

# COMMONWEAL

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## JUVENILE JUSTICE AND RELATED YOUTH PROGRAM BILLS

Pending in the 2019 Session of the California Legislature

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**July 26, 2019**

This bulletin describes bills pending in the 2019 session of the California Legislature on the subjects of juvenile justice, youth crime and violence prevention, probation foster care and related matters. This edition covers bill amendments and committee status through the start of the Legislature's summer break which began on July 12<sup>th</sup>. The Legislature will reconvene for a final month beginning August 12<sup>th</sup>, with adjournment scheduled for September 13<sup>th</sup>. Floor votes where shown are in the order "aye-no-not voting". For convenience in this edition we have highlighted the headings for still-active bills in blue—excluding "two year" bills and others that have missed legislative deadlines for decision this year.

*Also for this edition we have added a summary of the reorganization of the Division of Juvenile Justice as enacted by the Public Safety Omnibus Trailer Bill (SB 94) signed into law on June 27<sup>th</sup>; that analysis appears at the end of this report.* The full text of any bill 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 affecting a range of youth justice subjects is available on the Commonwealth Juvenile Justice Program website-- [www.comjj.org](http://www.comjj.org).

### Assembly bills

**AB 3 (Cooper, D. – Sacramento). Adolescent Cannabis Prevention Fund.** As amended, this bill creates a state fund from fines or penalties assessed against licensed cannabis providers for failing to adequately check the age or ID of persons purchasing marijuana products. Assets in the fund would be used, upon appropriation by the Legislature, "for the purposes of preventing persons under 21 years of age from accessing cannabis and cannabis products". ***Held in the Assembly Appropriations Committee, two year bill.***

**AB 18 (Levine, D. – Marin County). Gun excise tax to support violence prevention programs.** AB 18 imposes a state excise tax of \$25 on the retail sale of each firearm "sold as new" in California, beginning in January of 2020. The proceeds are to be deposited in a newly created state fund to support grants made under the California Violence Prevention and Intervention (CalVIP) Grant Program. AB 18 also codifies the CalVIP grant program that was previously administered through the budget process. CalVIP has been allocating an average of \$9.2 million per year in competitive grants awarded by the Board of State and Community Corrections (BSCC) to cities and community-based agencies providing a range of youth violence prevention and crime reduction services. AB 18 restates the current objectives of the CalVIP program, with funding preferences for communities with high rates of homicides, shootings or community violence. It re-defines the target population

served by the grants as cities that are “disproportionately impacted by violence” based on the number or rate of homicides specified in the bill, while also allowing grants to be made to applicants who otherwise demonstrate “unique and compelling need for additional resources to address the impact of homicides, shootings and aggravated assaults in the applicant’s community”. Preference must now be given to applicants that demonstrate the greatest likelihood that their programs will reduce homicides, shootings and aggravated assault. Applicants may, as before, be cities or community-based agencies serving residents of the target cities. The bill requires BSCC to establish a grant selection advisory committee including representatives from listed disciplines. The CalVIP provisions of AB 18 are identical those also contained in AB 1603 (Wicks, see below). ***Hearing in Assembly Appropriations postponed; two year bill.***

***AB 122 (Grayson, D.- Concord). Minor’s consent to sharing information among domestic violence and human trafficking multi-disciplinary teams.*** Current law permits a city, county or community-based agency to establish a domestic violence multi-disciplinary personnel team and/or a human trafficking multi-disciplinary team to provide services to affected children and families. The Penal Code sections authorizing these MDT’s include limits on the sharing of information provided or disclosed to the teams— including a requirement that a person must consent to the sharing of information obtained from him or her. AB 122 maintains this consent requirement for adults but effectively eliminates it for minors from whom the information is obtained. ***Hearings cancelled in the Assembly Public Safety Committee; failed to meet policy committee deadline; dead.***

***AB 175 (Gipson, D.- Carson). Foster care bill of rights.*** AB 175 started out by making multiple changes to the foster care “bill of rights” at Welfare and Institutions Code Section 16001.9. The revisions included new rights on placement (including a new right to be placed in the least restrictive possible setting), privacy regarding gender identity and sexual orientation, access to health care and grooming products and other rights. On June 3 the bill was amended into a still more expansive list of foster care rights, increasing the total number of listed foster care rights from 29 (including sub-rights) to 45. New items on the list include the right to a placement that utilizes trauma-informed and evidenced-based de-escalation techniques; the right have law enforcement intervene only where there is an imminent threat to life or safety; the right to attend school and to “remain in the child’s school of origin”; new rights of attorney representation; and additional rights in the areas of reproductive health care. As now modified the list also includes specified rights for Indian tribal youth. Further amendments expand the responsibilities of the Office of the State Foster Care Ombudsman to include providing training and technical assistance on foster care rights to a broad range of youth, providers and public agency personnel and including a mandate to compile and disseminate additional data on foster care rights complaints. ***Passed the Senate Committees on Human Services and Judiciary; hearing 8/12 in Senate Appropriations Committee.***

***AB 413 (Jones-Sawyer, D. – L.A.). Code references to at-risk youth.*** As introduced, AB 413 amended multiple sections of the Education and Penal codes to replace references to “at-risk” or “high-risk” children or youth with “at-promise” and “high-promise” children or youth. As amended, the bill deletes the new references to “high-promise” children and youth while retaining changes in multiple code sections replacing references to “at-risk” children and youth with “at-promise” children and youth. ***Passed the Assembly (65-4-11). Passed the Senate Public Safety and Education Committees; pending on the Senate Floor.***

