

Date of Hearing: April 14, 2026  
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY  
Nick Schultz, Chair

AB 1902 (Pellerin) – As Amended April 8, 2026

**As Proposed to be Amended in Committee**

**SUMMARY:** Makes various changes to existing law that authorizes a court to order extended confinement for a person who is set to be discharged from a Secure Youth Treatment Facility (SYTF) based on a finding that the person is physically dangerous to the public, as specified. Specifically, **this bill:**

- 1) Requires a person to remain in custody in an SYTF, state mental health hospital, or other appropriate adult secure institution until the conclusion of a probable cause hearing and until the conclusion of the proceedings to determine whether the person is physically dangerous to the public because of their mental or physical condition, disorder, or other problem.
- 2) States that the probable cause hearing shall not be continued, except upon a showing of good cause by the party requesting the continuance.
- 3) States that the finding of probable cause may be based in whole or in part on the opinions of an expert admitted through the expert's reports provided that the report was first attached to, or incorporated by, reference in the petition. The finding of probable cause may also be based in whole or in part on the sworn testimony of a law enforcement officer or honorably retired law enforcement officer.
- 4) Clarifies that nothing in the above provisions shall abrogate a person's right to cross-examination or to compel the attendance of witnesses.
- 5) Increases the time for a person to be brought to trial, from within 30 days to within 60 days from the determination that there is probable cause.
- 6) Requires a court, if the court or jury finds that the person has a mental condition or disorder making them physically dangerous to the public as specified, to determine the period of continued detention informed by the evidence presented at trial and a clinical assessment by the person's treatment team at the secure youth treatment facility, State Department of State Hospitals (DSH), or other appropriate adult secure institution, based on the person's individual treatment needs for the underlying mental condition, disorder, or other problem.
- 7) Extends the maximum period of continued detention from 2 years to 5 years.
- 8) Requires the court state on the record the basis for the period ordered.
- 9) Specifies that if an order for continued detention is made, the control of the probation department, DSH, or other appropriate adult secure institution over the person shall continue

until the termination of the specified period unless a new petition is filed for continued detention.

- 10) Clarifies that the criminal discovery process applicable to criminal proceedings shall apply to all proceedings related to a petition for continued detention.
- 11) Authorizes the prosecuting agency to request the county behavioral health director or the Director of DSH to review any case in which the probation department has not made a request to the prosecuting attorney to file a petition for continued detention.
- 12) States that upon the prosecuting agency's request, a mental health professional designated by the county behavioral health director or the Director of DSH shall review the case and thereafter may affirm the decision of the probation department to not request a petition for extended detention, order additional assessment of the ward, or shall request the prosecuting attorney petition the committing court for an order directing that the person remain subject to the control of the probation department beyond the time set for release.
- 13) Requires the prosecuting agency and designated mental health professional to have access to a copy of the ward's file and any documentation upon which the probation department relied.
- 14) Provides that if a prosecuting agency makes a request to review a case that the probation department has not made a request for, the person shall remain in custody in a secure facility until the conclusion of those proceedings.

**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) Allows counties, commencing July 1, 2021, to establish SYTFs for wards who are 14 years of age or older who have been adjudicated and found to be a ward of the court based on an offense listed in subdivision (b) of Welfare and Institutions Code section 707. (Welf. & Inst. Code, § 875.)
- 3) Provides that in determining whether to order a ward to be committed to an SYTF, the court must make a finding on the record that a less restrictive, alternative disposition for the ward is unsuitable. The court shall consider all relevant and material evidence, including the recommendations of counsel, the probation department, and any other agency or individual designated by the court to advise on the appropriate disposition of the case. (Welf. & Inst. Code, § 875, subd. (a)(3).)
- 4) States that the court shall additionally make its determination whether a ward should be committed to a SYTF based on the following:
  - a) The severity of the offense or offenses for which the ward has been most recently adjudicated, including the ward's role in the offense, the ward's behavior, and harm done to the victim;

