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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 court 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. ■