

Date of Hearing: April 21, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 1647 (Bryan) – As Amended April 15, 2026

SUMMARY: Prohibits testimony a minor gives at a transfer hearing, or statements the minor makes to the minor’s probation officer, from being used against the minor in subsequent proceedings. Specifically, **this bill:**

- 1) States that testimony a minor gives at a transfer hearing, or statements the minor makes to the minor’s probation officer, shall not be used against the minor in subsequent juvenile proceedings or subsequent criminal proceedings for the offense.
- 2) Specifies that this provision does not prohibit statements made by the minor to the minor’s probation officer or at a transfer hearing from being used at sentencing.
- 3) Provides that this provision is declaratory of existing law and shall not be construed to restrict, expand, alter, or modify the decision in *Bryan v. Superior Court*, 7 Cal.3d 575 (1972) or *Ramona R. v. Superior Court*, 37 Cal.3d 802 (1985).

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) Establishes criteria to determine whether to transfer a minor from juvenile court to adult criminal court. (Welf. & Inst. Code, § 707.)
- 3) States that in a case in which a minor is alleged to have committed any felony or any of the enumerated felonies, as specified, 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).)
- 4) States that in a case in which a minor is alleged to have committed any of the enumerated felonies, as specified, 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), emphasis added.)
- 5) States that in order to find that the minor should be transferred to a court of criminal jurisdiction, the court shall find *by clear and convincing evidence* that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court. In making its decision, the court shall consider the following criteria, inclusive:

- a) The degree of criminal sophistication exhibited by the minor. The juvenile court shall give weight to any relevant factor, including, but not limited to, the minor's age, maturity, intellectual capacity, and physical, mental, and emotional health at the time of the alleged offense; the minor's impetuosity or failure to appreciate risks and consequences of criminal behavior; the effect of familial, adult, or peer pressure on the minor's actions; the effect of the minor's family and community environment; the existence of childhood trauma; the minor's involvement in the child welfare or foster care system; and the status of the minor as a victim of human trafficking, sexual abuse, or sexual battery on the minor's criminal sophistication;
 - b) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction. The juvenile court shall give weight to any relevant factor, including, but not limited to, the minor's potential to grow and mature;
 - c) The minor's previous delinquent history. The juvenile court shall give weight to any relevant factor, including, but not limited to, the seriousness of the minor's previous delinquent history and the effect of the minor's family and community environment and childhood trauma on the minor's previous delinquent behavior;
 - d) Success of previous attempts by the juvenile court to rehabilitate the minor. The juvenile court shall give weight to any relevant factor, including, but not limited to, the adequacy of the services previously provided to address the minor's needs; and,
 - e) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor. The juvenile court shall give weight to any relevant factor, including, but not limited to, the actual behavior of the person, the mental state of the person, the person's degree of involvement in the crime, the level of harm actually caused by the person, and the person's mental and emotional development. The court shall consider evidence offered that indicates that the person against whom the minor is accused of committing an offense trafficked, sexually abused, or sexually battered the minor. (Welf. & Inst. Code, § 707, subd. (a)(3).)
- 6) Enumerates the following predicate offenses which permit transfer of a juvenile to adult court:
- a) Murder;
 - b) Arson;
 - c) Robbery;
 - d) Rape with force, violence, or threat of great bodily harm;
 - e) Sodomy by force, violence, or threat of great bodily harm;
 - f) A lewd or lascivious act on a minor under 14 years of age by force, violence, or threat of great bodily harm;
 - g) Oral copulation by force, violence, duress, menace, or threat of great bodily harm;
 - h) Sexual penetration by force, violence, duress, menace, or threat of great bodily harm;
 - i) Kidnapping for ransom;
 - j) Kidnapping for purposes of robbery;
 - k) Kidnapping with bodily harm;
 - l) Attempted murder;