- b) The ward's previous delinquent history, including the adequacy and success of previous attempts by the juvenile court to rehabilitate the ward;
  - c) Whether the programming, treatment, and education offered and provided in a SYTF is appropriate to meet the treatment and security needs of the ward;
  - d) Whether the goals of rehabilitation and community safety can be met by assigning the ward to an alternative, less restrictive disposition that is available to the court; and,
  - e) The ward's age, developmental maturity, mental and emotional health, sexual orientation, gender identity and expression, and any disabilities or special needs affecting the safety or suitability of committing the ward to a term of confinement in a secure youth treatment facility. (Welf. & Inst. Code, § 875, subd. (a)(3)(A)-(E).)
- 5) Requires the court, in making its order of commitment for a ward, to set a baseline term of confinement for the ward that is based on the most serious recent offense for which the ward has been adjudicated. Requires the baseline term of confinement to represent the time in custody necessary to meet the developmental and treatment needs of the ward and to prepare the ward for discharge to a period of probation supervision in the community. Requires the baseline term of confinement for the ward to be determined according to offense-based classifications. Provides that the baseline term is subject to modification in progress review hearings. (Welf. & Inst. Code, § 875, subd. (b)(1).)
- 6) Requires the court, in making its order of commitment, to additionally set a maximum term of confinement for the ward based upon the facts and circumstances of the matter or matters that brought or continued the ward under the jurisdiction of the court and as deemed appropriate to achieve rehabilitation. (Welf. & Inst. Code, § 875, subd. (c)(1).)
- 7) Provides that the maximum term of confinement is the longest term of confinement in a facility that the ward may serve subject to the following:
- a) Prohibits a ward committed to an SYTF from being held in secure confinement beyond 23 years of age, or two years from the date of the commitment, whichever occurs later. Allows a ward who has been committed to an SYTF based on adjudication for an offense or offenses for which the ward, if convicted in adult criminal court, would face an aggregate sentence of seven or more years, to be held in secure confinement until 25 years of age, or two years from the date of commitment, whichever occurs later.
  - b) Prohibits the maximum term of confinement from exceeding the middle term of imprisonment that can be imposed upon an adult convicted of the same offense or offenses. Requires, if the court elects to aggregate the period of physical confinement on multiple counts or multiple petitions, the maximum term of confinement to be the aggregate term of imprisonment specified in Section 1170.1 of the Penal Code.
  - c) Requires precommitment credits for time served to be applied against the maximum term of confinement. (Welf. & Inst. Code, § 875, subd. (c)(1)(A)-(C).)
- 8) States that if a probation department determines the discharge of a person confined in an SYTF would be physically dangerous to the public because of the person's mental or

physical condition, disorder, or other problem that causes the person to have serious difficulty controlling their behavior, the department shall request the prosecuting attorney to petition the committing court for an order directing that the person remain subject to the control of the department beyond the release date. (Welf. & Inst. Code, § 876, subd. (a).)

- 9) Requires the prosecuting attorney to promptly notify the probation department of a decision not to file a petition. (Welf. & Inst. Code, § 876, subd. (a).)
- 10) States that if a petition is filed with the court and, upon review, the court determines that the petition, on its face, supports a finding of probable cause, the court shall order that a hearing be held. The person who is the subject of the petition shall receive notice, have an opportunity to appear at the hearing with the aid of counsel, and the right to cross-examine experts or other witnesses upon whose information, opinion, or testimony the petition is based. (Welf. & Inst. Code, § 876, subd. (c).)
- 11) Requires the probable cause hearing to be held within 10 calendar days after the date the order for a hearing is issued unless the person named in the petition waives time. (Welf. & Inst. Code, § 876, subd. (c).)
- 12) States that if the court determines there is not probable cause, the court shall dismiss the petition and the person shall be discharged from the control of the SYTF, as applicable. If the court determines there is probable cause, the court shall order that a trial be conducted to determine whether the person is physically dangerous to the public because of their mental or physical condition, disorder, or other problem. (Welf. & Inst. Code, § 876, subd. (d).)
- 13) Provides that the trial shall be by jury unless the right is waived. The verdict shall be unanimous and the standard is beyond a reasonable doubt. The person shall be entitled to all rights guaranteed under the federal and state constitutions in criminal proceedings. (Welf. & Inst. Code, § 876, subd. (e).)
- 14) States that if an order for continued detention is made, the probation department shall continue to have control over the person and the department shall, within two years after the date of the order, file a new application for continued detention if deemed necessary. (Welf. & Inst. Code, § 876, subd. (f).)
- 15) Authorizes these applications to be repeated at intervals as often as in the opinion of the probation department may be necessary for the protection of the public, except that the court shall have the power, in order to protect other persons in the custody of probation to refer the person for evaluation for civil commitment or to transfer the custody of any person over 25 years of age to the county adult probation authorities for placement in an appropriate institution. (Welf. & Inst. Code, § 876, subd. (f).)
- 16) Provides that the court shall have the power, in order to protect other persons in the custody of probation to refer the person for evaluation for civil commitment or to transfer the custody of any person over 25 years of age to the county adult probation authorities for placement in an appropriate institution. (Welf. & Inst. Code, § 876, subd. (f).)
- 17) States that an order of the committing court for continued detention is appealable by the person whose liberty is involved in the same manner as a judgment in a criminal case. The

appellate court may affirm the order of the lower court, or modify it, or reverse it and order the appellant to be discharged. Pending appeal, the appellant shall remain under the control of the probation department. (Welf. & Inst. Code, § 876, subd. (g).)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Author's Statement:** According to the author, “In 2015, the Santa Cruz community was devastated when the brutally murdered body of 8-year old Maddy Middleton was discovered. The crime shook Santa Cruz County to its core and forever changed the lives of Maddy’s family.