***AB 439 (Stone, D. – Santa Cruz). Competency determinations and placements of minors with developmental disabilities.*** AB 439 amends current law on the competency of minors in delinquency proceedings by deleting the requirement that a regional center director or designee must pre-approve

the placement of a developmentally disabled minor in a center or facility operated by the State Department of Developmental Disabilities. The bill adds a clarifying provision stating that a determination of a minor's competency by the director of regional center or his/her designee is neither authorized nor required under revised competency provisions adopted in Welfare and Institutions Code Section 709 last year. ***Passed the Senate (39-0-1) and enrolled to the Governor on July 12.***

***AB 465 (Eggman, D. - Stockton). Dual status youth, definitions and outcome measures.*** In 2016, AB 1911 required the California Judicial Council to convene a statewide stakeholder group to “facilitate and enhance comprehensive data and outcome tracking for the state's youth involved in both the child welfare system and the juvenile justice system”. In 2017, the Judicial Council stakeholder group issued its report and recommendations including definitions, outcome measures and data system adjustments designed to standardize processing and tracking of dual status youth across California counties. AB 465 would partially implement these recommendations by adding, to Welfare and Institutions Code Section 241.2, eighteen standard definitions covering crossover youth, dual status and dually involved youth, homeless youth, recidivism and other definitions relevant to this caseload. Non-fiscal bill. ***Passed the Assembly (76-0-4). Passed the Senate Committees on Human Services and Judiciary; vote pending on the Senate Floor.***

***AB 656 (Eduardo Garcia, D. – Coachella). Office of Healthy and Safe Communities.*** AB 656 would create the state Office of Healthy and Safe Communities (OHSC) to develop and oversee a comprehensive state violence prevention strategy and to expand community-based violence reduction programs and services. As amended in June, the bill provides that OHSC would be housed in the state Department of Public Health (rather than under the Surgeon General) with the director to be appointed by the Governor. AB 656 lists goals and activities for the OHSC including “develop a California vision and plan for violence prevention, safety and healing...aligned with funding to drive population level results for decreasing exposure to violence”, “connect the vision and plan to the Governor's strategies for youth development, criminal and juvenile justice reform”, “identify and integrate trauma-centered diagnostic tools”, and “create a learning community” to share promising practices, research, data and approaches to violence prevention. The bill also creates an Advisory Committee composed of designated public and community-level violence prevention specialists. Implementation is dependent upon an appropriation of funds to support the office and its activities. ***Passed the Assembly (60-13-7). Passed the Senate Committees on Health and Public Safety; pending in the Senate Appropriations Committee, hearing 8/12.***

***AB 665 (Gallagher, R. – Yuba City). Partial repeal of SB 394 youth offender parole reviews for juvenile LWOP prisoners.*** In 2018, California enacted Senate Bill 394 (Lara), mandating sentence and parole reviews for California juveniles serving life-without-parole (LWOP) sentences in state prison. SB 394 provided that a person whose LWOP offense occurred prior to age 18 could petition the sentencing court to recall the sentence or to resentence the person with the possibility of parole based on multiple factors delineated by the United States Supreme Court in *Miller v. Alabama* and by SB 394. As introduced, AB 665 was a full repeal of Senate Bill 394. As later amended in response to opposition, AB 665 would allow for resentencing hearings for juvenile LWOP inmates after 15 years of incarceration, but it would disallow recall of the sentence by the court while also requiring that the individual be resentenced to life with the possibility of parole unless the person is determined to be “invariably corrupt or incapable of rehabilitation” (in which case the LWOP status would remain in effect). AB 665 continues to represent a substantial push-back on the parole relief provisions provided for juvenile LWOP inmates by SB 394. ***Hearings cancelled in the Assembly Public Safety Committee; withdrawn by the author.***

***AB 696 (Lackey, R. – Palmdale). Study on effects of using pepper spray on juvenile detainees.*** AB 696 would require the Board of State and Community Corrections (BSCC) to contract with a research entity to conduct a study on the “efficacy and impacts of the use of pepper spray” in county juvenile halls and probation camps and ranches. The study must examine the impacts of pepper spray on juveniles and facility staff and must address best practices for de-escalation of fights. The research entity is broadly described as one having a focus on youth institutional care while being non-partisan and not having taken a policy position previously on the use of pepper spray. The bill, sponsored by the Chief Probation Officers of California (CPOC), is a milder approach to the juvenile pepper spray controversy compared to the stronger controls mandated by AB 1321 (Gipson) (before that bill was gutted and amended). ***Held in the Assembly Appropriations Committee; two year bill.***

***AB 748 (Gipson, D. – Carson). Dependency disposition hearings for minors who turn 18.*** AB 748 has been stripped of multiple provisions redefining nonminor dependents and their eligibility for continuing foster care benefits beyond age 18. As now amended, the bill establishes a disposition hearing process for youth who were found to be dependent wards of the court before turning 18, with a disposition hearing pending. Under the revised process at Welfare and Institutions Code Section 358 (d), the youth may opt out of the foster care system and request that dependency jurisdiction be terminated. Alternatively, the new procedure establishes a link that would permit the individual to qualify as a nonminor dependent. A June amendment provides that the nonminor dependent’s right to be represented by counsel continues after attaining age 18. ***Passed the Assembly (78-0-2). Passed the Senate Committees on Human Services and Judiciary; pending in Senate Appropriations, hearing set for 8/12.***

