

JUVENILE JUSTICE LEGISLATIVE UPDATE – 2021-2022 SESSION

TRAILER BILLS

<u>SB 92</u>	<p>Juvenile Justice Trailer Bill DJJ Realignment – Sets Framework for Secure Track for Realigned DJJ Youth</p> <ul style="list-style-type: none"> • Closes DJJ on 6/30/2023 • Establishes the framework for the Secure Youth Treatment Facilities • Requires submission of an Individual Rehabilitation Plan (IRP) to the court within 30 days of a commitment order <ul style="list-style-type: none"> ○ Developed in consultation with a Multi-Disciplinary Team ○ IRP includes: <ul style="list-style-type: none"> ▪ Description of the Youth’s Individual Needs ▪ Description of Programming, Treatment and Education Interventions ▪ Trauma-Informed, Evidence-Based, and Culturally Responsive ▪ Youth and Family Input • Baseline Term of Confinement <ul style="list-style-type: none"> ○ Up to age 23 (or 2 years, whichever is later) for most offenses ○ Up to age 25 (or 2 years, whichever is later) if aggregate sentence would be 7 or more years • By July 2023 the Judicial Council will establish and adopt an offense-based classification matrix • Progress Review Hearings – Must be held every 6 months <ul style="list-style-type: none"> ○ Recommendations relevant to the youth’s progress <ul style="list-style-type: none"> ▪ Youth may remain in custody for the remainder of baseline term ▪ Modify the baseline term downward by a reduction of confinement not to exceed 6 months ▪ Court may order youth to a Less Restrictive Program ▪ Progress in relation to the IRP and any educational, vocational, counseling, housing or other services made available through the program • Probation Discharge Hearing – At conclusion of baseline term 	Chaptered May 14, 2021
<u>AB 145</u>	<p>Public Safety Budget Trailer Bill (FY 21-22 omnibus public safety trailer bill)</p> <ul style="list-style-type: none"> • Pine Grove Conservation Camp – keeps the firefighting camp open to train justice-involved youth in wildland firefighting • Unannounced inspections of juvenile halls – Amends WIC 209 authorizing any officer, agent, or employee of BSCC to enter and inspect any area of the juvenile detention facility without notice in order to conduct the inspection • Sex Offender Management Board (SOMB) – adds two juvenile justice representatives to the SOMB Board, including the new Executive Director of the 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 	Chaptered July 16, 2021
<u>SB 129</u>	<p>Budget Trailer Bill – Appropriations for the Office of Youth and Community Restoration (OYCR)</p> <ul style="list-style-type: none"> • Appropriation raised to \$7.6 million to support an estimated staffing level of 31 positions, with another \$20 million in one-time funds for OYCR grants and technical assistance to counties to implement the shift from DJJ to local control 	Chaptered July 12, 2021

ASSEMBLY BILLS

<p>AB 46 (Rivas)</p>	<p>California Youth Empowerment Act</p> <ul style="list-style-type: none"> • Establishes a 25-member Youth Empowerment Commission of 14–25-year-olds (advisory) • Purpose to “provide meaningful opportunities for civic engagement to improve the quality of life for California’s disconnected and disadvantaged youth” • Commissioner’s charge – examining legislative and fiscal issues affecting youth in California and making recommendations to the Legislature, the Governor, and the Superintendent of Public Instruction • Authorizes the Commission to draft and approve resolutions, draft model legislation, provide testimony during legislative committee meetings, conduct public hearings, and award prizes or direct grants to organizations • Formally advise and make recommendations to the Legislature, Superintendent of Public Instruction and the Governor on specific legislative and fiscal issues affecting youth including bullying, depression and suicide, gun violence, juvenile justice, child welfare, homelessness, and employment among others • Meeting Requirements - meet every other month and submit annual reports on its activities to the Governor, the Legislature and other named state agencies • Appointment – Members are appointed by the Governor (21), Senate Committee on Rules (2) and the Speaker of the Assembly (2), The Executive Director is appointed by the Governor • Nonvoting members – member of the Senate and Assembly (1 each), the Superintendent of Public Instruction (1) and the Secretary of CHHS (1) 	<p>In the Senate Appropriations Committee.</p> <p>Passed the Assembly (73-0-6).</p>
<p>AB 256 (Kalra)</p>	<p>California Racial Justice Act (CRJA) (applies to both juvenile and adult criminal proceedings) – retroactivity</p> <ul style="list-style-type: none"> • Background: The CRJA of 2020 applied to court judgments that were entered after 1/1/2021. CRJA added Section 745 to the Penal Code and provided that criminal convictions or sentences obtained on the basis of racial discrimination are invalid; created a range of remedies for persons whose convictions are based on discriminatory acts, including 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. • AB 256 would apply the CRJA retroactively in phases. Specifically, it would allow a person who alleges that their conviction or sentence is based on race, ethnicity, or national origin to petition for a writ of habeas corpus, as follows: <ul style="list-style-type: none"> ○ Starting 1/1/2022, in cases in which judgement was entered prior to 1/1/2021 <ul style="list-style-type: none"> ▪ Juvenile commitments to DJJ ▪ Petitioner is sentenced to death ▪ Petitioner is currently serving a sentence in a state prison or a county jail pursuant to the 2011 Realignment Legislation ▪ If the motion vacate is filed by a person who is no longer in custody, as specified, because of actual or potential immigration consequences related to the conviction or sentence ○ Starting 1/1/23 CRJA would apply retroactively to any felony conviction or juvenile disposition occurring after 1/1/23 ○ Starting 1/2025 CRJA would apply to any felony conviction or juvenile disposition regardless of the date of judgment 	<p>Passed the Assembly 45-21-13.</p> <p>Passed the Senate Public Safety and Appropriations Committees, to the Senate Floor.</p>

