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The Juvenile Justice Program
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Governor's proposed FY 2018-19 budget seeks changes at the Division of Juvenile Justice

On January 10, California Governor Jerry Brown presented his FY 2018-19 proposed Budget. The Governor proposes $132 billion in state General Fund spending. This budget cycle begins with a welcome, projected surplus—generated by capital gains taxes and by prepayments of tax to secure deductions disappearing next year under federal tax reform. The bulk of the estimated $6 billion surplus would be deposited in the state's "rainy day fund" to guard against revenue declines and future emergencies. In his press conference, the Governor cited a number of "unknowns" affecting California's financial picture, including the impact of federal tax reform and shifting federal policy on healthcare.

In the public safety arena, the Governor's budget unveils two new proposals under the heading "Juvenile Justice Reform". Both relate to the state's Division of Juvenile Justice (DJJ). Each proposal raises a series of questions about the how it will be implemented and about the ultimate impact on sentenced youth. Here's what the Governor wants:

Governor's FY 2018-19 Budget-- Division of Juvenile Justice reforms

A. Raise the maximum age of DJJ jurisdiction (incarceration time) from age 23 to age 25.

This suggested change arises from concern that due to Proposition 57 (ending prosecutorial direct file on juveniles in adult criminal court), more confinement time in DJJ is necessary to encourage courts and prosecutors to retain juvenile jurisdiction in transfer hearings, rather than moving the case to adult criminal court. This concern is verified by reports from defense counsel that juveniles in transfer hearings for more serious offenses are being moved to the adult system because, in the view of prosecutors and judges, there is not enough confinement time available in a juvenile system where DJJ time is capped at age 23. For example, a juvenile charged at age 17 with a homicide or other violent offense would, under current law, have only six years of available confinement time in DJJ. Under the Governor's proposal, that available DJJ confinement time would rise to 8 years.

While an increase in DJJ available confinement time may give defenders a boost in seeking to retain juvenile jurisdiction, there is concern that the Governor's age 25 proposal may yet need some trimming. An across-the-board DJJ max term increase could expose lesser offenders in DJJ to unnecessarily long terms of confinement. This issue will undoubtedly be addressed as the proposal is reviewed by legislative budget committees.

Historically, the age 23 age cutoff for DJJ custody is a relatively recent development. In 2012, maximum custody time at DJJ was lowered to age 23 from age 25. This was in part a legislative compromise following the Governor's proposed full closure of the state youth correctional division in 2011 and 2012. Full closure was strenuously opposed by probation and other county stakeholders who expressed fear they could not handle more serious and violent juvenile offenders in local settings. The compromise at the time was to curtail DJJ caseloads by dropping the DJJ maximum age to 23, while also banning "time adds" to DJJ sentences for disciplinary violations. But now that Proposition 57 has entered the picture, there is renewed interest in restoring age 25 jurisdiction as a transfer-hearing incentive to retain more cases in the rehabilitative juvenile system.

B. Young Adult Offender Pilot Program—shifting young adults into DJJ

The Governor's other "juvenile justice reform" proposal is a pilot program that would create two special DJJ pods to house adult offenders age 18-21 in lieu of keeping them in state prison. In support, the Governor cites "brain development research" and research indicating that offenders housed in juvenile facilities have lower recidivism rates than offenders at the same ages who go to adult prisons. The outlines of the proposed pilot program are somewhat vague, perhaps intentionally so at this point. The Governor's proposal says only that the pilot program would "divert a limited number of young adult offenders who have committed specified crimes from adult prison to a juvenile facility", and that the goal is to provide these youth with the benefit of rehabilitative programming while avoiding the "adult prison environment, especially gang activity". $3.8 million in general funds is earmarked by the Governor to support two DJJ housing units for the pilot.

Since the Governor has included the proposal in his January Budget, the Young Adult Offender Pilot program will be evaluated though the budget process (rather than via a separate piece of legislation that would go through policy committees in the Legislature). Budget committees will need to address several questions regarding the scope and implementation of the plan, including:

- Who are the young adults that will be selected for transfer to DJJ? Will they be limited to those whose adult sentences can be completed by age 25? If not, will they go back to prison after spending some "rehab" time in DJJ? (The Governor indicates that "criteria for placement" in the pilot will be developed later by CDCR).
- Who selects program participants—CDCR? Courts? If it's a court process, does that suggest some net-widening potential for transferring youth to the adult system in the hope or expectation that they will end up in DJJ rather than in state prison?
- What's the nature of the special programming they will receive?
- What outcome measures will be linked to the pilot to measure the success or failure of the program?
- Are there alternative approaches that would accomplish the same goal—for example, allowing courts greater discretion to make direct commitments to the

Division of Juvenile Justice than under current law, or expanding the current SB 1004 five-county pilot program that now allows some adult offenders age 18-21 to serve time in a county juvenile facility rather than in a county jail?

