SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

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Author:	Gipson		
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Urgency:	No	**Fiscal:**	Yes
Consultant:	SJ		

Subject: ***Juveniles***

HISTORY

Source: ACLU of California
Public Counsel
Youth Justice Coalition

Prior Legislation: SB 1296 (Leno), Ch. 70, Stats. 2014
AB 1643 (Buchanan), Ch. 879, Stats. 2014
AB 1672 (Holden), vetoed in 2014
SB 1317 (Leno), Ch. 647, Stats. 2010

Support: ALECTRONICS Research Center International, Inc.; Alliance for Boys and Men of Color; Anti-Recidivism Coalition; California Attorneys for Criminal Justice; California Public Defenders Association; Center on Juvenile and Criminal Justice; Children's Defense Fund- California; Children's Initiative; Children's Law Center of California; Communities United for Restorative Youth Justice; Courage Campaign; Disability Rights California; Dolores Huerta Foundation; Ella Baker Center for Human Rights; Fair Chance Project; Fathers & Families of San Joaquin; Felony Murder Elimination Project; Homeboy Industries; League of Women Voters of California; MILPA; National Center for Youth Law; National Institute for Criminal Justice Reform; National Juvenile Justice Network; Owens Small Family Home; Pacific Juvenile Defense Center; San Francisco Public Defender's Office; Santa Cruz County Chief Probation Officer; Social Justice Learning Institute; W. Haywood Burns Institute; Women's Foundation of California; Western Center on Law and Poverty; 1 individual

Opposition: California District Attorneys Association; California State Sheriffs' Association; Chief Probation Officers of California; Del Norte County Probation Department; Fraternal Order of Police; Los Angeles County Probation Officers Union, AFSCME Local 685; Sacramento County Board of Supervisors; Solano County Board of Supervisors

Assembly Floor Vote: 42 - 27

PURPOSE

The purpose of this bill is to limit the authority of a probation department to supervise and provide services to minors who are within the jurisdiction of the juvenile court and to eliminate truancy as an offense subject to the jurisdiction of the juvenile court.

Existing law provides that probation departments may engage in activities designed to prevent juvenile delinquency. Provides that these activities include rendering direct and indirect services to persons in the community. Provides that probation departments may provide services to any juveniles in the community. (Welf. & Inst. Code, § 236.)

This bill amends the above provision of law to specify that services or programs offered to minors or minor's parents or guardians who are not on probation are voluntary and prohibits those services and programs from including probation conditions or consequences as a result of not engaging in or completing them. Prohibits the provision of services or programs under this section from being construed to allow probation departments to maintain a formal or informal caseload, establish formal or informal contracts with minors or minor's parents or guardians, or create mandated-probation conditions for minors not on probation.

Existing law provides that any minor between 12 years of age and 17 years of age, inclusive, who persistently or habitually refuses to obey the reasonable and proper orders or directions of his or her parents, guardian, or custodian, or who is beyond the control of that person is within the jurisdiction of the juvenile court which may adjudge the minor to be a ward of the court. (Welf. & Inst. Code, § 601, subd. (a).)

Existing law provides that if a minor between 12 years of age and 17 years of age, inclusive, has four or more truancies within one school year, as defined, or a school attendance review board or probation officer determines that the available public and private services are insufficient or inappropriate to correct the habitual truancy of the minor, or to correct the minor's persistent or habitual refusal to obey the reasonable and proper orders or directions of school authorities, or if the minor fails to respond to directives of a school attendance review board or probation officer or to services provided, the minor is then within the jurisdiction of the juvenile court which may adjudge the minor to be a ward of the court. (Welf. & Inst. Code, § 601, subd. (b).)

Existing law provides that any peace officer or school administrator may issue a notice to appear to a minor who is within the jurisdiction of the juvenile court. (Welf. & Inst. Code, § 601, subd. (d).)