- m) Assault with a firearm or destructive device;
- n) Assault by means of force likely to produce great bodily injury;
- o) Discharge of a firearm into an inhabited or occupied building;
- p) Causing great bodily injury in the commission of specified offenses against a person who is 60 years of age or older; or against a person who is blind, a paraplegic, a quadriplegic, or a person confined to a wheelchair;
- q) Personal use of a firearm during the commission of a felony;
- r) Personal use of a weapon;
- s) Dissuading a witness or influencing testimony;
- t) Manufacturing, compounding, or selling one-half ounce or more of a salt or solution of a specified controlled substance;
- u) A “violent” felony committed for the benefit of a criminal street gang;
- v) Escape, by use of force or violence, from a county juvenile hall, home, ranch, camp or forestry camp if great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the escape;
- w) Torture;
- x) Aggravated mayhem;
- y) Carjacking while armed with a dangerous and deadly weapon;
- z) Kidnapping for purposes of sexual assault;
- aa) Kidnapping in the course of a carjacking;
- bb) Drive by shooting;
- cc) Exploding a destructive device with intent to commit murder; and,
- dd) Voluntary manslaughter. (Welf. & Inst. Code, § 707, subd. (b).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, “Young people deserve to have certainty that their right to speak is protected during a fitness hearing. Case law is clear on this, and it’s time California Statute affirms and codifies that case law”
- 2) **Juvenile Court Jurisdiction:** As a general rule, any person between the age of 12 and 17 who commits a crime falls within the jurisdiction of the juvenile court. (Welf. & Inst. Code, § 602.) This extends to a youth alleged to have committed a crime before their 18th birthday, even if they were an adult at the time of arrest or commencement of proceedings. (Welf. & Inst. Code, § 603.) For example, if someone commits a crime at age 17, but it is not discovered or tried until the person is 20, the person can still be tried in juvenile court. The jurisdiction of the juvenile court continues until the youth is 23 years old, unless the youth would have, in criminal court, faced a sentence of 7 years or more, in which case the juvenile court’s jurisdiction continues until the youth turns 25. (Welf. & Inst. Code, § 607.)

The creation of the juvenile court, now over 100 years old, was rooted in the idea that adolescents, who are not fully developed or mature, are less culpable than adults. Accordingly, the focus of the juvenile court was rehabilitation, not punishment. (See e.g., *In re Gault* (1967) 387 U.S. 1, 15-16.) The purpose of the juvenile law is to provide for the protection and safety of the public and each minor under the jurisdiction of the court and to preserve and strengthen family ties when possible. (Welf. & Inst. Code, § 202, subd. (a).) Minors under the jurisdiction of the juvenile court as a consequence of delinquent conduct

receive care, treatment, and guidance that is consistent with their best interest, that holds them accountable for their behavior, and that is appropriate for their circumstances. This may include punishment that is consistent with rehabilitative objectives. (Welf. & Inst. Code, § 202, subd. (b).) The juvenile court has a wide range of options available for placing its wards, including probation, placement in a relative's home, foster home, licensed community care facility, or group home, and commitment to “a juvenile home, ranch, camp, or forestry camp” or “the county juvenile hall.” (Welf. & Inst. Code, §§ 727, subd. (a); 730, subd. (a)(1).)

- 3) **History of Juvenile Transfer Policies:** In 1961, the Legislature set 16 years old as the minimum age that a minor could be transferred to adult criminal court. (*O.G. v. Superior Court* (2021) 11 Cal.5th 82, 88.) In 1995, the state began to move away from this rule by permitting some 14- and 15-year-olds to be transferred to criminal court. (*Ibid.*) In 2000, the voters passed Proposition 21 which required prosecutors to charge minors 14 years or older directly in criminal court for specified murder and sex crimes. Additionally, the Proposition gave prosecutors discretion to charge minors 14 or older directly in adult criminal court for other serious specified offenses. (*Ibid.*)

In the years following the passage of Proposition 21, the United State Supreme Court issued several opinions regarding the need to treat juveniles differently from adults in the criminal justice system. Developments in scientific research on adolescent brain development confirmed that children are different from adults in their relative culpability and rehabilitation possibilities and that such differences are critical to identifying age-appropriate sentences. (See, e.g., *Roper v. Simmons* (2005) 543 U.S. 551, 569–571 [prohibited capital punishment for juveniles]; *Graham v. Florida* (2010) 560 U.S. 48, 68–75 [prohibited life without the possibility of parole (LWOP) for juveniles in non-homicide cases]; *Miller v. Alabama* (2012) 567 U.S. 460, 469–470 [prohibited mandatory LWOP sentences for juveniles].) The Court summarized those differences in *Miller*:

