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**JUVENILE JUSTICE AND
RELATED YOUTH PROGRAM BILLS**
in the 2022 Session of the California Legislature

April 15, 2022

***JUVENILE JUSTICE BILLS PENDING IN THE 2022 CALIFORNIA
LEGISLATIVE SESSION***

This report describes bills pending in the 2022 session of the California Legislature on the subjects of juvenile justice, youth crime prevention, probation foster care and related topics.

This is the second year of a two-year session. The Legislature returns from its annual Spring break on April 18th to resume committee hearings. The deadline for new bills having a fiscal impact to pass policy committees in the house of origin is April 29th.

In addition to the bill reports in this edition, we continue to track budget and administrative actions related to the realignment of the state Division of Juvenile Justice (DJJ). Some technical amendments to the major DJJ realignment bills (SB 823, SB 92) are considered likely to be advanced through the budget process this year. We will report on these and other DJJ closure and realignment events as they become known.

The full text of bills can be found on the state legislative website: 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 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.

- **Probation supervision time limit.** 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. 601 (status offense) or Sec. 602 (criminal offense), and who is subject to an order of probation under Section 727, shall not remain on probation for a period longer than six months. An exception allows the court to extend the six month probation term for up to six additional months, upon a finding (based on a preponderance of evidence) that extension of probation is in the ward's best interest. At an extension hearing, the probation department must submit a report to the court describing the basis for 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 period extensions so long as the criteria for each such extension period are met. A somewhat confusing amendment added in

August of 2021 states that if the court “chooses not to accept any evidence, it shall state the basis for denying the evidence”—an add-on that may draw further inquiry.

- **Conditions of probation supervision.** 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.*
- **SYTF commitments, termination of jurisdiction.** AB 503 includes an exemption from its probation supervision limits for youth who, based on commission of a serious or violent offense, are committed to a Secure Youth Treatment Facility (SYTF) and are subsequently transferred to a “less restrictive program” as provided in WIC Section 875. The bill also ensures that the juvenile court, when terminating probation jurisdiction, holds the required termination hearing under WIC 607.2 with the added provision that extended jurisdiction may not be the basis for continuing probation supervision conditions; this latter adjustment helps to ensure that youth who move from delinquency to continuing dependency status are not saddled with older probation conditions.
- **Relief from mandatory sanctions.** Finally, the bill 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.

Status: The bill is flagged by Legislative Counsel as a non-fiscal bill. It passed policy committees in both houses and was held on the Senate floor at the end of the 2021 session. The bill remains positioned for a final Senate vote without further policy committee hearings.

AB 1599 (Kiley, R. – Rocklin). Repeal of Proposition 47. This bill would move the clock back on Proposition 47 provisions that converted felonies for many crimes to misdemeanors. Felony threshold values for various theft and property crimes are reduced to \$400 from \$950, among other changes restoring felony status to Prop 47 revised offenses. The bill also deletes retroactivity provisions of Prop 47 that allow persons to reduce prior felony convictions to misdemeanors. Requires approval by the Legislature and by voters to be enacted into law. ***Failed passage in the Assembly Public Safety Committee on March 8, reconsideration granted.***

AB 1615 (Ting, D. – S.F.) Expanded eligibility of youth for transitional housing and homeless programs. This bill expands the current criteria defining the eligibility of former foster youth for transitional housing and homelessness support programs. Upper age eligibility for the Transitional Housing Program Plus (THPP) would rise to age 25 from age 24 for former foster youth as defined. New and expanded eligibility criteria are added for housing assistance and support under the “Bringing Families Home” Program (WIC Sec. 16523). The bill expands the age of eligibility (from age 21 to 24) for the renamed “Housing Navigation and Maintenance Program” which provides assistance to former foster youth in securing housing, Makes other changes in housing and homeless support programs. **Passed the Assembly Committee on Housing and Community Development; to the Committee on Human Services.**

AB 1630 (Weber, D. – San Diego). Incompetency. This CPDA-sponsored bill revises the criminal court process for determinations of incompetency in adult proceedings. It essentially shifts the burden of establishing competence to the prosecution, first by removing the requirement that the defense must go forward with evidence of incompetency after a mental health professional report indicating incompetency. The bill also requires an examining mental health professional to evaluate whether the defendant is eligible for a mental health diversion program. Makes other procedural changes to incompetency determinations. Applies to adult criminal proceedings but is of interest with respect to WIC Section 790 (juvenile incompetency) which does not embrace the changes proposed by AB 1630. **On suspense in the Assembly Appropriations Committee.**

AB 2169 (Gipson, D. – L.A.). Vacating convictions for victims of human trafficking. Current law allows the court to vacate certain convictions where the defendant was a victim of human trafficking or sexual violence. AB 2169 modifies the evidentiary elements for vacatur by requiring the petitioner to provide evidence that he or she lacked criminal intent and by removing the requirement that the petitioner must have made a good faith effort to distance themselves from the human trafficking scheme. **Passed the Assembly Public Safety Committee, to the Assembly Appropriations Committee.**

