**COMMONWEAL**

**The Juvenile Justice Program**

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**JUVENILE JUSTICE** **AND**

**RELATED YOUTH PROGRAM BILLS**

**in the 2021 Session of the California Legislature**

***March 5, 2021***

* ***The California Legislature’s 2021 session is still subject to limits on bills and hearings due to the pandemic. Key youth justice bills introduced to date are covered in this report.***
* ***DJJ Closure: Pending budget trailer bills will amend SB 823, the 2020 legislation that phases out the state Division of Juvenile Justice starting in June of 2021. A critical component—the local “secure track” authorizing local long-term commitments of realigned DJJ youth— is expected to become law sometime in March. See the end of this report for an update.***

This report describes bills introduced in the 2021 session of the California Legislature on the subjects of juvenile justice, youth crime prevention, probation foster care and related topics. Like last year, this year’s session proceeds under COVID-19 constraints with socially distanced and remote committee hearings. The deadline for bill introduction was February 19th. The deadline for policy committees to pass bills in the house of origin this year is April 30th. There will be a Spring Break running from March 25th until April 5th. As a reminder, this is the start of a new two-year session— bills not finalized by the end of the 2021 session can still be heard in 2022.

Several youth justice reform bills that were sidelined by the pandemic last year have now been reintroduced in the current session. Important juvenile justice legislation is also going forward through the budget process, including trailer bills amending SB 823, the 2020 reform measure that provides for the shutdown of the state Division of Juvenile Justice (DJJ). The DJJ trailer bills are covered at the end of this report.

As with all of Commonweal’s “first of session” bill reports, we will add coverage of relevant bills that emerge via amendment or otherwise become worthy of inclusion in future reports. The full text of bills 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 issues 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 46 (Rivas, D. - Arleta). California Youth Empowerment Act.*** this bill would establish a 25 member state Youth Empowerment Commission of 14-25 year olds. They purpose of the Commission is “to provide meaningful opportunities for actual civic engagement to improve the quality of life for California’s disconnected and disadvantaged youth.” Commissioners are charged with examining fiscal and policy issues affecting youth in California and with making recommendations to the Legislature, the Governor and the Superintendent of Public Instruction. The bill lists a set of 31 subjects for which inquiry by the Commission is encouraged— including for example, “juvenile justice”, “child welfare”, “homelessness” and “employment”. The Commission is required to meet at least every other month and to submit annual reports on its activities to the Governor, the Legislature and named state agencies. Members are appointed by the Governor (21), by the Senate and Assembly (2), by the Superintendent of Public Instruction (1) and by the Secretary of HHS (1), and an Executive Director is to be appointed by the Governor. No appropriation. ***To the Assembly Committees on Human Services and Accountability and Administrative Review.***

***AB 112 (Holden, D. - Pasadena). MediCal eligibility for incarcerated juveniles.*** This bill is a partial reintroduction of the author’s AB 1994 that was withdrawn from last year’s session. Under current law, MediCal benefits are suspended by operation of law for incarcerated persons including juveniles during the period of incarceration. This bill re-defines the termination of the suspension period as either the end of the period of incarceration or three years (rather than one year under current law), whichever is sooner. Welfare and Institutions Code Section 14011.10 (d) (2) is amended by AB 112 to apply this benefit suspension period adjustment specifically to juveniles, terminating suspension of MediCal benefits for incarcerated juveniles when the juvenile is no longer an inmate of a public institution or three years after the date the juvenile is no longer eligible under federal law, whichever is sooner. ***Not yet assigned to committee.***

***AB 226 (Ramos, D. – Highland). Children’s Crisis Psychiatric Residential Treatment Facilities.*** Current law provides that the Department of Social Services (DSS) may issue a community care facility license to a Short Term Residential Therapeutic program (STRTP) to operate as “childrens crisis psychiatric residential treatment facility”, providing specialized mental health services to children needing intensive residential care. This bill reconfigures the licensing structure for these STRTP facilities by removing them from the DSS licensing category in H&S Section 1502 and creating a stand-alone licensing category with specific program and service criteria within the Department of Health Care Services. Many current program requirements are maintained in this restructuring, including having to provide 24 hour care seven days per week. Other elements—such as the admission criteria, facility capacity limits and license enforcement terms—are altered under the restructuring. The Department is tasked with establishing program standards and procedures for oversight and certification of CCPRTs and with providing guidance to counties on services upon consultation with listed state agencies and stakeholders. ***To the Assembly Committee on Human Services.***

