**COMMONWEAL**

**The Juvenile Justice Program** [***www.comorg***](http://www.comorg)

**JUVENILE JUSTICE** **AND**

**RELATED YOUTH PROGRAM BILLS**

**Active in the 2020 Session of the California Legislature**

***July 27, 2020***

* ***Legislative hearings, further postponed by the pandemic, will resume on an even shorter list of remaining bills.***
* ***DJJ realignment proposals, sidelined during summer recess, will be taken up again in the last month of the session.***

Nothing has gone as planned in this year of the pandemic. Lawmakers and the Governor were able to produce an on-time “placeholder” state budget by the July 1 deadline, but the budget remains in flux with trailer bills adapting to new economic and pandemic circumstances. Lawmakers returned to the Capitol on July 27th after an extended summer recess that kept the Capitol closed due to COVID. Now hearings in policy and fiscal committees for surviving bills will be compressed into a short time frame. Committees are still telling authors to pull back their bills. In June we identified a long list of bills that had already been dropped. Now—with only a month remaining in the session—more bills have joined the casualty list of measures driven off the legislative calendar by the pandemic.

This report provides an update on a short list of still-active bills on the topics of juvenile justice, youth crime prevention, probation foster care and related measures. Bill amendments and committee status are current to July 27th.  Hearing dates are shown as known, though it would not be surprising to see further changes in hearing schedules. The deadline for policy bills to move to fiscal committee is now August 14th, and fiscal committees must complete their work by August 21st. The Legislature is still set to adjourn for the year on August 31. There are rumors some lawmakers will ask the Governor to convene a special session after that date—but there is no current indication that this will actually happen.

DJJ closure—still on the table. The Governor’s May proposal to close the state Division of Juvenile Justice (DJJ) targeted January 1, 2021 as the date on which DJJ would stop accepting county commitments. This timetable has been scratched. In May and June, the Governor pressed hard to get his closure plan (and a county payment scheme) up and running in the June budget bill, but lawmakers—concerned that too many realignment issues remained unresolved— deferred action on the Governor’s proposal until after the summer recess. Meanwhile, legislative budget committees have been reviewing different proposals for the closure plan, but as yet no new plan or package has been released either by the Governor’s Office or by legislative budget committees. DJJ closure, and plans to realign the DJJ caseload to counties, are still candidates for action in the closing weeks of the session. Both the Senate and Assembly budget committees are expected to hold budget hearings on DJJ realignment sometime in the weeks ahead. We will issue separate follow-up reports on DJJ realignment as more information becomes available.

The full text of bills can be found on the state legislative website at [www.leginfo.legislature.ca.gov](http://www.leginfo.legislature.ca.gov). More information on legislation, budget and policy issues affecting a range of youth justice subjects is available on the Commonweal Juvenile Justice Program website-- [www.comjj.org](http://www.comjj.org).

***Note: The bills covered in this edition below were listed in our June 18 update as still active. Some remain alive with hearing dates as shown. Others have been dropped, as indicated, due to COVID-19 restrictions imposed by legislative committees on the number of bills that can be heard.***

**Assembly bills**

***AB 901 (Gipson, D. – Carson). Elimination of 601 jurisdiction for truancy; related education law changes; probation supervision programs; notices to appear; referrals to district attorney.*** This is a two-year bill held over from the 2019 session, pending now in the Senate Education Committee. AB 901 started as a bill to repeal the status offense (WIC 601) jurisdiction of the juvenile court, but then was dialed back to delete 601 jurisdiction in truancy cases, leaving general status offense jurisdiction over 12-17 year olds intact. A host of education law changes were added to re-define non-wardship options in truancy cases. The bill includes changes to probation processing and supervision of both status offense and delinquency cases. In its present form, AB 901 does this:

