

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

September 25, 2021

Post-session report—bills pending signature or signed by the Governor

September 25th marks the half-way point in the period Governor Newsom has to sign or veto bills. The Governor has 30 days to act on bills that he received from the Legislature after the September 10th date of adjournment. This year, the final date for Governor’s action on bills is October 10th.

This report is updated to highlight bills that were passed by the Legislature and sent to the Governor near the close of the 2021 session. Only a few of the bills we are tracking have now been signed into law during the Governor’s 30 day signing period. After the October 10th signing deadline, we will update the status of all bills now waiting for the Governor’s decision. This report also confirms the status of tracked bills that did not make it out of the 2021 legislative session.

Bill pending signature are highlighted in this edition with a check box , and bills already signed into law are highlighted with double checkbox .

We include from the last edition summaries of important budget trailer bills that became law prior to adjournment. These include SB 92, establishing the local “secure track” for youth realigned from the Division of Juvenile Justice; SB145, making other changes related to juvenile justice facilities; and AB 153, the comprehensive foster care reform measure that includes the ban on out-of-state placements. See the end of this report for coverage of those trailer bills.

Floor votes cited in the bill reports below are in the order of “aye-no-not voting”. The full text of bills can be found on the state legislative website at www.leginfo.legislature.ca.gov. More information on legislation, budget and policy issues affecting a range of youth justice subjects is available on the Commonweal Juvenile Justice Program website-- www.comjj.org.

Assembly bills

AB 46 (Rivas, D. - Arleta). California Youth Empowerment Act. This bill would establish a 13 member state Youth Empowerment Commission of 14-25 year olds—down from 25 members after recent amendment. 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, starting in August of 2022 or within eight months of having raised sufficient funds, and it is 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 that would permit meetings of the Commission to take place remotely, as an exception to the Bagley-Keene open meeting act, have been deleted by June amendment. No appropriation. Implementation of the bill is made contingent upon the appropriation of state budget funds or the procurement of private funds or gifts from other sources. ***Passed the Assembly 73-0-6. Passed the Senate 30-4-6. Enrolled to the Governor on 9/17.***

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

AB 226 (Ramos, D. – Highland). Children's Crisis Psychiatric Residential Treatment Facilities. As introduced, AB 226 permitted a Short Term Residential Therapeutic Program (STRTP) to operate as a "childrens crisis psychiatric residential treatment facility", providing specialized mental health services to children and youth (up to age 21) needing intensive residential psychiatric care. The bill's changes in the licensing and service structure of children's psychiatric facilities are designed to expand the availability of critically needed services statewide while ensuring federal cost participation under Medicaid. In March the bill was amended to de-link these children's residential psychiatric facilities from STRTP's. In July, pieces of AB 226 were rolled into AB 153, the children's residential care budget trailer bill that blended related measures, including AB 808, into a comprehensive children's residential and crisis care reform package. Still remaining in AB 226 is a reclassification of the DSS licensing category for "children's crisis residential facilities" into a new category entitled "Children's crisis psychiatric residential treatment facilities". A primary goal of the reclassification is still to ensure that these facilities and services will qualify for Medicaid coverage. Licensing of these reconfigured facilities is transferred by AB226 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 stakeholders 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. The bill continues to separate STRTP's from the operation of children's crisis psychiatric facilities and it modifies the licensing language for STRTP's to remove the authorization for an STRTP to operate as a children's crisis residential program.

Passed the Assembly 78-0-2. Passed the Senate 37-0-3. Enrolled to the Governor on 9/15,

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 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 applying a timetable of adult and juvenile judgments for which retroactivity would apply. Juvenile commitments to the state Division of Juvenile Justice made prior to 1/1/21 would be covered retroactively beginning 1/1/22 by the Racial Justice Act, as would all pre-2021 adult cases involving a death sentence or commitment to state prison or county jail for a listed violent felony. Starting in 2023, the RJA would apply retroactively to any felony conviction or juvenile disposition occurring after January 1, 2023. In January of 2025, the RJA would apply under the bill to any felony conviction or juvenile disposition regardless of when it occurred. ***Passed the Assembly 45-21-13. Held in the Senate Appropriations Committee, two year bill.***

AB 317 (Patterson, R. – Fresno). State foster care ombudsperson. In July this bill was amended again to retract the substitution of the HHS Secretary for DSS as the selection authority for the ombudsperson. Now as amended, the Director DSS is back in the bill as the appointing authority for the ombudsperson. The bill retains the provision that ombudsperson “shall be independent and, in exercising discretion, shall not be directly or indirectly controlled, supervised or directed” by the director of DSS or any other official. AB 317 also prohibits the ombudsperson or their staff from being compelled to testify or to disclose certain records in a judicial or administrative proceeding (this added provision has the effect of transforming the bill into a 2/3 required vote measure). The bill also authorizes the ombudsperson to enter and inspect any licensed residential care facility and other listed premises at any time with or without notice. September amendments make some adjustments to process the Office can utilize to receive and investigate complaints. Additionally, the bill requires probation officers (as well as social workers) to provide foster youth with the toll-free number for contacting the office of the ombudsperson. ***Passed the Assembly 78-0-2. Passed the Senate 38-0-2. Enrolled to the Governor on 9/17.***

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 looting, vandalism, credit card theft and other nonviolent crimes. The bill also modifies the “pattern of criminal gang activity” criteria that must be met for conviction by adding that the offenses must have been committed within revised recent time frames and must have commonly benefited the criminal gang as re-defined. It further provides that where a gang enhancement is alleged, the trial (if requested by the defense) is to proceed in two phases beginning with determining the defendant’s guilt on the underlying offense and, if guilt is established, then determining the truth of the alleged

enhancements. The bill makes other changes to the gang enhancement law. Intent language in the bill cites the disproportionate impact of gang enhancements on youth of color and other negative effects. *Note: Assembly Member Kamlager became Senator Kamlager in March winning the Senate seat vacated by Holly Mitchell. Passed the Assembly 41-30-9 (bare majority vote). Passed the Senate 25-10-5. Enrolled to the Governor on 9/15.*

