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

April 12, 2021

Follow up report on youth justice bills introduced in the 2021 session of the California Legislature, including further changes to the DJJ closure bill (SB 823) that are on track for early budget action

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 April 9th. The deadline for policy committees to pass fiscal bills in the house of origin this year is April 30th. Budget hearings are actively under way.

Several youth justice reform bills that were sidelined by the pandemic last year have been reintroduced in the current session. Important juvenile justice legislation is also going forward through the budget process, including trailer bills amending SB 823, the 2020 reform measure that will shut down the state Division of Juvenile Justice (DJJ). That shutdown begins in earnest on June 30, when general intake at DJJ closes and counties will become officially responsible for local dispositions of youth who can no longer be committed to state-run facilities. DJJ trailer bills—including the proposed local “secure track” for realigned DJJ youth—are covered at the end of this report.

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 Commonwealth 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. ***To the Assembly Committees on Human Services and Accountability and Administrative Review.***

AB 112 (Holden, D. - Pasadena). MediCal eligibility for incarcerated juveniles. This bill is a partial reintroduction of the author's AB 1994 that was withdrawn from last year's session. Under current law, MediCal benefits are suspended by operation of law for incarcerated persons including juveniles during the period of incarceration. This bill re-defines the termination of the suspension period as either the end of the period of incarceration or three years (rather than one year under current law), whichever is sooner. Welfare and Institutions Code Section 14011.10 (d) (2) is amended by AB 112 to apply this benefit suspension period adjustment specifically to juveniles, terminating suspension of MediCal benefits for incarcerated juveniles when the juvenile is no longer an inmate of a public institution or three years after the date the juvenile is no longer eligible under federal law, whichever is sooner. ***Passed the Assembly Health Committee on 3/23, to the Assembly Appropriations Committee.***

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. ***In the Assembly Committee on Human Services.***

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

AB 317 (Patterson, R. – Fresno). State foster care ombudsperson. Under current law the Department of Social Services houses the State Foster Care Ombudsperson who is appointed by the Director of DSS. This bill removes Foster Care Ombudsman office from DSS and relocates it as an independent office within the Health and Human Services Agency, and it vests the Secretary of HHS with the power to appoint the foster care ombudsperson. *Passed the Assembly Human Services Committee on 4/7, to the Assembly Appropriations Committee.*

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

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. The bill also requires the state Department of Social Services to compile and report annual performance data on implementation of sexual and reproductive health training and education for foster youth (including counts of social worker, probation officer, court, provider and youth compliance with the education and training requirements). The annual reports must also include detailed information on pregnancies, contraception and STDs among foster youth. March amendments require the Judicial Council to adopt forms necessary to implement the provisions of the bill. *Passed the Assembly Human Services Committee, to the Assembly Appropriations Committee.*

AB 413 (Ting, D. – S.F.). Housing assistance for young adults who are former foster and probation youth; Transitional Housing Placement Plus program; training requirements for child welfare and probation personnel. AB 413 would provide funds and programming to support transition housing for young adults (18-24). \$8 million is appropriated by the bill to the Department

of Housing and Community Development to continue state allocations to child welfare agencies to secure and maintain housing for young adults 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. ***Passed the Assembly Committee on Housing & Community Development, passed the Assembly Human Services Committee, to the Assembly Appropriations Committee.***

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

AB 503 (Stone- D.- Santa Cruz). Limiting juvenile probation supervision to six months; new criteria for juvenile court orders of probation. AB 503 adds Section 602.05 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. ***Passed the Assembly Public Safety Committee, to the Assembly Floor.***

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

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

AB 624 (Bauer-Kahan- D., Orinda). Appeals of orders transferring juveniles to the jurisdiction of the adult criminal court. AB 624 would add Section 801 to the Welfare and Institutions Code, expanding the pathway for appeal of a court order that a juvenile be transferred to the jurisdiction of the adult criminal court. Current law fails to provide a process for direct appellate review of transfer orders. Lacking a statutory pathway for direct appeal, attorneys for youth must seek an appellate

review by filing an extraordinary writ in the appeals court. Appellate courts are not required by law to hear these writs on their merits, and the writs are often routinely denied. AB 624 provides that where a writ challenging the transfer decision has been filed with the appellate court in a timely manner and has been denied or otherwise not decided on the merits, the transfer order may be directly appealed and reviewed upon conviction in the adult court. The Judicial Council is required to adopt rules of the court defining the process and timing requirements for implementation of the new appeals procedure. The bill states the intent of the Legislature to ensure that all reasonable efforts are made to ensure review on the merits of orders of transfer to adult jurisdiction and to encourage appellate courts to make timely determinations of writs filed to challenge orders of transfer. The bill if enacted would become effective for transfer orders made after July 1, 2022. ***In the Assembly 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.***