***AB 256 (Kalra, D. – San Jose). Racial Justice Act—retroactivity.*** Last year the Governor signed Mr. Kalra’s far-reaching Racial Justice Act, AB 2542, into law. That measure creates new rights and remedies for Californians who are prosecuted or convicted for crimes based on based on race, ethnicity, or national origin. AB 2542 added Section 745 to the Penal Code, providing that criminal convictions or sentences obtained on the basis of racial discrimination are invalid. Last year’s bill also created a range of remedies for persons whose convictions are based on discriminatory acts. Discriminatory acts include statements indicating bias by counsel, judges or witnesses and documentation that sentences meted out to certain race/ethnic groups are disproportionately severe compared to other groups. The Racial Justice Act applies to both juvenile and adult criminal proceedings. Last year’s bill applied the new law to court judgments that were entered after January 1, 2021. This bill makes the provisions of the Racial Justice Act retroactive by applying them to all cases regardless of when judgment was entered. ***To the Assembly Public Safety Committee.***

***AB 317 (Patterson, R. – Fresno). State foster care ombudsperson.*** Under current law the Department of Social Services houses the State Foster Care Ombudsperson who is appointed by the Director of DSS. This bill removes Foster Care Ombudsman office from DSS and relocates it as an independent office within the Health and Human Services Agency, and it vests the Secretary of HHS with the power to appoint the foster care ombudsperson. ***To the Assembly Human Services Committee.***

***AB 333 (Kamlager, D. – L.A.). Criminal gang offense elements and sentence enhancements.*** AB 333 vastly redefines the elements that make up the offense of participating in a criminal street gang under Penal Code Section 186.22. That code section was significantly expanded in the year 2000 by the voter-approved Proposition 21, and it has been the subject of continuing controversy with regard to disproportionate impact on youth of color. Convictions or juvenile adjudications under PC 186.22 count, not just as current felonies, but also as sentence enhancements in adult proceedings. AB 333 would reduce the PC 186.22 list of crimes that qualify for conviction or adjudication of the gang participation felony offense, eliminating burglary, looting, vandalism, credit card theft and other nonviolent crimes. The bill modifies the “pattern of criminal gang activity” criteria that must be met for conviction by adding that the offenses must have “commonly benefited at least one specifically identified member of the gang other than the person who committed the offenses, and the common benefit from the offenses is more than reputational.*”* It further provides that the currently charged offense shall not be used to establish a pattern of criminal gang activity. The bill also provides that in order to prove a PC 186.22 sentence enhancement, the prosecution must prove that the person knows the person or people responsible for committing the offenses used to establish the pattern of criminal gang activity. *Note: Assembly Member Kamlager becomes Senator Kamlager effective March 11 after winning the Senate seat vacated by Holly Mitchell.* ***To the Assembly Public Safety Committee.***

***AB 366 (Rubio, D. – Baldwin Park). Foster care sexual health education and training.*** This bill adds new requirements for social workers and courts to monitor and confirm that children in foster are receiving mandated sexual and reproductive health education. In these cases, the bill requires the social worker preparing reports for foster care review hearings to verify that the foster youth has received sexual health education as provided in the Education Code for junior, middle or high school students, or to indicate how youth will otherwise receive appropriate sex education prior to the termination of juvenile court jurisdiction. AB 366 requires the report to verify that the social worker has informed foster youth over 10 years of age about the right to access to sexual health information and services including pregnancy prevention. It requires the juvenile court in review hearings to determine that the social worker has met these sexual education reporting obligations. The bill also requires the state Department of Social Services to compile and report annual performance data on implementation of sexual and reproductive health training and education for foster youth (including counts of social worker, probation officer, court, provider and youth compliance with the education and training requirements). The annual reports must also include detailed information on pregnancies, contraception and STDs among foster youth. ***To the Assembly Human Services Committee.***

***AB 503 (Stone- D.- Santa Cruz). Limiting juvenile probation supervision to six months; new criteria for juvenile court orders of probation.*** AB 503 adds Section 602.5 to the Welfare and Institutions Code, providing that a juvenile who is a ward of the court under Sec. 602 cannot be maintained on probation supervision in the community for a period longer than six months. An exception allows extension of the six months maximum probation term, for up to six additional months, where the court finds at a noticed hearing by clear and convincing evidence that extension of the probation supervision period is “in the ward’s best interest”. At a hearing on extension, the probation department must submit a report to the court detailing the basis for any request to extend the probationary period, and the ward’s counsel is given the opportunity to examine witnesses and present evidence. If the court decides to extend probation beyond six months, it must state its reasons on the record. In addition, AB 503 modifies WIC Section 730 by providing that where the court at disposition imposes conditions of probation, the conditions must meet two new criteria as follows: *1) The conditions are individually tailored, developmentally appropriate, and reasonable. (2) The conditions are determined by the court to be fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced.*  Subdivision (b) of Section 730 is also modified to delete the authority of the court to order that the ward “go to work and earn money” to make reparations to others or to support dependents. ***To the Assembly Public Safety Committee.***

