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**JUVENILE JUSTICE AND
RELATED YOUTH PROGRAM BILLS**
in the 2021 Session of the California Legislature

June 14, 2021

Youth justice bills introduced in the 2021 session of the California Legislature—follow up reports

Summary of local "secure track" provisions added to DJJ realignment law by SB 92

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. It covers amendments and committee status of tracked bills current through June 11th. June 4th was the last day for bills to pass the house of origin. Bills missing this deadline will stay on hold as "two year bills" for hearings that can resume next year.

In May, the Governor signed SB 92, the budget trailer bill that modifies last year's DJJ closure legislation (SB 823) by establishing a local secure track for commitments of youth with DJJ-level offenses to county secure facilities. Creation of the local secure track has been widely viewed as indispensable to avoid transfers of youth at DJJ offense levels to adult courts and state prisons. SB 92 makes the local secure track effective on July 1st, the same day that general intake at the Division of Juvenile Justice will close. A summary of SB 92, including additional amendments to SB 823, is included at the end of this report. Negotiations between lawmakers and the Administration continue on the topic of funding and staffing levels for the new Office of Youth and Community Restoration (OYCR) that will open on July 1 to manage and oversee critical elements of DJJ realignment.

Floor votes cited in the bill reports below are in the order of "aye-no-not voting". 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 46 (Rivas, D. - Arleta). California Youth Empowerment Act. This bill would establish a 25 member state Youth Empowerment Commission of 14-25 year olds. The 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. March amendments would permit meetings of the Commission to take place remotely without having to post agendas and allow public access at a youth commissioner’s home, school or other location. No appropriation. ***Passed the Assembly (73-0-6). To the Senate for committee assignment.***

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 last year. 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. ***Held in the Assembly Appropriations Committee, two year bill.***

AB 226 (Ramos, D. – Highland). Children’s Crisis Psychiatric Residential Treatment Facilities. As introduced, AB 226 permitted a Short Term Residential Therapeutic program (STRTP) to operate as a “childrens crisis psychiatric residential treatment facility”, providing specialized mental health services to children and youth (up to age 21) needing intensive residential psychiatric care. Changes in the licensing and service structure of children’s psychiatric facilities were designed to expand the availability of these services statewide while ensuring federal cost participation under Medicaid. In March the bill was significantly amended to de-link these children’s residential psychiatric facilities from STRTP’s. As amended, AB 226 moves licensing of these reconfigured facilities from DSS to the state Department of Health Care Services. The bill sets out specific licensing, mental health service and certification requirements including a requirement that the facilities be staffed to accept children 24 hours a day/ 7 days a week and that they must operate 365 days per year. The bill requires the Department of Health Care Services to consult with other state agencies and county stakeholder organizations to establish program standards and oversight procedures for children’s crisis psychiatric residential treatment facilities. The Department is also tasked with working with DSS and local stakeholders to provide guidance to counties for enactment of the bill’s provisions. An April amendment requires the new facilities to conform to federal regulations for psychiatric residential treatment facilities including staffing levels. ***Passed the Assembly 79-0-0. To the Senate Committees on Health and 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 establishing a timeline of adult and juvenile judgments for which retroactivity would apply. Juvenile commitments to the state Division of Juvenile Justice made prior to 1/1/21 would be covered retroactively beginning 1/1/22 by the Racial Justice Act, as would all pre-2021 adult cases involving a death sentence or commitment to state prison or county jail for a listed violent felony. Starting in 2023, the RJA would apply retroactively to any felony conviction or juvenile disposition occurring after January 1, 2023. In January of 2025, the RJA would apply under the bill to any felony conviction or juvenile disposition regardless of when it occurred. ***Passed the Assembly 45-21-13, to the Senate 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. As revised on April 18th, the bill provides that the ombudsperson is to be appointed by the Secretary of the Health and Human Services Agency rather than by the DSS Director. The bill also provides that the ombudsperson “shall be independent and, in exercising discretion, shall not be directly or indirectly controlled, supervised or directed” by the director of DSS. ***Passed the Assembly 77-0-1. In the Senate 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 also modifies the “pattern of criminal gang activity” criteria that must be met for conviction by adding that the offenses must have commonly benefited the criminal gang as redefined. It further provides that where a gang enhancement is alleged, the trial (if requested by the defense) is to proceed in two phases beginning with determining the defendant’s guilt on the underlying offense and, if guilt is established, then determining the truth of the alleged enhancements. The bill makes other changes to the gang enhancement law. Intent language in the bill cites the disproportionate impact of gang enhancements on youth of color and other negative effects. *Note: Assembly Member Kamlager became Senator Kamlager in March winning the Senate seat vacated by Holly Mitchell.* ***Passed the Assembly 43-27-9. To the Senate for committee assignment.***