“In 2021 the jury found the defendant, Adrian Gonzalez, guilty of Maddy’s murder. Due to changes in the juvenile justice system, he was sent to a secured youth treatment facility. While there, efforts were made to provide him with the tools and treatment to rehabilitate him.

“However, believing he remained a threat, the Santa Cruz County filed a motion for a detention extension hearing. These hearings are intended to determine whether a ward still poses a danger to the public and are reserved for the most serious cases. In 2024, Santa Cruz County became the first county in the state to proceed with this petition. After hearing the evidence, a jury once again found it was best to keep Gonzalez detained.

“But for Maddy’s family, justice has not meant closure. Under current law, these cases must be revisited again and again – forcing the family to relive the most painful moments of their lives every two years as they are asked to return to court and confront the facts of Maddy’s murder once more. The emotional toll of repeatedly reopening this tragedy cannot be overstated.

“Immediately following the trial, my constituents and the Santa Cruz DA reached out to discuss the many procedural questions that were raised during the course of the 2024 hearing. AB 1902 is the result of those discussions.

“Specifically, AB 1902 clarifies custodial jurisdiction, addresses continuance procedures, allows the DA to request review of a case, and extends the intervals between extension hearings. These changes will provide needed clarity in future proceedings and help ensure the system delivers justice while also recognizing the profound impact these cases have on victims’ families.”

- 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 generally continues until the youth is 21 years old, unless the youth committed a 707(b) offense, then the court may retain jurisdiction until the person attains 23 years of age. Additionally, if the youth would have, in criminal court, faced an

aggregate sentence of 7 years or more, 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).)

Existing law provides that any person whose case originated in juvenile court shall remain, if the person is held in secure detention, in a county juvenile facility until the person attains 25 years of age, unless the probation department petitions the court to house a person who is 19 years of age or older in an adult facility, including a jail or other facility established for the purpose of confinement of adults. (Welf. & Inst. Code, § 208.5.)

- 3) **Juvenile Justice Realignment:** In 2020, the Legislature passed Senate Bill 823 (Committee on Budget and Fiscal Review) which established a process for realigning California's juvenile system by phasing out the state's youth prison system, the Division of Juvenile Justice (DJJ), and transferring the responsibility for managing all youthful offenders to local jurisdictions.<sup>1</sup> SB 823 established the Office of Youth and Community Restoration (OYCR) within the California Health and Human Services Agency to guide the transition from state-run youth incarceration to the counties by providing support and technical assistance.

SB 823 also stated the intent of the Legislature to establish a separate dispositional track for higher-need youth by March 1, 2021. In order to implement Senate Bill 823, in 2021, the Legislature passed Senate Bill 92 (Committee on Budget and Fiscal Review) which authorized counties to establish SYTFs for the placement of wards who were adjudicated for specified serious offenses, listed in Welfare and Institutions Code section 707, subdivision (b), when the juvenile was age 14 or older, and after the court has determined a less restrictive alternative disposition is unsuitable. (Welf. & Inst. Code, § 875, subd. (a).) If a juvenile is committed to an SYTF, the court must set a baseline term of commitment that represents the time in custody necessary to meet the developmental and treatment needs of the ward and to prepare the ward for discharge to a period of probation supervision in the community. (Welf. Inst. Code, § 875, subd. (b)(1).)

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<sup>1</sup> See Sen. Comm. on Budget and Fiscal Review. Floor Analysis of Sen. Bill No. 823 (2019-2020 Reg. Sess.) as amended August 28, 2020, p. 1.

The California Rules of Court outline how the baseline term of commitment is determined. In selecting the baseline term, the court must consider the following: the circumstances and gravity of the commitment offense; the youth's prior history in the juvenile justice system; the confinement time considered reasonable and necessary to achieve the rehabilitation of the youth; and the youth's developmental history. (Cal. Rules of Court, rule 5.806(a).) Each of these criteria include additional factors for the court to consider, but the rule specifies that "[e]numerated factors listed ... that are outside the youth's control must not result in a longer baseline term than otherwise needed to meet [the objective that the baseline term is no longer than necessary to meet the developmental needs of the youth and to prepare the youth for discharge to a period of probation supervision in the community]." (*Ibid.*)

The rule includes the offense-based matrix that establishes terms with a range of years for various offenses. For example, the matrix specifies a term of 4-7 years for murder, kidnapping with bodily harm involving death or substantial bodily injury, and torture. (Cal. Rules of Court, rule 5.806(d).) Attempted murder, voluntary manslaughter, specified kidnapping offenses, and specified sex offenses, including rape with force, violence, or threat of great bodily harm, have a term of 3-5 years. (*Ibid.*) A variety of offenses, including arson, robbery, carjacking, specified weapons-related offenses, specified types of assault, and specified gang-related offenses have a term of 2-4 years. (*Ibid.*) Finally, witness or victim intimidation, bribery of a witness, and specified offenses related to manufacturing or selling drugs, such as PCP, have a term of 1-2 years. (*Ibid.*)

