
UNFINISHED BUSINESS

Bill No: SB 1111
Author: Durazo (D)
Amended: 8/24/20
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 6-1, 5/20/20
AYES: Skinner, Moorlach, Bradford, Jackson, Mitchell, Wiener
NOES: Morrell

SENATE APPROPRIATIONS COMMITTEE: 5-2, 6/18/20
AYES: Portantino, Bradford, Hill, Leyva, Wieckowski
NOES: Bates, Jones

SENATE FLOOR: 30-8, 6/26/20
AYES: 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
NOES: Borgeas, Chang, Dahle, Grove, Jones, Melendez, Morrell, Nielsen
NO VOTE RECORDED: Bates, Dodd

ASSEMBLY FLOOR: Not available

SUBJECT: Juveniles: detention facilities

SOURCE: Anti-Recidivism Coalition
Human Rights Watch
Pacific Juvenile Defender Center
Silicon Valley De-Bug

DIGEST: This bill requires that any person whose case originated in juvenile court remain in a county juvenile facility until the person turns 21 years of age, except as specified.

Assembly Amendments add legislative findings and declarations.

ANALYSIS:

Existing law:

- 1) Provides, generally, that a minor who is between 12 years of age and 17 years of age, inclusive, when the minor violates any law defining a crime, is subject to the jurisdiction of the juvenile court and to adjudication as a ward. (Welf. & Inst. Code, § 602, subd. (a).)
- 2) Provides that in a case in which a minor is alleged to have committed any felony when the minor was 16 years of age or older, the prosecutor may make a motion to transfer the minor from juvenile court to a court of criminal jurisdiction. (Welf. & Inst. Code, § 707, subd. (a)(1).)
- 3) Provides that in a case in which a minor is alleged to have committed specified offenses when the minor was 14 or 15 years of age, but was not apprehended prior to the end of juvenile court jurisdiction, the prosecutor may make a motion to transfer the minor from juvenile court to a court of criminal jurisdiction. (Welf. & Inst. Code, § 707, subd. (a)(2).)
- 4) Authorizes the district attorney or other appropriate prosecuting officer to file an accusatory pleading in a court of criminal jurisdiction against a minor who is alleged to have violated a criminal statute or ordinance and who has been declared not a fit and proper subject to be dealt with under the juvenile court law or as to whom charges in a petition in the juvenile court have been transferred to a court of criminal jurisdiction. (Welf. & Inst. Code, § 707.1, subd. (a).)
- 5) Authorizes the juvenile court, as to a minor alleged to have committed specified violent or serious felony offenses and who has been declared not a fit and proper subject to be dealt with under the juvenile court law, or as to a minor for whom charges in a petition or petitions in the juvenile court will be transferred to a court of criminal, or as to a minor whose case has been filed directly in or transferred to a court of criminal jurisdiction, to order the minor to be delivered to the custody of the sheriff upon a finding that the presence of the minor in the juvenile hall would endanger the safety of the public or be detrimental to the other inmates detained in the juvenile hall. (Welf. & Inst. Code, § 707.1, subd. (b)(1).)
- 6) Requires that other minors declared not fit and proper subjects to be dealt with under the juvenile court law, if detained, remain in the juvenile hall pending

final disposition by the criminal court or until they attain the age of 18, whichever occurs first. (Welf. & Inst. Code, § 707.1, subd. (b)(1).)

- 7) Requires that upon attainment of the age of 18 years such a person who is detained in juvenile hall be delivered to the custody of the sheriff unless the court finds that it is in the best interests of the person and the public that he or she be retained in juvenile hall. Prohibits the transfer from taking place until after the court has made its findings if a hearing is requested by the person. (Welf. & Inst. Code, § 707.1, subd. (b)(2).)
- 8) Prohibits a court, judge, referee, peace officer, or employee of a detention facility from knowingly detaining any minor in a jail or lockup, except as provided. (Welf. & Inst. Code, § 207.1, subd. (a).)
- 9) Provides that any minor who is alleged to have committed specified violent or serious felony offenses whose case is transferred to a court of criminal jurisdiction after a finding is made that the minor is not a fit and proper subject to be dealt with under the juvenile court law, or any minor who has been transferred to a court of criminal jurisdiction, or any minor any minor who has been charged directly in or transferred to a court of criminal jurisdiction, may be detained in a jail or other secure facility for the confinement of adults if all of the following conditions are met:
 - a) The juvenile court or the court of criminal jurisdiction makes a finding that the minor's further detention in the juvenile hall would endanger the safety of the public or would be detrimental to the other minors in the juvenile hall.
 - b) Contact between the minor and adults in the facility is restricted, as specified.
 - c) The minor is adequately supervised. (Welf. & Inst. Code, § 207.1, subd. (b).)
- 10) Provides that a minor may be detained in a jail or other secure facility for the confinement of adults only if the court makes its findings on the record and, in addition, finds that the minor poses a danger to the staff, other minors in the juvenile facility, or to the public because of the minor's failure to respond to the disciplinary control of the juvenile facility, or because the nature of the danger posed by the minor cannot safely be managed by the disciplinary procedures of the juvenile facility. (Welf. & Inst. Code, § 207.6.)