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 care 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 court report to verify that the social worker has informed foster youth (age 10 and up) of 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. March amendments require the Judicial Council to adopt forms necessary to implement the provisions of the bill. ***Passed the Assembly 79-0-0. To the Senate Human Services and Judiciary Committees.***

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 aged 18-24, 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 21 secure 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." March amendments require county welfare departments receiving more than \$10,000 to report specific client service data to the Dept. of Housing and Community Development. ***Held in the Assembly Appropriations Committee, two year bill.***

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 identified in the state budget or elsewhere. ***Passed the Assembly 78-0-0. To the Senate Education Committee.***

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. Bill not moved.***

AB 503 (Stone- D.- Santa Cruz). Time limits on juvenile probation supervision, and new criteria for juvenile court orders of probation. AB 503 adds Section 602.05 to the Welfare and Institutions Code, providing that a juvenile who is a ward of the court under Sec. 602 cannot be placed 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. Non-fiscal bill. Sponsor National Center for Youth Law indicates that further amendments are pending. ***Passed the Assembly 41-22-16. To the Senate Public Safety Committee for hearing on 6/29.***

AB 549 (Gipson, D. – L.A.). Nonminor dependents—COVID delays. 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 358 of the Welfare and Institutions Code to provide that where a disposition hearing under Section 355 has been delayed due to COVID-19 court closures and the youth remains in detention past age 18, the court may (until January 1, 2023) hold a disposition hearing and may find that it is in the youth’s best interest to be declared a nonminor dependent. The bill also modifies Section 358 to provide that if the court terminates dependency jurisdiction under defined circumstances, the court shall retain general jurisdiction pursuant to Section 303. The bill requires the Judicial Council to report data on the number of cases impacted by the bill to the Senate and Assembly Human Services and Judiciary Committees. ***Held in the Assembly Appropriations Committee, two year bill.***

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 a host family serving minors shall be certified by the THPP provider, and that a host family serving nonminor dependents shall be certified by the THPP provider or may be a resource family approved under other sections of the Welfare and Institutions Code. ***Passed the Assembly 76-0-2, to the Senate Human Services Committee.***

AB 610 (Kalra, D. – San Jose). Decriminalization of school behaviors. AB 610 deletes or modifies Education Code sections that currently criminalize certain student conduct. The bill repeals Ed. Code 32210 which creates a misdemeanor for disturbing any public school or school meeting. The bill deletes Ed. Code Sec. 44014 which now requires any school employee who has been assaulted or threatened by a pupil to report the incident to law enforcement, with a misdemeanor penalty for failure to report. The bill deletes Ed. Code Section 48902 which presently requires the school principal to report student acts in violation of Penal Code Section 245 (aggravated assault) to law enforcement prior to suspension or expulsion of the pupil. The bill deletes Ed., Code Section 48902 (a) which presently requires the school principal to notify law enforcement of any act of a pupil involving

possession of illegal drugs or of weapons excluding listed projectile weapons, razor blades or box cutters. ***In the Assembly Education Committee. Not moved, two year bill.***

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, creating a new pathway for appeal of a court order transferring a juvenile to the jurisdiction of the adult criminal court. Current law fails to provide a process for direct appellate review of transfer orders. Lacking such a process, 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. As amended in April, AB 624 provides that any order of transfer to adult court shall be subject to immediate appellate review if a notice of appeal is filed within 30 days of the juvenile court transfer order. It further provides that, on request of the minor, the superior court must stay criminal court proceedings until there is an appeals court ruling on the appeal. The bill requires the juvenile court to advise the minor of the right to an appeal and further provides that any such appeal shall “have precedence” in the appellate court and “shall be determined as soon as practicable after the notice of appeal is filed”. ***Passed the Assembly 77-0-1, to the Senate Public Safety Committee.***

