justice office in HHS and other matters related to jurisdiction, detention, sentencing, facilities and local programs for youth who can no longer be committed to state-run facilities. See our updated summary of this reform at the end of this report.

Many youth justice bills were dropped by authors this year, under committee rules and other constraints imposed by the pandemic. For a review of bills that were abandoned, readers are referred to prior editions of our report. These sidelined measures may be re-introduced in the new two year session beginning in 2021.

Final legislative votes on bills are shown in parentheses as (Aye-No-Not Voting). Bills signed into law are effective January 1, 2021 unless otherwise noted (the DJJ bill, SB 823, is effective immediately). The full text of bills can be found on the state legislative website at www.leginfo.legislature.ca.gov. More information on legislation, budget and policy issues affecting a range of youth justice subjects is available on the Commonweal Juvenile Justice Program website-www.comjj.org.

Assembly bills

AB 901 (Gipson, D. – Carson). Elimination of 601 jurisdiction for truancy based on refusal to obey school authorities; related education law changes; probation supervision programs; referrals to district attorney. AB 901 started as a bill to repeal the status offense (WIC 601) jurisdiction of the juvenile court, was then dialed back to delete Section 601 truancy jurisdiction and was finally amended to delete WIC Section 601truancy based on failure to obey the orders of school authorities. The bill re-defines non-wardship options in truancy cases and makes changes to probation processing of both status offense and delinquency cases. As enrolled AB 901 does this:

- States legislative intent that "cities and counties work closely with youth, parents or guardians, local educational agencies, community partners, and system officials to serve and protect youth only as needed, avoiding any contact with the juvenile justice system." States intent that the role of probation includes a priority of diverting juveniles from formal justice system processing by accessing noncustodial alternatives and services. Adds intent to address over representation of YOC in the juvenile justice system.
- Deletes WIC Section 601 (status offense) jurisdiction for truancy that is based on refusal to obey the orders of school authorities. Retains 601 jurisdiction for "beyond control", curfew and other ordinance violations (e.g., alcohol) and other forms of truancy as defined. Requires a law enforcement officer, prior to issuing a notice to appear for a WIC 601 status offense, to first refer the minor to a "community-based resource, the probation department, a health agency, a local educational agency, or other governmental entities that may provide services."
- Adds WIC Section 651.5 defining a "community based organization" as "a public or private nonprofit organization of demonstrated effectiveness that is representative of a community or significant segments of a community and provides educational, physical, or mental health, recreational, arts, and other youth development or related services to individuals in the community."
- Adds changes to the Education Code recasting how truancy cases can be processed by SARBs and through local truancy mediation programs.
- Amends WIC Section 236 defining the role of probation to provide that where probation services or programs are offered to minors not on probation (or to their parents), programs must be voluntary and must not include conditions or consequences for failure to engage or complete the program. Includes a ban on keeping minors on an informal probation caseload when they have been referred for community services.
- Changes WIC Sec. 653.5 criteria for probation referral of 602 cases to the District Attorney by removing the requirement that a DA referral must be made where informal supervision has previously been tried. Where the probation officer elects to refer the minor to services in lieu of a recommendation for removal of the minor from home, the probation officer must make the referral to "youth to services provided by a health agency, community-based organization, local educational agency, an appropriate non-law-enforcement agency, or the probation department."
- Modifies WIC Section 654 (informal probation supervision) by re-defining the types of services to which the juvenile may be referred and by removing the requirement that a failure by the minor to participate in the program for 60 days must result in the filing of a wardship petition by the probation officer (or by referral to the DA); the initiation of petition proceedings by the probation officer becomes discretionary rather than mandatory in these situations.

