

SENATE THIRD READING
SB 1111 (Durazo)
As Amended August 24, 2020
Majority vote

SUMMARY:

Requires that any person whose case originated in juvenile court remain in a county juvenile facility until the person turns 21 years of age, with limited exceptions.

Major Provisions

- 1) Requires, notwithstanding any other law, that any person whose case originated in juvenile court remain, if the person is held in secure detention, in a county juvenile facility until the person attains 21 years of age, except as provided.
- 2) Authorizes the probation department to petition the court to house a person who is 19 years of age or older in an adult facility, including a jail or other facility established for the purpose of confinement of adults.
- 3) Requires the court to hold a hearing upon receipt of a petition to house a person who is 19 years of age or older in an adult facility and provides that there is a rebuttable presumption that the person will be retained in a juvenile facility.
- 4) Requires the court to determine at the hearing whether the person will be moved to an adult facility and make written findings of its decision based on the totality of the following criteria:
 - a) The impact of being held in an adult facility on the physical and mental health and well-being of the person;
 - b) The benefits of continued programming at the juvenile facility and whether required education and other services called for in any juvenile court disposition or otherwise required by law or court order can be provided in the adult facility;
 - c) The capacity of the adult facility to separate persons under 21 years of age from older adults and to provide them with safe and age-appropriate housing and program opportunities;
 - d) The capacity of the juvenile facility to provide needed separation of older youth from younger youth given the youth currently housed in the facility; and,
 - e) Evidence demonstrating that the juvenile facility is unable to currently manage the person's needs without posing a significant danger to staff or other youth in the facility.
- 5) Requires that if a person between 18 and 20 years of age, inclusive, is removed from a juvenile facility, the court, upon the motion of any party and a showing of changed circumstances, to consider the above listed criteria and to determine whether the person should be housed at a juvenile facility.

- 6) Specifies that this bill is not intended to authorize confinement in a juvenile facility where authority would not otherwise exist.
- 7) Repeals provisions of law related to the detention of minors in an adult facility.
- 8) Makes technical and conforming changes to existing law.

COMMENTS:

According to the Author:

"The vast majority of incarcerated youth in California are held in county-level facilities. SB 1111 creates a thoughtful process for determining whether youth aged 18 to 21, whose cases originated in juvenile court, should be housed in adult jails. Current law is a patchwork of misunderstood and underused statutes, resulting in interruption of education and the continuum of care for transition-age youth, and arbitrary and costly outcomes across the state.

"Current law on housing youth offenders is confusing, inconsistent, and scattered throughout the code. Some counties interpret the law as allowing youth to be transferred to adult jail at age 18, while others believe such transfer may not occur until age 19. There are separate laws governing youth who have been ordered transferred to adult court, but it is unclear how those laws relate to one another. There is a provision for counties to seek a waiver from the BSCC to hold older youth in juvenile facilities until age 21, but less than a third of counties have done so. As a result, because of their age and where they happen to live, many youth who are doing well in juvenile hall programs are abruptly transferred to adult jails where they are simply "doing time" and exposed to violence and often, networks of criminal activity.

"Once they are held in an adult jail, youth no longer receive education services or the programming available in juvenile facilities. They face an increased risk of physical and sexual abuse. They suffer with a heightened risk of suicide and mental health issues. They are more likely, simply because of having been housed in an adult facility, to be transferred to adult court or to receive more punitive dispositions.

"Senate Bill 1111 would reduce the number of transfers from juvenile justice facilities to jail and provide relief for county jails, which are often overcrowded and ill equipped to address the needs of this population. A reduction in the number of jail transfers would limit exposure and aid vital containment efforts. It would also ease fiscal pressure on the corrections system. Also, although there are solid policy reasons that caused introduction of this bill, its proposed mechanisms are important in the COVID-19 context because they would reduce the transmission of disease and ease conditions for staff tasked with monitoring younger inmates in adult facilities."

Arguments in Support:

According to the bill's co-sponsor, the *Pacific Juvenile Defender Center*, "When 18 to 20-year-old youth are held in adult jails, they no longer receive the education and rehabilitative services required in juvenile facilities. For those who are already wards of the juvenile court, they lose the benefit of Welfare and Institutions Code section 202, which requires care, treatment, and guidance in accordance with their individual needs. For youth undergoing proceedings aimed at trying them in adult court, once they have been held in an adult facility, it is much more difficult to argue against transfer and adult type sanctions. And for youth who have been ordered by the

court to be transferred to the adult system, being moved to an adult jail while their criminal case is pending prevents them from receiving education and treatment that will help them to build a foundation to weather being handled in the adult system.