Roper and *Graham* establish that children are constitutionally different from adults for purposes of sentencing. Because juveniles have diminished culpability and greater prospects for reform, we explained, “they are less deserving of the most severe punishments.” *Graham*, 560 U.S., at 68, 130 S.Ct. 2011, 176 L.Ed. 2d 825. Those cases relied on three significant gaps between juveniles and adults. First, children have a “lack of maturity and an underdeveloped sense of responsibility,” leading to recklessness, impulsivity, and heedless risk-taking. *Roper*, 543 U.S., at 569, 125 S.Ct. 1183, 161 L.Ed. 2d 1. Second, children “are more vulnerable . . . to negative influences and outside pressures,” including from their family and peers; they have limited “contro[l] over their own environment” and lack the ability to extricate themselves from horrific, crime-producing settings. *Ibid.* And third, a child’s character is not as “well formed” as an adult’s; his traits are “less fixed” and his actions less likely to be “evidence of irretreivabl[e] deprav[ity].” (*Miller, supra*, 567 U.S. at 570.)

The California Supreme Court, relying on *Graham* and *Miller*, found that a determinate sentence that exceeds the expected lifetime of the juvenile defendant violates the Eighth Amendment because it effectively denies a juvenile any opportunity to demonstrate rehabilitation (*People v. Caballero* (2012) 55 Cal.4th 262, 267) and that a law that provides a

presumption in favor of LWOP for juveniles also violates the Eighth Amendment (*People v. Gutierrez* (2014) 58 Cal.4th 1354, 1375-1376).

Following this body of case law and research, several measures were adopted to reflect the scientific evidence and constitutional mandate to treat juveniles differently than adults. In 2016, Proposition 57 eliminated direct filing in adult court by amending Welfare and Institutions Code section 707 to require a transfer hearing to be held before a minor can be prosecuted in adult court. In 2018, the Legislature raised the youngest age a minor could be tried as an adult back to 16. (SB 1391 (Lara), Ch. 1012, Stats. 2018.) The age change was challenged as an invalid amendment to Proposition 57 but the California Supreme Court ultimately ruled that SB 1391 furthered the ameliorative purposes of Proposition 57 and the proposition authorized such amendments by a majority vote of the Legislature. (*People v. Superior Court (O.G.)* (2021) 11 Cal.5th 82.)

- 4) **Transfer Criteria:** The issue in a juvenile transfer hearing “is not whether the minor committed a specified act, but rather whether [they are] amendable to the care, treatment and training program available through the juvenile court facilities...” (*People v. Chi Ko Wong* (1976) 18 Cal.3d 698, 717, disapproved on another point in *People v. Green* (1980) 27 Cal.3d 1, 33.) Under current law, the prosecution may move to transfer to adult criminal court any minor 16 years of age or older who is alleged to have committed a felony criminal offense. (Welf. & Inst. Code, § 707, subd. (a)(1).) The prosecution may also move to transfer to adult court a person who was 14 or 15 years of age at the time the person was alleged to have committed a specified serious or violent felony, but who was not apprehended prior to the end of juvenile court jurisdiction. (Welf. & Inst. Code, §§ 707, subs. (a)(2) & (b).) Existing law requires the juvenile court to find *by clear and convincing evidence* that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court in order to find that the minor should be transferred to adult criminal court. (Welf. & Inst. Code § 707, subd. (a)(3), emphasis added.)

In making its transfer decision, the court must consider the following: the minor’s degree of criminal sophistication, whether the minor can be rehabilitated in the time before the juvenile court would lose jurisdiction over the minor, the minor’s prior history of delinquency, the success of prior attempts by the juvenile court to rehabilitate the minor, and the circumstances and gravity of the charged offense. (Welf. & Inst. Code, § 707, subd. (a)(3)(A)-(E).) Existing law provides guidance to the juvenile court when considering each of these criteria. Existing law specifies that when evaluating the degree of criminal sophistication exhibited by the minor, the juvenile court may give weight to any relevant factor, including, but not limited to, the minor’s age, maturity, intellectual capacity, and physical, mental, and emotional health at the time of the alleged offense, the minor’s impetuosity or failure to appreciate risks and consequences of criminal behavior, the effect of familial, adult, or peer pressure on the minor’s actions, and the effect of the minor’s family and community environment and childhood trauma on the minor’s criminal sophistication. (Welf. & Inst. Code, § 707, subd. (a)(3)(A)(ii).) Existing law additionally specifies that when evaluating the minor’s previous delinquent history, the juvenile court may give weight to any relevant factor, including, but not limited to, the seriousness of the minor’s previous delinquent history and the effect of the minor’s family and community environment and childhood trauma on the minor’s previous delinquent behavior. (Welf. & Inst. Code, § 707, subd. (a)(3)(C)(ii).) Existing law states that in evaluating the circumstances and gravity of the offense alleged in the petition to have been committed by the minor, the juvenile court shall

give weight to any relevant factor, including, but not limited to, the actual behavior of the person, the mental state of the person, the person's degree of involvement in the crime, the level of harm actually caused by the person, and the person's mental and emotional development. The court shall consider evidence offered that indicates that the person against whom the minor is accused of committing an offense trafficked, sexually abused, or sexually battered the minor. (Welf. & Inst. Code, § 707, subd. (a)(3)(E).)