Even as trimmed by significant amendments in August 2020, this is a complex bill and the reader is advised to consult the full bill text for full understanding of its content. ***Passed the Assembly (52-12-15), passed the Senate (27-7-6). SIGNED INTO LAW, STATS. OF 2020, CHAPTER 323.***

AB 1007 (Jones Sawyer, D. – L.A.). Juvenile Justice Crime Prevention Act overhaul. This bill was a "gut and amend" on June 25, turning an unrelated Jones-Sawyer bill into an overhaul of the Juvenile Justice Crime Prevention Act (JJCPA). In August the bill was held in committee short of final legislative approval this year. It is nevertheless summarized here with some expectation that it may be moved again next year. The JJCPA provides local governments with state funds for youth crime and violence prevention programs. It was adopted in the year 2000 as a response by progressive legislators to the harsh juvenile justice sanctions imposed by former Governor Pete' Wilsons Proposition 21, approved by voters in the same year. The JJCPA has supplied county governments with more than $2 billion over the last two decades for local youth justice programs. The JJCPA has also drawn criticism that large shares of JJCPA funding in some counties have been deployed to probation department salaries and operations rather than to community-based youth services. AB 1007 would have addressed this concern by altering the local allocation process for JJCPA grants. The bill requires that 95% of the county allocation be expended on "c*ommunity-based organizations or public agencies or departments that are not law enforcement agencies or departments."* AB 1007 also changes the makeup of multi-agency Juvenile Justice Coordinating Councils (JJCC's) that are designated by statute to develop county JJCPA spending plans. This bill would require that 50% of JJCC members must be "community members" including justice-involved individuals and nonprofit service providers. The bill would additionally require a "community representative" to serve as co-chair of the JJCC, and the bill makes JJCC membership by district attorneys and probation departments permissive rather than mandatory. AB 1007 also changes requirements for local juvenile justice plans that must be submitted to the Board of State and Community Corrections (BSCC) each year to qualify for funds—for example, by requiring the plan to include a service continuum that is modeled on *"a framework of youth development and demonstrates a community-based, collaborative, and integrated approach for at-promise youth and youth involved in the justice system"*. The bill adds to the data and outcome measures that must be reported each year by counties to BSCC—for example by requiring reporting on youth served by "*program, race, ethnicity, age, gender identity, residence ZIP Code, probation status, charges or activities warranting intervention, and program outcomes, including, but not limited to, an accounting of all participants' completion or noncompletion of the program."* AB 1007 also adds new requirements for annual reports that BSCC must submit to the Legislature each year on JJCPA funded programs. ***Status: the bill was held in the Senate Public Safety Committee due to COVID19 limits on the number of bills that committees are able to hear in the remaining weeks of the session.***

AB 1950 (Kamlager, D.- L.A.) One-year limit on adult probation for misdemeanor offenses. Amends Penal Code Sections 1203a to impose a one-year maximum on the length of a probation term ordered by the court for a misdemeanor offense, unless a longer probation term is provided for in the offense statute on which the plea or conviction is based. In addition, AB 1950 also amends Penal Code Section 1203.1, limiting a suspended sentence imposed under a probation order to a maximum of two years. Does not apply to juvenile court orders of probation, but the bill is of interest in relation to other bills and proposals that would limit time-on-probation for juveniles. ***Passed the Assembly (48-22-9), passed the Senate (26-12-2). SIGNED INTO LAW, STATS. OF 2020, CHAPTER 328.***

AB 1979 (Friedman, D. - Glendale). Emergency housing provisions for supervised independent living placements. This bill modifies the definition of a "supervised independent living placement" to include transitional living settings for youth who are entering or reentering foster care or transition between placements (excluding runaway and homeless shelters). The bill provides that for youth who are entering or reentering foster care or transitioning between placements, this placement is not subject to licensing. The bill also expands the current requirement that county placing agencies conduct regular evaluations of out-of-county's placement resources and programs, by requiring the county placing agency to examine the receiving county's ability to meet the emergency housing needs of minors between placements. As amended the bill includes a COVID-related provision authorizing a county to inspect a supervised independent living placement to ensure that it meets health and safety standards using alternative means, such as videoconferencing, and that a county may certify that the supervised independent living placement meets health and safety standards once in every 12 months as long as the county believes that housing safety conditions have not changed. The bill adds new provisions covering a nonminor dependent's noticed absence from supervised independent living the program (up to 14 days) by authorizing continued payments to the provider during the absence and by prohibiting a transitional housing provider from filling the absentee's slot during the absence. ***Passed the Assembly (75-0-4), passed the Senate 39-0-1). SIGNED INTO LAW, STATS. OF 2020, CHAPTER 141.***

