
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: SB 1111 **Hearing Date:** May 20, 2020
Author: Durazo
Version: March 26, 2020
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Juveniles: Detention Facilities*

HISTORY

Source: Anti-Recidivism Coalition
Human Rights Watch
Pacific Juvenile Defender Center
Silicon Valley De-Bug

Prior Legislation: SB 1391 (Lara), Ch. 1012, Stats. 2018
SB 439 (Mitchell), Ch. 1006, Stats. 2018
SB 1106 (Hill), Ch. 1007, Stats. 2018
Proposition 57, approved by the voters on November 8, 2016

Support: Alameda County Public Defender; Alliance for Boys and Men of Color;
American Civil Liberties Union; California Alliance for Youth and Community
Justice; California Coalition for Youth; California Public Defender Association;
Children's Defense Fund- California; Drug Policy Alliance; East Bay Community
Law Center; Ella Baker Center for Human Rights; Everychild Foundation; Jesuit
Restorative Justice Initiative; Legal Services for Prisoners with Children; MILPA;
National Center for Youth; National Institute for Criminal Justice Reform;
National Juvenile Justice Network; Underground GRIT; The W. Haywood Burns
Institute; Young Women's Freedom Center; 1 individual

Opposition: Riverside Sheriff's Association

PURPOSE

The purpose of this bill is to require that any person whose case originated in juvenile court remain in a county juvenile facility until the person turns 21 years of age, except as specified.

Existing law provides, generally, that a minor who is between 12 years of age and 17 years of age, inclusive, when the minor violates any law defining a crime, is subject to the jurisdiction of the juvenile court and to adjudication as a ward. (Welf. & Inst. Code, § 602, subd. (a).)

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

Existing law provides that in a case in which a minor is alleged to have committed specified offenses when the minor was 14 or 15 years of age, but was not apprehended prior to the end of juvenile court jurisdiction, the prosecutor may make a motion to transfer the minor from juvenile court to a court of criminal jurisdiction. (Welf. & Inst. Code, § 707, subd. (a)(2).)

Existing law authorizes the district attorney or other appropriate prosecuting officer to file an accusatory pleading in a court of criminal jurisdiction against a minor who is alleged to have violated a criminal statute or ordinance and who has been declared not a fit and proper subject to be dealt with under the juvenile court law or as to whom charges in a petition in the juvenile court have been transferred to a court of criminal jurisdiction. (Welf. & Inst. Code, § 707.1, subd. (a).)

This bill provides that if, pursuant to a transfer hearing, the minor's case is transferred from juvenile court to a court of criminal jurisdiction, the district attorney or other appropriate prosecuting officer may file an accusatory pleading against the minor in a court of criminal jurisdiction.

Existing law authorizes the juvenile court, as to a minor alleged to have committed specified violent or serious felony offenses and who has been declared not a fit and proper subject to be dealt with under the juvenile court law, or as to a minor for whom charges in a petition or petitions in the juvenile court will be transferred to a court of criminal, or as to a minor whose case has been filed directly in or transferred to a court of criminal jurisdiction, to order the minor to be delivered to the custody of the sheriff upon a finding that the presence of the minor in the juvenile hall would endanger the safety of the public or be detrimental to the other inmates detained in the juvenile hall. (Welf. & Inst. Code, § 707.1, subd. (b)(1).)

This bill repeals this provision of law.

Existing law requires that other minors declared not fit and proper subjects to be dealt with under the juvenile court law, if detained, remain in the juvenile hall pending final disposition by the criminal court or until they attain the age of 18, whichever occurs first. (Welf. & Inst. Code, § 707.1, subd. (b)(1).)

This bill repeals this provision of law.

Existing law requires that upon attainment of the age of 18 years such a person who is detained in juvenile hall be delivered to the custody of the sheriff unless the court finds that it is in the best interests of the person and the public that he or she be retained in juvenile hall. Prohibits the transfer from taking place until after the court has made its findings if a hearing is requested by the person. (Welf. & Inst. Code, § 707.1, subd. (b)(2).)

This bill repeals this provision of law.

Existing law prohibits a court, judge, referee, peace officer, or employee of a detention facility from knowingly detaining any minor in a jail or lockup, except as provided. (Welf. & Inst. Code, § 207.1, subd. (a).)

This bill prohibits a court, judge, referee, peace officer, or employee of a detention facility from knowingly detaining any minor in a jail or lockup, unless otherwise permitted by any other law.