***AB 750 (Chen, R. – Yorba Linda). Armed school resource officers.*** AB 750 required each local school district or charter school to hire at least one armed school resource officer to be present during school hours and at other times when pupils are present on campus. As amended on 3/21, the bill slightly modified this requirement by removing the reference to “armed” school resource officers while retaining the requirement that each school district or charter school in California shall contract with a school resource officer who is “authorized to carry a loaded firearm” and who must be present during school hours and at any other time when children are present at the school. ***Failed passage in the Assembly Education Committee on 4/10, dead.***

***AB 884 (Melendez, R. – Lake Elsinore). Sex offender registration for offenses involving minors.*** AB 884 would modify recent sex offender registration reforms that have replaced lifetime sex offender registration with time-limited registration tiers based on offense severity. This bill would reclassify Penal Code Section 288 (a) offenses (lewd or lascivious conduct with a minor under age 14) as Tier 3 crimes triggering lifetime registration rather than Tier 2 crimes carrying a 20-year registration requirement. ***Failed passage in the Assembly Public Safety Committee on 4/9.***

***AB 901 (Gipson, D. – Carson). Elimination of status offender (WIC 601) jurisdiction for truancy; elimination of probation officer filing of WIC 601 wardship petitions; changes in the WIC 654 probation supervision program; other probation-related changes.*** AB 901 has traveled a bumpy road to its present form. The bill was introduced as a measure to eliminate the truancy jurisdiction of the Juvenile Court. In May, the bill additionally became a sweeping proposal to eliminate all status offender jurisdiction of the Juvenile Court (repealing Welfare and Institutions Code Sec. 601). That repeal would have eliminated status offender wardship not just for truancy but also for behaviors like failing to obey parents, running away from home or curfew violations. In June, the bill was dialed back to restore basic status offense court jurisdiction, except in truancy cases, and to revise

provisions affecting probation responses in delinquency cases. As now amended, the bill would delete the Juvenile Court’s jurisdiction over truancy offenses, while leaving in place current provisions providing for School Attendance Review Boards and truancy mediation programs. Section 601 (status offense) jurisdiction for 12-17 year olds is back in the bill, with a new requirement that prior to referring a minor to the court system for a status offense, a peace officer must first refer the minor to service programs operated by community agencies or the probation department. WIC Section 650 is amended to delete the authority of the probation officer to initiate WIC 601 wardship proceedings by the filing of a petition in the Juvenile Court; as now drafted the bill is silent on how any WIC 601 formal proceedings are initiated by the filing of a petition. The bulk of current WIC Section 653.5, designating which cases must be referred to the District Attorney, goes back into the bill although mandatory DA referral would no longer be required if the minor has previously been placed in a program of informal supervision. Further changes are made to the WIC Section 654 program of informal probation supervision. As now amended, in lieu of asking the DA to file a WIC 602 wardship petition, the probation officer may elect to use WIC 654 (with the consent of the minor and parents/guardian) to refer the minor to “services provided by a health agency, community-based organization, school district, an appropriate non-law enforcement agency, or the probation department”. If the referral is to the probation department, the probation officer can delineate programs of supervision lasting for not longer than six months. Then, if the minor fails to participate in the supervision program for 60 days the probation officer may refer the case to the DA for possible filing of a WIC 602 delinquency petition. WIC Section 236, defining the role of the probation department in delinquency prevention, limits probation programs including WIC Section 654 supervision by requiring them to be voluntary and by stating that they “shall not include probation conditions or consequences as a result of not engaging in or completing” the program. The jurisdiction and procedure changes in this bill are complex and the reader is advised to consult the text of the bill for a full and precise appreciation of its provisions. ***Passed the Assembly (42-27-11). Passed the Senate Public Safety and Education Committees; pending in the Senate Appropriations Committee.***

***AB 927 (Jones-Sawyer, D. – L.A.). Ability to pay fines or fees in juvenile proceedings.*** AB 927 requires the criminal court, prior to imposing a fine or fee on a defendant for a misdemeanor or felony, to determine that the defendant has the ability to pay the fine or fee based on criteria specified in the bill. As amended, the bill applies these requirements to fines or fees imposed in juvenile delinquency proceedings as well. ***Passed the Assembly (62-2-16) and passed the Senate Public Safety Committee; in the Senate Appropriations Committee.***

***AB 965 (Stone, D.- Santa Cruz). Credits reducing wait time for youth offender parole hearings.*** Under current law a person serving a long or life prison term for a controlling offense committed while age 25 or younger is eligible after 15, 20 or 25 years of incarceration (depending on the nature of the conviction) for a youth offender parole hearing at which the Board of Parole Hearings may set a new or revised release date. AB 965 reduces the net wait time for a youth offender parole hearing by the number of days of credit earned by the inmate for participation in CDCR rehabilitation or education programs. ***Passed the Assembly (44-23-16). Passed the Senate Public Safety Committee; pending in Senate Appropriations Committee, hearing set for 8/12.***