AB 740 (McCarty, D. - Sacramento). School suspension or expulsion of foster youth. As substantially amended on April 8, AB 740 modifies the Education Code at multiple points to require that school notices of suspensions, expulsions, transfers and other actions taken against a foster child be provided to the foster child’s attorney and to the social worker in the case. The bill provides that the foster child’s attorney and county social worker shall have the same rights as a parent or guardian to receive a notice of suspension, expulsion, transfers and other documentation. Where a foster child pupil is suspended without a pre-suspension conference, the bill requires school personnel to make a reasonable effort to notify the child’s attorney and social worker of the suspension and of the right to attend a conference regarding the suspension and the child’s return to school. AB 740 makes other, related changes in notice and procedures affecting suspensions or expulsions of foster children. ***In the Assembly Education Committee. Not moved, two year bill.***

AB 808 (Stone, D.- Santa Cruz). Children’s Crisis Continuum Pilot Program. This bill started as a spot bill by Assembly Member Mark Stone—the Legislature’s leading author of children’s group care reforms. As introduced the bill pledged to ensure that “...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.” As now amended, AB 808 lays out a highly structured California pilot program to serve youth with mental health and related “high needs” in lieu of sending them to out of state facilities. AB 808 requires the Department of Social Services (DSS) – in collaboration with the Department of Health Care Services and named stakeholder organizations—to establish a Children’s Crisis Continuum Pilot Program for the “...purpose of developing treatment options that are needed to support California’s commitment to eliminate the placement of foster youth with complex needs in out-of-state facilities.” DSS is charged with awarding competitive grants for county-based “continuum of care” pilots for high needs foster youth including probation-placed youth. These pilots must have discrete components including: a crisis stabilization unit to provide crisis intervention in the first 24 hours; a crisis residential program serving not more than four youth at a time (which may include a Short Term Residential Therapeutic Program); psychiatric health facility providing inpatient treatment in a secure setting; and intensive in-home and community based support services as further defined in the bill. AB 808 includes specific service directives for participating programs, including single-occupancy rooms (unless contraindicated) and criteria for inter-agency coordination of services. Launch of the pilot depends

on an appropriation of state funds through the budget process. By April of 2025, DSS is required to submit a report on pilot program outcomes to designated committees of the Legislature. ***Passed the Assembly 79-0-0, to the Senate Committees on Human Services and Health.***

AB 892 (Choi, R.- Irvine). Adds PC 647 solicitation of a minor to sex offender registration. This bill adds a disorderly conduct offense under Penal Code Section 647 to the list of crimes for which convicted adults must register as sex offenders. Prior to March amendment, the added registration crime was PC 647 (b) (3) which is soliciting or engaging in prostitution with a minor. The reference to PC 647 (b) (3) was deleted by March amendment. Instead, the bill now adds a violation of PC 647 (l) to the registration list. PC 647 (l) establishes misdemeanor penalties for violations of subdivision (b) (prostitution related offenses) where the person knew or should have known that the victim was a minor; the application of this newly added PC 647 subdivision to the registration requirements of PC Section 290 will be a matter requiring some degree of analysis and interpretation. ***Failed passage in the Assembly Public Safety Committee on 4/13.***

AB 1127 (Santiago, D. – L.A. and Quirk, D. – Hayward). Elimination of juvenile strikes. Under current law, juvenile court adjudications on certain serious or violent offenses count as strikes for the enhancement of adult sentences under California’s “Three Strikes Law”. This bill would eliminate juvenile strikes entirely by stating that “A prior juvenile adjudication does not constitute a serious or violent felony conviction” for sentence enhancement purposes. The bill also provides that a person whose sentence was enhanced due to prior juvenile felony adjudication can petition the Superior Court to have a prior enhancement vacated and to be resentenced on any remaining counts or enhancements. The court must review the petition for relief to determine if a prima facie case has been made for relief, and if it so determines, the court must within 60 days hold a hearing to determine whether to recall the sentence and resentence the petitioner on the underlying (non-enhanced) adult conviction. The bill’s prime sponsor is the Los Angeles County District Attorney’s office (George Gascon). ***The bill has been placed on the inactive file by the author due to committee rules limiting the number of bills. Two year bill.***

