
THIRD READING

Bill No: AB 1647
Author: Bryan (D), et al.
Amended: 6/25/26 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 6-0, 6/23/26
AYES: Arreguín, Seyarto, Caballero, Cortese, Pérez, Wiener

ASSEMBLY FLOOR: 71-0, 5/4/26 - See last page for vote

SUBJECT: Juveniles: transfer to criminal court: criminal procedure

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

DIGEST: This bill prohibits the use of a minor's statements made during a transfer hearing or to the minor's probation officer for purposes of preparing a report for a transfer hearing from being used against the minor during subsequent juvenile proceedings or subsequent criminal proceedings, as specified.

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. (Welfare (Welf.) & Institutions (Inst.) Code, § 602, subd. (a).)
- 2) 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).)
- 3) 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).)
- 4) 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).)
- 5) 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).)
- 6) 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:
 - a) 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.

- b) 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.
 - c) 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.
 - d) 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.
 - e) 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).)
- 7) 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).)
- 8) 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:

- 1) Prohibits the testimony a minor gives at a transfer hearing, or statements the minor makes to the minor’s probation officer for purposes of preparing a report for the transfer hearing, from being 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).

Background

Juvenile Court Jurisdiction. 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).) In order for a minor to be transferred to criminal court, the prosecution must move to transfer the minor, and 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).)

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.) In 2016, the voters passed Proposition 57, which eliminated the ability of a prosecutor to file charges against a juvenile offender directly in criminal court.

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, contained a presumption that a minor who had 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. 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.)

This bill prohibits the use of a minor's statements made during a transfer hearing or to the minor's probation officer for purposes of preparing a report for a transfer hearing from being used against the minor during subsequent juvenile proceedings or subsequent criminal proceedings, as specified.

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

SUPPORT: (Verified 6/29/26)

A New Way of Life (co-source)
All of Us or None (co-source)
Alliance for Boys and Men of Color (co-source)
Communities United for Restorative Justice (co-source)
Hang Out Do Good (co-source)
Haywood Burns Institute (co-source)
Hoops 4 Justice (co-source)
Legal Services for Prisoners with Children (co-source)
National Center for Youth Law (co-source)
The Voice of Transfer Youth (co-source)
Urban Peace Institute (co-source)
ACLU California Action
California Attorneys for Criminal Justice
California Public Defenders Association
Ella Baker Center for Human Rights

Initiate Justice
Local 148 Los Angeles County Public Defender's Union
San Quentin Skunkworks
Smart Justice California

OPPOSITION: (Verified 6/29/26)

California District Attorneys Association
Chief Probation Officers' of California

ASSEMBLY FLOOR: 71-0, 5/4/26

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Berman, Boerner, Bonta, Bryan, Calderon, Carrillo, Castillo, Connolly, Davies, Dixon, Elhawary, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

NO VOTE RECORDED: Arambula, Bennett, Caloza, Chen, DeMaio, Ellis, Macedo, Michelle Rodriguez, Tangipa

Prepared by: Stephanie Jordan / PUB. S. /
6/29/26 10:57:50

**** END ****