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. ***To the Assembly 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. *To the Assembly Public Safety Committee for hearing 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 the prior enhancement vacated and to be resentenced on any remaining counts. The court must hold a hearing on the petition to establish the petitioner’s eligibility for vacating the enhancement and on re-sentencing of the petitioner based on the underlying (non-enhanced) adult conviction. The bill’s prime sponsor is the Los Angeles County District Attorney’s office (George Gascon). *To the Assembly Public Safety Committee.*

AB 1165 (Gipson, D. – L.A.). Ban on chemical agents in juvenile facilities. AB 1165 is a comprehensive ban on the acquisition, storage and use of chemical agents in California juvenile facilities. The bill lists chemical agents including pepper spray that are subject to the ban. AB 1165 applies the ban to juvenile halls, probation camps, state operated juvenile facilities and to “any other local or state facility used for the confinement of minors or wards”. The bill specifically states that chemical agents as defined “shall not be used inside or on the grounds of a juvenile facility”. Storage of chemical agents is banned “in or on the grounds of a juvenile facility”. The bill states that an entity that “manages, operates or owns” a juvenile facility shall not “purchase, rent, acquire, own or store” a listed chemical agent. The bill further requires all juvenile facilities to dispose of chemical agents in their possession by December 21, 2022 and to so notify the Board of State and Community Corrections. *To the Assembly Public Safety Committee for hearing on 4/20.*

AB 1193 (Rubio, D.- Baldwin Park). Crime of solicitation of a minor—adds felony penalty and removes requirement of knowing minor’s age. This bill amends Penal Code Section 647 (l) which currently defines the crime of solicitation of a minor (per PC 647 (b)) as a misdemeanor where the person soliciting the minor knew or should have known that the person solicited was a minor at the time of the offense. This bill deletes the qualification that the person knew or should have known that the person was a minor while increasing the penalty from a misdemeanor to a wobbler by adding the option of a state prison sentence of 16 months or two or three years. *To the Assembly Public Safety Committee for hearing on 4/20.*

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). *To the Assembly Education Committee.*

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

Senate bills

SB 53 (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.” As amended, the bill modifies the definition of “unsolicited” to state that the person sending the image “knows or reasonably should know” that it is unsolicited. The penalty for the infraction is a fine of \$500 for a first offense and \$1,000 for a subsequent offense. 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. *Passed the Senate Judiciary Committee, in the Senate Public Safety Committee for hearing 4/27.*

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 health issues or childhood trauma, that the enhancement would result in a disparate racial impact or that the enhancement is based on a conviction more than five years old. Depending on how the measure, if enacted, is applied or interpreted in future court cases, SB 81 could have the effect of eliminating juvenile strikes as sentencing enhancements in adult criminal proceedings. (Another pending bill in the Assembly would explicitly eliminate juvenile strikes—see AB 1127 above). *Passed the Senate Public Safety Committee, to the Senate Appropriations 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”. 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 Human Services Committee, to the Senate Judiciary Committee.***

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. ***In the Senate Public Safety Committee, hearing set for April 13.***

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 Senate Human Services Committee on March 9, to the Senate Public Safety Committee for hearing 4/13.***

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 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 Public Safety Committee, to Senate Appropriations 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-promise youth and youth involved in the justice system”. *To the Senate Public Safety Committee, hearing date 4/20.*

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

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 court delinquency jurisdiction) and Section 707 (transfers to adult criminal court). Senator Skinner has indicated her intent to use the bill as a placeholder for larger juvenile justice reform measures that may be pursued in the second year of the two-year session, perhaps incorporating elements of her withdrawn 2020 bill (SB 889) to raise the age of juvenile court jurisdiction. *Not assigned.*

SB 796 (Bradford, D. – Gardena). School peace officers. This bill has been gutted and amended into a bill that no longer deals with juvenile justice or youth program issues. It will be deleted from future tracking reports.

Budget Trailer Bills

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.

This budget bill introduced by the Senate Budget Committee has been placed on the legislative budget calendar for “early action” in advance of the June budget. The early action status is due to the pending closure of general intake at the Division of Juvenile Justice (DJJ) on June 30, less than three months from now. Thereafter, counties become fully responsible for local custody and care of youth who can no longer be sent to state youth correctional facilities. SB 92 covers two critical and time-sensitive needs related to SB 823. The first need is the restoration of the “secure track” component of DJJ realignment that was cut out of SB 823 and deferred for final action early in 2021 (see A. below). The second need is the adoption of important cleanup and technical amendments to SB 823 (see B. below).

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.

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.comjj.org