AB 1165 (Gipson, D. – L.A.). Ban on chemical agents in juvenile facilities, juvenile facility staffing ratios. AB 1165 imposes an immediate ban on the use, purchase and storage of chemical agents—except for OC (pepper) spray—by any entity that “manages, operates or owns a juvenile facility”. As defined in the bill, juvenile facilities include juvenile halls, probation camps, state operated juvenile facilities and to “any other local or state facility used for the confinement of minors or wards”. In May the bill was amended to permit the continued use of OC/pepper spray in juvenile facilities until July 1, 2023, after which no chemical agent (as defined) can be used “against a juvenile who is under 18 years of age or in any space where a juvenile under 18 years of age is confined”. As amended the bill also requires the custodian of each juvenile facility to file detailed quarterly reports, starting in July 2023, with the Board of State and Community Corrections on the use of any chemical agent in a juvenile facility; presumably, such use after 7/1/23 would be illegal or would be limited to situations not involving exposure to any person under age 18. The bill further requires all juvenile facilities to dispose of chemical agents (except OC spray) in their possession by December 21, 2022 and to so notify the Board of State and Community Corrections. Additionally, May amendments add a new Section 208.6 to the Welfare and Institutions Code, mandating staffing levels in juvenile facilities that comply with federal regulations under the Prison Rape Elimination Act (PREA). Specifically, the bill would require staffing ratios in juvenile facilities to be one staff for every 16 youth during sleeping hours and one staff for every 8 youth during awake hours. ***Held in the Assembly Appropriations Committee, two year bill.***

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. ***In the Assembly Public Safety Committee. Not moved, two year bill.***

AB 1265 (Rubio, D. – Baldwin Park). School suspensions. As now amended, AB 1265 imposes a ban on suspension of any pupil in grades 1 through 3 unless the pupil is suspended for a single day or is suspended for weapons or drug acts specified in Education Code Section 48915 (c). The bill also bans suspensions of pupils in grades 4 through 12 where a diagnostic assessment indicates the pupil is below grade level performance in English language or literacy, unless the suspension is day-only suspension or is due to one of the behaviors enumerated in Ed. Code Section 48915 (c). ***In the Assembly Education Committee. Not moved, two year bill.***

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, not moved.***

Senate bills

SB 53 (Levy, D. – Chino). New sexting offense, 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 provides that an image is unsolicited “if the recipient has expressly notified the sender that its transmittal is forbidden”. The penalty for the infraction is a fine of \$250 for a first offense and \$500 for a subsequent offense. As amended, the bill provides that a person under 18 years of age shall be given a written warning for a first violation and that any subsequent violation is an infraction punishable by a fine not to exceed \$250. 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. ***Moved to the inactive file by the author, two year bill.***

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 where dismissal is “in the furtherance of justice”. As amended in March, the bill creates a presumption that dismissal of the enhancement is in the furtherance of justice where the court finds that that any of nine enumerated circumstances listed in the bill are true. This presumption can only be overcome by a showing of clear and convincing evidence that dismissal of the enhancement would endanger public safety. In addition, the court cannot dismiss the enhancement if dismissal is prohibited by any initiative statute. Among the 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 illness 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. April amendments add definitions of mental illness and childhood trauma for purposes of applying the bill. ***Passed the Senate 27-9-4, to the Assembly Public Safety Committee.***

SB 354 (Skinner, D. – Berkeley). Foster care providers, resource families and relative caregivers: background checks and exemptions. Applicants who wish to serve as caregivers 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. As completely redrafted in March, SB 354 amends multiple sections of the Health and Safety and Welfare and Institutions codes to expand the authority of the Dept. of Social Services (DSS) and county agencies and courts to exempt certain resource, relative and non-relative caregiver candidates from disqualification based on their criminal history, where the placement is determined to be one that does not pose a risk to the health and safety of the child and the relatives, family members and other adults living in the home have not had a felony conviction within the last five years for child abuse and other listed offenses. The bill requires the Child Welfare Council within the Health and Human Services Agency to submit a report to the Legislature by 1/1/23 on the number of resource family applicants whose applications were denied based on criminal history. Technical changes are made to multiple code sections affecting the crime histories and qualification of foster caregivers in different types of placement situations. This is a long and complex set of revisions to placement law, and interested readers are advised to consult the full text of the amended bill for details on the proposed changes. ***Passed the Senate 38-0-2. To the Assembly Committees on Human Services and Judiciary.***