***AB 413 (Ting, D. – S.F.). Housing assistance for young adults who are former foster and probation youth; Transitional Housing Placement Plus program; training requirements for child welfare and probation personnel.*** AB 413 would provide funds and programming to support transition housing for young adults (18-24). $8 million is appropriated by the bill to the Department of Housing and Community Development to continue state allocations to child welfare agencies to secure and maintain housing for young adults aged18-24, with priority for serving young adults who were formerly in the state’s foster care or probation systems. The bill also appropriates $5 million to the Department to continue payments to counties for the housing navigator program to help young adults between 18 and 21secure and maintain housing. In addition, the bill would provide supplemental funds for the existing Transitional Housing Plus Program (THPP) that supports independent housing for foster care youth, including probation placed youth, who are dependents or nonminor dependents. Subject to an appropriation in the Budget Act, supplemental THPP payments will be made available to cover higher housing costs in 11 high housing cost counties under payment terms that are detailed in the bill. Finally, the bill amends the Child Welfare Training Program (WIC Sec. 16200 et. seq.) to add a training component for child welfare workers and probation officers described as an “…*overview of the housing resources available through the local coordinated entry system, homeless continuum of care, and county public agencies, including, but not limited to, housing navigation, permanent affordable housing, THP-Plus, and housing choice vouchers; how to access and receive a referral to existing housing resources; and the social worker’s and probation officer’s role in identifying unstable housing situations for youth and referring youth to housing assistance programs.”* ***To the Assembly Committees on Housing & Community Development and Human Services.***

***AB 417 (McCarty, D. - Sacramento). Rising Scholars Network for justice-involved students***. AB 417 states intent to provide and fund postsecondary programs and services in California Community colleges for justice-involved students. A justice involved student is defined as a person who is currently or formerly incarcerated in a California correctional facility or who is currently or formerly detained in a juvenile facility. AB 417 authorizes the California Community College Chancellor to establish programs or agreements with up to 50 community colleges to provide funds for services supporting postsecondary education of justice-involved students. The program is to be known as the Rising Scholars Network. Supported services would include academic counseling, tutoring, financial aid, career counseling and other listed services related to academic engagement and student success. Funding is not appropriated by the bill and would depend on resources to be identified in the state budget or elsewhere. ***To the Assembly Committee on Higher Education.***

***AB 422 (Friedman, D. – Glendale). Juvenile tobacco possession bans by cities and counties***. Current law prohibits the sale or furnishing of tobacco products to a person under the age of 21. This bill would authorize a city or county to adopt an ordinance banning possession of tobacco products, including flavored tobacco, by persons under the age of 21. The bill provides that penalty for violations of the local ordinance is an administrative citation requiring mandatory participation in an antismoking education program. Military personnel over the age of 18 are exempt from the provisions of the bill***. To the Committee on Governmental Organization.***

***AB 549 (Gipson, D. – L.A.). Nonminor dependents—COVID exception.*** Under current law a petition to declare a minor a dependent ward of the court may be denied if the minor will turn 18 years of age prior to the disposition of the petition. This bill amends Section 355 of the Welfare and Institutions Code to provide that, due to the impact of the COVID-19 epidemic, “…. the court is not precluded from finding that the minor is a person described in Section 300 on the sole basis that the minor will turn 18 years of age prior to the disposition of the petition. In these limited cases, the court may find that it is in the person’s best interest to be declared a nonminor dependent.” ***To the Assembly Human Services and Assembly Judiciary Committees.***

***AB 592 (Friedman, D. – Glendale). Supervised transitional housing services.*** Current law establishes the Transitional Housing Plus Program (THPP) which provides transition housing for foster youth, including probation placed youth, in settings that include host homes, apartments, condominiums and other independent settings authorized by the program. Among the THPP program options is “supervised independent living setting”. This bill expands the definition of “supervised independent living setting” to include transitional housing in which a host family lives with the minor or nonminor dependent in a house, apartment or condo that is owned or leased by the host family, with supervision services provided by a licensed THPP provider. The bill provides that the host family may be certified by the THPP provider or may be a resource family approved under other sections of the Welfare and Institutions Code. ***To the Assembly Human Services Committee.***

