

CONCURRENCE IN SENATE AMENDMENTS

AB 1902 (Pellerin)

As Amended August 13, 2026

Majority vote

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.

Senate Amendments

- 1) Remove authorization to place youth who is currently confined in an STYF, and who has an extended confinement motion filed against them, in Department of State Hospitals or other appropriate adult institution.
- 2) Reduce the maximum period of continued detention from 4 years to 3 years.

COMMENTS

As passed by the Assembly, this bill: made 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.

Major Provisions

- 1) Required 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) Stated that the probable cause hearing shall not be continued, except upon a showing of good cause by the party requesting the continuance.
- 3) Stated 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) Clarified that nothing in the above provisions shall abrogate a person's right to cross-examination or to compel the attendance of witnesses.
- 5) Increased 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) Required 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 institution, based on the person's individual treatment needs for the underlying mental condition, disorder, or other problem.

- 7) Extended the maximum period of continued detention from 2 years to 4 years.
- 8) Required the court state on the record the basis for the period ordered.
- 9) Specified 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) Clarified that the criminal discovery process applicable to criminal proceedings shall apply to all proceedings related to a petition for continued detention.

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."

Arguments 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.

"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."

Arguments in Opposition

According to *Human Rights Watch*, who has an opposed unless amended position, "In 2020, the state realigned responsibility for youth in the juvenile justice system to counties. Welfare and Institutions Code section 876 was enacted with SB 823, the omnibus bill that set the realignment in motion. However, it was not a new concept. The civil commitment provisions were originally codified as WIC section 1800 in 1963, and for the next nearly 60 years, applied only to state institutions. In the 2020 realignment, while the legislature intended for counties to have the possibility of extended jurisdiction that WIC Section 1800 had provided the state, it did little to reshape the procedures for appropriate county use. The legislature passed the law with an explicit recognition that future work was needed to create a "commitment process that ensures the treatment capacity, legal protections, and court procedures are appropriate to successfully serve" youth. To accomplish this, WIC section 875.5 states in part that, "[t]he Governor and the Legislature shall work with stakeholders, including, but not limited to, the Division of Juvenile

Justice, the State Department of State Hospitals, the Chief Probation Officers of California, the California State Association of Counties, advocacy organizations representing youth, and the Judicial Council to develop language by July 1, 2021...' with the intent that revised legislation would be enacted no later than July 2022. (WIC section 875.5(b) and (c)) This never happened. Neither the governor nor legislature convened stakeholders to revise WIC section 876, and it remains an outdated statute, not adapted for county use.

It is not the responsibility of every bill author to clean up existing issues in a law. However, in this case, the legislature has failed to do what it said it would accomplish five years ago. AB 1902 is before this body right now, and it does not fix that failure. It compounds it in each of the ... respects discussed below.

"Undefined placement options create fiscal, legal, and implementation risk.

"The April 20 amendments permitted placement in the Department of State Hospitals for treatment and detention where a clinical assessment established that a person's needs could not be met in a Secure Youth Treatment Facility. That language was treatment focused and constitutionally grounded. The June 18 amendments removed it and returned to language that permits placement in adult institutions, which on the face of the statute could include county jail. Placement of this population in a jail or adult correctional facility is prohibited by Welfare and Institutions Code section 208.5 and would expose counties and the State to immediate legal challenge and significant litigation costs. Civil commitment is constitutionally permissible only where confinement serves a therapeutic purpose.

"Because the bill identifies no qualifying county facility for cases where a Secure Youth Treatment Facility is inappropriate, it is impossible to estimate placement costs, plan capacity, or establish contracts with qualifying providers. The bill should explicitly exclude county jails and CDCR facilities and enumerate the therapeutic institutions in which placement may be ordered. That specificity would give direction to courts and permit this Committee to assess cost accurately.

....

"Physical Condition' and 'Other Problem' Preserve an Overly Broad Qualifying Standard, driving unpredictable costs.