AB 1994 (Holden, D. – Pasadena). Medi-Cal eligibility, confined juveniles. In July this bill was amended to delete provisions requiring county welfare departments to take additional steps to restore Medi-Cal benefits for juveniles released from public institutions. Instead, the bill has been simplified to specify the date on which suspensions of Medi-Cal are ended for juveniles in confinement. The modified bill states that, for juveniles, the suspension ends "on the date that the individual is no longer an inmate of a public institution or three years after the date the individual is no longer an eligible juvenile pursuant to Section 1396a(a)(84) of Title 42 of the United States Code, whichever is later." ***Passed the Assembly (77-0-2), to the Senate Health Committee, then dropped by the author due to COVID 19 limits imposed by committees on the number of bills that can heard in the last month of the session.***

AB 2321 (Jones-Sawyer, D.- L.A.). Access to sealed juvenile records. AB 2321 would amend WIC Sections 781, 786 and 786.5 to make certain sealed juvenile records available for the purpose of processing a crime victim's request for certification of "helpfulness". The certification provides immigrants who are victims of crime with help when they seek visa protection from deportation or other facets of immigration enforcement. As amended, the bill provides that the sealed juvenile record may be accessed for this purpose only by a judge or a prosecutor, with the additional requirement that the information accessed in the sealed record cannot be disseminated to other agencies or individuals except as necessary to certify victim helpfulness on the appropriate, statutory forms. This new sealing exception would apply to WIC Section 786 (court-sealed records upon satisfactory completion of probation); to WIC 786.5 (probation and diversion program records) and to WIC Section 781 (sealing by petition of WIC 707(b) offenses committed by a person over the age of 14). ***Passed the Assembly (76-0-3), passed the Senate (30-0-10). SIGNED INTO LAW, STATS. OF 2020, CHAPTER 329.***

AB 2425 (Stone, D.- Santa Cruz). Sealing of arrest records for juveniles in diversion programs; confidentiality and sealing of juvenile police records. AB 2425 amends Section 786.5 of the Welfare and Institutions Code to require a law enforcement agency to seal an arrest record related to the juvenile's participation in a diversion or supervision program to which the juvenile was referred in lieu of the filing of a petition. Presently, WIC 786.5 requires only probation departments and diversion agencies to seal the juvenile record upon the juvenile's satisfactory completion of the diversion program. Under AB 2425, a law enforcement agency must seal the arrest record within 60 days of being notified by the probation department that the juvenile has satisfactorily completed the diversion program. The probation department must also notify a diversion service provider when the juvenile has satisfactorily completed the diversion program, whereupon the service provider must seal the arrest and program records within 60 days. As with other juvenile sealing statutes, upon sealing the arrest and offense are deemed not to have occurred and the subject of the records may answer accordingly in employment and other situations. A "Brady" provision allowing prosecutors to access sealed diversion program records in order to meet a constitutional obligation to provide exculpatory evidence to the defense in an unrelated case was added to the bill in an accord reached with opposing prosecutors; however, in a hostile amendment imposed by the Senate Appropriation Committee in August, the Brady exception and process for opening sealed records was vastly modified to remove the court review and related protections, leaving it to the discretion of the prosecutor to probe sealed records for any information alleged Brady information. In addition, AB 2524 adds a new Section WIC 827.95 prohibiting each law enforcement agency in the state from releasing a juvenile police record involving a juvenile who has been counseled and released (without further processing), who has satisfactorily completed a diversion program or who has aged out of juvenile justice jurisdiction. For juveniles fitting those descriptions, the bill further requires the law enforcement agency to seal the juvenile police record upon being notified by a diversion service provider that the juvenile has satisfactorily completed the division program. Definitions of "juvenile police record", "diversion" and "satisfactory completion" are included in the bill. A modified "Brady" provision allowing prosecutors to access sealed juvenile police records was added to the bill in August without any requirement that the court first review the records to determine the prosecutor's rationale for opening the record. ***Passed the Assembly (53-16-10), passed the Senate (26-10-4). SIGNED INTO LAW, STATS. OF 2020, CHAPTER 330.***

