
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: AB 1647 **Hearing Date:** June 23, 2026
Author: Bryan
Version: April 15, 2026
Urgency: No **Fiscal:** No
Consultant: SJ

Subject: *Juveniles: transfer to criminal court: criminal procedure*

HISTORY

Source: A New Way of Life; All of Us or None; Alliance for Boys and Men of Color; Communities United for Restorative Justice; Hang Out Do Good; Haywood Burns Institute; Hoops 4 Justice; Legal Services for Prisoners with Children; National Center for Youth Law; The Voice of Transfer Youth; Urban Peace Institute

Prior Legislation: AB 2361 (Bonta), Ch. 330, Stats. of 2022
AB 624 (Bauer-Kahan), Ch. 195, Stats. 2021
AB 1423 (Wicks), Ch. 583, Stats. 2019
AB 2865 (Wicks), not heard due to COVID-19
SB 439 (Mitchell), Ch. 1006, Stats. 2018
SB 1391 (Lara), Ch. 1012, Stats. 2018
Proposition 57, as approved by the voters on November 8, 2016
SB 382 (Lara), Ch. 234, Stats. 2015
AB 560 (Peace), Ch. 453, Stats. 1994
SB 332, Ch. 1616, Stats. 1961

Support: ACLU California Action; California Attorneys for Criminal Justice; California Public Defenders Association; Ella Baker Center for Human Rights; Local 148 Los Angeles County Public Defender's Union; San Quentin Skunkworks; Smart Justice California

Opposition: California District Attorneys Association; Chief Probation Officers' of California

Assembly Floor Vote: 71 - 0

PURPOSE

The purpose of this bill is to prohibit the use of a minor's statements made during a transfer hearing or to the minor's probation officer from being used against the minor during subsequent juvenile proceedings or subsequent criminal proceedings, as specified.

Existing law 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).)

Existing law authorizes the prosecutor to make a motion to transfer a minor who is 16 years of age or older from juvenile court to a court of criminal jurisdiction in any case in which the minor is alleged to have committed a felony. (Welf. & Inst. Code, § 707, subd. (a)(1).)

Existing law authorizes the prosecutor to make a motion to transfer a minor who committed a specified serious or violent felony from juvenile court to a court of criminal jurisdiction if the offense was committed when the minor was 14 or 15 years of age or older but the minor was not apprehended prior to the end of juvenile court jurisdiction. (Welf. & Inst. Code, § 707, subd. (a)(2).)

Existing law requires, upon the motion of the prosecutor, the juvenile court to order the probation officer to submit a report on the behavioral patterns and social history of the minor. (Welf. & Inst. Code, § 707, subd. (a)(1) & (2).)

Existing law requires the juvenile court, following submission and consideration of the report, and of any other relevant evidence that the minor may wish to submit, to decide whether the minor should be transferred to a court of criminal jurisdiction. (Welf. & Inst. Code, § 707, subd. (a)(3).)

Existing law requires the court, in order to find that the minor should be transferred to a court of criminal jurisdiction, to find by clear and convincing evidence that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court. Requires the court to consider the following criteria in making its decision:

- The degree of criminal sophistication exhibited by the minor.
 - Requires the juvenile court to 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.
- Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.
 - Requires the juvenile court to give weight to any relevant factor, including, but not limited to, the minor's potential to grow and mature.
- The minor's previous delinquent history.
 - Requires the juvenile court to 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.
- Success of previous attempts by the juvenile court to rehabilitate the minor.

- Requires the juvenile court to give weight to any relevant factor, including, but not limited to, the adequacy of the services previously provided to address the minor's needs.
- The circumstances and gravity of the offense alleged in the petition to have been committed by the minor.
 - Requires the juvenile court to 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. Requires the court to 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)(A)-(E).)

Existing law requires the juvenile court to recite the basis for its decision in an order entered upon the minutes if it orders a transfer to a court of criminal jurisdiction. (Welf. & Inst. Code, § 707, subd. (a)(3).)

