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

July 21, 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. The Legislature is nearing the end of its traditional summer recess. Lawmakers will reconvene on August 1st for the final month of the session ending August 31st. August 12th is the last day for fiscal committees to report bills to the Floor of each house.

This report includes updates on tracked policy bills, with amendments and committee status current as of the date of this report. This report also covers budget trailer bills that contain important juvenile justice provisions already signed into law by the Governor and effective immediately. These trailer bills contain notable changes affecting commitments of youth to local Secure Youth Treatment Facilities in the wake of DJJ closure and expanding the investigation powers of the ombudsperson at the Office of Youth and Community Restoration. The new trailer bill provisions are covered at the end of this report.

Where shown below, floor votes are displayed in the order of Aye/No/Not Voting. 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 Commonweal 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. On June 28, the bill was amended to clarify somewhat confusing language previously added to the bill, as to the court's discretion to disregard certain evidence related extensions; as amended the bill now provides that the ward and the prosecutor shall have the opportunity to present relevant evidence, and the old language stating that the court may choose not to receive evidence has been deleted.

- **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: Pending final vote on the Senate Floor.

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.**

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 76-0-2, pending in the Senate 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 trafficking scheme. *Passed the Assembly 76-0-2, pending in the Senate Appropriations Com.*

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 two hours (up from one hour by May amendment) 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 67-0-11, pending in the Senate 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 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 54-19-5, pending in the Senate 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. ***Passed the Assembly 70-0-8, pending in the Senate Appropriations Committee.***

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. ***Failed to meet deadlines for passage, dead.***

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. ***Failed to meet deadlines for committee passage, dead.***

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 58-9-11, in the Senate Appropriations 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. The bill has undergone major amendments. Removed from the bill is the presumption in favor of dismissal unless overcome by clear and convincing evidence that dismissal of the petition would endanger public safety. Instead, the bill now requires the court, when terminating jurisdiction or any time thereafter, to “...consider and afford great weight to evidence offered by a person to prove mitigating circumstances are present, including, but not limited to, satisfactory completion of a term of probation, that rehabilitation has been attained to the satisfaction of the court, that dismissal of the petition would not endanger public safety, or that the underlying offense is connected to mental illness, prior victimization, or childhood trauma.” The bill further provides that “... proof of the presence of one or more mitigating circumstances weighs greatly in favor of dismissing the petition”. The meaning of “satisfactory completion” of probation is defined by reference to that same terminology in WIC Section 786 (record sealing), and the reference to “rehabilitation” having been obtained is defined by reference to the use of that term in Section 781 (record sealing by petition). The “great weight” standard favoring dismissal does not apply under the bill if the offense in question is a serious or violent felony as defined in Penal Code Section 667/5 or 1192.7 (c). The bill provides that the reasons for a decision made under Section 782 must be stated orally by the court or be entered in a written order if requested by either party or if there is no electronic reporting of the proceeding. ***Passed the Assembly 51-20-7. Non fiscal bill, pending on the Senate Floor.***

AB 2644 (Holden, D. – Pasadena). Statements procured under duress in juvenile interrogations. AB 2644 adds WIC Section 859.6 to prohibit 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”. As most recently amended, “psychologically manipulative interrogation tactics” are defined to include using scare tactics to assert a person’s guilt despite their denials, exaggerating the magnitude of the alleged offense or suggesting the existence of evidence that does not exist. Manipulative tactics under the bill also include making direct or indirect promises of leniency or release if the person cooperates or encouraging the person to choose among options that are essentially incriminating. The ban on these tactics 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 provides that the officer may administer a lie detector test if the test is taken voluntarily and without threat, harm, deception or psychologically manipulative tactics and without misrepresenting the results or stating that the results may be admissible in court. As amended the bill would become effective on July 1, 2024. ***Passed the Assembly 41-25-12 (bare minimum), pending in the Senate 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 54-16-8, pending in the Senate 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), pending in the Assembly Appropriations Committee.***