<p>AB 333 (Kamlager)</p>	<p>Criminal Gang Offense Elements and Sentence Enhancements – STEP Forward Act of 2021</p> <ul style="list-style-type: none"> • Purpose: 1) redefine the terms “pattern of criminal gang activity” and “criminal street gang” for purposes of the gang offense, enhancement, and alternate penalty under the California Street Terrorism Enforcement and Prevention (STEP) Act; 2) require bifurcation of gang-related prosecutions from prosecutions that are not gang-related; and 3) remove specified offenses from crimes that qualify for a “pattern of criminal gang activity” • Intent language in the bill cites the disproportionate impact of gang enhancements on youth of color and other negative effects • Redefines the elements that make up the offense of participating in a criminal street gang under Penal Code 186.22 • Under current law, convictions or juvenile adjudications count, not just as current felonies, but also as sentence enhancements in adult proceedings • Reduces the PC 186.22 list of crimes that qualify for conviction or adjudication of the gang participation felony offense – eliminating looting, felony vandalism, and specified personal identify fraud violations from crimes that define a “pattern of criminal gang activity” • Modifies the “pattern of criminal gang activity” within revised recent time frames and must have commonly benefited the criminal gang as redefined • Provides that where a gang enhancement is alleged, the trial (if required 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 • Makes other changes to the gang enhancement law 	<p>Passed the Assembly 43-27-9.</p> <p>Passed the Senate Public Safety Committee, in the Senate Appropriations Committee.</p>
<p>AB 417 (McCarty)</p>	<p>Rising Scholars Network for Justice-Involved Students</p> <ul style="list-style-type: none"> • Intent – to provide and fund postsecondary program and services in California Community colleges for justice-involved students • Definition Justice-Involved Student – a person who is currently or formerly incarcerated in a California correctional facility or who wis currently or formerly detained in a juvenile facility • 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 • Supported services would include academic counseling, tutoring, assistance with accessing campus resources, including admissions, financial aid and student services, career counseling and other listed services related to academic engagement and student success • Funding is not appropriated by this bill and would be dependent on resources identified in the state budget - <i>\$10 million appropriated in the approved budget act</i> 	<p>Passed the Assembly 78-0-0.</p> <p>Passed the Senate Education Committee, in the Senate Appropriations Committee.</p>

**AB 503
(Stone)**

Time Limits on Juvenile Probation Supervision; New Criteria for Juvenile Court Orders of Probation; Modifications of Mandatory Probation Sanctions and Conditions

- **Adds Section 602.5** to WIC providing that a juvenile who is made a ward of the court under Section 601 (status offense) or Section 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 6 months**
- An **exception** allows extensions of the 6-month maximum probation term, not to exceed 6 additional months, upon noticed hearing where the court finds by a preponderance of evidence that an extension of probation is in the ward's best interest.
- **Requires** the probation department submit a report at the extension hearing describing the basis for the proposed extension, and probation must state its reasons on the record.
- **Allows** multiple probation extension periods so long as the criteria for each extensions period are met.
- **Modifies Section 730** of WIC 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*
- **Requires** a hearing prior to termination of jurisdiction, reiterating the requirement of current law for wards in foster care under WIC Section 602.7. The 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 placement.
- **Provides** that youth who are transferred by the court from a Secure Youth Treatment Facility to a less restrictive program, as provided by SB 92, are exempt from the probation time limits otherwise imposed by this measure.
- **Modifies** multiple statues that require the juvenile court 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 versus mandatory** in each case. This includes WIC 729 (ward must make restitution or perform community service in school battery cases); 729.1 (for offenses committed on public transit, ward must wash, paint or repair damaged property or perform community service); 729.2 (mandatory curfew for 601s and 602s, mandatory ward or parental participation in school or parent education programs); 729.6 (in school battery cases, ward must attend counseling at parents' expense); 729.8 (mandatory community service in cases involving drug possession, use or sale on school or church property); 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); 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).
- **Eliminates** 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

Passed Assembly 41-22-16.