"Section 876 authorizes extended detention where discharge would be physically dangerous to the public because of a "mental or physical condition, disorder, or other problem" causing serious difficulty controlling dangerous behavior. This language dates to a statute enacted in the early 1960s and applies at every stage of the process: the probation determination, the probable cause hearing, and the trial. "Other problem" is broad enough to capture gang affiliation, peer associations, substance use, or generalized antisocial attitudes, none of which is a clinical condition for which treatment exists in a civil commitment context. Under a longer commitment period with less frequent review, this vague standard carries far greater consequences.

"The fiscal effects run in two directions. First, a broad standard enlarges the pool of people subject to extended commitment proceedings, requiring additional clinical evaluations and placing new demands on probation departments, counsel, and courts to support complex trials. Second, committing people for non-treatable issues produces longer, more expensive placements with no clinical pathway to discharge, increasing average lengths of stay with no mechanism to

cap the resulting cost. The existing standard of "mental condition or disorder" is not narrow. It encompasses the full range of diagnosable conditions and is sufficient for the bill's stated purpose. The burden of the vaguer language will fall hardest on youth of color, whose records are more likely to reflect systemic characterizations of gang affiliation or antisocial attitudes that have nothing to do with a treatable mental condition.

"Conclusion

"Section 876 has been invoked only once since its enactment. A single case cannot justify doubling the period of confinement without review, and it cannot support the open-ended costs this bill would impose. We respectfully ask the Committee to hold AB 1902 unless it is amended to: (1) explicitly exclude county jails and CDCR facilities as placements and enumerate qualifying therapeutic institutions; (2) retain the existing two-year maximum commitment period; and (3) remove "physical condition" and "other problem" from the qualifying standard."

FISCAL COMMENTS

According to the Senate Appropriations Committee, "Unknown costs to the counties to extend SYTF confinement from two years to up to three years upon a court finding. For a cost reference, the average annual cost to incarcerate one person in county jail is approximately \$80,000. With the small number of youths who have SYTF commitments extended under Welfare and Institutions Code 876, extensions could go on indefinitely, so the person could be over age 18, or even over age 25. Regardless, their custody and control remains with the county, either in the SYTF or, for those persons over age 25, who remain under juvenile court jurisdiction, the court could refer them for a civil commitment or transfer custody to adult probation to place the person in an adult institution (but still as a ward of the juvenile court until the commitment ends). Actual incarceration costs to counties will depend on the number of convictions and the length of each sentence. Generally, county incarceration costs are not reimbursable state mandates pursuant to Proposition 30 (2012).

"Likely significant court cost pressure for additional hearings in juvenile courts to determine if a person set for discharge is physically dangerous to the public. These hearings are among the costliest hearings held in juvenile courts. Each hearing may last at least a week of court time, with concomitant costs to the District Attorney, appointed defense counsel, and the juvenile probation department. Additionally, there are court costs for expert witnesses that are routinely necessary, including experts in adolescent neuropsychology and intellectual disability experts."

VOTES:

ASM PUBLIC SAFETY: 7-0-2

YES: Schultz, Alanis, Mark González, Haney, Harabedian, Lackey, Nguyen

ABS, ABST OR NV: Ramos, Sharp-Collins

ASM APPROPRIATIONS: 13-0-2

YES: Wicks, Hoover, Aguiar-Curry, Calderon, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Solache, Ta, Tangipa

ABS, ABST OR NV: Caloza, Sharp-Collins

ASSEMBLY FLOOR: 66-0-14

YES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Calderon, Carrillo, Castillo, Connolly, Davies, DeMaio, Dixon, Ellis, Flora, Fong, Gabriel, Gallagher, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Johnson, Krell, Lee, Lowenthal, Macedo, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

ABS, ABST OR NV: Arambula, Bonta, Bryan, Caloza, Chen, Elhawary, Garcia, Jackson, Kalra, Lackey, McKinnor, Ramos, Celeste Rodriguez, Sharp-Collins

UPDATED

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CONSULTANT: Stella Choe / PUB. S. / (916) 319-3744

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