This bill repeals the above provisions of law and replaces it with language stating that any peace officer may issue a notice to appear to a minor who is within the jurisdiction of the juvenile court pursuant to section 601. Requires a peace officer to refer a minor to community-based diversion before issuing a notice to appear, and requires the probation department to offer the services if community-based diversion is unavailable.

Existing law provides that if the district attorney or the probation officer receives notice from the school district that a minor continues to be classified as a truant after the parents or guardians have been notified, or if the district attorney or the probation officer receives notice from the school attendance review board, or the district attorney receives notice from the probation officer

that a minor continues to be classified as a truant after review and counseling by the school attendance review board or probation officer, the district attorney or the probation officer, or both, may request the parents or guardians and the child to attend a meeting in the district attorney's office or at the probation department to discuss the possible legal consequences of the minor's truancy. (Welf. & Inst. Code, § 601.3, subd. (a).)

Existing law provides that upon completion of the meeting, the probation officer or the district attorney, after consultation with the probation officer, may file a petition pursuant to Section 601 if the district attorney or the probation officer determines that available community resources cannot resolve the truancy problem, or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to services provided or to the directives of the school, the school attendance review board, the probation officer, or the district attorney. (Welf. & Inst. Code, § 601.3, subd. (e).)

This bill repeals this provision of law.

Existing law provides that the truancy mediation program may be established by the district attorney or by the probation officer. Requires the district attorney and the probation officer to coordinate their efforts and cooperate in determining which office is best able to operate a truancy mediation program in their county. (Welf. & Inst. Code, § 601.3, subd. (f).)

This bill amends this provision of law to require the district attorney and the probation officer to coordinate their efforts and to cooperate in determining whether another public agency, a community-based organization, the probation department, or the district attorney is best able to operate a truancy mediation program in their county.

Existing law requires the judge, upon a finding that the minor violated the law by being truant, to direct his or her orders at improving the minor's school attendance. The judge, referee, or juvenile hearing officer may do any of the following:

- Order the minor to perform community service work, as specified, which may be performed at the minor's school;
- Order the payment of a fine by the minor of not more than fifty dollars, for which a parent or legal guardian of the minor may be jointly liable;
- Order a combination of community service work and payment of a portion of the fine; and,
- Restrict driving privileges. The minor may request removal of the driving restrictions if he or she provides proof of school attendance, high school graduation, GED completion, or enrollment in adult education, a community college, or a trade program. Any driving restriction shall be removed at the time the minor attains 18 years of age. (Welf. and Inst. Code, § 258, subd. (b)(6).)

This bill repeals this provision of law.

Existing law provides that juvenile court proceedings to declare a minor a ward of the court due to truancy or incorrigibility are commenced by the filing of a petition by the probation officer, except as specified. (Welf. & Inst. Code, § 650, subd. (a).)

This bill repeals this provision of law.

Existing law provides that juvenile court proceedings to declare a minor a ward of the court due to the minor's truancy may be commenced by the filing of a petition by the probation officer or the district attorney after consultation with the probation officer. (Welf. & Inst. Code, § 650, subd. (b).)

This bill repeals this provision of law.

Existing law provides that juvenile court proceedings to declare a minor a ward of the court due to an alleged criminal offense are commenced by the filing of a petition by the prosecuting attorney. (Welf. & Inst. Code, § 650, subd. (c).)

This bill defines "community-based organization" as a public or private nonprofit organization of demonstrated effectiveness that is representative of a community or significant segments of a community and provides educational, physical, or mental health, recreational, arts, and other youth development or related services to individuals in the community.

Existing law provides that whenever the probation officer has cause to believe that there was or is within the county, or residing therein, a person within the jurisdiction of the juvenile court, the probation officer is required to immediately make an investigation he or she deems necessary to determine whether proceedings in the juvenile court should be commenced. (Welf. & Inst. Code, § 652.)

Existing law provides that whenever any person applies to the probation officer or the district attorney regarding a truant, to commence proceedings in the juvenile court, the application is required to be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor within the provisions of Section 601 and setting forth facts in support thereof. Requires the probation officer or the district attorney, in consultation with the probation officer, to immediately make any investigation he or she deems necessary to determine whether proceedings in the juvenile court should be commenced. (Welf. & Inst. Code, § 653.)