* States legislative intent that truancy and other status offenses should be diverted from citation, arrest and court and that the role of probation should be clarified to prioritize diversion, alternatives to detention, and county-based alternatives to state (DJJ) commitment.
* Removes truancy from WIC Section 601 as a status offense that can result in wardship.
* Adds numerous changes to the Education and Welfare and Institutions Codes, recasting how truancy cases can be processed by SARBs and through local truancy mediation programs; deletes authority of SARBs, probation and DA’s to trigger wardship proceedings for truancy.
* Changes the criteria for referral and enrollment of truants in community day schools and alters the local control funding formula to include supplemental funds for community schools.
* Modifies Ed. Code sections holding parents accountable for a child’s failure to attend school.
* Amends WIC Section 236 defining the role of probation to provide that where probation services or programs are offered to minors not on probation (or to parents), programs must be voluntary and must not include conditions or consequences for failure to engage or complete the program.
* For remaining status offenses, prior to issuing a notice to appear an arresting officer must first refer the minor for services to a “community-based resource” or another designated service agency.
* Deletes WIC Sec. 258 (infractions and misdemeanors) authority of the court or hearing officer to impose sanctions in truancy cases.
* Changes WIC Sec. 653.5 criteria for referral of 602 cases to the District Attorney by removing the requirement that a DA referral must be made where informal supervision has previously been tried.
* Modifies WIC Section 654 (informal probation supervision) by re-defining the types of services to which the juvenile may be referred and by removing the requirement that a failure by the minor to participate in the program for 60 days must result in the filing of a wardship petition by the probation officer (or by referral to the DA); the initiation of petition proceedings by the probation officer becomes discretionary rather than mandatory in these situations.
* Postpones the effective dates of the truancy-related provisions to be operative starting July 2021.

This is a long and complex bill and the reader is advised to consult the full bill text for full understanding of its many provisions. ***AB 901 passed the Assembly in an earlier version (42-27-11). As redrafted, the bill is set for hearing in the Senate Education Committee on July 29.***

***AB 1007 (Jones Sawyer, D. – L.A.). NEW- Juvenile Justice Crime Prevention Act overhaul.*** This bill was a “gut and amend” on June 25, turning an unrelated Jones-Sawyer bill into an overhaul of the Juvenile Justice Crime Prevention Act (JJCPA). The JJCPA provides local governments with state funds for youth crime and violence prevention programs. It was adopted in the year 2000 as a response by progressive legislators to the harsh juvenile justice sanctions imposed by former Governor Pete’ Wilsons Proposition 21, approved by voters in the same year. The JJCPA has supplied county governments with more than $2 billion over the last two decades for local youth justice programs. The JJCPA has also drawn criticism that large shares of JJCPA funding in some counties have been deployed to probation department salaries and operations rather than to community-based youth services. AB 1007 would address this concern by altering the local allocation process for JJCPA grants. The bill requires that 95% of the county allocation be expended on “c*ommunity-based organizations or public agencies or departments that are not law enforcement agencies or departments.”*  AB 1007 also changes the makeup of multi-agency Juvenile Justice Coordinating Councils (JJCC’s) that are designated by statute to develop county JJCPA spending plans. This bill would require that 50% of JJCC members must be “community members” including justice-involved individuals and nonprofit service providers. The bill would additionally require a “community representative” to serve as co-chair of the JJCC, and the bill makes JJCC membership by district attorneys and probation departments permissive rather than mandatory. AB 1007 also changes requirements for local juvenile justice plans that must be submitted to the Board of State and Community Corrections (BSCC) each year to qualify for funds—for example, by requiring the plan to include a service continuum that is modeled on *“a framework of youth development and demonstrates a community-based, collaborative, and integrated approach for at-promise youth and youth involved in the justice system”*. The bill adds to the data and outcome measures that must be reported each year by counties to BSCC—for example by requiring reporting on youth served 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.”* AB 1007 also adds new requirements for annual reports that BSCC must submit to the Legislature each year on JJCPA funded programs. ***After rewrite the bill was assigned to the Senate Public Safety Committee. The latest information available is that the bill will not be heard this year, due to COVID19 limits on the number of bills that committees are able to hear in the remaining weeks of the session.***