AB 2321 (Jones-Sawyer, D. – L.A.). Juvenile room confinement. AB 2321 amends WIC Section 208.3 which imposes limits on the use of room confinement in state and local juvenile justice facilities, including limits on the length of time juveniles can be confined in their rooms or cells. Current law exempts “brief periods of locked room confinement” from the definition of room confinement, effectively creating a zone in which Section 208.3 does not apply, This bill specifies that the brief exemption period lacking the protections of Section 208.3 may not exceed one hour and may occur only when necessary for institutional operations. The bill also requires that minors who are confined in state or county juvenile facilities must be provided with reasonable access to toilets at all hours including normal sleeping hours. **Passed the Assembly Public Safety Committee, in the Assembly Appropriations Committee.**

AB 2361 (Bonta, D. – Alameda). Criteria for transfers of juveniles to adult criminal court. Under current law, a juvenile court in a transfer hearing must base its decision on criteria listed in WIC Section 707. These criteria include factors such as the minor’s degree of criminal sophistication, the minor’s prior delinquent history and whether the minor can be rehabilitated prior to the expiration of juvenile court jurisdiction. AB 2361 would additionally require the court, in ordering transfer to the adult system, to find by clear and convincing evidence that “*the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court.*” As amended 3/31 the bill also requires a court ordering transfer of a minor to the adult court to include in its transfer order the reasons why a minor has been found not to be amenable to rehabilitation under

the jurisdiction of the juvenile court. ***Passed the Assembly Public Safety Committee, to the Assembly Appropriations Committee.***

AB 2417 (Ting, D. – S.F.) Youth Bill of Rights. WIC Section 224.70 currently provides that youth committed to the state Division of Juvenile Facilities have enumerated rights including adequate health, hygiene and education programs; protection from race and gender discrimination; limits on use of restraints; a ban on excessive disciplinary practices and other enumerated rights. This bill substantially expands the individual rights listed in Section 224.70. It removes the reference to the Division of Juvenile Justice while making the enumerated rights applicable to any public or private place of juvenile confinement operated directly by, or under contract with, a probation department or juvenile court. The bill also tasks the Office of Youth and Community Restoration (OYCR) with ensuring that the Bill of Rights is posted in youth facilities and is disseminated to affected youth, and it strengthens OYCR investigatory and enforcement authority related to Bill of Rights violations. ***In the Assembly Public Safety Committee for hearing 4/19.***

AB 2543 (V. Fong, R.- Bakersfield). Proposition 47 offense additions. This bill amends PC Section 459.5 to erode the \$950 threshold of Prop 47 for felony shoplifting by providing that two or more shoplifting events within 12 months having a cumulative value above \$950 will qualify as wobblers with the option of felony level sentencing. The bill also provides that burglary of a railroad car or container is burglary of the first degree subject to a prison term of 2, 4 or 6 years. ***In the Assembly Public Safety Committee.***

AB 2545 (Muratsuchi, D. – Torrance). Proposition 47 offense addition. This bill provides that a person who receives a firearm known to be stolen, regardless of its value, and who sells or conceals the firearm, is subject to either misdemeanor or felony level punishment. As an amendment to Proposition 47 provisions on receiving stolen property, this bill requires legislative approval and voter approval for enactment. ***In the Assembly Public Safety Committee.***

AB 2595 (Jones-Sawyer, D. – L.A.). Dependency jurisdiction, cannabis possession or use. As introduced, the bill created a new exemption from dependency jurisdiction by stating that Sec. 300 jurisdiction cannot be based solely on the possession or use of cannabis products or accessories by the child’s parent, or solely on a positive parental cannabis drug test. These provisions were deleted from the bill by March amendment. In its current form the bill requires the state Dept. of Social Services to update all regulations and instructions relating to social worker investigations of child abuse or neglect to ensure that the use or possession of cannabis by a parent or guardian is treated in the “same manner as a parent’s or guardian’s use or possession of alcohol and legally prescribed medication”. ***Passed the Assembly Judiciary Committee, to the Assembly Human Services Committee.***

AB 2629 (Santiago, D. – L.A.). Dismissals of delinquency petitions. This bill modifies the criteria which the juvenile court must apply when exercising its discretion under WIC Section 782 to set aside findings and dismiss a petition in the interests of justice and the welfare of the person. AB 2629 provides that when the court considers dismissal at the time of terminating jurisdiction, or any time thereafter, there shall be a presumption in favor of dismissal that cannot be overcome unless there is clear and convincing evidence that dismissal of the petition would endanger public safety. The bill goes on to define “endanger public safety” as a “likelihood that dismissal of the petition would result in physical injury or other serious danger to others”. The presumption in favor of dismissal would not apply in cases where the individual has been convicted in criminal court of a serious or violent felony as defined in the bill. The bill further provides that the court

has authority to exercise its WIC 782 dismissal discretion at any time after the filing of the petition and regardless of whether the petition has been sustained at trial, by admission or by plea agreement. ***In the Assembly Public Safety Committee for hearing on 4/26.***