***AB 610 (Kalra, D. – San Jose). School behaviors, protection from criminalization, spot bill.*** This bill states the intent of the Legislature to prevent criminalization of school-based misbehavior that is best addressed by supportive services, and intent to protect parents and pupils from criminalization by limiting the grounds for which they may be arrested and prosecuted “with respect to public schools and public meetings”. ***Not assigned.***

***AB 624 (Bauer-Kahan- D., Orinda). Appeals of orders transferring juveniles to the jurisdiction of the adult criminal court.*** AB 624 would add Section 801 to the Welfare and Institutions Code, expanding the pathway for appeal of a court order that a juvenile be transferred to the jurisdiction of the adult criminal court. Current law fails to provide a process for direct appellate review of transfer orders. Lacking a statutory pathway for direct appeal, attorneys for youth must seek an appellate review by filing an extraordinary writ in the appeals court. Appellate courts are not required by law to hear these writs on their merits, and the writs are often routinely denied. AB 624 provides that where a writ challenging the transfer decision has been filed with the appellate court in a timely manner and has been denied or otherwise not decided on the merits, the transfer order may be directly appealed and reviewed upon conviction in the adult court. The Judicial Council is required by July 1, 2022 to adopt rules of the court defining the process and timing requirements for implementation of the new appeals procedure. The bill states the intent of the Legislature to ensure that all reasonable efforts are made to ensure review on the merits of orders of transfer to adult jurisdiction and to encourage appellate courts to make timely determinations of writs filed to challenge orders of transfer. The bill if enacted would become effective for transfer orders made after July 1, 2022. ***To the Assembly Public Safety Committee*.**

***AB 740 (McCarty, D. - Sacramento). School suspension or expulsion of foster youth.***  AB 740 modifies the terms and requirements for suspensions or expulsions of foster youth from public schools. Before a foster child, as defined, may be suspended from school or recommended for expulsion, this bill would require the principal of the school or local school superintendent, as well as the foster care educational liaison, to provide notice to the foster child’s attorney and the child welfare education representative who would then have the same rights as a parent or guardian to receive suspension or expulsion documents and to attend suspension and expulsion meetings and conferences. ***To the Assembly Education Committee.***

***AB 808 (Stone, D.- Santa Cruz). Out of state placements, spot bill.*** States the intent of the Legislature to enact legislation “…that ensures every foster youth in California has access to a comprehensive continuum of care that prevents the need for out-of-state placements for foster youth with complex needs.” ***Not yet assigned to committee.***

***AB 892 (Choi, R.- Irvine). Adds PC 647 solicitation of a minor to sex offender registration***. This bill adds a disorderly conduct crime under Penal Code Section 647 to the list of crimes for which convicted adults must register as sex offenders. The added registration crime is PC 647 (b) (3) which is solicitating or engaging in prostitution with a minor. ***To the Assembly Public Safety Committee.***

***AB 1165 (Gipson, D. – L.A.). Ban on chemical agents in juvenile facilities***. AB 1165 is a comprehensive ban on the acquisition, storage and use of chemical agents in California juvenile facilities. The bill lists chemical agents including pepper spray that are subject to the ban. AB 1165 applies the ban to juvenile halls, probation camps, state operated juvenile facilities and to “any other local or state facility used for the confinement of minors or wards”. The bill specifically states that chemical agents as defined “shall not be used inside or on the grounds of a juvenile facility”. Storage of chemical agents is banned “in or on the grounds of a juvenile facility”. The bill states that an entity that “manages, operates or owns” a juvenile facility shall not “purchase, rent, acquire, own or store” a listed chemical agent. The bill further requires all juvenile facilities to dispose of chemical agents in their possession by December 21, 2022 and to so notify the Board of State and Community Corrections. ***To the Assembly Public Safety Committee.***

***AB 1193 (Rubio, D.- Baldwin Park). Crime of solicitation of a minor—adds felony penalty and removes requirement of knowing minor’s age.*** This bill amends Penal Code Section 647 (l) which currently defines the crime of solicitation of a minor (per PC 647 (b)) as a misdemeanor where the person soliciting the minor knew or should have known that the person solicited was a minor at the time of the offense. This bill deletes the qualification that the person knew or should have known that the person was a minor while increasing the penalty from a misdemeanor to a wobbler by adding the option of a state prison sentence of 16 months or two or three years. ***To the Assembly Public Safety Committee.***

***AB 1265 (Rubio, D. – Baldwin Hills). School expulsions, drug rehab programs.*** Spot bill making nonsubstantive changes to Education Code Sec.48916.5 which authorizes the governing board of a school district to require that a pupil, before returning to school after expulsion for substance abuse, must enroll in a county-supported drug rehabilitation program. ***Not assigned.***