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"California's laws allowing youth to be moved to adult jails were written in another era – before we realized the importance of developmentally appropriate services in helping youth to succeed. Also, they were written in piecemeal fashion, and as a result, they are confusing. In one county, officials believe a young person may be moved to the adult jail at 18 and in others they believe it can only happen at age 19. There are additional statutes applying to youth who have been ordered transferred to adult court, but it is unclear how those statutes relate to one another. Also, there is a statutory process for counties to seek a waiver from the Board of State and Community Corrections (BSCC) to hold older youth in juvenile facilities up to age 21, but unless the county applies for a waiver, the youth may be abruptly moved to an adult jail at age 18 or 19. These disparate interpretations of the law and the waiver process have resulted in justice by geography.

"S.B. 1111 addresses all of these issues. By housing most youth up to age 21 in juvenile facilities, not adult jails, the measure ensures that young people are able to continue receiving state mandated education services and treatment in accordance with juvenile court law. It enables youth to finish programs they started in a juvenile facility without being arbitrarily moved to jail on their birthday. It protects youth from being subjected to the physical and emotional dangers of being held in an adult facility.

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"Aside from the solid policy goals that led us to seek legislation on these issues, there is a critically important need in the midst of the COVID-19 crisis, to reduce transfer between correctional facilities to help contain the virus. The Centers for Disease Control Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities, p. 9, specifically urges jurisdictions to 'Restrict transfers of incarcerated/detained persons to and from other jurisdictions and facilities unless necessary for medical evaluation, medical isolation/quarantine, clinical care, extenuating security concerns, or to prevent overcrowding.' The devastating results of the transfer of inmates from Chino to San Quentin State Prison dramatically demonstrate the need to limit transfers between institutions. S.B. 1111 will help to prevent such situations by providing broad discretion to courts to prevent transfer in consideration of the health and well-being of the young person, and the capacity of the adult facility to receive them."

Arguments in Opposition:

None on file.

FISCAL COMMENTS:

According to the Assembly Appropriations Committee:

- 1) Costs (General Fund (GF)/Proposition 30/Local funds) possibly in the millions of dollars across all 58 counties to detain juveniles between the ages of 18 and 21 in a local juvenile facility. The annual cost for to house an inmate in a juvenile detention facility is considerably higher than the cost to house someone in county jail. The Board of State and

Community Corrections (BSCC) estimates annual costs for some counties as high as \$288,000 per person housed in a juvenile detention facility. However, many of these costs are driven by youth education programs that may not be applicable to a person who is 18 years of age or older. Actual costs would depend on how many individuals remain in juvenile facilities who, absent this measure, would have been transferred to adult facilities.

- 2) Cost pressure (GF), in the low-to-mid-hundreds of thousands of dollars annually to trial courts to hear and adjudicate detention requests to transfer people 19 years of age or older to a county jail facility. One hour of court time costs approximately \$956 in staff workload. If county probation departments file 100 petitions statewide to transfer a person 19 to 21 years of age to an adult facility and each case takes two hours to resolve, the workload costs to the courts would be \$191,000 annually.
- 3) Cost savings (GF) possibly in the low millions of dollars to CDCR to the extent inmates between the ages of 19-21 are held in county juvenile detention facilities and not transferred to state prison. The annual cost of incarceration at CDCR is approximately \$84,000. If this bill results in 10 inmates spending two years at the county level and not in state prison, annual cost savings would be \$1.7 million dollars.
- 4) Cost savings (GF/local funds) to counties to the extent inmates between the ages of 19 and 21 are not transferred to the county jails. The BSCC estimates the average statewide annual cost to hold an inmate in county jail is approximately \$58,000. If 100 inmates statewide between the ages of 19 and 21 are not transferred to county jail, the annual savings would be \$580,000. As noted above, the cost to incarcerate a person in county jail is much less expensive than housing a person in juvenile hall. Any savings will offset the cost to house a person 18 years of age or older in a juvenile facility.

VOTES:

SENATE FLOOR: 30-8-2

YES: Allen, Archuleta, Atkins, Beall, Bradford, Caballero, Durazo, Galgiani, Glazer, Lena Gonzalez, Hertzberg, Hill, Hueso, Hurtado, Jackson, Leyva, McGuire, Mitchell, Monning, Moorlach, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk

NO: Borgeas, Chang, Dahle, Grove, Jones, Melendez, Morrell, Nielsen

ABS, ABST OR NV: Bates, Dodd

ASM PUBLIC SAFETY: 8-0-0

YES: Jones-Sawyer, Lackey, Bauer-Kahan, Diep, Kamlager, Quirk, Santiago, Mark Stone

ASM APPROPRIATIONS: 14-2-2

YES: Gonzalez, Bauer-Kahan, Bloom, Bonta, Calderon, Carrillo, Chau, Diep, Eggman, Gabriel, Eduardo Garcia, Petrie-Norris, Quirk, Robert Rivas

NO: Bigelow, Voepel

ABS, ABST OR NV: Megan Dahle, Fong

UPDATED:

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