- 5) **Relevant Case Law:** This bill states that its provisions are declaratory of existing law as established by *Bryan v. Superior Court* (1972) 7 Cal.3d 575 or *Ramona R. v. Superior Court* (1985) 37 Cal.3d 802. *Ramona R.* involved a 17-year-old who was charged with murder. Ordinarily, the prosecution would bear the burden of proving that a minor is unfit to be treated in juvenile court. The law, prior to the passage of Proposition 57 in 2016¹, contained a presumption that a minor who had committed a specified offense listed in Welfare and Institutions Code 707(b) was unfit for juvenile court unless the minor can prove they are fit.

In *Ramona R.*, the minor defendant declined to testify at her fitness hearing after the court refused to grant the minor immunity from use at trial of any of statements made in the hearing or to her probation officer. (*Id.* at p. 804.) The minor defendant was declared unfit and she filed a writ of mandate to compel the court to vacate arguing that the court erred in refusing to grant her use immunity.

The question before the court was whether prior law, which provided for such use immunities, was nullified by Proposition 8's "Right to Truth-in-Evidence" provision.² The relevant section reads: "Except as provided by statute hereafter enacted by a two-thirds vote of the membership in each house of the Legislature, relevant evidence shall not be excluded in any criminal proceeding, including pretrial and post conviction motions and hearings, or in any trial or hearing of a juvenile for a criminal offense, whether heard in juvenile or adult court. Nothing in this section shall affect any existing statutory rule of evidence relating to privilege or hearsay, or Evidence Code, Sections 352, 782 or 1103." (Cal. Const. art. 1, Sec. 28, subd. (f)(2).)

Prior to the passage of Proposition 8, the California Supreme Court held that "evidence of admissions made by a minor to the juvenile judge or the juvenile probation officer should be excluded in a criminal prosecution, for allowing this evidentiary use of the admissions would frustrate the protective and rehabilitative philosophy of the Juvenile Court Law . . ." (*Bryan v. Superior Court* (1972) 7 Cal.3d 575, 587.)

In *Ramona R.*, the California Supreme Court held that such immunities were preserved by the exception in Proposition 8 for statutory privileges:

That constitutional provision expressly provides that it does not affect any existing statutory rule of evidence relating to privilege. Such use immunities are essential to the California constitutional privilege against self-incrimination (Cal. Const., art. I, §

¹ Proposition 57, the Public Safety and Rehabilitation Act, was approved by voters in the 2016 general election, amended the process to transfer juveniles to adult court including removing the presumption that a minor alleged to have violated a 707(b) offense is unfit.

² Proposition 8, approved by voters in the 1982 primary election, established the Victims Bill of Rights in the California Constitution.

15); thus, the law providing for such immunities is included within the broad language of Evid. Code, § 940, which declares that "To the extent that such privilege exists under the Constitution of the United States or the State of California, a person has a privilege to refuse to disclose any matter that may tend to incriminate him."

(*Id.* at p. 803.) The court further discussed the reasoning for its holding as applied to minors at their fitness hearings:

The purpose of such an interview is not the marshalling of evidence on the issue of guilt, but rather the assembling of all available information relevant to an informed disposition of the case if guilt is established (§§ 280, 702; Pen. Code, § 1203), or to assist in the evaluation of the minor's fitness for treatment as a juvenile (§ 707). Such decisions, courts have uniformly concluded, should be based on the most complete knowledge of the defendant's background that is possible. His description and explanation of the circumstances of the alleged offense, and his acknowledgment of guilt and demonstration of remorse, may significantly affect decisions about punishment or transfer for adult proceedings." (*Id.* at pp. 599-600.) "The minor who is subject to the possibility of a transfer order should not be put to the unfair choice of being considered uncooperative by the juvenile probation officer and juvenile court because of his refusal to discuss his case with the probation officer, or of having his statements to that officer used against him in subsequent criminal proceedings." (*Bryan v. Superior Court, supra*, 7 Cal.3d at pp. 587-588.) "

(*Id.* at p. 806.) The court also explicitly included in its holding that use immunity applies even when the minor has been found fit for treatment under the juvenile court. (*Id.* at p. 811.)

