

Date of Hearing: April 27, 2022

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

AB 2361 (Mia Bonta) – As Amended March 31, 2022

Policy Committee: Public Safety

Vote: 5 - 2

Urgency: No

State Mandated Local Program: Yes

Reimbursable: Yes

**SUMMARY:**

This bill requires a court to find, by clear and convincing evidence, that a minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court in order to find the minor should be transferred to adult court. This bill also requires the court to state in the transfer order its reasons for transferring a minor to adult court, including the reasons why the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court.

**FISCAL EFFECT:**

- 1) Possible cost pressure (Trial Court Trust Fund) to the courts in the low hundreds of thousands of dollars annually in increased workload given this bill requires a juvenile court to make an express finding, by clear and convincing evidence, that a minor is not amenable to rehabilitation. Although a juvenile court is currently required to consider multiple factors when deciding whether to transfer a minor to adult court, this bill adds an additional burden of making that determination by clear and convincing possibly requiring a court to spend more time ruling on transfer orders. An hour of court time costs approximately \$1,000 in workload. If a juvenile court is required to spend an additional 30 minutes on transfer proceedings, in 500 cases statewide, the total cost to the court would be \$250,000. Costs may be offset by a co-extensive reduction in the number of adult criminal cases, to the extent this bill means more minors remain under the jurisdiction of the juvenile court.
- 2) Possibly significant cost savings (General Fund (GF)) to the California Department of Corrections and Rehabilitation (CDCR) annually to the extent this bill results in fewer juveniles being transferred to adult court and ultimately sentenced to state prison. It costs approximately \$105,000 annually to house an inmate in state prison. If this bill results in two wards not being sentenced as adults to state prison or transferred to state prison upon reaching the age of 18 for an average period of two years, the cost savings to CDCR would be \$420,000.

**COMMENTS:**

- 1) **Purpose.** According to the author:

AB 2361 will reduce arbitrary determinations surrounding the transfer of juveniles to adult court by establishing that the court's decision to transfer a juvenile must be based on sufficient

evidence. Rehabilitation is the way forward, and that includes giving juveniles who have made a mistake the opportunity to create a new future as they prepare to reenter our society as adults.

- 2) **Juvenile Transfers to Adult Court.** Pursuant to existing law, a juvenile court has jurisdiction over any person between the ages of 12 and 18 even if the person was not arrested for the crime until after they turned 18. However, in certain circumstances, prior to 2016, a court or a district attorney could either transfer a juvenile to adult court or directly file a criminal complaint against a juvenile in adult court if a juvenile was accused of certain serious felonies. If a prosecutor files a motion to transfer a minor from juvenile court to adult criminal court, the juvenile court must order probation to submit a report on the behavioral patterns and social history of the minor. A minor is not required to establish innocence in order to show amenability to the juvenile court system. Proposition 57, enacted by the voters in 2016, generally eliminated the right of a prosecutor to direct file an adult criminal complaint against a person who is under the age of 18. Currently, only the juvenile court may transfer a minor to adult court and only after making specific findings. This bill requires the court to find, by clear and convincing evidence, that a juvenile is not amenable to rehabilitation. Clear and convincing evidence is a high standard and requires the court to find that it is “substantially more probable” that a juvenile is not amenable to rehabilitation.
- 3) **Division of Juvenile Justice Closure (DJJ).** Before 2020, DJJ was a division of CDCR and housed juveniles sentenced on more serious crimes or juveniles awaiting transfer to adult facilities. SB 823 (Committee on Budget and Fiscal Review), Chapter 337, Statutes of 2020, began the process of closing DJJ and realigning juveniles back to their counties of residence where evidence demonstrates the chance of success upon release is greatest. The intent of SB 823 was to protect against the transfer of youth to the adult system once DJJ was no longer available. SB 92 (Committee on Budget and Fiscal Review), Chapter 18, Statutes of 2021, requires DJJ to close no later than June 30, 2023, and requires the DJJ director to develop a plan for the transfer of jurisdiction of youth remaining at DJJ as of that date. SB 92 also authorizes counties to establish secure youth treatment facilities for any youth who is 14 years of age or older and found to be a ward of the court based on an offense that could result in a transfer to criminal court. This will allow such a youth to remain under the jurisdiction of the juvenile court.
- 4) **Related Legislation.**
  - a) AB 2321 (Jones-Sawyer) redefines the statutory exception to the definition of “room confinement” necessary for institutional operations in a juvenile facility to mean a brief period lasting no more than one hour. This bill also specifies that minors and wards confined at juvenile facilities be provided reasonable access to toilets at all hours, including during normal sleeping hours. AB 2321 is pending in this committee.
  - b) AB 2644 (Holden) Prohibits an officer from using threats, physical harm, deception, or psychologically manipulative interrogation tactics when questioning a youth 25 years of age or younger about the commission of a felony or misdemeanor.

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