The court must also set the maximum term of confinement for the youth. In general, a youth committed to an SYTF cannot be held in secure confinement beyond 23 years of age or two years from the date of the commitment, whichever occurs later, unless the youth has been committed to an SYTF based on adjudication for an offense or offenses for which the youth would have faced an aggregate sentence of seven or more years if convicted in adult criminal court. (Welf. & Inst. Code, § 875, subd. (c)(1)(A).) In that case, the youth can be held until 25 years of age or two years from the date of commitment, whichever occurs later. (Welf. & Inst. Code, § 875, subd. (c)(1)(A).) Additionally, the maximum term of confinement cannot exceed the middle term of imprisonment that can be imposed upon an adult convicted of the same offense or offenses, except as specified. (Welf. & Inst. Code, § 875, subd. (c)(1)(B).)

At the conclusion of a baseline confinement term, a ward could be discharged to a period of probation supervision in the community under conditions approved by the court, unless the court finds that the ward constitutes a substantial risk of imminent harm to others in the community if released from custody. (Welf. & Inst. Code, § 875, subd. (e)(3).)

The court may, upon the motion of the probation department or ward, order that the ward be transferred from a SYTF to a less restrictive program, such as a halfway house, a camp or ranch, or a community residential or nonresidential service program. The purpose of a less restrictive program is to facilitate the safe and successful reintegration of the ward into the community. (Welf. & Inst. Code, § 875, subd. (f)(1).) The court shall consider the recommendations of the probation department on the proposed change in placement. Approval of the request for a less restrictive program shall be made only upon the court's determination that the ward has made substantial progress toward the goals of the individual rehabilitation plan and that placement is consistent with the goals of youth rehabilitation and community safety. (*Ibid.*) In transferring a ward to a less restrictive program, the court may require the ward to observe reasonable conditions and shall set the length of time the ward is

to remain in the less restrictive program, not to exceed the remainder of the baseline or modified baseline term. (Welf. & Inst. Code, § 875, subd. (f)(2).) If, after placement in a less restrictive program, the court determines that the ward has materially failed to comply with the court-ordered conditions of placement in the program, the court may modify the terms and conditions of placement in the program or may order the ward to be returned to a secure youth treatment facility for the remainder of the baseline term, or modified baseline term, and subject to further periodic reviews and to the maximum confinement set by the court. (*Ibid.*)

- 4) **Authority to Extend Confinement and Effect of this Legislation:** With the closure of DJJ, the process to extend confinement of a juvenile offender committed to DJJ based on mental or physical condition that makes them a danger to the public was moved into new Welfare and Institutions Code section 876 for persons committed to SYTF. The language for extending confinement of persons committed to SYTFs largely mirrors the statutory process that authorized DJJ, whenever it was determined the discharge of a person from the control of DJJ at the time statutorily required would be physically dangerous to the public because of the person's mental or physical deficiency, disorder, or abnormality that causes the person to have serious difficulty controlling his or her dangerous behavior, to request the prosecuting attorney to petition the committing court for an order directing that the person remain subject to the control of the division beyond that time. (Welf. & Inst. Code, § 1800, subd. (a).) The petition must be filed at least 90 days before the time of discharge otherwise required. (*Ibid.*) If a petition is filed and the court determines that the petition, on its face, supports a finding of probable cause, the probable cause hearing shall be held within 10 calendar days of the order being issued, and if probable cause is found a jury trial shall be ordered. (Welf. & Inst. Code, § 1801.) The trial must be by jury unless personally waived, but as to either jury or court trial, the verdict must be unanimous and the standard of proof is proof beyond a reasonable doubt. (Welf. & Inst. Code, § 1801.5.) The trial must take place not less than 4 days nor more than 30 days from the date of the order for trial, unless the person waives time. (*Ibid.*) The maximum term of extended confinement is two years unless a new petition is filed. (Welf. & Inst. Code, § 1802.)

Existing Welfare and Institutions Code section 876 adopted a substantially similar process to order extended confinement for persons committed to an SYTF. The process is triggered by a probation department's determination that the discharge of the person from an SYTF at the time statutorily required would be physically dangerous to the public because of the person's mental or physical condition, disorder, or other problem that causes the person to have serious difficulty controlling their dangerous behavior. The probation department would then request the prosecuting attorney to file a petition at least 90 days before the time of discharge otherwise required. If the prosecuting attorney files a petition and the court determines there is probable cause at a probable cause hearing, a trial shall be ordered and conducted within 30 days from the date of the order for trial, unless waived. If the person is found at trial by unanimous verdict that the person is physically dangerous to the public because of a mental or physical condition, disorder, or other problem that causes the person to have serious difficulty controlling their dangerous behavior by proof beyond a reasonable doubt, the court shall order extended confinement under the control of the probation department for a period of up to two years. A new application for continued detention may be repeated at intervals as often as in the opinion of the probation department is deemed necessary. The court is authorized, in order to protect other persons in the custody of probation to refer the custody of a person over 25 years if age to the county adult probation authorities for placement in an appropriate institution.