***AB 1950 (Kamlager, D.- L.A.) One-year limit on adult probation for misdemeanor offenses***. Amends Penal Code Sections 1203a to impose a one-year maximum on the length of a probation term ordered by the court for a misdemeanor offense, unless a longer probation term is provided for in the offense statute on which the plea or conviction is based. In addition, AB 1950 also amends Penal Code Section 1203.1, limiting a suspended sentence imposed under a probation order to a maximum of two years. Does not apply to juvenile court orders of probation, but the bill is of interest in relation to other bills and proposals that would limit time-on-probation for juveniles. ***Passed the Assembly (48-22-9), in the Senate Public Safety Committee for hearing on 7/31.***

***AB 1979 (Friedman, D. - Glendale). Emergency housing provisions for supervised independent living placements.*** This bill modifies the definition of a “supervised independent living placement” to include transitional living settings for youth who are entering or reentering foster care or transition between placements (excluding runaway and homeless shelters). The bill provides that for youth who are entering or reentering foster care or transitioning between placements, the placement is not subject to licensing. The bill also expands the current requirement that county placing agencies conduct regular evaluations of out-of-county’s placement resources and programs, by requiring the county placing agency to examine the receiving county’s ability to meet the emergency housing needs of minors between placements. As amended the bill includes a COVID-related provision authorizing a county to inspect a supervised independent living placement to ensure that it meets health and safety standards using alternative means, such as videoconferencing, and that a county may certify that the supervised independent living placement meets health and safety standards once in every 12 months as long as the county believes that housing safety conditions have not changed. The bill adds new provisions covering a nonminor dependent’s noticed absence from supervised independent living the program (up to 14 days) by prohibiting a transitional housing provider from filling the absentee’s slot and by providing that payments for housing shall not be discontinued during the absence. ***Passed the Assembly (77-0-2), to the Senate Human Services Committee for hearing the author expects will scheduled for August 10.***

***AB 1994 (Holden, D. – Pasadena). Medi-Cal eligibility, confined juveniles.*** In July this bill was amended to delete provisions requiring county welfare departments to take additional steps to restore Medi-Cal benefits for juveniles released from public institutions. Instead, the bill has been simplified to specify the date on which suspensions of Medi-Cal are ended for juveniles in confinement. The modified bill states that, for juveniles, the suspension ends “ on the date that the individual is no longer an inmate of a public institution or three years after the date the individual is no longer an eligible juvenile pursuant to Section 1396a(a)(84) of Title 42 of the United States Code, whichever is later.” ***Passed the Assembly (77-0-2), to the Senate Health Committee. This bill has been dropped and will not be heard this year due to COVID 19 limits imposed by committees on the number of bills that can heard in the last month of the session.***

***AB 2321 (Jones-Sawyer, D.- L.A.). Access to sealed juvenile records.*** AB 2321 would amend WIC Sections 781, 786 and 786.5 to make certain sealed juvenile records available for the purpose of processing a crime victim’s request for certification of “helpfulness”. The certification provides immigrants who are victims of crime with help when they seek visa protection from deportation or other facets of immigration enforcement. As amended, the bill provides that the sealed juvenile record may be accessed for this purpose only by a judge or a prosecutor, with the additional requirement that the information accessed in the sealed record cannot be disseminated to other agencies or individuals except as necessary to certify victim helpfulness on the appropriate, statutory forms. This new sealing exception would apply to WIC Section 786 (court-sealed records upon satisfactory completion of probation); to WIC 786.5 (probation and diversion program records) and to WIC Section 781 (sealing by petition of WIC 707(b) offenses committed by a person over the age of 14). ***Passed the Assembly (76-0-3), to the Senate Public Safety Committee for hearing 7/31.***