AB 366 (Rubio, D. – Baldwin Park). Placements of siblings in foster care. This bill has pinballed from a sex education bill to a mandate to place siblings together in foster care to something less. As amended in late August, the bill deletes language that required siblings to be placed together regardless of the capacity of the placement facility, unless placement was contrary to the safety or well-being of any sibling. Now, the more muted version of the bill simply reiterates the preference in current law for placing siblings together, while adding that “*The physical capacity of the home shall not be the sole reason to deny placement of a sibling group if each child in the home has an age-appropriate place to sleep and there are no other safety risks.*” Other provisions of the bill were also deleted by amendment— including a presumption that resource families have the capacity to place siblings together and the requirement that the State Dept. of Social Services strengthen regulations on sibling placement. *Passed the Assembly 78-0-2. Passed the Senate 38-0-2. Enrolled to the Governor on 9/22.*

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 (age 18-24). \$8 million is appropriated by the bill to the Department of Housing and Community Development to continue state allocations to child welfare agencies to secure and maintain housing for young adults aged 18-24, with priority for serving young adults who were formerly in the state’s foster care or probation systems. The bill also appropriates \$5 million to the Department to continue payments to counties for the housing navigator program to help young adults between 18 and 21 secure and maintain housing. In addition, the bill would provide supplemental funds for the existing Transitional Housing Plus Program (THPP) that supports independent housing for foster care youth, including probation placed youth, who are dependents or nonminor dependents. Subject to an appropriation in the Budget Act, supplemental THPP payments will be made available to cover higher housing costs in 11 high-housing-cost counties under payment terms that are detailed in the bill. Finally, the bill amends the Child Welfare Training Program (WIC Sec. 16200 et. seq.) to add a training component for child welfare workers and probation officers described as an “*...overview of the housing resources available through the local coordinated entry system, homeless continuum of care, and county public agencies, including, but not limited to, housing navigation, permanent affordable housing, THP-Plus, and housing choice vouchers; how to access and receive a referral to existing housing resources; and the social worker’s and probation officer’s role in identifying unstable housing situations for youth and referring youth to housing assistance programs.*” March amendments require county welfare departments receiving more than \$10,000 to report specific client service data to the Dept. of Housing and Community Development. *Held in the Assembly Appropriations Committee, two year bill.*

AB 417 (McCarty, D. - Sacramento). Rising Scholars Network for justice-involved students. AB 417 states intent to provide and fund postsecondary programs and services in California Community colleges for justice-involved students. A justice involved student is defined as a person who is currently or formerly incarcerated in a California correctional facility or who is currently or formerly detained in a juvenile facility. AB 417 authorizes the California Community

College Chancellor to establish programs or agreements with up to 50 community colleges to provide funds for services supporting postsecondary education of justice-involved students. The program is to be known as the Rising Scholars Network. Supported services would include academic counseling, tutoring, financial aid, career counseling and other listed services related to academic engagement and student success. Funding is not appropriated by the bill and would depend on resources identified in the state budget. ***Passed the Assembly 78-0-0. Passed the Senate 37-0-3. Enrolled to the Governor on 9/10.***

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 the 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 bill. ***To the Committee on Governmental Organization. Bill not moved.***

AB 503 (Stone- D.- Santa Cruz). Time limits on juvenile probation supervision; new criteria for juvenile court probation orders; elimination of mandatory probation sanctions and conditions. As amended in June, AB 503 adds Section 602.05 to the Welfare and Institutions Code, providing that a juvenile who is a made award of the court under Sec. 601 (status offense) or Sec. 602 (criminal offense), and who is subject to an order of probation (with or without probation supervision) under Section 727, shall not remain on probation for a period longer than six months. An exception allows extensions of the six months maximum probation term, not to exceed six additional months, upon a noticed hearing where the court finds by a preponderance of evidence that an extension of probation is in the ward’s best interest. At the extension hearing, the probation department must submit a report to the court describing the basis for the proposed extension, and the ward’s attorney and the prosecutor may submit relevant evidence. If the court decides to extend probation, it must state its reasons on the record. As structured, the bill would allow multiple probation extension periods so long as the criteria for each such extension period are met. 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, and* (2) *The burden imposed by the conditions shall be proportional to the legitimate interests served by the conditions.* Other amendments clarify the measure’s impact on probation youth in foster care and on youth who are committed to Secure Youth Treatment Facilities (SYTFs) established as local alternatives to the closure of DJJ. As amended in June, the bill requires a hearing prior to termination of jurisdiction, reiterating the requirement of current law for wards in foster care under WIC Section 607.2; this amendment ensures that termination of wardship probation under the bill will not inadvertently result in termination of jurisdiction and loss of foster care benefits or placements. The bill also provides that youth who are transferred by the court from a Secure Youth Treatment Facility to a less restrictive program, as provided in the new DJJ realignment “secure track legislation” (SB 92), are exempt from the probation time limits otherwise imposed by the measure. Finally, the bill as amended modifies multiple statutes that require the juvenile court (with some exceptions) to impose specified sanctions on WIC Section 601 or 602 wards or their parents, by making the imposition of those sanctions discretionary by the court rather than mandatory in each case. Among the affected sections are WIC Sec. 729 (ward must make restitution or perform community service in school battery cases); WIC 729.1 (for offenses committed on public transit, ward must wash, paint or repair damaged property or perform community service); WIC 729.2 (mandatory curfew for 601s and 602s, mandatory ward or

parental participation in school or parent education programs); WIC 729.6 (in school battery cases, ward must attend counseling at parents' expense); WIC 729.8 (mandatory community service in cases involving drug possession, use or sale on school or church property); WIC 729.9 (any 602 ward with drug possession, use or sale offenses must submit to drug and substance abuse testing at the direction of the probation officer); WIC 742.16 (for listed vandalism and graffiti offenses, ward must repair damage, make restitution or perform community service and parents must pay costs and damages under listed conditions). For each of these statutes, AB 503 makes the imposition of the statutory sanctions by the court discretionary rather than mandatory. AB 503 also eliminates the WIC Section 730.6 authority granted to a county Board of Supervisors to impose an administrative fee on wards for costs associated with the collection of restitution fines. The bill remains flagged by Legislative Counsel as a non-fiscal bill meaning that is not subject to review by Appropriations Committees.