Existing law provides that any minor who is alleged to have committed specified violent or serious felony offenses whose case is transferred to a court of criminal jurisdiction after a finding is made that the minor is not a fit and proper subject to be dealt with under the juvenile court law, or any minor who has been transferred to a court of criminal jurisdiction, or any minor any minor who has been charged directly in or transferred to a court of criminal jurisdiction, may be detained in a jail or other secure facility for the confinement of adults if all of the following conditions are met:

- The juvenile court or the court of criminal jurisdiction makes a finding that the minor's further detention in the juvenile hall would endanger the safety of the public or would be detrimental to the other minors in the juvenile hall.
- Contact between the minor and adults in the facility is restricted, as specified.
- The minor is adequately supervised.

(Welf. & Inst. Code, § 207.1, subd. (b).)

This bill repeals this provision of law.

Existing law provides that a minor may be detained in a jail or other secure facility for the confinement of adults only if the court makes its findings on the record and, in addition, finds that the minor poses a danger to the staff, other minors in the juvenile facility, or to the public because of the minor's failure to respond to the disciplinary control of the juvenile facility, or because the nature of the danger posed by the minor cannot safely be managed by the disciplinary procedures of the juvenile facility. (Welf. & Inst. Code, § 207.6.)

This bill repeals this provision of law.

Existing law provides that it is unlawful to permit any person under 18 years of age who is detained in or sentenced to any institution in which adults are confined to come or remain in contact with such adults. (Welf. & Inst. Code, § 208, subd. (a).)

Existing law provides that, notwithstanding any other law, in any case in which a minor who is detained in or committed to a county juvenile institution attains 18 years of age prior to or during the period of detention or confinement, he or she may be allowed to come or remain in contact with those juveniles until 19 years of age, at which time he or she, upon the recommendation of the probation officer, shall be delivered to the custody of the sheriff for the remainder of the time he or she remains in custody, unless the juvenile court orders continued detention in a juvenile facility. (Welf. & Inst. Code, § 208.5, subd. (a).)

This bill repeals this provision of law.

Existing law provides that if continued detention is ordered for a ward under the jurisdiction of the juvenile court who is 19 years of age or older but under 21 years of age, the detained person may be allowed to come into or remain in contact with any other person detained in the institution subject to specified requirements. Requires that the person be advised of his or her ability to petition the court for continued detention in a juvenile facility at the time of his or her attainment of 19 years of age. (Welf. & Inst. Code, § 208.5, subd. (a).)

This bill repeals this provision of law.

Existing law requires a county to apply to the Board of State and Community Corrections (BSCC) for approval of a county institution established for the purpose of housing juveniles as a suitable place for confinement before the institution is used for the detention or commitment of an individual under the jurisdiction of the juvenile court who is 19 years of age or older but under 21 years of age where the detained person will come into or remain in contact with persons under 18 years of age who are detained in the institution. Requires the BSCC to review and approve or deny the application of the county within 30 days of receiving notice of this proposed use. Requires the BSCC to take into account the available programming, capacity, and safety of the institution as a place for the combined confinement and rehabilitation of individuals under the jurisdiction of the juvenile court who are over 19 years of age and those who are under 19 years of age in its review. (Welf. & Inst. Code, § 208.5, subd. (b).)

This bill repeals this provision of law.

This bill requires, notwithstanding any other law, that any person whose case originated in juvenile court remain, if the person is held in secure detention, in a county juvenile facility until the person attains 21 years of age, except as provided. Specifies that this section is not intended to authorize confinement in a juvenile facility where authority would not otherwise exist.

This bill authorizes the probation department to petition 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.

This bill requires the court to hold a hearing upon receipt of a petition to house a person who is 19 years of age or older in an adult facility. Provides that there is a rebuttable presumption that the person will be retained in a juvenile facility. Requires the court to determine at the hearing whether the person will be moved to an adult facility and make written findings of its decision based on the totality of the following criteria:

- The impact of being held in an adult facility on the physical and mental health and well-being of the person.
- The benefits of continued programming at the juvenile facility and whether required education and other services called for in any juvenile court disposition or otherwise required by law or court order can be provided in the adult facility.
- The capacity of the adult facility to separate persons under 21 years of age from older adults and to provide them with safe and age-appropriate housing and program opportunities.
- The capacity of the juvenile facility to provide needed separation of older youth from younger youth given the youth currently housed in the facility.
- Evidence demonstrating that the juvenile facility is unable to currently manage the person's needs without posing a significant danger to staff or other youth in the facility.

This bill requires if a person between 18 and 21 years of age, inclusive, is removed from a juvenile facility, the court, upon the motion of any party and a showing of changed circumstances, to consider the above listed criteria and to determine whether the person should be housed at a juvenile facility.

This bill makes other technical and conforming changes.

