

ASSEMBLY THIRD READING

AB 2361 (Mia Bonta)

As Amended March 31, 2022

Majority vote

SUMMARY

Requires the court to find that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court in order to transfer the minor to a court of criminal jurisdiction.

Major Provisions

- 1) Requires the finding that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court to be supported by clear and convincing evidence.
- 2) Requires the transfer order to state the reasons supporting the court's finding that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court.

COMMENTS**According to the Author**

"The transfer of a juvenile to adult court is an extremely serious decision with a lifetime of consequences, and one which should not be taken lightly. Over the past decade, our knowledge of adolescent neuroscience has advanced by leaps and bounds, in particular demonstrating the deficiencies in juvenile decision-making capacity while their young brains continue to develop. In alignment with this science, California has adopted evidence-based proposals to give youth who commit certain crimes a path to rehabilitation and a second chance. However, youth of color continue to be disproportionately victims of structural racism in the criminal justice system. In 2020, 96% of juvenile transfers to adult court were youth of color. This is in part to the lack of guidance provided to judges making this critical decision.

"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."

Arguments in Support

- 1) According to the *Ella Baker Center for Human Rights*, "In the past decade alone, California has adopted evidence-based proposals to give youth who commit certain crimes a path to rehabilitation and a second chance, including SB 382 (Lara), Chapter 234, Statutes of 2015, SB 1391 (Lara), Chapter 1012, Statutes of 2018, and Proposition 57 (2016). However, youth of color continue to be disproportionately victims of structural racism in the criminal justice system. This is due in part to the lack of guidance provided to judges making this critical decision.

Over 50 years ago, the California Supreme Court held that "the dispositive question [at a transfer hearing] is the minor's amenability to treatment through the facilities available to the juvenile court." (citation omitted) Nonetheless, there is no language in the current statute that requires the juvenile court to make a finding that a juvenile is unamenable to rehabilitation

before a juvenile may be transferred. The courts lack sufficient guidance in determining how to exercise this tremendously consequential discretion. As a result, youth who are amenable to rehabilitation may still be transferred to adult court. Moreover, the lack of clarity in the statute impedes meaningful appellate review.

"The Legislature has previously noted the racial, ethnic and geographic disparities in judicial decision-making regarding which minors are to be sent to adult court rather than remain in juvenile court. The Legislature has also recognized that youth transferred to adult court have worse post-release outcomes than youth who receive treatment in the juvenile system, and are more likely to commit new crimes in the future, which is inconsistent with the goal of improving public safety.

"This is why AB 2361 is so important. It is essential that juvenile court judges and the appellate courts have the benefit of a clear standard by which juvenile judges may weigh the evidence at a transfer hearing and make the most appropriate determination."

Arguments in Opposition

None submitted

FISCAL COMMENTS

According to the Assembly Appropriations Committee

- 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.

VOTES

ASM PUBLIC SAFETY: 5-2-0

YES: Jones-Sawyer, Mia Bonta, Bryan, Quirk, Santiago

NO: Lackey, Seyarto

ASM APPROPRIATIONS: 12-4-0

YES: Holden, Bryan, Calderon, Carrillo, Mike Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Wilson

NO: Bigelow, Megan Dahle, Davies, Fong

UPDATED

VERSION: March 31, 2022

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