As further amended in August, the court procedure for renewing the supervision period after six months was further modified to provide that the court could “choose not to accept any evidence” offered on the question of whether the probation period should be extended. Another amendment at this time stated that a jurisdictional hearing held pursuant to Section 607.2 could not result in continuing probation supervision, including language to the effect that probation supervision could not continue based on a petition filed in juvenile court for a probation violation.

In August the author elected to withdraw the bill from further consideration this year in order to deal further with continuing opposition from probation departments and to address concerns related to recent amendments. Passed the Assembly 41-22-16. Passed the Senate Public Safety Committee. On the Senate Floor, two year bill.

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

AB 592 (Friedman, D. – Glendale). Supervised transitional housing services. Current law establishes the Transitional Housing Plus Program (THPP) which provides transition housing for foster youth, including probation placed youth, in settings that include host homes, apartments, condominiums and other independent settings authorized by the program. Among the THPP program options is “supervised independent living setting”. This bill expands the definition of “supervised independent living setting” to include transitional housing in which a host family lives with the minor or nonminor dependent in a house, apartment or condo that is owned or leased by the host family, with supervision services provided by a licensed THPP provider. As amended in June, the bill sets out multiple classification and certification criteria for host families serving nonminor dependents under the bill. ***Passed the Assembly 73-0-7. Passed the Senate 37-0-3. Enrolled to the Governor on 9-13.***

AB 610 (Kalra, D. – San Jose). Decriminalization of school behaviors. AB 610 deletes or modifies Education Code sections that currently criminalize certain student conduct. The bill repeals Ed. Code 32210 which creates a misdemeanor for disturbing any public school or school meeting. The bill deletes Ed. Code Sec. 44014 which now requires any school employee who has been assaulted or threatened by a pupil to report the incident to law enforcement, with a misdemeanor penalty for failure to report. The bill deletes Ed. Code Section 48902 which presently requires the school principal to report student acts in violation of Penal Code Section 245 (aggravated assault) to law enforcement prior to suspension or expulsion of the pupil. The bill deletes Ed., Code Section 48902 (a) which presently requires the school principal to notify law enforcement of any act of a pupil involving possession of illegal drugs or of weapons excluding listed projectile weapons, razor blades or box cutters. *In the Assembly Education Committee. Not moved, two year bill.*

AB 624 (Bauer-Kahan- D., Orinda). Appeals of orders transferring juveniles to the jurisdiction of the adult criminal court. AB 624 adds Section 801 to the Welfare and Institutions Code, creating a new pathway for appeal of a court order transferring a juvenile to the jurisdiction of the adult criminal court. Current law fails to provide a process for direct appellate review of transfer orders. Lacking such a process, attorneys for youth must seek an appellate review by filing an extraordinary writ in the appeals court. Appellate courts are not required by law to hear these writs on their merits, and the writs are often routinely denied. As amended in April, AB 624 provides that any order of transfer to adult court shall be subject to immediate appellate review if a notice of appeal is filed within 30 days of the juvenile court transfer order. It further provides that, on request of the minor, the superior court must stay criminal court proceedings until there is an appeals court ruling on the appeal. The bill requires the juvenile court to advise the minor of the right to an appeal and further provides that any such appeal shall “have precedence” in the appellate court and “shall be determined as soon as practicable after the notice of appeal is filed”. *Passed the Assembly 77-0-1. Passed the Senate 39-0-1. Signed into law by the Governor, Stats. of 2021, Chapter 195.*

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

AB 808 (Stone, D.- Santa Cruz). Ban on out-of-state placements of foster youth; Children’s Crisis Continuum Pilot Program; new “specialized foster home” licensed facilities; new funds and therapeutic programs for foster youth with unplanned discharges; new STRTP program requirements; expansion of foster care wraparound services; regional center service appropriation. (NOTE: Many of the provisions in AB 808 have been incorporated into the comprehensive foster care trailer bill, AB 153, signed by the Governor on July 16th—see the end of this report for more on AB 153).

In June, AB 808 was vastly amended to impose a full ban on out-of-state placements of foster youth, The amendments also create and expand multiple placement and program options for foster

youth with special or high needs. The Children’s Crisis Continuum Pilot Program (the main focus of AB 808 prior to June amendment) stays in the bill, with additional changes. Given the complexity of the bill as revised, we highlight its main provisions in the bullet format below:

- *Ban on out of state placements.* The bill adds Section 7911.8 to the Family Code requiring the state Department of Social Services to terminate all certifications and placements of youth in out-of-state group care facilities, effective July 1, 2021. The new section reiterates the authority of DSS to “investigate any threat to the health and safety of children placed by a county social services agency or probation department”. The bill also replaces WIC Section 727.1 with a new 727.1 that terminates the authority of the court to order placement of a WIC 601 or 602 ward in a private residential facility or program that provides 24 hour supervision outside of the state.
- *Children’s Crisis Continuum Pilot Program.* AB 808 retains its original content establishing a five-year Children’s Crisis Continuum Pilot Program. This pilot program was originally intended to serve youth with “complex” and “high acuity mental health needs” in lieu of sending them to out-of-state facilities. County pilots are to be funded through competitive grants awarded by DSS. With the new ban on out of state placement, the timeline for submission of proposals to DSS accelerates to March 2022 with grant funds to be disbursed by May 1, 2022. The pilot programs are to be designed collaboratively by DSS and the Dept. of Health Care Services with input from child welfare, probation and other stakeholders. Each funded pilot must offer a continuum of care for children with high acuity mental health needs, including: a crisis stabilization unit providing 24 hour psychiatric services; a crisis residential program (4 bed capacity) which may be an STRTP or other licensed community care facility; a psychiatric health facility for those needing inpatient psychiatric care; and an array of defined intensive foster care and community-based support services. Funding for the pilots is to occur separately through the budget process. The bill includes data gathering requirements for the pilot programs and a DSS report to the Legislature on interim outcomes after three years.
- *Specialized foster homes.* AB 808 creates a new DSS licensing category for “specialized foster homes” to provide enhanced care and supervision for child welfare and probation youth at “higher levels of need”. The homes are described as the residence of a foster parent or parents who have completed specialized training while meeting other standards established by DSS. These “resource parents” must undergo training on topics including the educational, emotional, health, wellness and independent living needs of placed youth. DSS is tasked with adopting regulations and establishing provider rates for specialized foster homes by January of 2023.
- *\$20 million per year for integrated and comprehensive services for high-needs youth:* The bill appropriates \$20 million in on-going annual funding for “use by county child welfare and probation agencies to support foster youth with unplanned discharges or who are unable to secure a therapeutic program due to exceptional needs”. The funds may be used for placement preservation activities, enhanced transition planning and assessment services, additional staffing and specialized transportation. These funds are to be directly allocated to counties in a manner determined by DSS “in consultation with the County Welfare Directors Association of California and the Chief Probation Officers of California, and shall not be subject to preauthorization from the department”. Funds will be continuously appropriated until the state’s Joint Interagency Resolution Team (JIRT) determines that adequate service capacity for the target population has been reached. The JIRT is also tasked with working with stakeholders to produce recommendations on comprehensive and innovative strategies to serve the ongoing needs of children, youth and families in the child welfare and juvenile justice systems.
- *STRTP services.* AB 808 amends H&S Section 1562.01 which lists program requirements for Short Term Residential Therapeutic Programs (STRTPs). AB 808 adds subdivision (l) requiring that “as a condition of licensure” an STRTP must provide “trauma-informed support

and transition services to foster youth as part of a planned or unplanned discharge”, including participation in any county- or state-level meetings mandated by WIC Section 16521.6 (coordination of services for high-needs youth) to serve the goal of “placement preservation whenever possible or, if necessary, identifying and working with alternative short-term residential therapeutic programs or other providers to directly transition the youth.”

- *Wrap arounds service expansion.* The bill adds WIC Section 18257.5 requiring the state Departments of Social Services and Health Care Services, in consultation with counties and stakeholders, to develop recommendations within one year “for implementing and expanding high-fidelity wraparound services statewide”.
- *Regional center services.* The bill appropriates \$9 million to the State Dept of Developmental Services to expand “home- and community-based regional center vendored facilities” serving children with intellectual and developmental disabilities who are in crisis or require specialized care, with a priority for foster youth served by child welfare and probation agencies.

Passed the Assembly 79-0-0. Passed the Senate Human Services, in the Senate Health Committee. Withdrawn by the author due to inclusion of the bill’s essential provisions in budget trailer bill AB 153.

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 (1) to the registration list. PC 647 (1) establishes misdemeanor penalties for violations of subdivision (b) (prostitution related offenses) where the person knew or should have known that the victim was a minor; the application of this newly added PC 647 subdivision to the registration requirements of PC Section 290 will be a matter requiring some degree of analysis and interpretation. ***Failed passage in the Assembly Public Safety Committee on 4/13.***

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

AB 1165 (Gipson, D. – L.A.). Ban on chemical agents in juvenile facilities, juvenile facility staffing ratios. AB 1165 imposes an immediate ban on the use, purchase and storage of chemical agents—except for OC (pepper) spray—by any entity that “manages, operates or owns a juvenile facility”. As defined in the bill, juvenile facilities include juvenile halls, probation camps, state operated juvenile facilities and to “any other local or state facility used for the confinement of minors or wards”. In May the bill was amended to permit the continued use of OC/pepper spray in

juvenile facilities until July 1, 2023, after which no chemical agent (as defined) can be used “against a juvenile who is under 18 years of age or in any space where a juvenile under 18 years of age is confined”. As amended the bill also requires the custodian of each juvenile facility to file detailed quarterly reports, starting in July 2023, with the Board of State and Community Corrections on the use of any chemical agent in a juvenile facility; presumably, such use after 7/1/23 would be illegal or would be limited to situations not involving exposure to any person under age 18. The bill further requires all juvenile facilities to dispose of chemical agents (except OC spray) in their possession by December 21, 2022 and to so notify the Board of State and Community Corrections. Additionally, May amendments add a new Section 208.6 to the Welfare and Institutions Code, mandating staffing levels in juvenile facilities that comply with federal regulations under the Prison Rape Elimination Act (PREA). Specifically, the bill would require staffing ratios in juvenile facilities to be 1:16 for youth during sleeping hours and 1:8 for youth during awake hours. ***Held in the Assembly Appropriations Committee, two year bill.***

AB 1193 (Rubio, D.- Baldwin Park). Crime of solicitation of a minor—adds felony penalty and removes requirement of knowing minor’s age. This bill amends Penal Code Section 647 (l) which currently defines the crime of solicitation of a minor (per PC 647 (b)) as a misdemeanor where the person soliciting the minor knew or should have known that the person solicited was a minor at the time of the offense. This bill deletes the qualification that the person knew or should have known that the person was a minor while increasing the penalty from a misdemeanor to a wobbler by adding the option of a state prison sentence of 16 months or two or three years. ***In the Assembly Public Safety Committee. Not moved, two year bill.***

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

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

AB 1318 (Stone, D. – Santa Cruz). Deferred entry of judgment young adult pilot programs. This bill is a June “gut and amend” of an unrelated bill. As revised, the bill extends the evaluation and performance time periods for the young adult pilot (juvenile hall) program that was first enacted in 2016 (SB 1004) and modified in subsequent bills. The prior legislation authorized pilot programs in six counties (Alameda, Butte, Napa, Nevada, Santa Clara, Ventura) whereby young adults with qualifying felony offenses up to age 25 under “deferred entry of judgment” orders could be assigned by the court to a custodial program in a juvenile hall in a pilot county. Young adults in the juvenile hall programs are required to be separated from juveniles in the same facility. This bill extends the sunset date for the pilots (from January 2022 to January 2024) as well as the due date for evaluation reports prepared by the Board of State and Community Corrections (to end of 2022). Of the six authorized pilots, only Nevada and Santa Clara counties have launched active projects. ***Passed the Assembly 60-13-6. Passed the Senate 30-7-3. Signed into law by the Governor, Stats. of 2021, Ch. 210.***