***AB 995 (Ting, D.- S.F.) Transitional Housing Plus Program.*** This bill modifies eligibility for the Transitional Housing Plus program by lowering the age at which former foster youth can qualify for the program from 18 at the time of exiting foster care to 16. Makes other changes to the THPP program. ***Passed the Assembly (77-0-3). In the Senate Human Services Committee.***

***AB 1005 (Arambula, D. - Fresno). Continuum of Care Reform—Family Urgent Response System.*** This bill requires the state Department of Social Services (DSS) to establish a statewide hotline as a point of entry for a Family Urgent Response System having the capability to respond to calls from caregivers or foster youth who are experiencing some sort of crisis. AB 1005 spells out implementation requirements including that, by 1/1/21, county child welfare, probation, and behavioral health agencies must establish a joint county-based Family Urgent Response System that includes a mobile response and stabilization team to provide services for caregivers and current or former foster or youth experiencing a crisis. Each county or regional consortium of counties must, by November 2020, adopt an urgent response plan including procedures and services described in the bill. Implementation is contingent upon an appropriation of funds in the state budget. ***In the Assembly Human Services Committee, not moved, failed to meet policy committee deadline.***

***AB 1061 (Gipson, D. – Carson). Foster care placement change protections for probation youth.*** Legislation enacted in 2018 mandated new protections for youth facing abrupt or unnecessary changes in foster placements. These protections, added at Welfare and Institutions Code Section 16010.7, require the social worker or placing agency, prior to a change in placement, to develop and implement a placement preservation strategy to preserve the current placement. A change in placement could then only be made if found necessary after attempted implementation of the plan to preserve the current placement. The 2018 measure also barred late night placement changes unless certain criteria pertaining to the age of the ward and consent of the parties were met. AB 1061 makes it clear that these placement preservation and change protections apply not only to dependent wards of the court but also to probation-placed youth, unless the probation youth’s placement has been revoked for a violation of probation conditions. ***Passed the Assembly (78-0-2). Passed the Senate Human Services and Public Safety Committees; in Senate Appropriations, hearing set for 8/12.***

***AB 1235 (Chu, D. – San Jose). Youth Homelessness Prevention Centers.*** This bill renames the “runaway and homeless youth shelter” category of community care facilities licensed by the state Department of Social Services (DSS). The new name given to these licensed group-care facilities (and changed again by recent amendment) is “Youth Homelessness Prevention Centers”. In addition, the service mission for these facilities is expanded to include “youth who are at risk of homelessness, youth who are exhibiting status offender behavior, or runaway youth”. “Youth at risk of homelessness” is broadly defined to include youth meeting one or more criteria on a long list that includes identification as “LGBTQ”, having financial stress, child or sexual abuse, mental health or substance abuse problems, unemployment and even “problematic gambling”. Services may be offered for up to 90 days (rather than the current short-term service limit of 21 days). The bill conforms multiple code sections to the new name. ***Passed the Assembly (76-0-4), pending on the Senate Floor.***

***AB 1321 (Gipson, D. – Carson). Use of chemical agents in juvenile facilities. Gutted and amended into a State Lands Commission bill; no longer a juvenile justice / pepper spray bill. Will be dropped from the tracking list.*** Prior to gut and amend, AB 1321 imposed detailed monitoring and reporting requirements on state and local juvenile facilities using chemical agents such as pepper spray. The bill required the custodian of each juvenile facility, including the Division of Juvenile Justice, to monitor and to report detailed quarterly data to the Board of State and Community Corrections on each use of a chemical agent. The bill also required the Legislative Analyst Office (LAO) to conduct a study on the use of chemical agents in juvenile facilities using BSCC data. ***To be deleted from future reports.***

***AB 1354 (Gipson, D. – Carson). Education planning and transition requirements for juvenile justice youth.*** AB 1354 augments and expands the requirements of Education Code Section 48647 regarding transition plans and services for youth involved with the juvenile justice system. Current law requires each county office of education and county probation department to have a joint transitional planning policy to support the transition from court schools to public schools in the community. AB 1354 requires county offices of education to collaborate “as needed” with the probation department, and with local education agencies, to take specific steps to support swift enrollment, records transfer, appropriate coursework and other links to mainstream or public schools. The bill also requires local education and probation departments to produce an individualized transition plan, as defined, for each juvenile detained for more than 20 school days, and it provides additionally for transfers of specified records and other information within 72 hours of release from custody. ***Passed the Assembly (64-8-8). Passed the Senate Committees on Education and Public Safety; in Senate Appropriations Committee, hearing set for 8/12.***

***AB 1390 (Stone, D. – Santa Cruz). Young Adult Deferred Entry of Judgment juvenile hall program—age of eligibility.*** AB 1390 raises the age of eligibility for young adults participating in the deferred entry of judgment juvenile hall pilot program, from a top age of 20 to a top age of 24 (“under 25”). Under the terms of the bill, an adult offender between the ages of 21-24 may be offered participation in the program only upon the recommendation of the multi-disciplinary team that oversees local pilot program. This six-county pilot program was established 2016, allowing participating counties to place young adult felony offenders in juvenile hall custody programs for up to one year as an alternative to serving a local jail sentence. Those offered the program must consent to participation, must not be charged with a listed serious offense and must initially plead guilty to the charge on a “deferred entry of judgment” basis that provides for dismissal of the charge(s) upon satisfactory completion of the program. The six counties currently in the pilot program include Ventura, Alameda, Santa Clara, Butte, Napa and Nevada, though the program has not been implemented actively in all these sites. Non-fiscal bill. ***Passed the Assembly (54-19-7), passed the Senate (30-8-2), enrolled to the Governor.***