Passed the Senate Public Safety Committee. To the Senate Floor.

AB 624 (Bauer-Kahan)	<p>Appeal of Orders Transferring Juveniles to the Jurisdiction of the Adult Criminal Court</p> <ul style="list-style-type: none"> • Creates new pathway for appeal - Adds Section 801 to WIC, creating a new pathway for appeal of a court order transferring a juvenile to the jurisdiction of the adult criminal court • 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 • 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 • Requires the juvenile court to advise the minor of the right to 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” 	<p>Passed the Assembly 77-0-1.</p> <p>Passed the Senate Public Safety Committee, to the Senate Appropriations Committee.</p>
<p>SENATE BILLS</p>		
SB 81 (Skinner)	<p>Dismissal of Sentence Enhancements</p> <ul style="list-style-type: none"> • Requires the sentencing court to dismiss an enhancement where dismissal is “<i>in the furtherance of justice</i>” • Creates a presumption that dismissal of the enhancement is in the furtherance of justice where the court finds that any of 9 enumerated circumstances in the bill are true. Presumption can only be overcome by a showing of clear and convincing evidence that dismissal of the enhancement would endanger public safety • The court cannot dismiss the enhancement if dismissal is prohibited by any initiative statute • Among the listed circumstances requiring the court to dismiss the enhancement, unless it meets the endangerment or ballot initiative exception, is that “<i>The defendant was a juvenile when they committed the current offense or prior offenses.</i>” • Other listed dismissal circumstances include that the current offense is connected to mental illness or childhood trauma, that the enhancement would result in a disparate racial impact or that the enhancement is based on a conviction more than 5 years old. 	<p>Passed the Senate 27-9-4.</p> <p>Passed the Assembly Public Safety Committee, in the Assembly Appropriations Committee.</p>
SB 383 (Cortese)	<p>Eligibility for Juvenile Probation Supervision Programs, Deferred Entry of Judgment</p> <ul style="list-style-type: none"> • Removes 2 restrictions of Section 654.3 of WIC making minors presumptively ineligible for informal supervision - subdivision (b) relating to minors alleged to have sold or possessed controlled drugs, and subdivision (h) relating to minors charged with a felony offense committed at or above the age of 14 <ul style="list-style-type: none"> ○ Youth fitting these descriptions would become newly eligible for informal probation or court supervision under the terms of the bill • Removes the requirement that in order for a court to grant informal supervision to presumptively ineligible minors, it must be an “unusual case” where the interest of justice would be served and instead requires that it simply be where the interests of justice would best be served. • Prohibits finding a minor ineligible for informal supervision or finding the minor has failed to comply with the terms of informal supervision where they are unable to pay victim restitution due to indigency. • Amends Section 790 (deferred entry of judgment) with respect to inter-county cases. 	<p>Passed the Senate 32-6-2.</p> <p>Passed the Assembly Public Safety and Appropriations Committees, to the Assembly Floor.</p>

	<ul style="list-style-type: none"> • Removes the notice requirement (Section 791 (a)(6)) pertaining to using a minor’s failure to comply with the terms of deferred entry of judgment as the basis for finding the minor unfit to be tried in juvenile court. • Two thirds vote required as an amendment to Prop 21 	
2-YEAR BILLS		
<u>AB 112</u> <u>(Holden)</u>	Medical Eligibility for Incarcerated Juveniles <ul style="list-style-type: none"> • Redefines 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 • Amends WIC 14011.10 (d)(2) 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 Assembly Appropriations Committee, two-year bill
<u>AB 413</u> <u>(Ting)</u>	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 <ul style="list-style-type: none"> • Provides funds and programming to support transition housing for young adults (18-24) • \$8 million appropriated 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. • \$5 million appropriated 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 • Provides 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. • Amends the Child Welfare Training Program (WIC Sec. 16200 et seq.) to add a training component for child welfare workers and probation officers. 	Held in Assembly Appropriations Committee, two-year bill
<u>AB 610</u> <u>(Kalra)</u>	Decriminalization of School Behaviors <ul style="list-style-type: none"> • Repeals Education Code 32210 which creates a misdemeanor for disturbing any public school or school meeting • Deletes Ed. Code 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 • Deletes Ed. Code 48902 which presently requires the school principal to report student acts in violation of Penal Code 245 (aggravated assault) to law enforcement prior to suspension or expulsion of the pupil • Deletes Ed. Code 48902 (a) which requires the school principal to notify law enforcement or 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.