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 found to have been in possession of a controlled substance, to successfully complete a controlled substance abuse education or treatment program that conforms to new program and

content criteria added to 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 amends the definition of “successful completion of treatment” in Penal Code Sec. 1210 (applicable to Proposition 36 drug treatment orders) by deleting the rider that upon completion of treatment “...there is reasonable cause to believe that the defendant will not abuse controlled substances in the future”. 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. ***Passed the Senate 38-0-2, in the Assembly Appropriations Committee.***

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 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. ***Passed the Senate 33-0-7, in the Assembly Appropriations Committee.***

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 widens the offense beyond “distributes” to include “causes to be distributed”. It also adds language as to what constitutes intention to distribute and as to the identifiability of the person. ***Passed the Senate 38-0-2, in the Assembly Appropriations Committee.***

Budget Trailer Bill- Omnibus Public Safety (AB 200)

AB 200 is the lengthy Omnibus Public Safety bill adopted as an integral part of the FY 2022-23 state budget process. The bill adjusts statutory law and funding in numerous areas of juvenile and criminal justice. It was signed by the Governor on June 30th and, as a budget trailer bill, it went immediately into effect. Below we summarize relevant AB 200 amendments to the juvenile court law.

Secure Youth Treatment Facilities

Secure Youth Treatment Facilities (SYTF’s) were established by 2021 legislation (SB 92), supplementing the 2020 landmark legislation shutting down the state Division of Juvenile Justice and realigning the DJJ caseload to county control (SB 823). Under SB 92, a county may establish a local Secure Youth Treatment Facility to serve as a place of commitment for qualifying juveniles who can no longer be committed to DJJ. SB 92 adds WIC Sec. 875 setting out the criteria for commitments to local SYTFs including sentence length, court reviews, program and treatment provisions and possible “stepdowns” of youth to less restrictive programs. SB 92 also tasks the state Judicial Council with the development of new sentencing guidelines to replace the DJJ offense categories now being applied to SYTF youth on a temporary basis.

AB 200 adds the following technical and clean-up amendments to SYTF law and procedure:

- *Age eligibility.* Youth eligible for commitment to an SYTF are those 14 or older whose most recent adjudication is for a WIC 707 (b) serious (DJJ qualifying) offense. AB 200 makes it clear that the juvenile must be 14 or older at the time of having committed the SYTF-eligible offense. This is in response to a recent case in which the prosecution sought SYTF commitment for a 14 year old whose 707(b) adjudication occurred two years prior at age 12.
- *Jurisdiction.* AB 200 amends WIC Section 607 to include the “two year period if control” language that was inadvertently omitted from SB 92. This adjusts the juvenile jurisdiction statute to provide that for SYTF committed youth, the court retains jurisdiction until age 23 or 25, or for a two year period of control, whichever is longer. Same as current DJJ law.
- *Review hearings.* AB 200 reiterates that the court has the authority to reduce a youth’s baseline commitment term by up to six months at each SYTF review hearing, dispelling any speculation that the intent of SB 92 was to limit baseline time reduction to six months over the entire life of the SYTF commitment.
- *Individual treatment plan (IRP).* AB 200 extends the time available to submit the IRP to the court from 30 calendar days to 30 judicial days (excludes weekends and holidays).
- *Maximum confinement time.* AB 200 adds several changes related to the calculation of maximum confinement time for juveniles committed to SYTFs. The bill adds statutory cross-references, and it reiterates the rule of current law that pre-commitment time in custody is to be credited against max confinement time. The bill also adds, for SYTF commitments, the current DJJ provision that requires to the court to set an individual maximum confinement time based on the facts and circumstances of each case (at WIC 875 (c) (1)).
- *Less restrictive programs.* AB 200 provides that if a youth is returned to an SYTF from a less restrictive program, credit for time served in the less restrictive program is to be applied against the remainder of the SYTF baseline or modified baseline term.
- *Judicial Council sentencing matrix.* The Judicial Council, in concert with a stakeholder advisory committee, is in the process of developing a new SYTF sentencing matrix to replace the DJJ baseline term categories now in temporary use. AB 200 clarifies the authority of the Judicial Council to develop a matrix that includes a range of years for each offense category rather than a single or static term of years (e.g., a range 4 to 7 years for Category 1 offenses versus 7 years in all cases). If this approach is adopted by the Judicial Council, the court would apply separate criteria to set an individual sentence for each SYTF youth drawing from a range of years established for each offense category.