***AB 1394 (Daly, D. – Anaheim). Ban on fees charged for juvenile record sealing petitions.*** AB 1394 prohibits the court or the probation department from charging an applicant fee for filing a petition to seal a juvenile record under WIC Section 781. As now amended, the bill also repeals WIC Section 903.3 which authorizes the court or the county to charge a petitioner age 26 or older for investigation costs related to the filing of a record sealing petition under Section 781. ***Passed the Assembly (72-2-6), passed the Senate Public Safety Committee, in the Senate Appropriations Committee.***

***AB 1423 (Wicks, D. – Oakland). Returns to juvenile court from adult criminal court.*** AB 1423 adds Section 707.5 to the Welfare and Institutions Code, establishing a new process for returning cases to juvenile court from adult criminal court. The returns come into play where the adult court action did not result in conviction on a transfer-eligible offense. Under AB 1423, the case must be returned to the juvenile court for disposition if the individual was found to have committed only misdemeanors in the adult court. A different process applies where the individual is found by the adult court to have committed a felony offense not listed in WIC Section 707 (b)—i.e. not a transfer-eligible offense. Where the person is convicted only of a non-707 (b) felony, the adult court has discretion to return the case to the juvenile court for disposition. In considering whether to return the case to the juvenile court under these circumstances, the criminal court is must determine “by a preponderance of evidence that a juvenile disposition is in the interests of justice and the welfare of the person”. As amended the same discretionary criteria for the adult court to return the case to

juvenile court for disposition apply where the juvenile defendant pleads guilty only to one or more non-707 (b) felonies and/or misdemeanors (usually as the result of a plea bargain), except that in these situations the return to juvenile court must be “upon agreement and request of the parties” and then subject to the approval of the adult court. ***Passed the Assembly (51-10-19), pending on the Senate Floor.***

***AB 1454 (Jones-Sawyer, D. – L.A.). (Added in this edition). Youth Reinvestment Grant Program.*** This bill sets out the terms and criteria for a new round of Youth Reinvestment Grants. Last year’s budget provided \$37 million for local grants supporting juvenile justice diversion programs and services to be provided by community-based agencies working in concert with local government lead agencies. The grants were awarded by the Board of State and Community Corrections (BSCC) to 30 local jurisdictions and two Indian Tribes submitting successful proposals. The FY 19/20 budget appropriates additional state funds for the Youth Reinvestment Grant Program including \$5 million for local diversion program grants and \$10 million for Indian Tribal diversion program grants. The new \$5 million will be combined with another \$5.9 million for local programs that remained unexpended in the first round, due to non-qualifying local proposals. AB 1454 lays out revised terms for the local youth diversion grant program. The most notable change is that community-based agencies will be able to apply directly to BSCC for diversion program funds, without having to advance the proposal through a lead government agency. Local government agencies continue to be eligible to apply directly for funds as well, subject to the current requirement that 90 percent of awarded funds must pass through to CBO partners. Another change raises the maximum amount that can be awarded to any single grantee \$1 to \$2 million. The bill was a gut and amend of a non-related Jones Sawyer bill that had already made its way into the Senate, where the revised bill now awaits approvals before going back to the Assembly for concurrence. ***Passed the Senate Public Safety Committee; in the Senate Appropriations Committee, hearing 8/12.***

***AB 1537 (Cunningham, R. – San Luis Obispo). Prosecutor “Brady” access to sealed juvenile records.*** This bill has been vastly amended to adjust the proposed process for prosecutor “Brady” access to sealed juvenile records. “Brady” access in this context means a prosecutor’s request to access and use information in a sealed juvenile record in order to meet a statutory or constitutional obligation to disclosure exculpatory information to the defense in a pending criminal case. As introduced, the bill created an elaborate process for prosecutors to access information in sealed juvenile records—including the option to shift the disclosure decision to the adult criminal court. As now amended, the determination on Brady access by the prosecutor will be made only by the juvenile court, not the adult criminal court. Protective language in the proposed disclosure process remains in place, including that the prosecutor must specify a rationale for requesting the Brady information; that the person with the sealed record must be notified of the request to access the record and afforded an opportunity to respond; that the court must identify the portions of the record subject to access; and that a disclosure order of the court must include appropriate limits on the use of the sealed record to protect the confidentiality of the person having the sealed record. The amendments now conform the proposed, modified process across four affected record-sealing code sections: WIC Section 786 (“auto-sealing”); WIC 781 (sealing by petition), WIC 793 (sealing related to deferred entry of judgment); and Penal Code Section 851.7 (sealing of misdemeanor records). ***Signed into law by the Governor on July 1, Stats. of 2019, Chapter 50.***

***AB 1603 (Wicks, D. – Oakland). California Violence Intervention and Prevention Program.*** AB 1603 codifies and modifies the existing CalVIP grant program which has previously been managed and appropriated through the budget process. The CalVIP grant program has been allocating an average of \$9.2 million per year in competitive grants awarded by the Board of State and