AB 2483 (Bauer-Kahan, D.- Orinda). Data collection on local jail anti-recidivism programs. This bill requires each county sheriff to compile and submit data to the California Board of State and Community Corrections (BSCC) on anti-recidivism programs in county jail facilities, including success rates in reducing recidivism in each such program. The sheriffs' data must be submitted to BSCC by January 1, 2023 and BSCC is mandated to submit a report on to the Legislature by July 1, 2023 based on findings on the data submitted. Not applicable to juvenile facilities but of interest as a model for future juvenile facility data collection. ***Passed the Assembly (70-0-9), passed the Senate (32-6-2). VETOED BY THE GOVERNOR. The Governor says in his veto message that the bill leaves "too much discretion to local governments to decide what is and is not a recidivism…and could lead to a significant and costly mandate".***

AB 2542 (Kalra, D. – San Jose and multiple co-authors). Racial Justice Act, remedies for prosecutions and convictions involving racial bias. AB 2542 creates a panoply of new rights for Californians who are prosecuted for or convicted of crimes based on based on race, ethnicity, or

national origin. The bill adds Section 745 to the Penal Code, beginning with a statement that the state shall not seek or obtain a criminal conviction or sentence on the basis of race, ethnicity or national origin. The bill defines acts of racial bias that are presumed to establish a violation, including the use of racially discriminatory language by an attorney, judge or expert witness; other actions indicating bias or animus toward the defendant based on race; and conviction and sentencing of a defendant in a racial group that is deemed excessive in relation to similar rates for other racial groups. Multiple remedies for racial bias in criminal proceedings are provided by AB 2542, covering pre- and post-conviction acts, and including authorizing the judge to remove a juror or to declare a mistrial or to vacate a judgment and sentence and resentence the defendant. The bill includes provisions permitting defendants to document that their sentence or conviction was excessive and thus racially biased by comparison to sentencing and conviction rates for other racial groups. The bill states that its provision apply, not only to adult criminal proceedings but to "adjudications and dispositions in the juvenile delinquency system as well". Section 1473 of the Penal Code is also amended to provide a remedy by writ of habeas corpus for unlawful restraint or imprisonment that is based on a violation of the racial justice provisions of the new PC Section 745. The bill states that its provisions apply only prospectively to persons whose judgments are not completed by January 1, 2021. The reader is advised to consult the text of the bill for interlocking provisions and additional details and remedies that are included in the bill. ***Passed the Senate (26-10-4), passed the Assembly (49-16-14). SIGNED INTO LAW, STATS. OF 2020, CHAPTER 317.***

Senate bills

SB 144 (Mitchell, D. – L.A and Hertzberg, D. – Van Nuys). Elimination of criminal justice and related fees. This massive (94 sections) bill eliminates the authority of counties, courts and other agencies to charge fees for a wide range of juvenile and criminal justice system proceedings and operations—including fees that may now be assessed for probation and diversion programs, placement and incarceration, drug testing, attorneys fees, drug testing, vehicle code violations and other activities. On the juvenile justice side, specific sections would wipe out fees that can presently be assessed on persons aged 26 or older for sealing of juvenile offense records. However, the bill retains the authority of county agencies to assess parents or guardians for support costs related to the detention or placement of a minor upon arrest or by order of the juvenile court. SB 144 supplements Senator Mitchell's 2017 legislation (SB 190) that eliminated a long list of court and county fees imposed on children and parents for juvenile justice services and sanctions. ***Passed the Senate (26-8-4); held in the Assembly Public Safety Committee due to committee imposed COVID limits on the number of bills that can be processed in the 2020 session.***