***AB 1310 (Wicks, D. – Oakland). Board of Juvenile Hearings spot bill.*** AB 1310 is a spot bill making a nonsubstantive amendment to Welfare and Institutions Code Section 1722 which requires the Board of Juvenile Hearings to promulgate and publish its rules and regulations under the requirements of the Administrative Procedure Act. ***Not assigned.***

**Senate bills**

***SB 53 (Levya, D. – Chino). New sexting crime, civil actions.*** SB 53 creates a new infraction for knowingly sending “an unsolicited image by electronic means depicting a person engaging in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or masturbation or depicting the exposed genitals or anus of any person.” The bill also creates a civil action for the same behavior, providing for recovery of economic and noneconomic damages including damages for emotional distress and punitive damages. The penalty for the infraction is a fine of $500 for a first offense and $1,000 for a subsequent offense. ***To the Senate Judiciary and Public Safety Committees.***

***SB 81 (Skinner, D. – Berkeley). Dismissals of sentence enhancements.*** Under the Penal Code and under ballot initiatives like the “Three Strikes” law, adult sentences may be enhanced with additional prison time if a code enhancement is proven and applied by the sentencing court. Current law also provides that the court may dismiss a sentence enhancement in the interests of justice. This bill would *require* the sentencing court to dismiss an enhancement under listed circumstances unless it can be shown by clear and convincing evidence that the enhancement would endanger public safety, or unless dismissal of the enhancement is prohibited by any initiative statute. Among the eight listed circumstances requiring the court to dismiss the enhancement, unless it meets the endangerment or ballot initiative exception, is that “*The defendant was a juvenile when they committed the current offense or prior offenses*”. Other listed dismissal circumstances include that the current offense is connected to mental health issues or childhood trauma, that the enhancement would result in a disparate racial impact or that the enhancement is based on a conviction more than five years old. Depending on how the measure, if enacted, is applied or interpreted in future court cases, SB 81 could have the effect of eliminating juvenile strikes as sentencing enhancements in adult criminal proceedings. ***In the Senate Public Safety Committee, hearing set for March 16.***

***SB 354 (Skinner, D. – Berkeley). Foster care providers, resources families and relative caregivers: background checks and exemptions.*** Applicants who wish to serve as providers or resource families for foster youth under the state’s Continuum of Care Reform are subject to background checks for criminal convictions and to disqualification if they are found to have committed certain offenses. This bill alters the criteria under which the Department of Social Services is authorized to grant an exemption to an applicant with a listed conviction. Under current law the applicant with a disqualifying offense may be approved by DSS if the department has substantial and convincing evidence to support a reasonable belief that the applicant “is of present good character necessary to justify the granting of an exemption”, and if the offense is on a list of extenuating offenses committed within the last three to five years. This bill deletes the “present good character standard” and instead requires the department to grant the exemption if the applicant “does not pose a substantial risk of abuse or neglect to children” and if the applicant qualifies under a modified set of extenuating offenses—including reductions in the exposure time for a listed offense to last three years (from 5) for a qualifying misdemeanor and the last five years (from 7) for a prior qualifying felony. The bill makes other changes to the DSS exemption evaluation process. It also provides a court process for relative caregivers to apply for and receive exemption from disqualification based on criminal history where the placement is sought under emergency circumstances. ***To the Senate Human Services and Judiciary Committees.***

***SB 383 (Cortese, D. - San Jose). Eligibility for juvenile probation supervision programs, deferred entry of judgment.*** Under current law a minor is eligible for certain programs of probation supervision in lieu of formal processing of a delinquency offense under circumstances listed in WIC Section 654.3. Subdivision (h) of Section 654.3 prohibits a minor from being placed on a program of informal court or probation supervision, in lieu of formal processing, if the minor is charged with a felony offense committed at age 14 or above. In these situations, under current law the court is instead directed to proceed under Section 790 (deferred entry of judgment) or with formal case processing, unless the court determines that it is in the best interests of justice to approve informal supervision under Sections 654 or 654.2. This bill strikes all of subdivision WIC 654.3 (h), in effect removing the current statutory barrier to informal supervision where the minor is over 14 and charged with a felony. SB 383 also amends Section 790 (deferred entry of judgment) with respect to inter-county cases. In this regard the bill provides that where the minor resides in a county other than the county of adjudication, the court in the county of adjudication may make its findings without determining the minor’s eligibility for WIC 790 (deferred entry of judgment), and the county of residence may then upon transfer of the case determine the minor’s eligibility for deferred entry of judgment. ***In the Senate Public Safety Committee, hearing set for March 16.***