Senate bills

SB 53 (Levy, D. – Chino). *New sexting offense, civil actions.* SB 53 creates a new infraction for knowingly sending an “unsolicited image by electronic means...depicting a person engaging in an act of sexual intercourse, sodomy, oral copulation, sexual penetration, or masturbation or depicting the exposed genitals or anus of any person.” The bill provides that an image is unsolicited “if the recipient has expressly notified the sender that its transmittal is forbidden”. The penalty for the infraction is a fine of \$250 for a first offense and \$500 for a subsequent offense. As amended, the bill provides that a person under 18 years of age shall be given a written warning for a first violation and that any subsequent violation is an infraction punishable by a fine not to exceed \$250. The bill also creates a civil action for the same behavior, providing for recovery of economic and noneconomic damages including damages for emotional distress and punitive damages. *Moved to the inactive file by the author, two year bill.*

☑ **SB 81 (Skinner, D. – Berkeley). *Dismissals of sentence enhancements.*** Under the Penal Code and under ballot initiatives like the “Three Strikes” law, adult sentences may be enhanced with additional prison time if a code offense 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 provide for dismissals of enhancements under a variety of circumstances and conditions. Last minute amendments in the Assembly (on August 30) have tempered prior, stronger language that would have created a presumption that a qualifying enhancement must be dismissed by the court if dismissal is determined to be “in the furtherance of justice”, and unless dismissal is prohibited by an initiative statute. The prior version of SB 81 activated this presumption where any of nine enumerated circumstances listed in the bill were found to be true. Under the latest amendments, the presumption disappears, and the court’s determination as to whether a dismissal is “in the furtherance of justice” must now be guided by a broader criterion that is articulated as follows: *“The court shall consider and afford great weight to evidence offered by the defendant to prove that any of the mitigating circumstances in subparagraphs (A) to (I) are present. Proof of the presence of one or more of these circumstances weighs greatly in favor of dismissing the enhancement, unless the court finds that dismissal of the enhancement would endanger public safety. “Endanger public safety” means there is a likelihood that the dismissal of the enhancement would result in physical injury or other serious danger to others.”* The nine mitigating circumstances triggering the court’s enhancement dismissal process remain in the bill, but with some tweaks. For juvenile justice practitioners, the bill applies the enhancement dismissal process to prior juvenile adjudications, with an August modification restating the juvenile offense circumstance as follows: *“The defendant was a juvenile when they committed the current offense or ~~prior offenses.~~ any prior juvenile adjudication that triggers the enhancement or enhancements applied in this case.”* The circumstance that application of the enhancement would result in “disparate racial impact” is modified to refer to “discriminatory racial impact” as defined in Penal Code Section 745. Other listed dismissal circumstances include that the current offense is connected to mental illness or childhood trauma or that the enhancement is based on a conviction more than five years old. The August 30 amendments also add content to the definition of “childhood trauma” that may be considered by the court, as follows: *A court may conclude that a defendant’s childhood trauma was connected to the offense if, after reviewing any relevant and credible evidence, including, but not limited to, police reports, preliminary hearing transcripts, witness statements, medical records, or records or reports by qualified medical experts, the court concludes that the defendant’s childhood trauma substantially contributed to the defendant’s involvement in the commission of the offense.* August amendments also modify the

bill's effective date language (it was already not retroactive), stating that the bill's provisions will apply to "...sentencings occurring after the effective date of the act that added this subdivision". ***Passed the Senate 23-11-6. Passed the Assembly 46-24-10. Enrolled to the Governor on 9/17.***

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), county agencies and courts to exempt certain resource, relative and other described caregiver candidates from disqualification based on criminal history. The exemption can be established where relatives, family members and other adults living in the placement home have not had a felony conviction within the last five years for child abuse and other listed offenses, and where the placement is considered as one that does not pose a risk to the health and safety of the child. An exemption granted under the bill is not transferable to the placement of another child. The bill requires the state Dept. of Social Services to submit a report to the Legislature by 7/1/24 on the number of resource family applicants whose applications were denied based on criminal history. 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 37-0-3. Passed the Assembly 69-0-1. Enrolled to the Governor on 9/13.***

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 for a delinquency offense, under circumstances enumerated in Welfare and Institutions Code Section 654.3. Specifically, if a minor meets one of these enumerated 654.3 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) (minors alleged to have sold or possessed controlled drugs) and subdivision (h) (minors charged with a felony offense committed at or above the age of 14). Youth fitting these descriptions would become newly eligible for informal probation or court supervision under the terms of the bill. SB 383 also amends Section 790 (deferred entry of judgment) with respect to inter-county cases. In this regard the bill provides that where the minor resides in a county other than the county of adjudication, the court in the county of adjudication may make its findings without determining the minor's eligibility for WIC 790 (deferred entry of judgment), and the county of residence may then upon transfer of the case determine the minor's eligibility for deferred entry of judgment. Additionally, as amended the bill deletes an obsolete reference in Section 791 (a) (6) that presently requires the prosecutor to inform a minor in the deferred entry program that failure to comply with the program requirements may result in transfer of the minor to the adult criminal court. Two thirds vote required as an amendment to Proposition 21. ***Passed the Senate 29-7-4. Passed the Assembly 58-16-6. Enrolled to the Governor on 9/17.***

SB 384 (Cortese, D. – San Jose). Family finding efforts by child welfare and probation departments. Current law requires child welfare and probation agencies to exercise due diligence and to investigate to locate parents or relatives of any minor who is removed from home in dependency or delinquency proceedings. This bill would, additionally, require all county child

welfare and probation departments to create and make public a procedure whereby parents or relatives of removed children can identify themselves for purposes of receiving notices and assisting in the subsequent proceedings. The bill additionally requires county welfare and probation departments to notify the foster care ombudsperson in the state Dept. of Social Services, by January of 2023, regarding its adoption of policies and practices for family finding as recommended in a DSS all-county letter, including the use of a computer-based search engine to connect youth with parents or relatives who may be able to provide support or placement for the minor. ***Passed the Senate 37-0-3. In the Assembly Public Safety Committee. Converted to two-year bill status by the author.***