SB 383 (Cortese, D. - San Jose). Eligibility for juvenile probation supervision programs, deferred entry of judgment. Under current law a minor is ineligible for certain programs of probation supervision in lieu of formal processing of a delinquency offense, under circumstances enumerated in Welfare and Institutions Code Section 654.3. Specifically, if a minor meets one of these enumerated criteria, the minor cannot be placed on WIC 654 (probation supervision) or WIC 654.2 (court ordered supervision) and instead the case is directed to proceed under Section 790 (deferred entry of judgment), unless the court determines that it is in the best interests of justice to approve informal supervision under Sections 654 or 654.2. As amended, the bill removes two of the WIC 654.3 supervision ineligibility criteria—including subdivision (b) relating to minors alleged to have sold or possessed controlled drugs and subdivision (h) relating to minors charged with a felony offense committed at or above the age of 14. Youth fitting these descriptions would become newly eligible for informal probation or court supervision under the terms of the bill. 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. Additionally, as amended the bill deletes an obsolete reference in Section 791 (a) (6) that presently requires the prosecutor to inform a minor in the deferred entry program that failure to comply with the program requirements may result in transfer of the minor to the adult criminal court. Two thirds vote required as an amendment to Proposition 21. ***Passed the Senate 32-6-2, in the Assembly Public Safety Committee.***

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. ***Passed the Senate 37-0-3, to the Assembly Human Services Committee.***

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 a total of \$5 million in state recidivism reduction funds. BSCC is the state administering agency for the grant program. This bill would, starting July of 2022, 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. ***Passed the Senate 39-0-1, to the Assembly 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 on 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. A March amendment requires that 95% of all JJCPA state funds be allocated to community-based agencies or to public agencies that are not law

enforcement. The bill recasts the membership of local Juvenile Justice Coordinating Councils—responsible for local allocations of county funds—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 JJCC be chaired by the Probation Chief is replaced by a provision that co-chairs—one of whom must be a community representative—will be 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 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-risk youth and youth involved in the justice system”. ***Held in the Senate Appropriations Committee, two year bill.***

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 (or to use an existing 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”. As amended in April and May, the bill tasks foster care public health nurses with updating the foster child’s information on the portal while also making the measure contingent upon a state budget appropriation. ***Passed the Senate 37-1-2, to the Assembly Human Services & Health Committees.***

SB 641 (Skinner, D. – Berkeley). Juvenile justice reform spot bill. This is a spot bill making nonsubstantive amendments to Welfare and Institutions Code Section 602 (juvenile delinquency jurisdiction) and Section 707 (transfers to 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, two year bill.***

Budget Trailer Bills

Note: Budget trailer bills are processed and adopted separately from the Budget Act that must be approved by the Legislature by June 15th and enacted (signed by the Governor) by July 1st. Several budget trailer bills (“TBs”) affecting the juvenile justice system have been introduced and—except for SB 92 covered immediately below—remain pending in the Legislature for amendment or adoption after enactment of the Budget Act. Key juvenile justice TBs include the following:

SB 92 (Senate Budget Committee). Closure of the state Division of Juvenile Justice, secure local disposition track for higher needs youth and technical cleanup of SB 823. Signed into law by the Governor on May 14, 2021.