SB 203 (Bradford, D. - Gardena), Custodial interrogation of juveniles— raising the age for counsel at interrogation to 17. This bill is a July 27th "gut and amend" of an unrelated measure. As rewritten, this bill expands juvenile "right to counsel" protections enacted in 2017 for youth interrogated by police. In 2017, SB 395 added Section 626.5 to the Welfare and Institutions Code, requiring that prior to any custodial interrogation of a youth age 15 or younger by police, the youth must consult with legal counsel either in person, by telephone or by video conference. This right to counsel cannot be waived by the youth. This bill extends the SB 395 right to counsel prior to interrogation to youth age 17 or younger (from age 15 and under). SB 395 further provided that in ruling on the admissibility of any statement taken from the youth, the court must consider the effect of any failure to comply with the new right to counsel, unless the officer questioning the

youth reasonably believed the information was necessary to protect person or property from an imminent threat. SB 203 additionally provides that where an officer's failure to engage counsel prior to interrogation is willful, the court must take willful failure into account in determining the credibility of the officer as to the admissibility of any information obtained in this manner. SB 203 also eliminates the Governor's panel of experts that was created in SB 395 to conduct a review and report to the Legislature on the implementation of SB 395. ***Passed the Senate (32-2-6), passed Assembly (54-13-12). SIGNED INTO LAW, STATS. OF 2020, CHAPTER 335.***

SB 555 (Mitchell, D. – L.A.). Jail store and commissary costs, costs of telecommunication services in jails and juvenile facilities. SB 555 was not expected to be pursued by the author until the waning days of the session when it was amended and moved forward. As amended, the bill imposes a limit of 10 percent on the cost markup that sheriffs can apply to goods made available to inmates (now, "incarcerated persons") in a jail commissary or store. The name of the "inmate welfare fund" in jails is changed to an "incarcerated peoples' fund" with new requirements as to how resources flow into the fund and new language to ensure that any expenditure from the fund is solely for the benefit, education and welfare of people incarcerated in the jail. Provisions related to contracts and costs of jail telecommunication services were amended in August; in its present form the bill limits phone call charges to 5 cents per minute and video communications charges to 25 cents per minute, while also prohibiting telecom companies from charging inmates for fees during periods of inactivity. The telecommunications provisions of the bill appear to be applicable to county-run adult and juvenile facilities, whereas the store commissary provisions relate only to adult jails. ***Passed the Senate (32-6-2), passed Assembly (51-8-20). VETOED BY THE GOVERNOR. In his veto message the Governor supports the goals of the bill but cites concern that it could have the unintended consequence of reducing rehab and educational programs for persons in custody.***

SB 823 (Committee on Budget & Fiscal Review). Closure of the state Division of Juvenile Justice. *SB 823 provides for the shutdown of DJJ and the realignment of all youth with serious (DJJ eligible) offenses to county governments.* ***Passed the Assembly (54-16-9), passed the Senate (21-13-6), SIGNED INTO LAW, STATS. OF 2020, CHAPTER 337. SEE SUMMARY AT THE END OF THIS REPORT.***

SB 912 (Beall, D. – San Jose). Nonminor dependents, extensions of jurisdiction and benefits during states of emergency declared by the Governor. SB 912 was introduced as a bill to raise nonminor dependent eligibility for foster care and related benefits from age 21 to age 25. As introduced, the bill also extended the delinquency jurisdiction of the juvenile court to age 25. In response to COVID-19 and its impact on foster youth, the bill was vastly revised in May. The provisions raising the age to 25 for foster care and delinquency jurisdiction were deleted. As now amended, the bill prohibits terminating a nonminor dependent's foster care benefits if the Governor has declared a state of emergency and, prior to 6/30/21, the individual turns 21 years of age; in that case, benefits will continue for the individual until June 30, 2021. The bill makes other changes to ensure that nonminor dependents reaching the age-based end of the benefit period are not stranded without supports during a crisis like the current COVID-19 pandemic. ***Passed the Senate (38-0-2), passed the Assembly (73-0-6). VETOED BY THE GOVERNOR. In his veto message the Governor points to other relief measures to help NMDs and worries that the bill could obligate the state to specific approaches to the pandemic that "may not always be the most prudent or effective".***