Community Corrections (BSCC) to cities and community-based agencies providing a range of youth violence prevention and crime reduction services. AB 1603 restates the current objectives of the CalVIP program, with funding preferences for communities with high rates of homicides, shootings or community violence. It re-defines the target population served by the grants as cities that are “disproportionately impacted by violence” based on the number or rate of homicides as specified in the bill, while also allowing grants to be made to applicants who otherwise demonstrate “unique and compelling need for additional resources to address the impact of homicides, shootings and aggravated assaults in the applicant’s community”. Preference must now be given to applicants that demonstrate the greatest likelihood that their programs will reduce the incidence of homicides, shootings and aggravated assault. Applicants may, as before, be cities or community-based agencies serving the residents of the target cities. The bill requires BSCC to establish a grant selection advisory committee including representatives from listed disciplines and perspectives. Identical provisions are included in AB 18, covered above. ***Passed the Assembly (78-0-2), passed the Senate Public Safety Committee, pending in Senate Appropriations, hearing set for 8/12.***

***AB 1641 (Kiley, R. – Rocklin). No youth offender parole hearing for persons committing a listed homicide offense after age 18.*** Under youth sentencing reforms enacted over the last five years, certain individuals whose crimes were committed before age 25 and who received long or life prison terms were made eligible for a youth offender parole hearing leading to possible sentence reduction or release based on criteria stated in the reform bills. Penal Code Section 3051 makes certain offenders ineligible for parole review or relief based on the severity and timing of the commitment offense. AB 1641 would amend PC Sec. 3051 to further eliminate eligibility for youth offender parole hearings and possible early release for “*a person convicted of murder in the first or second degree for a murder that was committed after the person had attained 18 years of age.*” ***In the Assembly Public Safety committee, not moved by the author, failed policy committee deadline.***

## **Senate bills**

***SB 144 (Mitchell, D. – L.A. and Hertzberg, D. – Van Nuys). Elimination of criminal justice and related fees.*** This massive (94 sections) bill eliminates the authority of counties, courts and other agencies to charge fees for a wide range of juvenile and criminal justice system proceedings and operations—including fees that may now be assessed for probation and diversion programs, placement and incarceration, drug testing, attorneys fees, drug testing, vehicle code violations and other activities. On the juvenile justice side, specific sections would wipe out fees that can presently be assessed on persons aged 26 or older for sealing of juvenile offense records. However, the bill retains the authority of county agencies to assess parents or guardians for support costs related to the detention or placement of a minor upon arrest or by order of the juvenile court. SB 144 supplements Senator Mitchell’s 2017 legislation (SB 190) that eliminated a long list of court and county fees imposed on children and parents for juvenile justice services and sanctions. May amendments to SB 144 eliminated many of the proposed fee cuts but most remain intact in the current version of the bill. Those interested in a detailed view of the administrative costs curtailed by SB 144 are advised to review the extensive text of the bill itself. ***Passed the Senate (26-8-4); in the Assembly Public Safety Committee.***

***SB 145 (Wiener, D. – S.F.). Relief from sex offender registration for certain offenses involving minors.*** As amended in May, SB 145 would exempt a person from the Penal Code Sec. 290 sex offender registration requirement if the person was less than 10 years older than a minor on whom a listed sex offense was committed. The exempt-eligible offenses involving minors are PC 276 (c)

sodomy, PC 287 (b) oral copulation and PC 289 (h) and (i) penetration with a foreign object. The registration requirement is avoided if the defendant is not more than 10 years older than the minor and if the listed, exempted offense is the only offense for which registration would otherwise be required. The court remains authorized to impose registration in cases covered by PC Section 290.006 (catch-all for sex offenses not listed in Section 290). The up-front exemption from registration in these cases replaces prior provisions, now deleted, that would have allowed these offenders to apply to the court for relief from registration. ***Passed the Senate (25-3-10); passed the Assembly Public Safety Committee, pending in the Assembly Appropriations Committee.***

***SB 284 (Beall, D.- San Jose). Increased county cost to send juveniles to the Division of Juvenile Justice (DJJ).*** SB 284 raises the statutory cost or charge to a county for certain commitments of juveniles to the state youth corrections system (DJJ). Currently, under Welfare and Institutions Code Section 912, a county committing an eligible juvenile to DJJ must pay the state a statutory fee which is set at \$24,000 per youth per year, until age 23. This bill would raise the county charge for DJJ commitments to \$125,000 per year for any juvenile who was under the age of 16 at the time of the offense or who, regardless of age, is committed on the basis of an offense that would earn less than seven years of imprisonment if the case had resulted in an adult court conviction on the commitment charge. The current \$24,000 per youth/per year cost would remain in place for commitments of juveniles who are both over age 16 at the time of the offense and whose commitment offense would earn fewer than seven years of incarceration if processed as an adult court conviction. County charges are incurred for the full term of commitment (up to age 23) which is controlled by the state Board of Juvenile Hearings (BJH). The average length of stay for all DJJ juvenile court commitments in 2017 was 32 months. The goals of the bill are to disincentivize DJJ commitments of younger juveniles and those with lower-level offenses that qualify for admission to DJJ, and to encourage retention of custody and supervision in local settings. ***Passed the Senate (30-8-0); passed Assembly Public Safety & Appropriations Committees, pending vote on the Assembly Floor.***