This bill provides that testimony a minor gives at a transfer hearing, or statements the minor makes the minor's probation officer, shall not be used against the minor at a subsequent juvenile proceedings or subsequent criminal proceedings for the offense. This bill specifies that this provision does not prohibit the minor's statements made to the minor's probation officer or at a transfer hearing from being used at sentencing. Additionally, this bill provides that its provisions are declaratory of existing law and shall not be construed to restrict, expand, alter, or modify the decision in *Bryan v. Superior Court* or *Ramona R. v. Superior Court*.

- 6) **Argument in Support:** According to *Hoops 4 Justice*, a co-sponsor of this bill: "AB 1647 bill does not expand the law or create new rights.. It simply gives the clarity and permanence of statute to protections that California courts have recognized for decades. A young person must be able to participate in these proceedings and engage with probation officers, without fear that their words will later be used against them. California courts have upheld this principle since *Bryan v. Superior Court* (1972) and *Ramona R. v. Superior Court* (1985). Together, these cases establish that statements a young person makes at a transfer hearing or to a probation officer in connection with those proceedings may not be used against that youth in subsequent juvenile or criminal proceedings. AB 1647 makes these protections permanent, transparent, and guaranteed to every young person in every courtroom across the state."
- 7) **Argument in Opposition:** No longer relevant.

8) Prior Legislation:

- a) AB 2361 (Bonta), Chapter 330, Statutes of 2022, increased the burden of proof from preponderance of the evidence to clear and convincing evidence for a court to find that a minor should be transferred to adult criminal court.
- b) AB 624 (Bauer-Kahan), Chapter 195, Statutes of 2021, made an order transferring a minor from a juvenile court to a court of criminal jurisdiction subject to appeal, as specified.
- c) AB 1423 (Wicks), Chapter 583, Statutes of 2019, created a mechanism for the return of a case back to the juvenile court from the criminal court under certain circumstances.
- d) AB 2865 (Wicks), of the 2019-2020 Legislative Session, would have required a court to find that a minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court in order to find that the minor should be transferred to a court of criminal jurisdiction. AB 2865 was held in this Committee without a hearing.
- e) SB 439 (Mitchell), Chapter 1006, Statutes of 2018, prohibited the prosecution of a minor under the age of 12, unless the minor is alleged to have committed specified violent crimes.
- f) SB 1391 (Lara), Chapter 1012, Statutes of 2018, repealed the authority of a district attorney to make a motion to transfer a minor from juvenile court to a court of criminal jurisdiction in a case in specified cases, unless the individual was not apprehended prior to the end of juvenile court jurisdiction.
- g) SB 382 (Lara), Chapter 382, Statutes of 2015, enumerated certain factors that may be given weight within each of the criteria to be determined by a court in order to find that the minor should be transferred to a court of criminal jurisdiction.
- h) SB 1151 (Kuehl), of the 2003-2004 Legislative Session, would have clarified the definition of the “circumstances and gravity of the offense” for purposes of evaluating the fitness of a minor for juvenile court jurisdiction. SB 1151 was vetoed.
- i) AB 560 (Peace), Chapter 453, Statutes of 1994, lowered the age from 16 to 14 at which a juvenile could be transferred to adult criminal court and be tried as an adult for committing certain crimes.

REGISTERED SUPPORT / OPPOSITION:**Support**

A New Way of Life (Co-sponsor)
Alliance for Boys and Men of Color (Co-sponsor)
Communities United for Restorative Justice (Co-sponsor)
Hang Out Do Good (Co-sponsor)
Hayward Burns Institute (Co-sponsor)

Hoops 4 Justice (Co-sponsor)
Legal Services for Prisoners with Children (Co-sponsor)
All of Us or None (Co-sponsor)
National Center for Youth Law (Co-sponsor)
The Voice of Transfer Youth (Co-sponsor)
Urban Peace Institute (Co-sponsor)

Opposition

No longer relevant.

Analysis Prepared by: Stella Choe / PUB. S. / (916) 319-3744