Similarly, existing civil commitment statutes contain many of the same processes described above. For example, the mentally disordered offender (MDO) law authorizes a person to be committed in a state hospital as a condition of parole. Prior to the person's parole termination date, if the entity providing treatment the disorder is not in remission or cannot be kept in remission if the person's treatment is not continued, and by reason of the person's severe mental disorder, the person represents a substantial danger of physical harm to others. (Pen. Code, § 2970.) The prosecuting attorney may file a petition which would require the court to order a hearing to determine whether the person meets the requirements to be an MDO and held. (Pen. Code, § 2971.) The hearing is required to take place no later than 30 days before discharge, unless good cause is shown. (*Ibid.*) A unanimous verdict is required and the standard of proof is beyond a reasonable doubt. The length of confinement is one-year periods that may be renewable. (*Ibid.*)

The process to confine a person who is scheduled to be released from prison to a state hospital for involuntary treatment as a sexually violent predator (SVP) also requires a clinical evaluation of the individual to determine whether the person meets the SVP criteria. (Welf. & Inst. Code, § 6600 et seq.) If the evaluators agree that the person meets SVP criteria, a petition is filed in the county where the person was convicted. (*Ibid.*) A probable cause hearing is held and if probable cause is found, a jury trial is ordered. (*Ibid.*) The prosecution must prove beyond a reasonable doubt that the person meets the requirements of an SVP including that the person suffers from a diagnosed mental disorder and is likely to engage in predatory sexually violent conduct if released. (*Ibid.*) The verdict must be unanimous. (*Ibid.*) The length of confinement is indefinite but the state hospital must conduct a yearly evaluation to ensure that the person continues to meet the definition of an SVP. (*Ibid.*)

This bill would amend the process for ordering extended confinement in an SYTF in a number of ways. First, the bill would require a person to remain in custody during the petition process and any proceedings thereafter. Current law is silent on whether the person is required to remain in custody during these proceedings, however it is unlikely that a judge would authorize a person's release while a determination on whether they pose a danger to the public is being considered.

Second, the bill would state that a finding of probable cause may be based in whole or in part on the opinion of an expert through expert's reports or on the sworn testimony of a law enforcement officer. This bill would specify that the hearsay provision shall not abrogate a person's right to cross-examination or to compel attendance of witnesses. While the expert's report is likely to contain relevant information to the question of whether there is probable cause to believe person currently poses a risk to the public, it is unclear what a law enforcement officer's testimony would provide other than facts of the underlying case that would already be known to the court.

Third, this bill would extend the time frame for a person to be brought to trial from within 30 days to within 60 days from the date of the order for trial. For comparison, other civil commitment statutes such as the MDO law requires a trial to be held no less than 30 days prior to the time the person would otherwise be released. Extending the trial timeline to within 60 days of the order, while considering that the petition must be filed no later than 90 days before expected discharge and that this bill requires a person to remain in custody until

the conclusion of these proceedings, increases the risk that the proceedings would not be concluded prior to the person's discharge date.

The bill would also add a state hospital or other appropriate adult secure institution as possible placement options for the person if continued detention is ordered. The intent of adding state hospitals as an option is so that the individual may be evaluated to determine whether due to their mental disorder or condition they could receive appropriate treatment at a state facility. "Appropriate adult secure institution" is not defined in the bill and may be interpreted to include an adult detention facility such as a county jail. It is well documented that placing a person with a severe mental health condition or disorder in jail or prisons worsens their mental health and exacerbates vulnerabilities leading to increased victimization.

One of the more controversial changes made by this bill is that it would extend the time a person may be kept in confinement based on an order from the court to prevent a person's release from SYTF from a term of up to two years to up to 5 years. For comparison, a person who is civilly committed under the MDO law may be held for one year. A person civilly committed as an SVP has an indefinite term however DSH is required to evaluate the person yearly and confirm whether the person continues to meet the definition of an SVP.

Finally, this bill would authorize the prosecuting attorney to request the county behavioral health director or Director of DSH to review any case that the probation department has not made a request to the prosecuting attorney to file a petition for continued detention. The probation department is the most fitting agency to submit a case for review based on current supervision and control over the person, whereas the prosecuting attorney would only have information about the crime and case which may have been prosecuted many years prior.

One of the concerns raised by the opposition is that extending the maximum term of confinement in addition to authorizing additional entities to petition for review taken in conjunction with the existing law that authorizes a petition to be filed based on a "physical condition" or "other problem" that causes the person to have serious difficulty controlling their behavior, risks extended confinement for a person that lacks a clinical foundation and for which there is not a treatment solution. As discussed above, other civil commitment statutes require a showing that the person has a mental disorder that requires treatment in order avoid danger to public safety to be the basis for a finding that the person needs to be further committed.