SB 1111 (Durazo, D. – L.A.). Detention of persons over age 18 in county juvenile facilities. SB 1111 was withdrawn in the final days of the session because its provisions were replicated in another bill (SB 823) that was approved and sent to the Governor. SB 1111, until dropped, was a major revision of current law governing the place of confinement for individuals subject to juvenile or adult court proceedings beyond age 18. Under current law, a person turning 18 may stay in a local juvenile facility until age 19 (and upon approval of the facility by the Board of State and Community Corrections, until age 21) without separation from those under age 18. SB 1111 would require that any person whose case originates in juvenile court, if detained, shall remain in the juvenile facility until age 21 and can only be moved to an adult facility with the approval of the Juvenile Court. The trigger in current law that allows probation transfers to county jail at age 18 or 19 is removed, as is the BSCC approval process for mixed-age facilities. Under SB 1111, a transfer at age 18 to an adult facility can occur only if the probation department petitions the Juvenile Court for transfer. Then the court must hold a hearing in which it applies new criteria (re. safety and welfare of the detained person and others in the facility) to rule on the transfer request. Juveniles who are detained after their case is transferred to adult jurisdiction are covered by these provisions as well. SB 111 also retains he current provision of WIC 707.01 that upon transfer of a case to the adult criminal court, the person is entitled to release on bail or own recognizance in the same manner as adults. ***STATUS: BILL DROPPED DUE TO THE PASSAGE OF SENATE BILL 823:*** The provisions of SB 1111 were eclipsed by the overlapping provisions of Senate Bill 823, the DJJ closure bill. SB 823 amends WIC code sections governing how long juveniles can remain in a county juvenile justice facility. WIC Section 607 is amended by SB 823 to extend local court jurisdiction for all juveniles adjudicated for WIC 707 (b) offenses to age 23 or (for some offenses) to age 25. WIC Section 208.5 is amended by SB 823 to provide that juveniles who are detained upon adjudication for a WIC 707 (b) listed offense shall, if detained, be held in a designated juvenile facility until age 25 (or the earlier exhaustion of their sentence), subject to motions to transfer to an adult facility.

SB 1126 (Jones, R. – Santee). Access to sealed juvenile offense records for competency determinations. SB 1126 modifies Welfare and Institutions Code Section 786 which currently establishes a process for the "auto-sealing" of juvenile offense records by the Juvenile Court upon a juvenile's satisfactory completion of a term of probation. This bill would add a further exception to the statutory list of circumstances under which a WIC 786 sealed record can be accessed for specific purposes. The bill provides that where a new petition is filed against a minor having a WIC 786 sealed record and the issue of competency is raised, the parties to the proceeding (including prosecution, defense, probation, courts) may access, inspect or use information in the sealed record pertaining to prior competency evaluations and other competency-related information including school records and test results. The information may be accessed only for the purposes of evaluating the minor's competency and providing remedial services and shall not be used to support the imposition of sanctions or penalties on the minor. ***Passed the Senate (39-0-1), passed the Assembly 75-0-4). SIGNED INTO LAW, STATS. OF 2020, CHAPTER 338.***

SB 1290 (Durazo, D. - L.A., and Mitchell, D.- L.A.). Vacating older assessments and orders to pay county juvenile justice fees. In 2017, California eliminated many court and county fees imposed on juveniles or their parents or guardians for the processing, detention, supervision or attorney representation in the juvenile justice system (Senate Bill 190) This bill would vacate lingering orders or assessments that were made prior to the 2018 effective date SB 190. ***Passed the Senate (32-2-6), passed the Assembly (64-4-11). SIGNED INTO LAW, STATS. OF 2020, CHAPTER 340.***