<p>AB 1127 (Santiago)</p>	<p>Elimination of Juvenile Strikes</p> <ul style="list-style-type: none"> • Eliminates juvenile strikes by stating that “A prior juvenile adjudication does not constitute a serious or violent felony conviction” for sentence enhancement purposes • 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 • 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 adult conviction 	<p>The bill has been placed on the inactive file by the author due to committee rules limited the number of bills. Two-year bill.</p>
<p>AB 1165 (Gipson)</p>	<p>Ban on Chemical Agents in Juvenile Facilities, Juvenile Facility Staffing Ratios</p> <ul style="list-style-type: none"> • Prohibits the use or storage of a chemical agent, except OC spray, in juvenile facilities • 7/1/23 prohibits the use of a chemical agent against a juvenile who is under 18 or in any space where a juvenile under 18 is present • Requires juvenile facilities to dispose of chemical agents, except OC spray, on or before 12/21/22 & notify BSCC of the disposal • 7/1/23 Requires quarterly reports to the Board on the use of a chemical agent in a facility • Requires LAO submit a report to Leg on model practices and protocols for alternatives to the use of chemical agents in juvenile facilities • Requires staffing ratios in juvenile facilities 1:16 during sleeping hours and 1:8 during awake hours • Requires the board to develop training, model practices, and regs to implement findings in report 	<p>Held in the Assembly Appropriations Committee, two-year bill.</p>
<p>AB 1265 (Rubio)</p>	<p>School Suspensions</p> <ul style="list-style-type: none"> • Imposes 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 Codes Section 48915(c) • Bans suspension 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 in Education Code Section 48915 (c) 	<p>In the Assembly Education Committee. Not moved, two-year bill</p>
<p>SB 53 (Levy)</p>	<p>New Sexting Offense, Civil Actions</p> <ul style="list-style-type: none"> • 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” • Provides a person under 18 shall be given a written warning for the first violation and that any subsequent violation is an infraction punishable by a fine not to exceed \$250. • Creates a civil action for the same behavior, providing for recovery of economic and noneconomic damages including damages of emotional distress and punitive damages. 	<p>Moved to the inactive file by the author, two-year bill</p>

<p>SB 384 (Cortese)</p>	<p>Family Finding Efforts by Child Welfare and Probation Departments</p> <ul style="list-style-type: none"> • Requires 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 • Requires the county welfare and probation departments to notify the foster care ombudsperson in the state Department of Social Services, by January of 2023, regarding its adoption of policies and practices for family findings 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. 	<p>Passed the Senate 37-0-3.</p> <p>In the Assembly Public Safety Committee. Converted to two-year bill status by the author</p>
<p>SB 493 (Bradford) co-author (Stone)</p>	<p>The PROMYSE (Promoting Youth Success & Empowerment) ACT – Oversight, equitable decision-making, and effective investments prioritizing youths’ most critical needs</p> <ul style="list-style-type: none"> • Requires at least 95% of JJCPA funds be allocated to CBOs and/or public agencies that are non-law enforcement entities • Requires funded programs be modeled on trauma-informed and youth development approaches in collaboration with CBOs • Requires a plan to include an assessment of existing community-based youth development services, identification, and prioritization of areas of the community that face significant public risk from crime • Documentation of the effectiveness of the programs funded under these provisions • Description of the target population funded under these provisions • Expands reporting requirements to include critical evidence on youth served and program effectiveness • Revises the composition JJCC membership – At a minimum, JJCC’s shall include 7 members with at least 50% communities’ representatives with the remainder of the seats allocated to government agencies (reduces the number of mandated gov agency reps & increases community reps) <ul style="list-style-type: none"> ○ Co-chairs, once must be community rep ○ A community representative is defined as an individual who has not formerly served as a law enforcement agent and who is not currently a government employee ○ JJCC may include one rep each from: <ul style="list-style-type: none"> ▪ DA’s office ▪ County probation department ▪ Public defender’s office ▪ Board of supervisors ▪ Department of social services ▪ Department of mental health ▪ A Community-based drug and alcohol program ▪ City police department ▪ County Office of Education or a School District 	<p>Held in Senate Appropriations Committee, two-year bill</p>

	<ul style="list-style-type: none"> ○ Community reps who are currently or formerly justice-system involved and reps from nonprofit, community-based orgs providing services to youths. ○ Council elects 2 co-chairs from among its members, at least one a community repo ○ Notify BOS of CBOs participating on JJCC <ul style="list-style-type: none"> ● Meet at least 3X's a year and announce meetings 10 days in advance 	
SB 641 (Skinner)	Juvenile Justice Reform Spot Bill <ul style="list-style-type: none"> ● Spot bill making nonsubstantive amendments to WIC Section 602 (juvenile delinquency jurisdiction) and 707 (transfer to criminal court) 	Not assigned, two-year bill