***AB 2425 (Stone, D.- Santa Cruz). Sealing of arrest records for juveniles in diversion programs; confidentiality and sealing of juvenile police records.*** As amended, AB 2425 imposes new nondisclosure and record sealing requirements on law enforcement agencies having records related to the arrest and processing of juveniles. Section 786.5 of the Welfare and Institutions Code is amended to require a law enforcement agency to seal an arrest record related to the juvenile’s participation in a diversion or supervision program to which the juvenile was referred in lieu of the filing of a petition. Presently, WIC 786.5 requires only probation departments and diversion agencies to seal the juvenile record upon the juvenile’s satisfactory completion of the diversion program. Under AB 2425, a law enforcement agency must seal the arrest record within 60 days of being notified by the probation department that the juvenile has satisfactorily completed the diversion program. In addition, AB 2425 adds a new Section WIC 827.95 prohibiting each law enforcement agency in the state from releasing a juvenile police record involving a juvenile who has been counseled and released (without further processing), who has satisfactorily completed a diversion program or who has aged out of juvenile justice jurisdiction. For juveniles fitting those descriptions, the bill further requires the law enforcement agency to seal the juvenile police record within time limits that are specified in the bill. Definitions of “juvenile police record”, “diversion” and other terms are included in the bill. AB 2425 provisions on juvenile police records are modeled on an existing statute (WIC Section 827.9) that bans disclosures of certain juvenile police records in Los Angeles County; AB 2425 expands the basic terms of Section 827.9 to statewide application, adding new mandates on sealing and making other changes, while also leaving Section 827.9 (pertaining only to LA County) intact. ***Passed the Assembly (56-16-8), to the Senate Public Safety Committee. This bill will no longer be hear this year due to committee limits on the number of bills that can be heard in the remainder of the session under COVID-19 circumstances and restrictions.***

***AB 2483 (Bauer-Kahan, D.- Orinda). Data collection on local jail anti-recidivism programs.***

This bill requires each county sheriff to compile and submit data to the California Board of State and Community Corrections (BSCC) on anti-recidivism programs in county jail facilities, including success rates in reducing recidivism in each such program. The sheriffs’ data must be submitted to BSCC by January 1, 2023 and BSCC is mandated to submit a report on to the Legislature by July 1, 2023 based on findings on the data submitted. Not applicable to juvenile facilities but of interest as a model for future juvenile facility data collection. ***Passed the Assembly (70-0-9). In the Senate Public Safety Committee for possible hearing on August 7.***

**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. Amendments to SB 144 have 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, two-year bill. The author has now indicated her intent to drop the bill this year based on COVID19 restrictions and circumstances affecting committee hearing schedules.***

***SB 203 (Bradford, D. - Gardena), NEW- Custodial interrogation of juveniles— raising the age for counsel at interrogation to 17.*** This bill is a July 27th “gut and amend” of an unrelated measure. As rewritten, this bill expands juvenile “right to counsel” protections enacted in 2017 for youth interrogated by police. In 2017, SB 395 added Section 626.5 to the Welfare and Institutions Code, requiring that prior to any custodial interrogation of a youth age 15 or younger by police, the youth must consult with legal counsel either in person, by telephone or by video conference. This right to counsel cannot be waived by the youth. This bill extends the SB 395 right to counsel prior to interrogation to youth age 17 or younger (from age 15 and under). SB 395 further provided that in ruling on the admissibility of any statement taken from the youth, the court must consider the effect of any failure to comply with the new right to counsel, unless the officer questioning the youth reasonably believed the information was necessary to protect person or property from an imminent threat. SB 203 additionally provides that where an officer’s failure to engage counsel prior to interrogation is willful, the court must take willful failure into account in determining the credibility of the officer as to the admissibility of any information obtained in this manner. SB 203 also eliminates the Governor’s panel of experts that was created in SB 395 to conduct a review and report to the Legislature on the implementation of SB 395. ***In the Assembly Public Safety Committee for hearing on August 5.***

***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). ***Passed the Senate (31-5-2); held in the Assembly Appropriations Committee, two-year bill. No hearing is presently set for the bill.***