***SB 384 (Cortese, D. – San Jose). Family finding efforts by child welfare and probation departments.*** Current law requires child welfare and probation agencies to exercise due diligence and to investigate to locate parents or relatives of any minor who is removed from home in dependency or delinquency proceedings. This bill would, additionally, require all county child welfare and probation departments to create and make public a procedure whereby parents or relatives of removed children can identify themselves for purposes of receiving notices and assisting in the subsequent proceedings. The bill additionally requires county welfare and probation departments to notify the foster care ombudsperson in the state Dept. of Social Services, by January of 2023, regarding its adoption of policies and practices for family finding as recommended in a DSS all-county letter, including the use of a computer-based search engine to connect youth with parents or relatives who may be able to provide support or placement for the minor. ***To the Senate Human Services and Public Safety Committees, first hearing 3/9 in Human Services.***

***SB 472 (Caballero, D. – Salinas). Social innovation grant program.*** This bill would renew the Social Innovation (“Pay for Success”) grant program at the Board of State and Community

Corrections (BSCC), which would otherwise expire at the end of 2021. This grant program was established by 2014 legislation to support three county recidivism reduction projects utilizing an innovative public-private partnership funding model. Under this funding model, startup and operating costs for approved programs are paid by private, nongovernmental investors, which may be private foundations or other funding consortiums adapted to the specific project. The investors are repaid only if the project meets specific performance goals. The drawdown of state grant funds is thus contingent upon the project having met defined performance outcome measures—for example, in relation to caseload service levels or recidivism reduction. As performance goals are met, the private funders are reimbursed under the terms of each “pay for success” contract. Intermediary agencies serve as facilitators between counties, private funders, service providers and state agencies. In the 2014 first round of grants, projects in Alameda, Los Angeles and Ventura counties were funded with at total of $5 million in state recidivism reduction funds. BSCC is the state administering agency for the grant program. This bill would reauthorize and extend the BSCC Social Innovation “Pay for Success” grant program through 2031. Five counties would be selected for “pay for success” grants, contingent upon the appropriation of funds by the Legislature. The primary program goal of recidivism reduction is expanded by the bill to include a project focus on homelessness. ***To the Senate Public Safety Committee.***

***SB 493 (Bradford, D. – Gardena). Juvenile Justice Crime Prevention Act, Juvenile Justice Coordinating Councils.*** SB 493 is a complete overhaul of the state’s Juvenile Justice Crime Prevention Act (JJCPA) and a remake of the Juvenile Justice Coordinating Councils (JJCC’s) that submit JJCPA plans to the state and make local JJCPA spending decisions. The JJCPA, first adopted in 2000, provides counties with funds for juvenile justice crime prevention programs based on local spending plans submitted to the Board of State and Community Corrections (BSCC). Annual statewide funding is in the range of $150 million per year ($159 million for FY 20-21), and funds are distributed to counties based each county’s share of the state youth population. The local JJCPA funding process has drawn criticism in recent years, based on complaints that local JJCC’s have been dominated by probation departments and law enforcement agencies—to the exclusion of mandated community-based agency participation—and that JJCPA funds in some counties have been diverted to augment county probation budgets in lieu of community crime prevention programs. SB 493 responds to these complaints by completely revising the JJCPA funding process outlined in the Government and Welfare and Institutions Codes. The bill recasts the membership of local Juvenile Justice Coordinating Councils by requiring that 50% of members must be nongovernmental “community representatives” including local service providers and formerly justice-involved persons. Mandatory JJCC slots for law enforcement and probation under current law become slots that the county “may” fill with those public members. The current requirement that the JJJC be chaired by the Probation Chief is replaced by a provision that co-chairs—one of whom must be a community representative—will selected by Council members. These changes appear at WIC Section 749.22, which established the local JJCCs in 1996 to administer the now defunct Juvenile Accountability Challenge Grant Program. When the JJCPA was adopted in the year 2000, the JJCCs were also tasked with local administration of JJCPA grants. In addition to reconfiguring JJCC’s, the bill completely revises the county multiagency juvenile justice plans that must be submitted annually by counties to BSCC to qualify for JJCPA funds. As revised by SB 493, the plans must be modeled on a new framework of youth development, collaboration with CBOs and trauma informed care. The plans must also include dedicated funding for community-based organizations and for public agencies that do not represent law enforcement. The bill adds new requirements for annual spending reports that counties must submit by October 1st each year to BSCC—adding for example, a requirement to report “*Data on the total number of youth referred to and receiving services funded under this chapter, disaggregated 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”.* In addition, the bill requires each local JJCC to produce two other local juvenile justice plans: a comprehensive multiagency juvenile justice plan (which resembles but is not the same as the JJCPA plan required by the Government Code) and a “Local Action Plan” to “reduce crime and violence in the greater community” utilizing a “continuum of responses for at-promise youth and youth involved in the justice system”. ***To the Senate Public Safety Committee, hearing date not set.***