SPECIAL REPORT ON SENATE BILL 823 – UPDATED OCTOBER 7TH

CALIFORNIA GOVERNOR GAVIN NEWSOM SIGNS HISTORIC JUVENILE JUSTICE REFORM BILL CLOSING THE STATE'S YOUTH PRISON SYSTEM

- **Intake at DJJ will stop July 1, 2021 except for youth with transfer hearings**
- **Counties will get substantial state grant funds to pay for realignment**
- **New state Office of Youth & Community Restoration is created at HHS**

On September 30th, Governor Newsom signed Senate Bill 823 in a live-remote signing ceremony. SB 823 will shut down the state Division of Juvenile Justice (DJJ) and realign youth from state-run correctional facilities to local control. Upon the Governor's signature, SB 823 is effective immediately. General intake at DJJ is now set to stop by July 1, 2021; after that, counties will assume full responsibility for juveniles at all offense levels.

The DJJ closure bill won approval in the state Senate by a single vote, less than an hour before the midnight clock expired on the 2020 session of Legislature. Counties and probation departments fought hard to defeat the measure, claiming it was rushed through the process while failing to address county funding and program needs to deal with serious juvenile offenders. Nevertheless, opponents could not derail the accord reached between legislators, the Governor and reform advocates on the terms of DJJ closure embraced by SB 823.

California has already taken major steps to downsize its network of juvenile justice facilities. Responding to litigation, rising costs and a litany of complaints about the entire operation, lawmakers banned most commitments to the state youth prison system in a major 2007 reform. In that year, Senate Bill 81 kept the gates of DJJ open only for youth with serious and violent offenses listed in Section 707 (b) of the state juvenile code. By 2020, the inmate population of DJJ had declined from all time high of 10,000 to fewer than 800 youth. Other factors, besides the ban on commitments, contributed to the steep drop in the DJJ population, including lower juvenile crime rates and the expansion of local alternatives to DJJ made possible by state-local juvenile justice realignment funds.

Senate Bill 823 will now end the state's costly and controversial track-record of running large state youth corrections facilities. Here is what SB 823 does:

- **Provides for DJJ intake to close July 2021.** As of July 1, 2021, courts will no longer be able to commit a youth to the state Division of Juvenile Justice. However, intake will remain open for a small number of youth—those having petitions filed to transfer them to the jurisdiction of the adult criminal court. This limited window for extended commitment is meant to ensure that youth are not diverted into adult courts and state prisons when the state's most dire juvenile court sentencing option is eliminated. Other features of SB 823 are designed to build local capacity within the juvenile system for youth being "realigned" to county control. No date for final closure of DJJ is set in the bill. Youth now housed in DJJ facilities will serve out their terms until final shutdown, expected to happen in 2023 or 2024 as the population drops to near zero.

- **Pays counties** to handle the realigned DJJ caseload, based on $225,000 per youth per year. The bill creates a Juvenile Justice Realignment Block Grant, rising over time to a value of more than $200 million per year to support local facilities, programs, supervision and services for youth who can no longer be committed to DJJ. The formula for distribution of these funds to counties, as finally adopted in the bill, ensures that block grant funds will go not just to counties with high DJJ commitment rates but also to counties that are already handling these youth in local facilities and programs without sending them to DJJ.

- **Creates an Office of Youth and Community Restoration in HHS.** The new office includes an ombudsman branch that is authorized to investigate and resolve allegations of abuse or other violations occurring in county juvenile justice facilities or programs. The OYCR will also, starting in 2025, take over the management of all state juvenile justice grants now administered by the Board of State and Community Corrections (BSCC). BSCC continues to control minimum standards for county juvenile facilities.

- **Includes safeguards against transfer of DJJ youth to adult courts and state prisons.** The bill raises the age at which youth can continue to be confined in local juvenile facilities (to age 25)—this ensures that there is sufficient local confinement time in the juvenile system to discourage prosecutors and courts from transferring youth to the adult system. SB 823 also includes intent language to adopt (by next March) a new, local "secure commitment track" for youth at the highest needs and offense levels. The new secure track is viewed as necessary to provide a credible juvenile justice sentencing alternative to the transfer of youth into the adult system when DJJ is no longer available as a sentencing option.