COMMENTS

1. Need for This Bill

According to the author:

The vast majority of incarcerated youth in California are held in county-level facilities. SB 1111 creates a thoughtful process for determining whether youth aged 18 to 21, whose cases originated in juvenile court, should be housed in adult jails. Current law is a patchwork of misunderstood and underused statutes, resulting in interruption of education and the continuum of care for transition-age youth, and arbitrary and costly outcomes across the state.

Although there are solid policy reasons that caused introduction of this bill, its proposed mechanisms are important in the COVID-19 context because they would reduce the transmission of disease and ease conditions for staff tasked with monitoring younger inmates in adult facilities. ...

Current law on housing youth offenders is confusing, inconsistent, and scattered throughout the code. Some counties interpret the law as allowing youth to be transferred to adult jail at age 18, while others believe such transfer may not occur until age 19. There are separate laws governing youth who have been ordered transferred to adult court, but it is unclear how those laws relate to one another. There is a provision for counties to seek a waiver from the BSCC to hold older youth in juvenile facilities until age 21, but less than a third of counties have done so. As a result, because of their age and where they happen to live, many youth who are doing well in juvenile hall programs are abruptly transferred to adult jails where they are simply “doing time” and exposed to violence and often, networks of criminal activity.

Once they are held in an adult jail, youth no longer receive education services or the programming available in juvenile facilities. They face an increased risk of physical and sexual abuse. They suffer with a heightened risk of suicide and mental health issues. They are more likely, simply because of having been housed in an adult facility, to be transferred to adult court or to receive more punitive dispositions.

Senate Bill 1111 would reduce the number of transfers from juvenile justice facilities to jail and provide relief for county jails, which are often overcrowded and ill equipped to address the needs of this population. A reduction in the number of jail transfers would limit exposure and aid vital containment efforts. It would also ease fiscal pressure on the corrections system. ...

2. Jail Transfer Statutes

Existing law includes two primary provisions related to the transfer of individuals from county juvenile facilities to county adult facilities after a person has reached the age of majority. Welfare and Institutions Code section 707.1 generally requires that minors who are prosecuted as adults remain housed in juvenile hall pending conclusion of their criminal case or until they turn 18, whichever occurs first. However, the person may petition the court to remain in juvenile hall upon turning 18, and may be permitted to remain in juvenile hall if the court finds that it is in the best interest of the person and the public if the person is retained in juvenile hall. Additionally, Welfare and Institutions Code section 707.1 authorizes the transfer of minors who are prosecuted as adults from juvenile hall to county jail “upon a finding that the presence of the minor in the juvenile hall would endanger the safety of the public or be detrimental to the other inmates detained in the juvenile hall.”

Welfare and Institutions Code section 208.5 provides that when a minor detained in a county juvenile facility turns 18 prior to or during the period of confinement, the person may be allowed to remain there until the person turns 19. The statute generally requires that upon turning 19, a person in a county juvenile facility be delivered to the custody of the sheriff (i.e., transferred to jail) for the remainder of the time the person remains in custody, unless the juvenile court orders continued detention in a juvenile facility. The statute further provides that if continued detention is ordered for a person who is 19 or 20 years old, the person does not need to be separated from the younger wards housed in the juvenile facility. Welfare and Institutions Code section 208.5 requires that the person be advised of their ability to petition the court for continued detention in a juvenile facility at the time the person turns 19. Subdivision (b) of this section permits a county to seek approval from the BSCC in order to house 19 and 20 years old in the same juvenile facility where wards under 18 are housed.

The sponsors of the bill argue that the existing jail transfer statutes are confusing and outdated which has led to different actions taken by different counties. For example, the sponsors assert that some counties believe that 18 year olds may be transferred from the custody of county juvenile facilities to county adult facilities, while other counties believe that they cannot do so until a youth turns 19. The sponsors of the bill further contend that the transfer of youth to jail is disruptive to youths’ education and the receipt of various services as well as harmful to the physical and psychological well-being of young adults. Finally, the sponsors argue that the reforms proposed in this bill are consistent with other recent reforms that recognize that young adults should be afforded certain opportunities given their ongoing development, including the existing Transitional Age Youth Pilot Program which permits certain 18- to 20-year-old offenders to serve their time in juvenile hall instead of jail.