This bill repeals this provision of law.

Existing law provides that whenever any person applies to the probation officer to commence proceedings in the juvenile court, the application is required to be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor alleged to have committed a crime, or that a minor committed an criminal offense within the county, and setting forth supporting facts. Requires the probation officer to immediately make any investigation he or she deems necessary to determine whether proceedings in the juvenile court shall be commenced. Requires the probation officer to make a referral if the probation officer determines that it is appropriate to offer services to the family to prevent or eliminate the need for removal of the minor from his or her home. (Welf. & Inst. Code, § 653.5, subd. (a).)

This bill amends the above provision of law to require the probation officer to refer the youth to services provided by a health agency, community-based organization, school district, an appropriate non-law enforcement agency, or the probation department.

Existing law provides that if the probation officer determines that proceedings pursuant to Section 650 should be commenced to declare a person to be a ward of the juvenile court on the basis that the minor committed a crime, the probation officer is required to cause the affidavit to be taken to the prosecuting attorney, except as provided. (Welf. & Inst. Code, § 653.5, subd. (b).)

Existing law delineates the types of cases in which the probation officer is required to cause the affidavit to be taken within 48 hours to the prosecuting attorney, including cases in which it appears to the probation officer that the minor has previously been placed in a program of informal probation pursuant to Section 654. (Welf. & Inst. Code, § 653.5, subd. (c).)

This bill removes previous placement on informal probation from this provision of law.

Existing law provides that if a probation officer concludes that a minor is within the jurisdiction of the juvenile court or will probably soon be within that jurisdiction, the probation officer may, in lieu of filing a petition to declare a minor a dependent child of the court or a minor or a ward of the court or requesting that a petition be filed by the prosecuting attorney to declare a minor a ward of the court and with consent of the minor and the minor's parent or guardian, delineate specific programs of supervision for the minor, for not to exceed six months, and attempt thereby to adjust the situation that brings the minor within the jurisdiction of the court or creates the probability that the minor will soon be within that jurisdiction. Does not prevent the probation officer from filing a petition or requesting the prosecuting attorney to file a petition at any time within the six-month period or a 90-day period thereafter. Requires the probation officer to immediately file a petition or request that a petition be filed by the prosecuting attorney if the probation officer determines that the minor has not involved himself or herself in the specific programs within 60 days. (Welf. & Inst. Code, § 654.)

This bill amends the above provisions of law to provide that if a probation officer concludes that a minor is within the jurisdiction of the juvenile court, or would come within the jurisdiction of the court if a petition were filed, then the probation officer may, in lieu of requesting that a petition be filed by the prosecuting attorney to declare a minor a ward of the court under Section 602 and with consent of the minor and the minor's parent or guardian, refer the minor to services provided by a health agency, community-based organization, school district, an appropriate non-law enforcement agency, or the probation department. Authorizes the probation officer to delineate specific programs of supervision for the minor if the services are provided by the probation department. Eliminates the ability of the probation officer to file a petition during the six-month period services are being offered or during the 90 days following, but retains language authorizing the probation officer to request that the prosecuting attorney file a petition during that time period. Eliminates the mandate that the probation officer file a petition or request that a petition be filed by the prosecuting attorney if the probation officer determines that the minor has not participated in the specific programs within 60 days, and instead gives the probation officer the discretion to do those things.

Existing law mandates that the program of supervision require the parents or guardians of the minor to participate with the minor in counseling or education programs. (Welf. & Inst. Code, § 654.)

This bill amends this provision of law to mandate that the program of supervision encourage the parents or guardians of the minor to participate with the minor in counseling or education programs.

Existing law authorizes the probation officer with consent of the minor and the minor's parent or guardian to provide the following services in lieu of filing a petition: placement in a sheltered-care facility or crisis resolution home, and vocational skill training via counseling and educational centers. (Welf. & Inst. Code, § 654, subds. (a)-(c).)