Budget sub-committees begin meeting in February to evaluate all of the Governor's proposed expenditures, in advance of the June 15 deadline for final legislative approval of the Budget Act to be transmitted to the Governor.

Governor's budget: other state-local youth justice grant programs

The **Youthful Offender Block Grant (YOBG)** program, which pays counties to house and supervise juvenile offenders who were realigned to counties from the state DJJ back in 2007, is proposed at an FY 2018-19 level of $155 million with a growth account additional factor of $10 million. That's a YOBG increase of approximately $10 million over last year. The **Juvenile Re Entry Grant program** (which pays county probation departments to supervise youth on release from DJJ) is proposed for refunding in FY 2018-19 at $9 million. The **Juvenile Justice Crime Prevention Act (JJCPA)** will continue at a statewide funding level of $ 162 million ($107 million baseline plus $54 million growth factor).

Left out of the Governor's proposed budget this year is an appropriation for the **California Violence Intervention and Prevention (CalVIP) program.** Last year, the Governor also started out the year by eliminating funds for these long-standing gang outreach and crime prevention grants. Later in 2017, the Legislature added back $ 9.2 million to continue the program. The 2017 add-back also included a name change (from "CalGRIP" to "CalVIP") while also expanding eligibility for funding to include, not just cities, but also community-based organizations. It remains to be seen whether the Legislature will restore CalVIP funding in this year's budget process

Proposition 47 funding levels are always closely watched by counties and stakeholders who operate local offender diversion, housing, education and mental health programs that are supported by this source. As a reminder, Proposition 47 (adopted in 2014) creates a Safe Neighborhood and Schools Fund (SNSF) that is filled each year by savings derived from state prison population reductions attributable to Prop 47's reclassification of listed felonies to misdemeanors. The Department of Finance is tasked with determining the state savings that must be deposited each year into the SNSF. As indicated in the Governor's January budget, for FY 2018-19 the Department of Finance estimates net savings of $64.4 million available for deposit in the SNSF—and increase of $18.8 million over the prior year. Total SNSF funds are allocated according to the distribution formula in the initiative. 65 percent of SNSF funds are distributed as competitive grants awarded by the Board of State and Community Corrections (BSCC) to local offender service and recidivism reduction programs (including juvenile justice programs). 25 percent of SNSF funds are distributed by the State Department of Education for school dropout and truancy reduction programs. The final 10 percent goes to the Victim Compensation and Government Claims Board (VCGCB) for grants to trauma recovery centers serving victims of crime. In 2017, BSCC awarded proposition 47 grants to 23 county “collaboratives” for a wide range of local offender service and support programs. These are three-year grants, funded by annual deposits in the SNSF. The next BSCC competitive grant cycle for Prop 47 will occur in 2019. Currently funded programs can be viewed on the BSCC website at http://bscc.ca.gov/news.php?id=125.

In 2014, funding was restored after a five-year hiatus to the **Mentally Ill Offender Crime Reduction (“MIOCR”)** grant program. This state program provides funds for local mental health services for adult and juvenile offenders. Under the leadership of former Senate President Darrell Steinberg, MIOCR funding was reinstated at a total of $21 million statewide over the FY 14-15 and FY 15-16 budget cycles. Commonweal worked closely with Senate leaders in this period to define the terms under which the renewed MIOCR program would operate, including a requirement that half of the available funds must be allocated to juvenile justice mental health programs. In 2015, the Board of State and Community Corrections approved three-year grants to support MIOCR programs in 10 counties (serving adults) and another 11 counties (serving juveniles). Unfortunately, MIOCR funds were not renewed in the FY 17-18 budget cycle, nor is there any mention of funding for MIOCR in the Governor’s current FY 18-19 budget proposal. BSCC evaluations of the MIOCR programs launched in 2015 are due in 2018. ◘