- 5) **Impetus for Bill:** In 2015, 8-year-old Madyson "Maddy" Middleton was raped and murdered by her 15-year-old neighbor Adrian Gonzalez in Santa Cruz. Her body was found in the apartment complex's recycling bin nearly 24 hours after she was reported missing. Gonzalez was reportedly seen watching detectives search through the bin and he was arrested the following day.<sup>2</sup> Due to his age, Gonzalez remained subject to the juvenile court where he was found to have committed all of the charged allegations, including murder with special circumstances, one count of kidnapping and four sexual assault-related offenses.<sup>3</sup> He was committed to DJJ until its closure and thereafter was transferred to an SYTF in Sonoma

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<sup>3</sup> *Ibid.*

County.<sup>4</sup> Gonzalez was set to be discharged at the age of 25, however, prosecutors filed a petition to keep him in custody arguing that due to the violent nature of Gonzalez's crime, he continued to pose a risk to the community.

The jury heard several weeks of testimony and evidence presentation in the case and found that Gonzalez should remain in custody beyond his discharge date.<sup>5</sup> Because the jury found Gonzalez has a mental or physical deficiency, disorder or condition that results in him being a danger to the public, he was ordered returned to the juvenile detention facility in Sonoma County, in coordination with Santa Cruz County Probation Department, where he is to undergo an updated rehabilitation treatment plan.<sup>6</sup>

After the trial, the district attorney and community members, including Maddy's family and friends, expressed frustration that the maximum term of continued confinement is two years unless a new petition is filed and another trial is conducted to extend Gonzalez' custody once again.<sup>7</sup>

- 6) **Committee Amendments:** This bill will be amended in committee to apply a 4-year maximum term of additional confinement, instead of a maximum of 5 years. Additionally, the term "secure" will be stricken from "appropriate adult secure institution" throughout the bill. Lastly, the bill will strike the authority for the prosecuting agency to request review of a case for which the probation department has not made a request.
- 7) **Argument in Support:** According to the *Santa Cruz District Attorney's Office*, the sponsor of this bill, "In 2021, Gonzalez's case was adjudicated in juvenile court. He was 21 years and six months old. Juvenile jurisdiction terminates when the offender reaches 25 years of age. Welfare and Institutions Code section 1800 allowed the Division of Juvenile Justice to trigger a process to extend detention after the age of 25, though it was infrequently-used as the most serious juvenile offenders were transferred to adult court. DJJ was closed months after Gonzalez's plea and the process was partially shifted to Welfare and Institutions Code section 876, with probation now tasked with triggering the process.

"In 2024, only three years after Gonzalez's plea, Maddy's family was back in court for the first Welfare and Institutions Code section 876 hearing in California. Maddy's family and the community – including jurors – were forced to relive Maddy's sexual assault and murder. Inmates housed with Gonzalez in the Santa Cruz County Jail were so disturbed by Gonzalez's behavior and how he described murdering Maddy that they reached out to law enforcement to testify against him. Expert witness fees alone cost \$72,000. In 2025, a traumatized jury found beyond a reasonable doubt Gonzalez posed a continued danger to the public. But in two short years, Maddy's family will again be dragged back into court to again relive the crime.

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<sup>4</sup> See <https://www.cbsnews.com/sanfrancisco/news/teen-killer-of-8-year-old-maddy-middleton-now-25-denied-parole-in-santa-cruz-county/> (Feb. 21, 2025).

<sup>5</sup> *Ibid.*

<sup>6</sup> Sleeper, *Concerns about state law raised after verdict reached in Adrian Gonzalez trial*, Santa Cruz Sentinel (Feb. 20, 2025).

<sup>7</sup> *Ibid.*

“AB 1902 sensibly seeks to reduce trauma to the victims and the community by turning this two-year interval to a ten-year interval. This will give Maddy’s family and the community the longest period of time to heal since her murder 11 years ago.

“The ten-year interval will also give the most serious young adult offenders time to work on rehabilitation. Two years is not enough for an offender like Gonzalez to address his criminogenic needs. It is worth noting that ten years is significantly shorter than the indefinite detention the electorate put into place for sexually violent predators and the 15-year maximum parole denial period for incarcerated individuals who need significant rehabilitative work. We feel that AB 1902’s ten-year interval sensibly balances victim rights, public safety, the age of the offender, and rehabilitative goals.

“AB 1902 also remedies serious procedural deficiencies that were highlighted by the first detention extension hearing. This includes a lack of clarity regarding the court’s continued jurisdiction if an offender turns 25 while a detention extension petition is being actively litigated, the ability to continue a case for good cause such as critical expert witness availability, and the applicability of California’s sensible mutual discovery obligations. While Gonzalez’s case was the first, it unfortunately will not be the last now that the most serious 14- and 15-year-old offenders can only be adjudicated in juvenile court. This subset of cases, though small, have an outsized impact on victims, the community, and public safety. Californians deserve an airtight process to litigate such serious crimes where the gravamen is the ongoing danger to the public.”