This bill repeals provisions of law authorizing reimbursement by a minor's parent or guardian for services rendered. Amends existing provisions of law to authorize probation to contract with community-based organizations or public agencies to provide services, including counseling and mental health resources, educational supports, and arts, recreation, and other youth development services, and

Existing law provides that a pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without a valid excuse three full days in one school year or tardy or absent for more than a 30-minute period during the school day without a valid excuse on three occasions in one school year, or any combination thereof, shall be classified as a truant and shall be reported to the attendance supervisor or to the superintendent of the school district. (Ed. Code, § 48260, subd. (a).)

Existing law provides that if a minor pupil in a school district of a county is a habitual truant, or is a chronic absentee, as defined, or is habitually insubordinate or disorderly during attendance at school, the pupil may be referred to a school attendance review board, or to the probation department for services if the probation department has elected to receive these referrals. (Ed. Code, § 48263, subd. (a).)

This bill removes the reference to habitually insubordinate or disorderly pupils from this provision of law.

Existing law requires the school attendance review board or probation officer to direct the pupil or the pupil's parents or guardians, or both, to make use of available community services if it is determined that those community services can resolve the problem of the truant or insubordinate pupil. Provides that the school attendance review board or probation officer may require, at any time that it determines proper, the pupil or parents or guardians of the pupil, or both, to furnish satisfactory evidence of participation in the available community services. (Ed. Code, § 48263, subd. (b)(1).)

This bill removes the reference to an insubordinate pupil from this provision of law.

Existing law provides that if the school attendance review board or probation officer determines that available community services cannot resolve the problem of the truant or insubordinate pupil or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or probation officer or to services provided, the school attendance review board may notify the district attorney or the probation officer, or both, of the county in which the school district is located, or the probation officer may notify the district attorney, if the district attorney or the probation officer has elected to participate in the

truancy mediation program described in that section. Authorizes the school attendance review board or probation officer to direct the county superintendent of schools to request a petition on behalf of the pupil in the juvenile court of the county if the district attorney or the probation officer has not elected to participate in the truancy mediation program. (Ed. Code, § 48263, subd. (b)(2).)

This bill removes the reference to an insubordinate pupil and the provisions relating to the county superintendent of schools.

Existing law provides any pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without a valid excuse for 10 percent or more of the schooldays in one school year, from the date of enrollment to the current date, is deemed a chronic truant. (Ed. Code, § 48263.6.)

Existing law authorizes the attendance supervisor or his or her designee, a peace officer, a school administrator or his or her designee, or a probation officer to arrest or assume temporary custody, during school hours, of any minor subject to compulsory full-time education or to compulsory continuation education found away from his or her home and who is absent from school without valid excuse within the county, city, or city and county, or school district. (Ed. Code, § 48264.)

Existing law provides that the fourth time a truancy is issued within the same school year, the pupil may be within the jurisdiction of the juvenile court that may adjudge the pupil to be a ward of the juvenile court. Requires, if adjudged a ward of the court, that the pupil do one or more of the following:

- Performance at court-approved community services sponsored by either a public or private nonprofit agency for not less than 20 hours but not more than 40 hours over a period not to exceed 90 days, during a time other than the pupil's hours of school attendance or employment.
- Payment of a fine by the pupil of not more than $50 for which a parent or legal guardian of the pupil may be jointly liable.
- Attendance of a court-approved truancy prevention program. (Ed. Code, § 48264.5, subd. (d).)

Existing law requires any pupil who has once been adjudged a habitual truant or habitually insubordinate or disorderly during attendance at school by the juvenile court of the county, or has committed a crime and as a condition of probation is required to attend a school program approved by a probation officer, who is reported as a truant from school one or more days or tardy on one or more days without valid excuse, in the same school year or in a succeeding year, or habitually insubordinate, or disorderly during attendance at school, to be brought to the attention of the juvenile court and the pupil's probation or parole officer within 10 days of the reported violation. (Ed. Code, § 48267.)