3. Effect of This Bill

This bill revises, consolidates, and simplifies various jail transfer statutes. Specifically, this bill creates a rebuttable presumption that any person whose case originated in juvenile court must remain in a county juvenile facility, if the person is held in secure detention, until the person reaches 21 years of age. This bill establishes a process by which the probation department may petition the court to house a person who is 19 years of age or older in an adult facility. The court

is then required to hold a hearing to determine whether the person will be moved to an adult facility and must base its decision on several criteria, including the impact of being housed in an adult facility on the health and well-being of the person and the benefits of continued programming at the juvenile facility. Finally, the bill establishes a process by which a person removed from a juvenile facility pursuant to the process created by this bill may be re-housed at a juvenile facility upon a showing of changed circumstances.

Notably, the bill repeals the authority under existing law of the juvenile court to transfer youth prosecuted as adults to the county jail in cases where housing the youth in a juvenile facility would “endanger the safety of the public or be detrimental” to the other wards in juvenile hall. This provision of the bill is consistent with the bill’s revision of Welfare and Institutions Code section 208.5 to create a presumption that individuals whose cases originated in juvenile court will be housed in county juvenile facilities until reaching 21.

4. Argument in Support

Human Rights Watch, one of the bill’s sponsors, writes:

Under current law, youth detained in juvenile halls are moved, sometimes on their 18th birthday, to adult jails. Young people can be seriously harmed by being held in adult facilities, often facing crowded, violent circumstances, and losing the opportunity to continue with the education and treatment provided in juvenile hall. If S.B. 1111 is enacted, a youth with a case originating in juvenile court would presumptively remain in juvenile hall pending the case resolution. ...

In California, when a youth is accused of committing a crime before age 18, their case starts in juvenile court, and unless they are tried as an adult (an increasingly rare occurrence), the case stays there. If a youth is detained pending the outcome of the case, they are held in a juvenile hall. Juvenile halls require youth to be involved in education, treatment, and age-appropriate activities. While incarceration of youth should always be a last resort, those services can be important. ...

Most youth held in juvenile halls were 16 or 17 at the time of the crime. Because cases can take months to resolve, it is not uncommon for youth to turn 18 while their case makes its way through the court process. What happens next depends on where the young person lives: out-of-date, confusing, and sometimes contradictory California laws have created a county-by-county collage of responses. Some counties interpret the law as requiring youth to be transferred to adult jail at age 18, while others believe the requirement is age 19. While there is a provision for counties to seek a waiver from the Board of State and Community Corrections (BSCC) to hold older youth in juvenile facilities until age 21, less than a third of counties have sought it. Case law has not clarified the problems. As a result, geography determines whether an emerging adult will be removed from juvenile hall and placed in adult jail where they will no longer have access to programs, education, and treatment. Their continuum of care is interrupted, and youth are forced away from learning in school and towards learning how to survive adult incarceration.

...

During this health crisis, moving a person from one facility to another raises critically important concerns. Transmission of Covid-19 is much more likely, increasing the risk of danger for both the young person being transferred and for a larger population of prisoners and staff. If jails require a quarantine period after transfer, resources and staff time are lost. ...

The Centers for Disease Control and Prevention's *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, p. 9, specifically calls for correctional systems to "[r]estrict transfers of incarcerated/detained persons to and from other jurisdictions and facilities unless necessary for medical evaluation, medical isolation/quarantine, clinical care, extenuating security concerns, or to prevent overcrowding." Governor Newsom has already blocked the transfer of adult jail inmates to state prison through Executive Order N-36-20 on March 4, 2020. S.B. 1111 will expand this protection by significantly reducing movement between juvenile and adult facilities.

Senate Bill 1111 would consolidate the existing statutes on this issue and simplify the law to ensure uniform application across the state. It clarifies current law that youth may stay in juvenile hall until age 19. It defines a presumption that youth remain in juvenile facilities until their case is resolved but delineates firm exceptions, allowing a juvenile court to order a youth transferred to jail upon the petition of the probation department.

...

... While 18-year-olds may legally be considered adults for some purposes, social and neurological development continues well into the mid-20s. This transition to adulthood is a period of tremendous growth, and California should pass S.B. 1111 to make the most of that period, ensuring youth are safer, involved in school, and able to access other age-appropriate activities. Transition-age youth deserve the state's protection and every opportunity to succeed.

5. Argument in Opposition

According to the Riverside Sheriffs' Association:

Our probation officers understand the author's concerns about placing young adults, including 18 year olds, in an adult facility. However such safety concerns for these young offenders should be raised with the agencies that oversee adult jails and prisons.

Our officers are charged with ensuring that the juvenile offenders under their watch are safe from violence or abuse. Our members are especially concerned about the youths that the older and more experienced offenders will victimize in juvenile hall.

Because SB 1111 is expected to make the job of our probation officers more difficult and dangerous, the Riverside Sheriffs' Association must remain opposed to the bill and respectfully requests that the bill remain in committee.

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