***SB 912 (Beall, D. – San Jose). Nonminor dependents, extensions of jurisdiction and benefits during states of emergency declared by the Governor.*** SB 912 was introduced as a bill to raise nonminor dependent eligibility for foster care and related benefits from age 21 to age 25. As introduced, the bill also extended the delinquency jurisdiction of the juvenile court to age 25. In response to COVID-19, the bill was vastly revised in May. The provisions raising the age for foster care benefits and delinquency jurisdiction were deleted. As now amended, the bill prohibits terminating a nonminor dependent’s benefits at age 21 where the Governor has proclaimed a state of emergency, in which case the benefit period is extended to at least six months after the end of the emergency period. The bill also extends the court’s nonminor dependency jurisdiction to at least six months following a state of emergency declared by the Governor. It also provides that during the period of emergency, nonminor jurisdiction will automatically change from delinquency to transition jurisdiction for those reaching age 21. The bill makes other changes to ensure that nonminor dependents reaching the age-based end of the benefit period are not stranded without supports during a crisis like the current COVID-19 pandemic. ***Passed the Senate (40-0-0); in the Assembly Human Services Committee for hearing on August 3.***

***SB 1111 (Durazo, D. – L.A.). Detention of persons over age 18 in juvenile facilities****.* SB 1111 is a major revision of current law governing the place of confinement for individuals subject to juvenile or adult court proceedings beyond age 18. SB 1111 deletes current WIC Section 208.5 which presently allows for the transfer of detained juveniles at age 18 or 19 to the custody of the county sheriff, while also permitting detention of persons between the ages of 18 - 21 to continue in a juvenile facility under stated conditions. Under current law, a person turning 18 may stay in the juvenile facility until age 19 without separation from those under age18, and upon reaching age 19 the person may continue to stay in the juvenile facility until age 21 with the approval of the Juvenile Court and if the facility is also approved by the Board of State and Community Corrections as suitable for a mixed-age population. SB 1111 deletes current detention scheme in WIC Section 208.5 and replaces it with a new and simpler setup. The new Section 208.5 would require that any person whose case originates in juvenile court, if detained, shall remain in the juvenile facility until age 21 and can only be moved to an adult facility with the approval of the Juvenile Court. The trigger in current law that allows transfers to juveniles reaching age 18 or 19 to county jail is removed, as is the BSCC approval process for mixed-age facilities. Under SB 1111, a transfer of a person over age 18 from a juvenile to an adult facility can only occur if the probation department petitions the Juvenile Court for transfer. At that point, the Juvenile Court must hold a hearing in which it applies welfare and safety criteria listed in the bill to rule on the facility transfer request. For those whose cases are transferred from juvenile court to adult court jurisdiction, the same rules would apply in order to move the person to an adult facility, and the juvenile facility will remain the presumptive place of detention to age 21 for those who are transferred to adult court. SB 1111 also retains the current provision of WIC 707.01 that upon transfer of a case to the adult criminal court, the person is entitled to release on bail or own recognizance in the same manner as adults. ***Passed the Senate (30-8-2); in the Assembly Public Safety Committee for hearing on August 5.***

***SB 1126 (Jones, R. – Santee). Access to sealed juvenile offense records for competency determinations.*** SB 1126 modifies Welfare and Institutions Code Section 786 which currently establishes a process for the “auto-sealing” of juvenile offense records by the Juvenile Court upon a juvenile’s satisfactory completion of a term of probation. This bill would add a further exception to the statutory list of circumstances under which a WIC 786 sealed record can be accessed or utilized for specific purposes. The bill provides that where a new petition is filed against a minor having a WIC 786 sealed record and the issue of competency is raised in the new proceeding, the parties to the proceeding (including prosecution, defense, probation, courts) may access, inspect or use information in the sealed record pertaining to prior competency evaluations and other competency-related information including school records and test results. The information may be accessed only for the purposes of evaluating the minor’s competency and providing remedial services and shall not be used to support the imposition of sanctions or penalties on the minor. ***Passed the Senate (39-0-1), in the Assembly Public Safety Committee for hearing on August 5.***

***SB 1290 (Durazo, D. - L.A., and Mitchell, D.- L.A.). Vacating older assessments and orders to pay county juvenile justice fees***. In 2017, California eliminated many court and county fees imposed on juveniles or their parents or guardians for the processing, detention, supervision or attorney representation in the juvenile justice system (Senate Bill 190) This bill would vacate lingering orders or assessments that were made prior to the 2018 effective date SB 190, as consistent with the changes made by SB 190**.  *Passed the Senate (32-2-6); in the Assembly Public Safety Committee for hearing on August 5.*** ◼