This bill removes references to habitual truant or habitually insubordinate or disorderly from this provision of law.

Existing law provides that parent or guardian of a pupil of six years of age or more who is in kindergarten or any of grades one to eight, inclusive, and who is subject to compulsory full-time

education, whose child is a chronic truant, as specifed, who has failed to reasonably supervise and encourage the pupil's school attendance, and who has been offered language accessible support services to address the pupil's truancy, is guilty of a misdemeanor punishable by a fine not exceeding $2,000, or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment. (Pen. Code, § 270.1, subd. (a).)

This bill includes several uncodified legislative declarations and findings.

This bill makes various conforming changes.

COMMENTS

1. Need for This Bill

According to the author:

> The Welfare and Institutions Code gives probation departments broad powers to target "any juvenile in the community" for probation department interventions. In many jurisdictions, youth who have never been accused of any criminal behavior and who have not had any prior criminal justice system contact are referred to probation programs and subjected to "voluntary" probation programs, often through their schools.
>
> The vast majority of these youth are referred to probation for academic performance, attendance, or general school behavior issues to prevent juvenile delinquency. These youth are disproportionately youth of color. Despite these programs being labeled "voluntary," parents and youth often feel coerced into these programs and do not have the benefit of speaking to an attorney.
>
> Youth subjected to "voluntary" probation are then criminalized: required to check in with a probation officer, subjected to random searches, curfews, surprise home visits and interrogations.
>
> Current law, Welfare and Institutions Code (WIC) 236, gives probation departments the board authority to supervise mixed caseloads – including "at-risk youth" as well as youth with more formal probation statuses under WIC sections 602, 790, 725 and 654.
>
> Assembly Bill 901 seeks to encourage appropriate interventions for youth who are "at risk" as opposed to being further criminalized in "voluntary" probation.
>
> This bill would ensure that youth receive appropriate interventions and are not criminalized for academic reasons or typical child/adolescent behavior by: limiting probation departments' overbroad discretion to provide services to any youth in the state they deem "at-risk," as well as ensuring that truancy or disobeying a teacher alone is not a reason to place a child under the jurisdiction of the juvenile court system.

2. Jurisdiction of the Juvenile Court

A minor who is between the ages of 12 and 17 who is incorrigible or who has violated a city or county curfew ordinance is within the jurisdiction of the juvenile court. (Welf. & Inst. Code, § 601, subd. (a).) In addition, a minor between the ages of 12 and 17 who has four or more truancies within one school year is within the jurisdiction of the juvenile court. (Welf. & Inst. Code, § 601, subd. (b).) Finally, as a general rule, minors between the ages of 12 and 17 who commit a crime fall within the jurisdiction of the juvenile court. (Welf. & Inst. Code, § 602.)

3. Truancy

Current law

Education Code section 48260 defines a truant as a student who is subject to compulsory full-time or continuation education who is absent from school without a valid excuse three full days in one school year or tardy or absent for more than a 30-minute period during the school day without a valid excuse on three occasions in one school year, or any combination of those. A student who has been reported as a truant three or more times per school year, and after an appropriate district officer or employee has made a conscientious effort to hold at least one conference with a parent or guardian of the student and the student is deemed a habitual truant. (Ed. Code, § 48262.) Current law defines chronic truant as a student who is subject to compulsory full-time or continuation education who is absent from school without a valid excuse for 10 percent or more of school days in one school year. (Ed. Code, § 48263.6.)

When a student is a habitual truant, or is habitually insubordinate or disorderly during school, the student may be referred to a school attendance review board or to the county probation department. (Ed. Code, § 48263.) The student may also be referred to a probation officer or district attorney mediation program. (Ed. Code, § 48263.5.) The intent of these interventions is to divert students with serious attendance and behavioral problems from the juvenile justice system and to reduce the number of students who drop out of school.