Existing law allows the transfer of a juvenile to adult criminal court, as specified above, if the juvenile has been alleged to have committed the following crimes:

- Murder;
- Arson;
- Robbery;
- Rape with force, violence, or threat of great bodily harm;
- Sodomy by force, violence, or threat of great bodily harm;
- A lewd or lascivious act on a minor under 14 years of age by force, violence, or threat of great bodily harm;
- Oral copulation by force, violence, duress, menace, or threat of great bodily harm;
- Sexual penetration by force, violence, duress, menace, or threat of great bodily harm;
- Kidnapping for ransom;
- Kidnapping for robbery;
- Kidnapping with bodily harm;
- Attempted murder;
- Assault with a firearm or destructive device;
- Assault by means of force likely to produce great bodily injury;
- Discharge of a firearm into an inhabited or occupied building;
- Causing great bodily injury in the commission of specified offenses against a person who is 60 or older; or against a person who is blind, a paraplegic, a quadriplegic, or a person confined to a wheelchair;
- Personal use of a firearm during the commission of a felony;
- Felony offense in which the minor personally used a weapon;
- Dissuading a witness or influencing testimony;
- Manufacturing, compounding, or selling one-half ounce or more of a salt or solution of a specified controlled substance;
- A "violent" felony committed for the benefit of a criminal street gang;

- 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;
- Torture;
- Aggravated mayhem;
- Carjacking while armed with a dangerous and deadly weapon;
- Kidnapping for purposes of sexual assault;
- Kidnapping in the course of a carjacking;
- Drive by shooting;
- Exploding a destructive device with intent to commit murder; and,
- Voluntary manslaughter. (Welf. & Inst. Code, § 707, subd. (b).)

This bill prohibits the 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 juvenile proceedings or subsequent criminal proceedings for the offense.

This bill 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.

This bill 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).

COMMENTS

1. Need For This Bill

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. Jurisdiction of the Juvenile Court

As a general rule, any minor between the age of 12 and 17, inclusive, 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 or 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.)

Some minors may be tried as adults, depending on the age of the minor at the time of the offense and the crime charged. Minors who may be subject to transfer to adult criminal court include those alleged to have committed any felony when 16 years old or older, as well as a person who was 14- or 15-years-old at the time the person was alleged to have committed one of several

specified serious or violent felonies but who was not apprehended prior to the end of juvenile court jurisdiction. (Welf. & Inst. Code, § 707, subd. (a).)

3. History of Juvenile Transfers

The Arnold-Kennick Juvenile Court Act, enacted in 1961, established 16 as the minimum age for which a minor could be transferred from juvenile court to adult criminal court. Over 30 years later, AB 560 (Peace), Chapter 453, Statutes of 1994, lowered the age at which a minor could be transferred to adult criminal court from 16 to 14 years of age. In response to the perception that juvenile crime was on the rise and more dangerous than the delinquency of earlier decades, Proposition 21 was passed by the voters on March 7, 2000. Among other things, Proposition 21 increased sentences for specified gang-related crimes, authorized a prosecutor to file charges against a juvenile offender directly in criminal court for specified felonies, prohibited the sealing of juvenile records involving Welfare and Institutions Code section 707(b) offenses, and designated additional crimes as violent and serious felonies. (Ballot Pamp., Prim. Elec. (Mar. 7, 2000), text of Prop. 21, p. 45 et seq.)

Over the last several years, there have been a series of U.S. Supreme Court cases involving juvenile defendants that have recognized the inherent difference between juveniles and adults for purposes of sentencing, relying in part on research on brain and adolescent development. (*See Roper v. Simmons* (2005) 543 U.S. 551; *Graham v. Florida* (2010) 560 U.S. 48; *J.D.B. v. North Carolina* (2011) 564 U.S. 261; *Miller v. Alabama* (2012) 567 U.S. 460.) 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 irretrievabl[e] deprav[ity].” (567 U.S. 460, 570.)

This body of case law and the research relied upon in these cases prompted the passage of several juvenile justice reform measures. (See SB 9 (Yee), Chapter 828, Statutes of 2012; SB 260 (Hancock), Chapter 312, Statutes of 2013; SB 261 (Hancock), Chapter 471, Statutes of 2015; AB 1308 (Stone), Chapter 675, Statutes of 2017; SB 394 (Lara), Chapter 684, Statutes of 2017; SB 395 (Lara), Chapter 681, Statutes of 2017). In addition, the voters passed Proposition 57 in November 2016, which among other things, eliminated the ability of a prosecutor to file charges against a juvenile offender directly in criminal court.