This budget trailer bill was moved as an “early action” budget measure to swiftly resolve issues remaining open in the wake of last year’s adoption of Senate Bill 823 closing the state Division of Juvenile Justice (DJJ). Under SB 823, intake at DJJ will close for most youth on June 30. Thereafter, counties become fully responsible for local custody and care of youth who can no longer be sent to state youth prisons. SB 92 covers two critical and time-sensitive needs related to SB 823. First among these is the restoration of the “secure track” component of DJJ realignment that was cut out of SB 823 and deferred for resolution in 2021 (see A. below). In addition, SB 92 addresses the need for cleanup and technical amendments SB 823 (see B. below). These open issues were actively negotiated by the Legislature, the Administration and stakeholders (counties, probation, judges, advocacy orgs) between January and April this year. With agreements finally in place, the Governor signed SB 92 into law on May 14. The bill is effectively immediately though many of its provisions have staggered start dates. Here is a brief summary:

A. “Secure track” for realigned DJJ youth in local facilities and programs. SB 92 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 compelled by the need to establish a local juvenile justice disposition that will serve as an alternative to transfers of youth at higher offense levels to adult courts and state prisons. Extensive negotiations and agreements over the last several months—involving the Governor’s Office, legislative leaders, advocacy organizations and county stakeholders—have been incorporated into the secure track proposal that is now contained in SB 92. Below we summarize key features of the secure track disposition that are expected to be in the bill when finally enacted.

- **Youth eligible for secure track 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

in collaboration with other agencies and individuals and which may include the involvement of 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 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 with the concurrence of 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.

B. SB 823 cleanup and technical amendments. SB 92 includes significant technical amendments and corrections to SB 823. Many of these amendments were offered in an initial cleanup TB that was posted in February by the Dept. of Finance on behalf of the Administration—but the Administration cleanup TB has been altered in significant respects in subsequent negotiations. Notable provisions that are included now in SB 92 include the following:

- DJJ final closure date. A final shutdown date for DJJ (not included in SB 823) is now identified in this TB. 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. WIC Section 208.5 controls the place of county detention for juveniles 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 restored 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 phrasing unintentionally appeared to exclude probation departments from participation in realignment block grant funds. In SB 92, this phrasing is modified to allow probation access to these funds.

OTHER TRAILER BILLS *with juvenile justice provisions will be acted on after the Budget Act is adopted. These include trailer bills listed by the Administration on the Department of Finance website and other trailer bill language currently under development within the legislature. Notable and pending TBs proposed by the Governor are:*

RN 21 13434. Pine Grove Conservation Camp to remain open. SB 823 included intent language pledging to keep the DJJ Pine Grove firefighting camp open to train justice-involved youth in wildland firefighting and as a pipeline to employment for DJJ youth. This Administration TB would amend WIC Section 730 by authorizing the juvenile court to order a direct placement of a 602 ward in the still-open Pine Grove Camp if the ward meets placement criteria, the county has a contract with DJJ for this purpose, and DJJ finds that the ward is amenable to the program and that there is

available space in the program. As yet there are no additional criteria in the bill controlling length of stay in the camp, nor is there specificity on how the final closure of DJJ in 2023 would impact the terms of commitment described in the trailer bill. The Governor's commitment to keeping Pine Grove open was also included in his May Budget Revision.

RN 21 136751. Sex Offender Management Board (SOMB), adding juvenile justice members. The SOMB within the Dept. of Corrections and Rehabilitation has a range of functions related to the treatment and management of adult and juvenile sex offenders, including juveniles subject to mandatory sex offender registration. Among its duties SOMB promulgates certification standards for California sex offender treatment programs. In 2019, the Board issued a report entitled "Juvenile Recommendations" citing low recidivism rates and other differences between juvenile and adult sex offenders. The report recommended creation of a new collaborative model of treatment and supervision for juveniles with sex offenses and, importantly, it called for an end to mandatory sex offender registration for juveniles. This trailer bill would add two juvenile justice representatives to the SOMB Board, including the Executive Director of the new Office of Youth and Community Restoration (OYCR, established by SB 823) and a licensed mental health professional with experience in juvenile sex offender treatment to be appointed by the Speaker of the Assembly. The bill also requires SOMB, by July 2022, to develop and update standards to certify management programs and treatment providers for juvenile sex offenders, with the additional requirement that "programs for individuals who were adjudicated by the juvenile court for a sex offense shall be provided only by professionals certified by the board."

RN 21 14350. 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. ■

Bill digests by David Steinhart, Director of the Commonweal Juvenile Justice Program. Copies of this report can be accessed on the Commonweal JJ Program website at: www.comji.org