AB 2644 (Holden, D. – Pasadena). Statements procured under duress in juvenile interrogations. As amended, AB 2644 prohibits a law enforcement officer from employing threats, physical harm, deception or psychologically manipulative tactics during any interrogation of a youth age 25 or younger for the commission of any felony or misdemeanor. The bill includes definitions of “deception” and “psychologically manipulative interrogation tactics”—for example, where the officer makes false statements regarding leniency or falsely minimizes the seriousness of an offense to gain admissions from the youth. The ban would not apply to interrogations where the law enforcement officer believes the information sought was necessary to protect life or property from imminent threat and where the questions asked were reasonably necessary to obtain information related to the imminent threat. The bill also requires a probation officer to notify the public defender or independent defense counsel that a minor has been taken to a place of confinement immediately and no later than two hours after the minor has been taken into custody. An April 7 amendment clarifies the authority of a law enforcement officer to use a lie detector test insofar as the test is voluntary and is administered without threats or coercion as described. ***Passed the Assembly Public Safety Committee, to the Assembly Appropriations Committee.***

AB 2658 (Bauer-Kahan, D. – Orinda). Electronic monitoring. AB 2658 adds WIC Section 628.2 providing new protections for juveniles placed on electronic monitoring. It defines electronic monitoring as any “technology used to identify, track, record, or otherwise monitor a minor’s location or movement through electronic means”. The bill states that electronic monitoring shall not be used to eavesdrop on or to record any conversation. It further provides that where electronic monitoring is imposed for a period exceeding 30 days, the court shall hold a hearing to ensure that the minor’s time on EM is not unreasonable and to consider whether there are less restrictive conditions of release that would achieve the rehabilitative purpose of the juvenile court; in this respect the bill provides that if less restrictive conditions of release are warranted, the court shall order removal of the electronic monitoring or related remedies. The bill also requires the state Department of Justice to collect data regarding the use of electronic monitoring on juveniles. ***Passed the Assembly Public Safety Committee, to the Assembly Appropriations Committee.***

Senate bills

SB 53 (Levy, D. – Chino). Civil action for sending sexual images. SB 53 is a two year bill that creates a civil cause of action for knowingly sending an unsolicited image by electronic means depicting listed sexual acts. A successful civil action may result in economic, noneconomic and punitive damages against the sender. Exemptions apply to listed internet service providers, subscription services and medical reports. ***Passed the Senate (36-0-4), to the Assembly for committee assignment.***

SB 904 (Bates, R. – Laguna Niguel). Mandatory completion of substance abuse programs. Under current law, juveniles and adults placed on probation for the violation of any controlled substance offense must participate in a court-ordered substance abuse education or treatment program (Health & Safety Code Sec. 11373). This bill requires these probationers, including juveniles adjudicated for controlled substance offenses including drug possession, to successfully complete a controlled substance abuse education or treatment program that conforms to new

program and content criteria listed in subdivision (c) of Sec. 11373. The bill also tasks the county drug administrator, the court and the probation department with designing and implementing an approval and renewal process for these drug programs, with input from local substance abuse treatment providers. The bill retains a Sec. 11373 provision that requires parents of covered minor-probationers to participate in the controlled substance program to the extent that such participation will “aid the education or treatment of the minor”. The bill also amends Penal Code Sec. 1211 (minimum requirements for drug diversion programs) by adding that the program may include information about the physical and mental health risks associated with substance abuse. ***In the Senate Public Safety Committee for hearing 4/26.***

SB 1071 (Umberg, D. - Santa Ana). Inspection of juvenile case files. WIC Sec. 827 presently authorizes attorneys, judges, probation and law enforcement officers who are actively participating in a juvenile or criminal proceeding to access case files involving the minor. This bill, as amended, adds subparagraph (a) (1) (S) to Sec. 827, extending that authorization to attorneys in an administrative hearing involving the minor (or nonminor in certain proceedings) with specific confidentiality protections against release of the information. ***Triple-referred to the Committees on Human Services, Judiciary and Public Safety; hearing 4/19 in Sen. Human Services.***

SB 1081 (Rubio, D. – Baldwin Park) Distribution of sexual images. SB 1081 modifies Penal Code 647, the “lewd and dissolute” conduct section, to expand the offense of intentionally distributing images of the intimate body parts of an identifiable person. This bill redefines illegal distribution to include “dissemination, presentation, display, exhibition or otherwise sharing” the image with a third party or with the public, and it adds language as to what constitutes intention to distribute and as to the identifiability of the person depicted. ***Passed the Senate Public Safety Committee, to the Senate Appropriations Committee.***

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.comji.org