Data on Chronic Absenteeism

According to the state Department of Education (CDE), the state's overall chronic absentee rate during the 2017-2018 school year was 11.1%. (https://dq.cde.ca.gov/dataquest/DQCensus/AttChrAbsRate.aspx?agglevel=State&cds=00&year=2017-18) Among the many reasons for chronic absenteeism include lack of social and educational support services, language barriers, disabilities, bullying, abuse or neglect, housing instability, lack of access to stable transportation, low parent involvement, negative peer relationships, and lack of school facilities, teachers, and other school-specific factors.

Data shows differences in rates of chronic absenteeism across student demographics. (Jacob et. al, *Chronic absenteeism: An old problem in search of new answers,* (Jul. 2017) <https://www.brookings.edu/research/chronic-absenteeism-an-old-problem-in-search-of-new-answers/>.) For example, students with disabilities are nearly 1.5 times more likely to be chronically absent than peers. (*Id.*) In addition, research has found that children from lower income families are more likely to be chronically absent. Specifically, the Brookings Institute article cites a national study of chronic absenteeism among kindergartners which found that 21%

of children from low income families were chronically absent compared to only 8% of their peers from non-low income families. (*Id*.) Racial disparities have been documented as well. (*Id*.)

The CDE website includes racial and ethnic demographic data as it related to chronic absenteeism across the state and at the county level. The department reported the following with respect to of chronic absenteeism for the 2017-2018 school year: African American students had a chronic absenteeism rate of 20.1%, Native students had a rate of 21%, Latino students a rate of 12%, White students had a rate of 9.7%, Asian students not including Filipino or Pacific Island had a rate of 5.2%, and Pacific Islander students had a rate of 17.4%. (https://dq.cde.ca.gov/dataquest/DQCensus/AttChrAbsRate.aspx?agglevel=State&cds=00&year=2017-18)

Criticism of Current Approach to Truancy

As noted in a recent article published by the Brookings Institute, "[a]bsenteeism is not a new concern," but "little progress has been made" in the past 20 years to reduce absenteeism despite considerable effort on the part of states and schools to address it. (Jacob et. al, *supra*.) While there is a consensus that truancy and chronic absenteeism are associated with adverse outcomes, there is less agreement about the best approach to dealing with truancy.

The school-to-prison pipeline refers to policies and practices that push students out of school and into the juvenile and criminal justice systems. These policies and practices include zero-tolerance discipline policies, policing in schools, and court involvement for minor offenses in school. Educational failure is one factor in the school-to-prison pipeline. The Center for American Progress published a report in August 2015, which recommended reducing punitive policies in connection with truancy. (Center for American Progress, *The High Cost of Truancy* (Aug. 2015), <https://cdn.americanprogress.org/wp-content/uploads/2015/07/29113012/Truancy-report4.pdf>.) That report recommended that schools, districts, and states should evaluate their anti-truancy policies, including zero-tolerance policies, and make punitive consequences, such as ticketing, fines imposed on students and/or their parents and guardians, or any punishment that removes students from the classroom, a last resort. (*Id*. pp. 28-29.) The report additionally recommended that punitive policies should be replaced with systems that support students and reinforce the importance of attendance. (*Id*. at p. 28.) The report concluded that decriminalizing truancy will foster a positive and inclusionary school climate where students feel welcome and wanted and will reduce students encountering the legal system. (*Id*. at p. 29.)

This bill would repeal current Welfare and Institutions Code section 601, subdivision (b). in doing so, truants would no longer by within the jurisdiction of the juvenile court. This bill makes other conforming changes.

4. Probation is Currently Authorized to Provide Services to Prevent Juvenile Delinquency to Juveniles who Are Not Within the Court's Jurisdiction

WIC 236

Current law authorizes probation departments "to engage in activities designed to prevent juvenile delinquency." (Welf. & Inst. Code, § 236.) Section 236 specifies that those activities include rendering direct and indirect services to persons in the community, and that probation

departments are not limited to providing services only to those persons on probation being supervised, but may provide services to any juveniles in the community.