- 8) **Argument in Opposition:** According to *Human Rights Watch*, who has an opposed unless amended position, “AB 1902 would amend Welfare and Institutions Code (WIC) Section 876, modifying the process by which a person committed to a Secure Youth Treatment Facility (SYTF) may be detained beyond their discharge date. Under existing law, if a probation department determines that a person's discharge would be physically dangerous to the public due to a mental or physical condition, it is required to request the prosecuting attorney to petition the court for extended detention, subject to a probable cause hearing and trial. Under existing law, the period of extended detention can be up to two years. There is, however, no limit on the number of times a petition can be filed, allowing for indefinite sequential periods of detention. The bill would significantly expand that framework, extending the maximum detention period from two years to five years, authorizing district attorneys to initiate review of any case, introducing undefined commitment options that could allow detention in non-therapeutic settings, and maintaining an overly broad qualifying standard for commitment.

“We are grateful that the discussion this far with the author’s office has resulted in meaningful progress. This letter addresses our remaining concerns.

### **“1. Five-Year Maximum Detention Period Is Too Long.**

“Current law requires that if a court orders extended detention, the length of that commitment is set at two years. Thereafter, the probation department may file a new petition to extend commitment for another two years, ensuring regular judicial review of whether continued detention remains warranted. The bill as introduced proposed extending that period to ten years. The published amendments propose five years as a maximum, with the court determining the specific period. We appreciate that change, but five years is too long.

We recommend two modifications. First, the maximum detention period should be reduced. Five years cannot be justified clinically for this population — no legitimate treatment framework operates on a multi-year fixed timeline in a secure facility for a young person, and youth, including those in their mid-20s, are by definition more amenable to change and more responsive to treatment than older adults. Under the Mentally Disordered Offender (MDO) statute — the most analogous civil commitment scheme in California law — review is required annually. A two-year maximum is more consistent with that framework, the science of adolescent development, and the treatment-focused purpose the bill is otherwise working to establish. Second, the bill should require that the court-ordered period be the minimum clinically indicated for treatment of the underlying mental condition or disorder, ensuring the court cannot simply default to the maximum without clinical justification. At the end of that court-ordered period, if continued detention is deemed necessary, a new petition must be filed, ensuring that continued confinement is always grounded in a current clinical assessment.

## **“2. ‘Other Appropriate Adult Secure Institution’ Should Be Defined or Removed.**

“This phrase appears throughout the bill as a commitment option alongside secure youth treatment facilities and the Department of State Hospitals. It is undefined, has no existing legal meaning in the juvenile civil commitment context, and could encompass county jail or adult correctional facilities, which is explicitly prohibited under WIC Section 208.5. Civil commitment requires placement in a therapeutic setting — a non-therapeutic placement cannot be justified under a treatment framework.

“The language appears to contemplate cases where neither an SYTF or a state hospital is appropriate, yet no county facility that would qualify has been identified. The statute cannot leave that question unanswered. We propose two alternatives: either explicitly exclude county jails and CDCR facilities or enumerate the specific institutions intended.

## **“3. Prosecutors Should No Be Able to Initiate Civil Commitment Proceedings.**

“Existing law requires the probation department, which is tasked with the care, treatment, and daily supervision of the young person, to determine whether a petition should be filed. Proposed WIC Section 876.5 seeks to authorize prosecutors to initiate a review of any case. Civil commitment proceedings should be clinician-driven, not prosecutor-initiated. A prosecutor initiating review based on a belief that someone is dangerous — with lengthy detention as the consequence — is inconsistent with the treatment framework the rest of the bill establishes. A prosecutor does not have access to independent, reliable information on which to base this decision. Probation does. In every analogous California civil commitment scheme, clinicians — those trained to assess the mental status of an individual they are working with — identify, and prosecutors respond. This provision inverts that structure. Within the SYTF, Probation and its behavior health team are the only actors with continuous, firsthand observation of the individual.

“We recommend removal of WIC Section 876.5 entirely.

## **“4. ‘Physical Condition’ and ‘Other Problem’ Preserve an Overly Broad Qualifying Standard.**

“AB 1902 extends detention for people confined in a secure youth treatment facility whose discharge would be physically dangerous to the public because of a physical or mental condition, disorder, or other problem causing serious difficulty controlling dangerous behavior. The bill applies this standard at every stage — the threshold determination by probation, the probable cause hearing, and the trial. It is hard to imagine what ‘physical condition’ would render a person dangerous, and equally difficult to think of a mental health problem that ‘other problem’ would encompass and is not already covered by the existing law’s ‘mental condition or disorder’ language.

“We propose removing ‘physical’ and ‘other problem’ and leaving the existing qualifying standard of “mental condition or disorder.” This is not a narrow standard. It encompasses the full range of conditions, including autism spectrum disorder, ADHD, conduct disorder, antisocial personality disorder, paraphilic disorders, trauma-related conditions, and personality disorders. The juxtaposition of “mental condition” to “disorder” implies a broad range of mental health issues.