4. Transfer Criteria

Current law allows the prosecution 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).) In order to find that the minor should be transferred to adult criminal court, the juvenile court must find by clear and convincing evidence that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court. (Welf. & Inst. Code § 707, subd. (a)(3).)

The prosecution bears the burden of proving the youth should be transferred to adult court by a preponderance of the evidence. (Cal. Rules of Ct., rule 5.770, subd. (b)(2).) Upon the prosecutor filing a motion to transfer the minor from juvenile court to adult criminal court, the juvenile court orders the probation officer to submit a report on the behavioral patterns and social history of the minor. (Welf. & Inst. Code, §707, subd. (a).) The prosecutor and the minor may submit additional relevant information to aid the court in evaluating a juvenile's fitness to remain in juvenile court. (*Ibid.*)

A minor is not required to establish innocence in order to show amenability to the juvenile court system, and the fact that a minor did commit the charged offense does not automatically require a finding of unfitness. (*People v. Superior Court (Jones)* (1998) 18 Cal.4th 667, 682.) Rather, the dispositive question at a transfer hearing is the minor's amenability to treatment through the facilities available to the juvenile court. (*Jimmy H. v. Superior Court* (1970) 3 Cal.3d 709, 714; see also *People v. Chi Ko Wong* (1976) 18 Cal.3d 698, 717 [holding that the issue at a transfer hearing "is not whether the minor committed a specified act, but rather whether he is amenable to the care, treatment and training program available through juvenile court facilities"]; *J.N. v. Superior Court* (2018) 23 Cal.App.5th 706, 714 ["There must be substantial evidence adduced at the hearing that the minor is not a fit and proper subject for treatment as a juvenile before the court may certify him to the superior court for prosecution."].)

In making its transfer decision, the court must consider five enumerated criteria: (1) the degree of criminal sophistication; (2) whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction; (3) the minor's previous delinquent history; (4) the success of previous rehabilitation attempts by the juvenile court; and (5) the gravity of the offense alleged in the petition to have been committed by the minor. (Welf. & Inst. Code, § 707, subd. (a)(3)(A)-(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 2016,¹ contained a presumption that a minor who had

¹ Proposition 57, the Public Safety and Rehabilitation Act, was approved by voters during the 2016 general election and 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 for juvenile court.

committed a specified offense listed in Welfare and Institutions Code section 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, § 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. (*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.)

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

6. Effect of This Bill

This bill prohibits the 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 juvenile proceedings or subsequent criminal proceedings for the offense. However, this bill 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. This bill also provides that its provision are 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).

7. Argument in Support

The ACLU California Action writes:

AB 1647 ... codifies longstanding and foundational protections for young people who appear before the juvenile court in transfer proceedings.

This incredible bill is championed by youth that are incarcerated at Los Padrinos Juvenile Hall who are facing transfer and who understand firsthand why the legal protections this measure codifies matter. Their advocacy is a reminder that behind every transfer hearing is a young person who deserves to be treated with dignity and fairness.

AB 1647 does not expand the law or create new rights. It simply gives the clarity and permanence 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.

8. Argument in Opposition

The California District Attorneys Association writes:

CDAAs objects to the amended language in WIC 707.3 which states, "Testimony a minor gives at a transfer hearing conducted pursuant to Section 707, or statements the minor makes to the minor's probation officer during a transfer interview, shall not be used against the minor in a subsequent juvenile proceeding or subsequent criminal proceedings for the offense." If a minor voluntarily testifies at a transfer hearing, those statements can legally be used as impeachment evidence, not as substantive evidence, in a juvenile contest, or if transferred to adult court, in a criminal trial.

Current law already prohibits the introduction of a statement made by a minor to a probation officer from being introduced as substantive evidence of guilt at any future contest or criminal trial. But, the law also allows a minor's voluntary testimony during a transfer hearing to be introduced as impeachment evidence in a subsequent contest, or if the minor is ordered transferred, in a criminal adult trial. (People v. Macias (1997) 16 Cal.4th 739)

The proposed language in 707.3 is objectionable because it removes an evidentiary right to introduce impeachment evidence in a hearing currently allowed under the state Constitution and held to be legal by the Supreme Court of California. If a minor voluntarily testifies at their transfer hearing, under oath and subject to cross-examination, that testimony may be introduced as impeachment evidence in a future contest or criminal

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