***SB 528 (Jones, R. – Santee). DSS foster youth health care portal, psychotropic drugs.*** SB 528 adds Section 16010.1 to the Welfare and Institutions Code, requiring the Department of Social Services (DSS) to create an electronic health care portal that will provide health care providers with access to health information on children in foster care. The health information is to be drawn from the health and education summary contained in the local case plan for each foster youth as described in WIC Section 16010. The health portal must also include completed Judicial Council forms controlling the administration of psychotropic drugs to wards and dependents of the juvenile court. The bill provides that health care providers are to have access to the information contained in the portal “when providing health care services and medical treatment to the child”. ***To the Senate Human Services and Health Committees.***

***SB 641 (Skinner, D. – Berkeley). Juvenile justice reform spot bills.*** This is a spot bill making nonsubstantive amendments to Welfare and Institutions Code Section 602 (juvenile court delinquency jurisdiction) and Section 707 (transfers to adult criminal court). Senator Skinner has indicated her intent to use the bill as a placeholder for larger juvenile justice reform measures that may be pursued in the second year of the two-year session, perhaps incorporating elements of her withdrawn 2020 bill (SB 889) to raise the age of juvenile court jurisdiction. ***Not assigned.***

***SB 796 (Bradford, D. – Gardena). School peace officers.*** Section 38000 of the Education Code permits a local school district to establish a school police department to employ school peace officers to ensure the safety and security of pupils, school personnel and school property. This bill sets new limits on the sharing of information collected by school peace officers. The bill provides that information collected by a school peace officer from a pupil shall not be shared with other law enforcement agencies. It further provides that information collected by a school peace officer shall be only for “the purpose of the pupil’s school records” and that those records may not be shared with other law enforcement agencies without a search warrant. The bill also amends Education Code Section 32282.1 with respect to school safety plans, by requiring that each such plan must include clear guidelines on how and when school administrators refer pupils to law enforcement; on having a school-based diversion program to address minor infractions and to minimize arrests; on protocols for the referral of pupils with mental health problems to mental health professionals in lieu of to law enforcement; and on the training of campus police to respond to pupil mental health needs. ***Not yet assigned to committee.***

**Budget Trailer Bills**

Budget trailer bills (“TBs”) with juvenile and criminal justice provisions are heard in budget committees on an accelerated timeline. They are “first up” in the legislative schedule because they are integral to the adoption of the FY 21-22 state budget. Budget trailer bills are now being heard in budget subcommittees in each house. Three such trailer bills proposed by the Administration (Department of Finance), with impact on juvenile justice and juvenile probation cases, are described below.

***SB 823 Trailer Bill – Closure of the state Division of Juvenile Justice, secure local disposition track for higher needs youth.***  This trailer bill would restore a critical piece of Senate Bill 823 that was removed before enactment last August and earmarked for further legislative review and adoption by March 1, 2021. This is the so-called “secure track” component of SB 823. It would authorize juvenile courts to commit youth adjudicated for serious and violent offenses to a county “secure youth treatment facility”, under new local sentencing criteria. The local secure track is widely acknowledged as necessary to prevent transfers of youth with DJJ-level (WIC 707 b) offenses to adult criminal courts and state prisons. An extensive “framework” for the local secure track was included in SB 823 and has served as a template for further development in negotiations between the Legislature, the Administration and advocacy and stakeholder groups. Earlier this year, the Department of Finance (DOF) posted the Administration’s TB version of secure track. That version is now outdated and will be supplanted by a modified version resulting from extended discussions between affected agencies and interest groups. There is a compelling need to enact the secure track disposition soon, because counties, courts, attorneys and others need to have it in place as a dispositional option to transfers to adult courts before the shutdown of DJJ intake on June 30th. Below we summarize key components of the secure track disposition that are likely to be included in the legislation when finally adopted:

* Youth eligible for commitment: WIC 707 (b) adjudicated youth 14 or older who also meet “amenability” criteria specified in the bill and determined by the court— for example, that the available programming will meet the youth’s needs and that no less restrictive disposition is suitable in the case.
* Baseline terms. Youth committed to the local secure track will be assigned baseline terms of confinement drawn from the DJJ sentencing categories currently in use. These are offense based terms of years that must be served by a youth until eligible for discharge. The DJJ categories will be applied on a temporary basis until the Judicial Council (in 2023) adopts a matrix of sentence lengths and terms for youth committed to the local secure track. All secure track commitments are subject to maximum confinement time limits (generally, age 23 or 25 depending on the offense, and not to exceed the adult middle term).
* Individual rehabilitation plans. Each youth committed to the local secure youth treatment facility must have a court-approved individual rehabilitation plan submitted by the probation department and/or by other agencies and individuals which may include a local multi-disciplinary team.
* Review hearings, less restrictive programs: The court must hold a review hearing every six months to assess the youth’s progress in in relation to the rehabilitation plan. At the hearing the court may sustain or may reduce the baseline term in the secure youth treatment facility or may order that the youth be transferred to a less restrictive under terms defined in the trailer bill.
* Secure Youth Treatment Facilities—may be juvenile halls, camps or ranches or other county facilities designated as “secure youth treatment facilities” and subject to state minimum standards to be adopted by the Board of State and Community Corrections and the HHS Office of Youth and Community Restoration.
* Programming—must be consistent with the individual rehabilitation plan approved by the court. Commitments to secure track also require a court finding that the programming, treatment and education in the facility are appropriate to meet the treatment and security needs of the youth.

Some terms of the secure track TB are still under review, though differences between the Administration and Legislative versions are expected to be resolved soon, so that this indispensable component of DJJ realignment can be enacted prior to intake closure at DJJ at the end of June.

***General SB 823 cleanup trailer bill.*** The Administration has posted an additional SB 823 “cleanup” trailer bill on the DOF website. While most of the SB 823 amendments in this TB are technical and non-controversial, some provisions of this TB are still under review and this will result in an amended version prior to final adoption. Notable in the Administration’s version are the following;

* DJJ final closure date. A final shutdown date for DJJ (not included in SB 823) is now identified in this TB. Per the Administration, DJJ will close all facilities and discharge all remaining wards to counties by July 1, 2023. The Director of DJJ is tasked with producing a plan for the transfer of jurisdiction of youth who are still confined in DJJ at or near the final closure date.
* Detention in county juvenile facilities. The Administration’s SB 823 “cleanup” bill further amends WIC Section 208.5 controlling transfers of detained juveniles from county juvenile facilities to county jails upon reaching the age of majority. SB 823 changed this detention law by requiring that detained youth remain in a county juvenile facility up to age 25 (in lieu of transfer to an adult jail) unless, at age 19 or later, the juvenile court has approved a probation department request to transfer the youth to jail based on criteria listed in the bill. The Administration trailer bill changed the “stay in juvenile” facility provisions of SB 823 by limiting its application only to “adjudicated” juveniles. Subsequent negotiations with the Administration have led to new agreement to restore the WIC 208.5 language as originally enacted in SB 823.
* Probation access to block grant funds. As drafted, SB 823 banned access to Realignment Block Grant funds by a “local public agency that has primary responsibility for prosecuting or making arrests or detentions”. This unintentionally appeared to exclude probation from participation in realignment block grant funds. The SB 823 language is modified in the trailer bill to allow probation access to these funds.

***Federal Family First Prevention Services Act (FFPSA) Implementation trailer bill-- Changes affecting probation placements in STRTPs.*** This Administration trailer bill is intended to conform California foster care law with the requirements of the federal FFPSA. This trailer bill revises licensing criteria, placement procedure and some program content for California Short Term Residential Therapeutic Programs (“STRTP’s”) that have replaced traditional children’s group homes under the state’s Continuum of Care Reform (CCR). This massive (89 page) revision of foster care law is highly technical in nature, amending multiple provisions of the Health and Safety and Welfare and Institutions Codes. The TB does add some new content for STRTP placements—for example, by augmenting program requirements for access to nursing care and aftercare and by adjusting court placement review hearing procedure. Under CCR in California, statewide placements of probation youth in group care facilities, including STRTPs, have dwindled in recent years, dropping from a daily count of about 2,500 probation youth in group care facilities in 2010 to just over 600 probation youth in group care facilities in 2020. The thrust of California’s CCR foster care initiative has been to divert foster youth, including probation placed youth, from extended stays in congregate care facilities to either short term facilities providing intensive treatment (STRTPs) or to family based placements. This trailer bill ensures that placements in STRTPs will conform to federal placement law while sustaining federal financial participation. It is too early to tell whether the new compliance terms for STRTPs in the trailer bill will have a suppression impact, reducing future placements of probation youth in California STRTPs. The Administration TB is the result of a coordinated effort involving the state Department of Social Services and multiple stakeholder organizations including representatives of STRTPs. ◼