“‘Other problem’ by contrast is so broad it could capture gang affiliation, peer associations, or generalized antisocial attitudes — none of which constitute a mental condition and none of which are treatable in the clinical sense civil commitment requires. Civil commitment is only permissible as a legal matter because it is for treatment. If the qualifying condition is not treatable, there is no justification for the commitment.

“Since 2020, the WIC 876 civil commitment process has only been used once. The combination of prosecutor initiation under WIC Section 876.5 and “other problem” as the qualifying standard risks increasing this number significantly. Together, these changes create a pathway to extended detention for anyone a district attorney believes is dangerous, without a clinical foundation and without a treatment solution.”

#### 9) **Related Legislation:**

- a) AB 1968 (Gallagher) would add the crime of conspiracy to commit murder to the list of specified offenses for which a person may be committed to an SYTF for an offense committed at the age of 14 or older, or transferred to adult criminal court for a crime committed at the age of 14 or 15 if they were not apprehended prior to the end of juvenile court jurisdiction. AB 1968 failed passage in this committee and was granted reconsideration.
- b) AB 1647 (Bryan) would require the court to find beyond a reasonable doubt, instead of by clear and convincing evidence, that a minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court for purposes of transfer to adult criminal court. The hearing on AB 1647 was canceled at the request of the author.
- c) AB 2040 (Macedo) would lower the burden of proof, from clear and convincing evidence to preponderance of the evidence, required to find a minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court for purposes of transfer to adult criminal court. AB 2040 is scheduled to be heard in committee today.

#### 10) **Prior Legislation:**

- a) AB 22 (DeMaio), of the 2025-2026 Legislative Session, among other things, would have removed from the juvenile court's jurisdiction over specified crimes committed by minors, requiring those crimes to be tried in a court of criminal jurisdiction. AB 22 was held in this Committee.
- b) SB 824 (Menjivar), of the 2025-2026 Legislative Session, would have required Individualized Rehabilitation Plans (IRP) for youth committed to an SYTF to contain a roadmap for their successful return to their community and requires judges to assess the juvenile's progress at each six-month review hearing. SB 824 was held in the Senate Appropriations Committee suspense file.
- c) AB 102 (Ting), Chapter 38, Statutes of 2023, relevant to this bill, required county probation departments to provide the OYCR with specific juvenile justice data related to the realignment of DJJ.
- d) SB 92 (Committee on Budget and Fiscal Review), Chapter 18, Statutes of 2021, allowed counties, commencing July 1, 2021, to establish SYTFs for wards who are 14 years of age or older who have been adjudicated and found to be a ward of the court based on an offense that would have resulted in a commitment to the DJJ, as provided.
- e) SB 823 (Committee on Budget and Fiscal Review), Chapter 337, Statutes of 2020, established a process for realigning California's juvenile system by phasing out the state's youth prison system, DJJ, and transferring the responsibility for managing all youthful offenders to local jurisdictions.
- f) 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.
- g) 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.
- h) 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.
- i) SB 439 (Mitchell), Chapter 1006, Statutes of 2018, established a minimum age of 12 years old for a minor to come within the jurisdiction of the juvenile court, except the court would continue to have jurisdiction over a minor under 12 who committed murder or specified forcible sex crimes.
- j) 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 which a minor is alleged to have committed a specified serious offense when he or she was 14 or 15 years of age, unless the individual was not apprehended prior to the end of juvenile court jurisdiction.

- k) 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.
- l) 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.
- m) 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**

California District Attorneys Association  
California Police Chiefs Association  
Capitola Police Department  
Chief Probation Officers' of California (CPOC)  
Santa Cruz County District Attorney's Office  
Santa Cruz Police Department  
Scotts Valley Police Department  
Walnut Avenue Family & Women's Center  
19 Private Individuals

**Oppose**

Alliance for Boys and Men of Color  
California Coalition for Women Prisoners  
California Youth Defender Center  
Californians United for a Responsible Budget  
Center on Juvenile and Criminal Justice  
Coalition of California State Tribes  
Communities United for Restorative Youth Justice (CURYJ)  
Community Interventions  
Community Works  
Felony Murder Elimination Project  
Freedom 4 Youth  
Fresh Lifelines for Youth (FLY)  
Friends Committee on Legislation of California  
Human Rights Watch  
In Our Care San Mateo County  
Initiate Justice  
Justice2jobs Coalition  
LA Defensa  
National Center for Youth Law (NCYL)  
Peace and Justice Law Center  
Peace United Church of Christ, Santa Cruz

San Francisco Public Defender's Office  
San Mateo County Juvenile Justice & Delinquency Prevention Commission  
Silicon Valley De-bug  
Sister Warriors Freedom Coalition  
The Collective for Liberatory Lawyering  
The W. Haywood Burns Institute  
Urban Peace Institute  
Youth Alliance  
Youth Justice Coalition  
2 Private Individuals

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