This bill would amend Section 236 to specify that services or programs offered to minors or minor's parents or guardians who are not on probation are voluntary and would prohibit those programs from including probation conditions or consequences as a result of not engaging in or completing those programs or services. The bill further prohibits probation departments to maintain a formal or informal caseload, establish formal or informal contracts with minors or minor's parents or guardians, or create mandated-probation conditions for minors not on probation.

WIC 654

Welfare and Institutions Code 654 provides that if a probation officer concludes that a minor is within the jurisdiction of the juvenile court or will probably soon be within that jurisdiction, the probation officer may, in lieu of filing a petition to declare a minor a dependent child of the court or a minor or a ward of the court or requesting that a petition be filed by the prosecuting attorney to declare a minor a ward of the court and with consent of the minor and the minor's parent or guardian, delineate specific programs of supervision for the minor, not to exceed six months, and attempt thereby to adjust the situation that brings the minor within the jurisdiction of the court or creates the probability that the minor will soon be within that jurisdiction.

These programs are referred to as "informal probation." Such programs can be a good alternative for a minor who has engaged in low level criminal behavior and has had little previous contact with the juvenile justice system. However, some argue that these programs can feel like punishment in cases where the minor's conduct has not risen to the level of criminality.

This bill would amend Section 654 to strike the language that a probation officer may delineate specific programs to a minor who is not yet within the jurisdiction of the juvenile court. This bill would additionally amend Section 654 to require probation to refer the minor to services provided by a health agency, community-based organization, school district, an appropriate non-law enforcement agency, or the probation department, and specifies that if the services are provided by the probation department, then the department may delineate the specific programs for the minor. This bill would further amend Section 654 to encourage rather than require a minor's parent to participate in programming with the minor.

5. Additional Provisions of the Bill

Welfare and Institutions Code section 653.3 requires a probation officer, in the case of a minor alleged to have committed a crime, to determine whether proceedings in the juvenile court shall be commenced. If the probation officer determines that it is appropriate to offer services to the family to prevent the need to remove the minor from the minor's home, current law requires the probation officer to make a referral to those services.

This bill amends Section 653.5 to provide that the probation officer recommend rather than offer services to the family in order to prevent the minor's removal, and requires the probation officer to refer the youth to services provided by a health agency, community-based organization, school district, an appropriate non-law enforcement agency, or the probation department.

This bill also amends several sections of the Education Code to repeal language pertaining to truants, and to students who are habitually insubordinate or disorderly.

6. Juvenile Justice Crime Prevention Act (JJCPA)

The JJCPA was created by the Crime Prevention Act of 2000 to provide a funding source for local juvenile justice programs aimed at reducing youth crime. The target demographic includes youth on probation and in juvenile halls and camps, as well as at-risk youth. JJCPA involves a partnership between the State, 56 counties, and various community-based organizations to enhance public safety by reducing juvenile crime and delinquency. Local officials and stakeholders determine where to direct resources through an interagency planning process; the State appropriates funds, which the Controller's Office distributes to counties on a per capita basis; and community-based organizations play a critical role in delivering services. The funding eligibility criteria prescribed by state law for JJCPA-funded programs requires counties to limit JJCPA spending to "programs and approaches that have been demonstrated to be effective in reducing delinquency."
(http://www.bscc.ca.gov/downloads/JJCPA%20Report%20Final%204.2.2015%20mr-r.pdf)

According to a recent report published by the Children's Defense Fund- California, "[JJCPA funds] ha[ve] been allocated for a range of programs, including policing and probation supervision in schools, public housing and park services, mental health screening and treatment, and community-based arts and after-school programs." (Soung at al., Juvenile Justice Crime Prevention Act in Los Angeles: A Case Study on Advocacy & Collaborative Reform (Dec. 2018), p. 3 <https://www.cdfca.org/wp-content/uploads/sites/4/2019/01/juvenile-justice-crime-prevention-act-in-los-angeles.pdf>.) The report noted that there were150 JJCPA programs administered by the counties in 2014-2015 which served 84,450 at-risk and probation youth. (*Id*.)