SB 472 (Caballero, D. – Salinas). Social innovation grant program. This bill would renew the Social Innovation (“Pay for Success”) grant program at the Board of State and Community Corrections (BSCC), which would otherwise expire at the end of 2021. This grant program was established by 2014 legislation to support three county recidivism reduction projects utilizing an innovative public-private partnership funding model. Under this funding model, startup and operating costs for approved programs are paid by private, nongovernmental investors, which may be private foundations or other funding consortiums adapted to the specific project. The investors are repaid only if the project meets specific performance goals. The drawdown of state grant funds is thus contingent upon the project having met defined performance outcome measures—for example, in relation to caseload service levels or recidivism reduction. As performance goals are met, the private funders are reimbursed under the terms of each “pay for success” contract. Intermediary agencies serve as facilitators between counties, private funders, service providers and state agencies. In the 2014 first round of grants, projects in Alameda, Los Angeles and Ventura counties were funded with a total of \$5 million in state recidivism reduction funds. BSCC is the state administering agency for the grant program. This bill would, starting July of 2022, reauthorize and extend the BSCC Social Innovation “Pay for Success” grant program through 2027. Five counties would be selected for “pay for success” grants, contingent upon the appropriation of funds by the Legislature. The primary program goal of recidivism reduction is expanded by the bill to include a project focus on homelessness. ***Passed the Senate 39-0-1. Passed the Assembly Public Safety Committee, held in the Assembly Appropriations Committee, two year bill.***

SB 493 (Bradford, D. – Gardena). Juvenile Justice Crime Prevention Act, Juvenile Justice Coordinating Councils. SB 493 is a complete overhaul of the state’s Juvenile Justice Crime Prevention Act (JJCPA) and a remake of the Juvenile Justice Coordinating Councils (JJCC’s) that submit JJCPA plans to the state and make local JJCPA spending decisions. The JJCPA, first adopted in 2000, provides counties with funds for juvenile justice crime prevention programs based on local spending plans submitted to the Board of State and Community Corrections (BSCC). Annual statewide funding is in the range of \$150 million per year (\$159 million for FY 20-21), and funds are distributed to counties based on each county’s share of the state youth population. The local JJCPA funding process has drawn criticism in recent years, based on complaints that local JJCC’s have been dominated by probation departments and law enforcement agencies—to the exclusion of mandated community-based agency participation—and that JJCPA funds in some counties have been diverted to augment county probation budgets in lieu of community crime prevention programs. SB 493 responds to these complaints by completely revising the JJCPA funding process outlined in the Government and Welfare and Institutions Codes. A March amendment requires that 95% of all JJCPA state funds be allocated to community-based agencies or to public agencies that are not law enforcement. The bill recasts the membership of local Juvenile Justice Coordinating Councils—responsible for local allocations of

county funds—by requiring that 50% of members must be nongovernmental “community representatives” including local service providers and formerly justice-involved persons. Mandatory JJCC slots for law enforcement and probation under current law become slots that the county “may” fill with those public members. The current requirement that the JJCC be chaired by the Probation Chief is replaced by a provision that co-chairs—one of whom must be a community representative—will be selected by Council members. These changes appear at WIC Section 749.22, which established the local JJCCs in 1996 to administer the now defunct Juvenile Accountability Challenge Grant Program. When the JJCPA was adopted in the year 2000, the JJCCs were also tasked with local administration of JJCPA grants. In addition to reconfiguring JJCC’s, the bill completely revises the county multiagency juvenile justice plans that must be submitted annually by counties to BSCC to qualify for JJCPA funds. As revised by SB 493, the plans must be modeled on a new framework of youth development, collaboration with CBOs and trauma informed care. The bill adds new requirements for annual spending reports that counties must submit by October 1st each year to BSCC—adding for example, a requirement to report “*Data on the total number of youth referred to and receiving services funded under this chapter, disaggregated by program, race, ethnicity, age, gender identity, residence ZIP Code, probation status, charges or activities warranting intervention, and program outcomes, including, but not limited to, an accounting of all participants’ completion or noncompletion of the program*”. In addition, the bill requires each local JJCC to produce two other local juvenile justice plans: a comprehensive multiagency juvenile justice plan (which resembles but is not the same as the JJCPA plan required by the Government Code) and a “Local Action Plan” to “reduce crime and violence in the greater community” utilizing a “continuum of responses for at-risk youth and youth involved in the justice system”. ***Held in the Senate Appropriations Committee, two year bill.***

SB 528 (Jones, R. – Santee). DSS foster youth health care portal, psychotropic drugs. SB 528 would add Section 16010.1 to the Welfare and Institutions Code, requiring the Department of Social Services (DSS) to create an electronic health care portal (or to use an existing portal) that will provide health care providers with access to health information on children in foster care. The health information is to be drawn from the health and education summary contained in the local case plan for each foster youth as described in WIC Section 16010. The health portal must also include completed Judicial Council forms controlling the administration of psychotropic drugs to wards and dependents of the juvenile court. The bill provides that health care providers are to have access to the information contained in the portal “when providing health care services and medical treatment to the child”. As amended in April and May, the bill tasks foster care public health nurses with updating the foster child’s information on the portal while also making the measure contingent upon a state budget appropriation. ***Passed the Senate 37-1-2, to the Assembly Human Services & Health Committees. Two year bill.***

SB 641 (Skinner, D. – Berkeley). Juvenile justice reform spot bill. This is a spot bill making nonsubstantive amendments to Welfare and Institutions Code Section 602 (juvenile delinquency jurisdiction) and Section 707 (transfers to criminal court). Senator Skinner has indicated her intent to use the bill as a placeholder for larger juvenile justice reform measures that may be pursued in the second year of the two-year session (2022), perhaps incorporating elements of her withdrawn 2020 bill (SB 889) to raise the age of juvenile court jurisdiction. ***Not assigned, two year bill.***

Budget Trailer Bills

Note: Budget trailer bills are processed and adopted separately from the Budget Act that must be approved by the Legislature by June 15th and enacted (signed by the Governor) by July 1st. Several important budget trailer bills affecting the juvenile justice system and placements of probation youth were passed by the Legislature and have now been signed by the Governor into law. Three of these key trailer bills are summarized below.