- 11) Provides that it is unlawful to permit any person under 18 years of age who is detained in or sentenced to any institution in which adults are confined to come or remain in contact with such adults. (Welf. & Inst. Code, § 208, subd. (a).)
- 12) Provides that, notwithstanding any other law, in any case in which a minor who is detained in or committed to a county juvenile institution attains 18 years of age prior to or during the period of detention or confinement, he or she may be allowed to come or remain in contact with those juveniles until 19 years of age, at which time he or she, upon the recommendation of the probation officer, shall be delivered to the custody of the sheriff for the remainder of the time he or she remains in custody, unless the juvenile court orders continued detention in a juvenile facility. (Welf. & Inst. Code, § 208.5, subd. (a).)
- 13) Provides that if continued detention is ordered for a ward under the jurisdiction of the juvenile court who is 19 years of age or older but under 21 years of age, the detained person may be allowed to come into or remain in contact with any other person detained in the institution subject to specified requirements. Requires that the person be advised of his or her ability to petition the court for continued detention in a juvenile facility at the time of his or her attainment of 19 years of age. (Welf. & Inst. Code, § 208.5, subd. (a).)
- 14) Requires a county to apply to the Board of State and Community Corrections (BSCC) for approval of a county institution established for the purpose of housing juveniles as a suitable place for confinement before the institution is used for the detention or commitment of an individual under the jurisdiction of the juvenile court who is 19 years of age or older but under 21 years of age where the detained person will come into or remain in contact with persons under 18 years of age who are detained in the institution. Requires the BSCC to review and approve or deny the application of the county within 30 days of receiving notice of this proposed use. Requires the BSCC to take into account the available programming, capacity, and safety of the institution as a place for the combined confinement and rehabilitation of individuals under the jurisdiction of the juvenile court who are over 19 years of age and those who are under 19 years of age in its review. (Welf. & Inst. Code, § 208.5, subd. (b).)

This bill:

- 1) Repeals several of the above listed provisions of law.

- 2) 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. Specifies that this bill is not intended to authorize confinement in a juvenile facility where authority would not otherwise exist.
- 3) 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.
- 4) 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. Provides that there is a rebuttable presumption that the person will be retained in a juvenile facility. 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.
 - 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 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.

Background

Existing law includes two primary provisions related to the transfer of individuals from county juvenile facilities to county adult facilities after a person has reached the age of majority. Welfare and Institutions Code Section 707.1 generally requires that minors who are prosecuted as adults remain housed in juvenile hall pending conclusion of their criminal case or until they turn 18, whichever occurs first.

However, the person may petition the court to remain in juvenile hall upon turning 18, and may be permitted to remain in juvenile hall if the court finds that it is in the best interest of the person and the public if the person is retained in juvenile hall. Additionally, Welfare and Institutions Code Section 707.1 authorizes the transfer of minors who are prosecuted as adults from juvenile hall to county jail “upon a finding that the presence of the minor in the juvenile hall would endanger the safety of the public or be detrimental to the other inmates detained in the juvenile hall.”

Welfare and Institutions Code Section 208.5 provides that when a minor detained in a county juvenile facility turns 18 prior to or during the period of confinement, the person may be allowed to remain there until the person turns 19. The statute generally requires that upon turning 19, a person in a county juvenile facility be delivered to the custody of the sheriff (i.e., transferred to jail) for the remainder of the time the person remains in custody, unless the juvenile court orders continued detention in a juvenile facility. The statute further provides that if continued detention is ordered for a person who is 19 or 20 years old, the person does not need to be separated from the younger wards housed in the juvenile facility.

Welfare and Institutions Code Section 208.5 requires that the person be advised of their ability to petition the court for continued detention in a juvenile facility at the time the person turns 19. Subdivision (b) of this section permits a county to seek approval from the BSCC in order to house 19 and 20 years old in the same juvenile facility where wards under 18 are housed.

Effect of This Bill. This bill revises, consolidates, and simplifies various jail transfer statutes. Specifically, this bill creates a rebuttable presumption that any person whose case originated in juvenile court must remain in a county juvenile facility, if the person is held in secure detention, until the person reaches 21 years of age. This bill establishes a process by which the probation department may petition the court to house a person who is 19 years of age or older in an adult facility. The court is then required to hold a hearing to determine whether the person will be moved to an adult facility and must base its decision on several criteria, including the impact of being housed in an adult facility on the health and well-being of the person and the benefits of continued programming at the juvenile

facility. Finally, this bill establishes a process by which a person removed from a juvenile facility pursuant to the process created by this bill may be re-housed at a juvenile facility upon a showing of changed circumstances.

Notably, this bill repeals the authority under existing law of the juvenile court to transfer youth prosecuted as adults to the county jail in cases where housing the youth in a juvenile facility would “endanger the safety of the public or be detrimental” to the other wards in juvenile hall. This provision of this bill is consistent with the bill’s revision of Welfare and Institutions Code Section 208.5 to create a presumption that individuals whose cases originated in juvenile court will be housed in county juvenile facilities until reaching 21.

FISCAL EFFECT: Appropriation: No Fiscal Com.:Yes Local:Yes

According to the Assembly Appropriations Committee:

- 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 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.
- 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.
- 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.

- 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.

SUPPORT:(Verified 8/29/20)

Anti-Recidivism Coalition (co-source)

Human Rights Watch (co-source)

Pacific Juvenile Defender Center (co-source)

Silicon Valley De-Bug (co-source)

Alameda County Public Defender

Alliance for Boys and Men of Color

American Civil Liberties Union of California

California Alliance for Youth and Community Justice

California Attorneys for Criminal Justice

California Coalition for Youth

California Public Defenders Association

Children's Defense Fund - California

Drug Policy Alliance

East Bay Community Law Center

Ella Baker Center for Human Rights

Everychild Foundation

Jesuit Restorative Justice Initiative

Legal Services for Prisoners with Children

MILPA

National Center for Youth

National Institute for Criminal Justice Reform

National Juvenile Justice Network

The W. Haywood Burns Institute

Underground GRIT

Young Women's Freedom Center

One individual

OPPOSITION: (Verified 8/29/20)

None received

Prepared by: Stephanie Jordan / PUB. S. /
8/31/20 18:02:05

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