7. Argument in Support

The Pacific Juvenile Defender Center writes:

> We recognize that several of the statutes that would be limited by A.B. 901 were enacted for benevolent purposes. Welfare and Institutions Code section 236, for example, was enacted in 1976 with a goal of allowing probation to serve "any juveniles in the community," to prevent involvement in the juvenile delinquency. Unfortunately, this sweeping power has resulted in well-documented abuses, such as the Los Angeles County "voluntary probation" program which placed youth having problems at school under probation officer supervision, where they were essentially treated like youth under court supervision, and handled by officers with no expertise in dealing with school related issues. . . . AB 901 will limit the consequences of Section 236 supervision and informal supervision pursuant to Welfare and Institutions section 654 by requiring services to be voluntary and by stating that they "shall not include probation conditions or consequences as a result of not engaging in or completing" the program.
> Similarly, Welfare and Institutions Code section 601 was enacted to provide a "status offender" niche for youth who were truant, had run away, or were incorrigible, but who had not committed a crime. The problem is that the court

> system is not set up to actually deal with the complex problems that those youth have, particularly with respect to truancy. Few probation officers, prosecutors or judges have the knowledge to understand, for example what causes a child not to go to school and what to do about it. In removing truancy from juvenile court jurisdiction, . . . AB 901 recognizes that truancy issues will be more effectively addressed outside the court system.
>
> Finally, in cases where the probation officer concludes that a petition for delinquency under Welfare and Institutions Code section 602 would be sustained in court, AB 901 provides that, pursuant to Section 654, the probation officer may refer the minor to "services provided by a health agency, community-based organization, school district, an appropriate non-law enforcement agency, or the probation department." Further, if the referral is to the probation department, the probation officer can delineate programs of supervision lasting for not longer than six months. Then, if the minor fails to participate in the supervision program for 60 days, the probation officer may refer the case to the DA for possible filing of a Section 602 delinquency petition.
>
> We applaud these limitations on formal processing in the juvenile court system. Abundant research indicates that formal system processing results in substantially worse outcomes for youth.
>
> …[W]e know that once our clients are in the grips of the justice system, they are likely to be further sanctioned for behavior that is typical adolescents. We agree that their behavior should be recognized and addressed, but whenever possible, not in the juvenile court system.

8. Argument in Opposition

According to the California District Attorneys Association:

> Under current law, probation departments are permitted to render services designed to prevent juvenile delinquency to "persons in the community," whether or not they are currently on probation or subject to informal juvenile supervision (W&IC 654, 654.2), non-wardship probation (W&IC 725), or DEJ (W&IC 790). This bill limits probation departments to providing such services only to persons on probation or supervision pursuant to Sections 654, 654.2, 725, or 790. Limiting the persons who can receive services designed to prevent juvenile delinquency seems to be a step backward in addressing this issue.
>
> Additionally, W&IC 258(b) sets forth the procedure to be used when a minor is before the court as the result of a written notice to appear issued to a minor by an officer or school administrator due to habitual truancy (Section 601(b)), as well as the orders that may be imposed following a finding of violation. This bill deletes current Section 258(b) in its entirety, and also deletes Section 601(b) (which is the truancy section of that statute) in its entirety. Chronic truancy is recognized as a reliable predictor of future criminality. While juvenile court proceedings pursuant to W&IC 601 cannot and should not be viewed as the only method of intervention

in these cases, the structure and supervision that can be provided by the juvenile court is a valuable tool in addressing truancy in certain cases. Depriving minors, their parents or guardians, and the school administrators who care about the future of our youth, of the resources available through the juvenile court will only exacerbate the truancy problem and make the challenge of effective intervention more difficult.

Third, this bill amends W&IC 654 which would eliminate the requirement that parents or guardians participate in programs with minors on informal supervision. One of the principal goals of the juvenile justice system is strengthening family ties . . . No doubt being with their parents will help the minors improve, then that should be the priority.

-- END --