***SB 419 (Skinner, D. – Berkeley). Limits on suspension of pupils for school disruption or defiance.*** Current law prohibits suspension of a pupil grades K-3, or recommended expulsion for pupils in grades 1-12, for disrupting school activities or otherwise willfully defying the authority of school personnel. SB 419 would, beginning July 2020, extend this protection against suspension for disruption or defiance to include pupils in grades 4-5 in a school or charter school. It would also ban suspension of any pupil in grades 9-12 for these reasons until July of 2024. The bill re-introduces provisions of a similar bill carried by Senator Skinner last year that was vetoed by Governor Brown (SB 607). Non-fiscal bill. ***Passed the Senate (30-8-0), passed the Assembly Education Committee, pending vote on the Assembly Floor.***

***SB 433 (Monning, D. - Carmel). Office of Youth Development and Diversion Pilot Program.*** SB 433 would establish an Office of Youth Development and Diversion (OYDD) within the state Department of Social Services (DSS), and in collaboration with the state Dept. of Public Health, to administer a three-year pilot program in up to five participating counties selected by the Department. The mission of the pilot program is to advance a comprehensive public health approach to diversion of youth from the juvenile and criminal justice systems and to promote positive youth development for youth at risk of justice system processing. SB 433 authorizes state OYDD grants to participating counties to support services including youth education, vocational training, health/mental health, mentoring and other named areas. Applicants must establish a local youth development and diversion office to administer grant funds, including a multi-disciplinary team of designated representatives to oversee the implementation of the local grant program. Grant funds are to be allocated by the local OYDD to community-based, non-governmental agencies providing diversion and development

services to target populations consisting of children, teens and transition-age youth who are homeless, school dropouts, disabled, undocumented, “LGBTQQI”, or otherwise defined as special needs or as involved with the juvenile or criminal justice systems. The bill includes multiple other criteria for the operation and administration of the pilots. It is modeled to some extent on the Los Angeles County Division of Youth Diversion and Development and on the state’s 2018 Youth Reinvestment Grant program presently administered by the Board of State and Community Corrections. ***Held in the Senate Appropriations Committee, two year bill.***

***SB 485 (Beall, D. – San Jose). Elimination of driving privilege restrictions for listed offenses.***

Under current law the Department of Motor Vehicles or the court may or must restrict or suspend driving privileges as a penalty related to the commission of listed crimes and tax delinquencies. SB 485 would prohibit the DMV or the court from suspending or delaying a driver’s license based on conviction of listed criminal offenses including vandalism, certain alcohol and drug offenses and firearm use. July amendments have trimmed the scope of the bill to reinstate driving privilege restrictions, previously barred by the bill, for prostitution and lewd conduct offenses involving use of a vehicle. The general provision eliminating license restriction or suspension where the offense was not also a violation of the Vehicle Code has also been removed from the bill. As amended the bill if enacted will apply only to DMV or court license determinations made on or after January 1, 2020. ***Passed the Senate (28-10-0); passed the Assembly Public Safety Committee, pending in Assembly Appropriations Com.***

***SB 555 (Mitchell, D. – L.A.). Contracts for communication and information services in jails and juvenile facilities.***

SB 555 requires contracts for communication or information services in juvenile facilities and jails to meet new minimum requirements. These include that the contract may not provide for commissions or fees to be paid to the jail or juvenile facility and that the contract must provide the “lowest cost of service to any person who pays for communications or information service”. Covered communication and information services are broadly defined and include video-visitation setups. SB 555 applies to jails and juvenile facilities including juvenile halls, camps and ranches. The bill also places limits on prices of articles sold to inmates in county jail stores and imposes new restrictions on how sheriffs may spend or use assets in an “incarcerated peoples’ welfare fund” (no longer to be called the inmate welfare fund). As amended, the bill if enacted would apply only to contracts entered into or renewed after January 1, 2020. ***Passed the Senate (31-5-2); passed the Assembly Public Safety Committee; pending in Assembly Appropriations Com.***

***SB 678 (Glazer, D. Orinda). Restorative justice pilot program.*** SB 678 establishes a Restorative Justice Pilot Program to administer five-year grants to up to three counties to operate restorative justice programs for adult offenders. The programs apply a restorative justice model that involves contact and agreement with the victims of crime leading to an individual plan that will “bring amends to the victim and the community” while promoting individual rehabilitation. Participants are selected by the district attorney and must consent to participation. Persons charged with listed serious or violent crimes are not eligible. Upon admission to a pilot program, criminal proceedings are suspended for up to 36 months. Upon satisfactory completion of the program as determined by the court, the charges must be dismissed. Grant funds (yet to be appropriated) would be administered by the Board of State and Community Corrections. ***Held in the Senate Appropriations Committee, two year bill.***

**SB 694 (Stone, R. – La Quinta). Misdemeanor to bring cell phone into juvenile facility.** Adds a misdemeanor punishable by a \$1000 fine for bringing a wireless communication device, including a cell phone, pager, watch or similar device, into a juvenile hall, camp or ranch. **Hearings in the Senate Public Safety Committee cancelled by the author, not moved, failed policy committee deadline.**