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

This budget trailer bill was moved as an “early action” budget measure to resolve issues remaining after year’s adoption of Senate Bill 823 closing the state Division of Juvenile Justice (DJJ). Under SB 823, intake at DJJ closed for most youth on June 30. Thereafter, counties became fully responsible for local custody and care of youth who can no longer be sent to state youth prisons. SB 92 restores the “secure track” component of DJJ realignment that was cut out of SB 823 and deferred for resolution in 2021. In addition, SB 92 includes cleanup and technical amendments SB 823. SB 92 was effective upon the Governor’s signature though many of its provisions have staggered start dates. Here is a brief summary:

“Secure track” for realigned DJJ youth in local facilities and programs. SB 92 authorizes juvenile courts to commit youth adjudicated for listed serious and violent offenses to a county “secure youth treatment facility”, under new local sentencing criteria. The local “secure track” establishes a local juvenile justice disposition serving as a critical alternative to transfers of youth at higher offense levels to adult courts and state prisons. Extensive negotiations and agreements involving the Governor’s Office, legislative leaders, advocacy organizations and county stakeholders were incorporated into the secure track structure that has been enacted by SB 92. Below we summarize key features of the secure track legislation:

- 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.

SB 823 cleanup and technical amendments. SB 92 includes significant technical amendments and corrections to SB 823 including the following.

- DJJ final closure date. A final shutdown date for DJJ (not included in SB 823) is specified 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 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.

AB 145 (Committee on Budget, public safety budget trailer bill). DJJ Pine Grove Conservation Camp, BSCC juvenile hall inspections, juvenile justice slots on the Sex Offender Management Board. Signed into law by the Governor on July 16th.

AB 145 is the FY 21-22 omnibus public safety budget trailer bill which includes these provisions affecting juvenile justice facilities and programs:

- ***Pine Grove Conservation Camp to remain open.*** AB 145 delivers on a pledge made by the Governor during the negotiations around DJJ realignment to keep the DJJ Pine Grove firefighting camp open to train justice-involved youth in wildland firefighting and as a pipeline to employment for DJJ youth. AB 145 amends WIC Section 730 by authorizing the juvenile court to order a direct placement of a 602 ward in the still-open Pine Grove Camp if the ward meets placement criteria, the county has a contract with DJJ for this purpose, and DJJ finds that the ward is amenable to the program and that there is available “space and resources” for placement in the program. Section 1760.5 is added to the Welfare and Institutions Code, authorizing DJJ to enter into contracts with individual counties “... to furnish training and rehabilitation programs, and necessary services incident thereto, at Pine Grove, for persons 18

years of age and older who are under the jurisdiction of the juvenile court and supervision of a county probation department following adjudication under Section 602 for a felony offense”. This language seems to limit the acceptance in the Pine Grove program to juvenile court wards 18 and older even though that age limit is not mentioned in the amendment to WIC Sec. 730. Neither amendment addresses the future status of Pine Grove beyond the final closure date of DJJ that is now set for June 30, 2023.

- ***Unannounced inspections of juvenile halls.*** AB 145 amends WIC Section 209 which presently requires the Board of State and Community Corrections to conduct a biennial inspection of each jail, juvenile hall or special purpose juvenile hall used to confine minors for periods longer than 24 hours. The amendment authorizes any officer, agent or employee of the Board to enter and inspect any area of the juvenile detention facility *without notice* to in order to conduct the inspection.
- ***Sex Offender Management Board (SOMB)—adding juvenile justice members.*** The SOMB within the Dept. of Corrections and Rehabilitation has a range of functions related to the treatment and management of adult and juvenile sex offenders, including juveniles subject to mandatory sex offender registration. Among its duties SOMB promulgates certification standards for California sex offender treatment programs. In 2019, the Board issued a report entitled “Juvenile Recommendations” citing low recidivism rates and other differences between juvenile and adult sex offenders. The report recommended creation of a new collaborative model of treatment and supervision for juveniles with sex offenses and, importantly, it called for an end to mandatory sex offender registration for juveniles. This trailer bill would add two juvenile justice representatives to the SOMB Board, including the Executive Director of the new Office of Youth and Community Restoration or their designee, and a licensed mental health professional with experience in juvenile sex offender treatment to be appointed by the Speaker of the Assembly. Other changes proposed by the Administration on SOMB certifications of professionals providing sex offender treatment to juveniles were not included in the final version of the trailer bill.

AB 153 (Committee on Budget). Major foster care reform trailer bill including ban on out of state placements. Signed into law by the Governor on July 16th.

This massive (250 page) budget trailer bill builds on group care reform in California while also bringing California into compliance with the fiscal participation requirements of the Federal Family First Prevention Services Act (FFPSA). Borrowing from multiple sources—including the Administration’s FFPSA trailer bill and several pending foster care bills—AB 153 was negotiated into its final form late in the budget process and signed by the Governor on July 16th. As enacted, AB 153 will terminate out-of-state placements of youth, including probation-placed youth, by decertifying all out of state facilities for this purpose by January of 2023. Additionally, and to further ensure FFPSA compliance, the bill modifies dozens of code sections affecting process and programs for foster care placements by courts, child welfare and probation agencies. Short Term Residential Therapeutic Programs (STRTPs)—the intensive private residential care facilities that have replaced traditional group homes under the state’s Continuum of Care Reform—get a makeover of sorts in the bill to conform to the FFPSA but also to help absorb a residual population of high-needs youth being relocated from out-of-state facilities. Additionally, AB 153 launches new in-state programs for foster youth at the highest levels of need that will also fill gaps created by the pullback from out-of-state providers. Among these is the Children’s Crisis Continuum Pilot Program creating grants to counties for multi-faceted mental health and psychiatric programs and

facilities for high-needs foster youth. The provisions of AB 153 are too extensive and complex to cover comprehensively in this report, and interested readers are advised to consult the text of the trailer bill itself or collateral sources that can explain its terms and impact on providers and youth. In brief summary form, we note the following highlights of the bill:

- ***Ending out-of-state placements.*** In the wake of documented and severe abuses, last December the California Department of Social Services (DSS) decertified out-of-state facilities for juvenile court wards and recalled out-of-state placements of more than 100 youth. Lawmakers, the Administration, stakeholder organizations and advocates worked in 2021 to fully terminate out-of-state placements and to build California’s in-state capacity to address the mental health and behavioral treatment needs of youth sent to other states. AB 153 represents the negotiated outcome of competing proposals. Under the bill, as of January 2023 all out-of-state facilities for child welfare- and probation-placed youth will be de-certified and courts, probation and welfare agencies will no longer be able to make those out-of-state placements. Pending the full ban, out-of-state facilities will have to meet stringent new certification requirements matching those for in-state STRTPs for any interim placements (a high bar and near-ban in itself), and DSS cannot certify any such out of state facility after July of 2022. These changes affect multiple code sections but the main and pivotal language decertifying and banning out of state placements is added at Family Code Sections 7911 and 7911.1
- ***FFPSA compliance, impact on STRTPs.*** To qualify for federal funds under the Family First Prevention Services Act, California had to make multiple changes to its own child placement law and procedure. New provisions in AB 153 recast how placements are assessed and how case plans, court reviews and other placement actions are implemented. For certain residential programs a pre-placement assessment must be done by a qualified individual (QI) to help determine the most appropriate placement. These FFPSA compliance provisions generate amendments to multiple sections of the Family, Health and Safety and Welfare and Institutions Codes. For STRTPs (a prime, remaining group care option for probation youth), Family Code Section 4960 will now require that a QI assessment be done in coordination with the Child and Family Team, that it must utilize a validated assessment tool, and that it must determine why an STRTP “is the setting that will provide the child with the most effective and appropriate level of care in the least restrictive environment”. Additionally, the STRTP must apply a comprehensive trauma-informed treatment model, must ensure the 24/7 availability of qualified nursing staff and must provide a family-based aftercare program for no less than six months following discharge of a youth from the program. Another amendment requires the STRTP to provide trauma-informed support and transition services to foster youth as part of a planned or unplanned discharge. AB 153 adds multiple other process and program changes for STRTPs and for interim out-of-state placements until the full ban becomes effective.
- ***Other probation-specific placement process changes.*** For juveniles placed by probation departments, AB 153 makes procedural changes to the Welfare and Institutions Code that apply generally to all foster care placements and specifically to youth placed by probation departments. A new WIC Section 727.12 requires court review of all probation placements in STRTPs within 45 days of the placement, based on documentation submitted by the placing agency and leading to a court determination approving or disapproving the placement (mirroring the same requirement for child welfare placements under a new Section 361.22). New probation social study, case plan and status review hearing requirements are added by amendments to WIC Sections 706.5, 706.6 and 727.2.

- ***Children’s Crisis Continuum Pilot Program.*** AB 153 transplants and incorporates the provisions of AB 808 (Stone) creating a Children’s Crisis Continuum Pilot Program (CCCPP). The multi-faceted service structure of the CCCPP is intended to develop “...*treatment options that are needed to support California’s commitment to keep youth in families to the greatest possible degree based on the best interest of the youth, and to eliminate the placement of foster youth with complex needs in out-of-state facilities whenever possible*”. The pilot programs are to be designed collaboratively by DSS and the Dept. of Health Care Services with input from child welfare, probation and other stakeholders. Lead agencies for the county pilots may be the county child welfare department, the county behavioral health department, the county mental health plan or the county probation department. County pilots are to be funded through competitive grants awarded by DSS. With looming deadlines banning out-of-state placements, the timeline for submission of proposals to DSS accelerates to March 2022 with grant funds to be disbursed by May 1, 2022. Funded pilots must offer a continuum of care for children at the highest levels of need including: a crisis stabilization unit providing 24 hour psychiatric services; a crisis residential program (4 bed capacity) which may be an STRTP or other licensed community care facility; a psychiatric health facility for those needing inpatient psychiatric care; and an array of defined intensive foster care and community-based support services. Funding for the pilots is achieved separately through the budget process. The bill includes data gathering requirements for the pilot programs and a DSS report to the Human Services Committees of the Legislature by April of 2025 on interim pilot caseloads and outcomes.
- ***More new program and funding initiatives.*** AB 153 incorporates several new or expanded program and funding initiatives for youth in foster care (or post-foster care) at various levels of need. In addition to the Crisis Continuum Pilot described above, these include two housing assistance programs for youth age 18-24 with a priority for youth formerly in the foster care and probation systems, through the Department of Housing and Community Development (at H&S Sections 50807, 50811); a supplemental Transitional Housing Plus program to provide assistance to youth in counties representing the state’s 11 highest cost housing rental markets (at H&S Sec 50820); a new program of local assistance to counties, funded through the Budget Act to support contracts with community based service providers or Indian tribes to support a wide range of “continuum of care” needs for foster youth (new WIC Sec.16000.1); a new Guaranteed Income Pilot Program to provide grants serving residents who age out of the extended foster care program or after age 21 including those who are pregnant (new WIC Sec. 18997); and a directive DSS and the Dept. of Health Care Services to work with stakeholders on recommendations to implement and expand high-fidelity wraparound services for foster youth. The bill also includes adjustments in the state rates paid to STRTPs, foster family agencies and relative caregivers. The appropriations for these new programs and initiatives are made through other budget bills.

There is much more in this lengthy and landmark foster care reform bill. Please consult the full text of the bill or expert advisors for a full understanding of its provisions.

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