Division of Juvenile Justice dual confinement youth

Current law (WIC Section 1732.8) provides that a person over 18 who is convicted of a felony committed at DJJ, and who is transferred to state prison for that offense, can voluntarily serve the remainder of his or her juvenile sentence in a facility operated by the Department of Corrections and Rehabilitation (CDCR). AB 200 adds Section 1732.9 to provide similar sentence and confinement options for youth who commit felonies as adults in DJJ and whose remaining DJJ sentence would extend beyond the DJJ closure date. The new 1732.9 applies to DJJ youth serving adult felony time in CDCR at the time of DJJ closure in July 2023. The bill permits these youth to elect to remain in CDCR for the remainder of their DJJ juvenile sentence, without being returned to county facilities, upon being informed by a probation officer about the likely terms of custody and control if returned to the county. Left open is question of who decides how much remaining juvenile commitment time a youth has, for purposes of this section, once DJJ has closed.

Division of Juvenile Justice hospitalization cases

Current law (WIC Sec. 1756) authorizes the transfer of a DJJ youth with a mental health disorder or developmental disability to a state hospital for specialized care and treatment. AB 200 adds WIC Sec. 1732.10 to provide that upon closure of DJJ, the Dept. of State Hospitals shall provide continuing custody and care to patients previously referred by DJJ under Section 1756. The bill establishes requirements for further case planning, treatment and coordination between the state hospital and local court and probation agencies, including planning and implementation of discharge back to the county. The bill provides that the term of state hospitalization is to continue until the youth's symptoms are in remission, further hospitalization is not clinically appropriate, the court has ordered a different placement, or the youth has reached the maximum juvenile confinement time under other provisions of law.

Budget Trailer Bill- HHS Omnibus (SB 187)

Office of Youth and Community Restoration (OYCR) – Ombudsperson investigations

SB 187 vastly expands the authority and responsibilities of the OYCR ombudsperson office that was created by the 2020 DJJ closure and realignment legislation (SB 823). SB 187 explicitly empowers the ombudsperson to investigate, in its discretion, complaints made by youth who are detained in or committed to a juvenile facility. It provides the ombudsperson with the authority to visit and observe these juvenile facilities, whether operated by a county or contract agency, upon 48 hours' notice. It authorizes the ombudsperson staff to meet with youth privately in a juvenile facility upon 48 hours' notice. It provides access by investigators to facility and county records, subject to relevant confidentiality laws. The ombudsperson is authorized by SB 187 to resolve complaints by means of collaboration with facility administrators and staff (including expanded staff training), and the ombudsperson may also refer the matter to another agency for investigation and further action. Detailed provisions regulate the notices that must be provided to the complainant and to facility operators. The bill further provides that the ombudsperson shall not be compelled to testify in a judicial or administrative proceeding or to disclose certain records, and that the identify of witnesses and complainants is to remain generally confidential. A new Section 2200.5 requires the ombudsperson to provide regular reports to the legislature on complaints received, investigations performed and referrals of complaints to other agencies, and that the data provided in these reports is to be made available to the public on the OYCR website. A new Section 2200.7 tasks OYCR with hiring necessary staff to perform the expanded duties of the ombudsperson, with hiring priority to be given to people who were formerly detained or committed to a juvenile facility. SB 187 was signed by the Governor on June 30th and as a budget trailer bill its provisions became effective immediately.

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