- **Adds changes in jurisdictional law.** SB 823 amends the Welfare and Institutions Code to extend the age of juvenile c*o*urt jurisdiction up to age 25 (from current age 21) for youth adjudicated for serious offenses listed in WIC Section 707 (b). The bill includes provisions drawn from SB 1111 that will keep youth under both juvenile and adult court jurisdiction in county juvenile facilities up to age 25, unless a motion to transfer to an adult facility (county jail) has been granted by the court based on criteria in the bill.

- **Requires the Dept. of Justice to produce a data plan,** by January 2023, to replace the outdated JCPSS juvenile justice data bank. In developing the plan, DOJ must work with a stakeholder group that will consider the recommendations of the 2016 Juvenile Justice Data Working Group on upgrades of the state's ailing juvenile justice data system. SB 823 also requires counties receiving realignment Block Grant funds to apply data and outcome measures (of their own county-based design) to facilities and programs funded by the Block Grant.

- **Makes other changes to ensure a smooth transition from DJJ to county** control of cases including new terms on county payments for continuing DJJ commitments and a competitive grant program, administered by BSCC, that makes $9.6 million available in a one-time grant to counties to develop secure or specialized treatment capacity (for example, for juvenile sex offenders, regional facilities) that may be lacking at the local level.

SB 823 was hotly contested in the final days of the legislative session. Into the last week of August, the Governor and the Legislature tilted on competing versions of trailer bills to close and

realign DJJ. Lead legislators pressed for a more expansive reform package— with budget chiefs Phil Ting and Shirly Weber on the Assembly side and Nancy Skinner in the Senate taking lead roles in negotiations with the Governor and the Department of Finance. The Legislature's version created an Office of Youth Justice within HHS with broad enforcement authority over county facilities, grants and programs The Governor's version allowed for little in the way of state oversight of realignment, leaving decisions about county facilities, programs and spending of state funds largely to the discretion of county officials. The compromise reached at the 11th hour whittled the Legislature's expanded oversight model into a more modest state apparatus, emerging as an Office of Youth and Community Restoration with ombudsman functions and a pledge to move all state juvenile justice grants from BSCC into the new HHS branch by 2025. The Legislature's realignment funding proposal included a trio of state grant programs supporting a wide array of service- and community-based youth programs; this was trimmed in the final bill into a more limited realignment Block Grant giving counties wide latitude as to how state funds are spent to build facility and program capacity in the wake of DJJ realignment. Under SB 823, counties will develop their own realignment spending plans with local Supervisor approval and without any requirement that spending reports be submitted to the state. A "secure facility track" in the Legislative version— authorizing a DJJ-like sentencing framework locally for juveniles at the highest offense levels (as a bulwark against transfers to adult court)—was removed from the final version of SB 823 and deferred for later review. SB 823 cancels last year's legislatively adopted plan to move the state's operation of DJJ institutions into the Health and Human Services Agency.

Challenges ahead. The compromise encompassed by SB 823 is, by wide agreement, one that will need work on the implementation side. The local "secure track" that is the main wall of protection against transfers of realigned youth to adult courts and prisons will need to be restored, in some form, as a viable juvenile sentencing alternative when DJJ is no longer open. The new HHS Office of Youth and Community Restoration will need to be staffed and up and running in time to take on the ombudsman and grant-making responsibilities tasked to it by SB 823. SB 823 is a long and complex bill, and there are small errors and corrections that will need to be made in a cleanup mode next year. Importantly, the hostility toward DJJ closure exhibited by county and probation lobbying groups will need to subside and convert into a pro-active effort to develop the local program and facility capacity needed to accommodate youth who can no longer be committed to the custody of the state.

While there are challenges ahead, there is no denying that the passage of SB 823—ending the state's long and checkered history of running big, prison-like facilities for youth—is a transformational event in the evolution of the California juvenile justice system. ■