**SB 710 (Bates, R. – Laguna Hills). DNA and fingerprint collection for misdemeanors, Prop 47 changes.** Current law requires DNA samples and fingerprints to be collected from adults or juveniles with felony convictions or adjudications. This bill would extend these DNA and fingerprint requirements to adults convicted of listed misdemeanor offenses. The bill also modifies the terms of Proposition 47 by restoring felony and prison-eligibility status to some of the offenses that were reduced to misdemeanors by the initiative. **Hearings in the Senate Public Safety Committee cancelled by the author, not moved, failed policy committee deadline.**

**SB 716 (Mitchell). Access of detained juveniles to post-secondary academic and technical education programs.** SB 716 is intended to improve the access of detained juveniles to post-secondary academic and career technical programs. As amended, the bill requires probation departments and the Division of Juvenile Facilities to ensure that certain youth in their facilities—those who have a high school diploma or equivalency certificate—have access to post-secondary academic and technical programs and courses that are “offered online”. Previously the bill required these programs to be offered directly within the juvenile facility. Instead, the bill now “encourages” probation departments and DJF to develop local partnerships with post-secondary, public campuses to provide instruction on campus and onsite within the juvenile facility. The requirement that probation departments or DJF must collaborate with higher education institutions to ensure access to post-secondary education has been taken out of the bill. The bill’s provisions remain applicable to juvenile halls, probation camps and ranches and DJF facilities. While the mandate to provide these post-secondary services does not apply to detainees who have yet to meet high school graduation requirements, the bill specifies that pre-graduation youth are not precluded from participation in the post-secondary programs mandated for those who have high school graduation status. July amendments ensure that the bill’s provisions will apply to the new Department of Youth and Community Restoration in the Health and Human Services Agency, replacing the Division of Juvenile Justice that is now housed in CDCR. **Passed the Senate (37-0-1). Passed the Assembly Committees on Higher Education and Public Safety; pending in the Assembly Appropriations Committee.**

## **SB 94 – REORGANIZATION OF THE DIVISION OF JUVENILE JUSTICE**

In a plan advanced by Governor Newsom, the state Division of Juvenile Justice (DJJ) has been reorganized, shifting it from the Department of Corrections and Rehabilitation (CDCR) to a newly formed Department of Youth and Community Restoration within the state Health and Human Services Agency. The move is a key step in Governor Newsom’s announced plan to reform the state’s juvenile justice system with a greater focus on effective treatment and rehabilitation rather than on the “criminalization” of youth behavior. Advocates of DJJ reform leaned on the Governor to embrace robust progressive elements in the “reorg” plan, including new disincentives to state commitment and the expansion of community-based diversion, supervision and treatment programs. However, the restructuring advanced by the Administration and signed into law is more aptly described as the “bare minimum” needed to move the youth corrections operation from one state agency to another. Here are essential highlights and details of the transfer as included in this year’s budget package:

- Effective July 1, 2020 the state Division of Juvenile Justice is removed from CDCR and its operations, facilities and staff are transferred into a new Department of Youth and Community Restoration within the Health and Human Services Agency.
- All code references to the Division of Juvenile Justice are automatically re-directed, using global statutory language, to refer instead to the new HHS Department. As stated in SB 94, the new HHS department “...succeeds to, and is vested with, all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of the Division of Juvenile Justice” which ceases to exist on 7/1/20. None of the statutes or regulations governing DJJ basic operations, commitment laws, facilities or programs are changed—they are simply reactivated “as is” under the authority of the new HHS Department. There are, nevertheless, several new code sections in SB 94 designed to effectuate the smooth transfer of existing DJJ staff from CDCR to HHS.
- SB 94 authorizes the Governor to appoint a director and chief deputy director of the new Department of Youth and Community Restoration, to serve at the pleasure of the Governor. No criteria or qualifications for these posts are included in SB 94.
- The Board of Juvenile Hearings (BJH) that determines length of confinement and release dates for state-committed wards is moved into HHS under the new Department, with no other changes in the statutes or regulations that govern its operations.
- By October 2019, the state Secretary of HHS must appoint a committee of the state Child Welfare Council “to provide input and recommendations related to the Department of Youth and Community Restoration’s policies and programs that promote a commitment to improving youth outcomes, reducing youth detention, and reducing recidivism.” Members are to include persons experienced in trauma-informed care, youth justice advocates, youth and families with justice system experience and county probation department representatives. Their recommendations are to be included in reports to the budget committees of the legislature until 2025
- There is no language in SB 94 outlining the goals and principles on which the new Department is founded. For “intent” language, you need to look at the Governor’s Budget Summary where his Department of Finance characterizes the move as one that “better aligns California’s approach with its rehabilitative mission and core values—providing trauma-informed and developmentally appropriate services in order to support a youth’s return to their community, preventing them from entering the adult system and further enhancing public safety.”
- The state budget includes some funding to effectuate the transfer. This includes \$1.2 million in General Fund dollars to plan for the transition and to support an independent institute to train staff on best practices that will further the new Department’s “rehabilitative mission”

That’s about it—all in all a rather coolly-stated and narrowly-framed statutory plan and structure to replace DJJ with the new Department of Youth and Community Restoration next July.

*Bill digests by David Steinhart, Director, Commonweal Juvenile Justice Program. Updated reports are posted on our website at [www.comjj.org](http://www.comjj.org).*