



Administration of Justice Policy Committee
126th CSAC Annual Meeting
Monday, November 16, 2020 · 1:00 p.m. – 2:00 p.m.
Via Zoom: [Click here](#) to join or call (669) 900-6833
Meeting ID: 864 546 5197 Passcode: 129932

Supervisor Leticia Perez, Kern County, Chair
Supervisor Jim Provenza, Yolo County, Vice Chair

- 1:00 p.m. I. **Welcome and Introductions**
Supervisor Leticia Perez, Kern County, Chair
Supervisor Jim Provenza, Yolo County, Vice Chair
- 1:05 p.m. II. **Committee on Revision of the Penal Code**
Michael Romano, Chairperson
Thomas Nosewicz, Staff Counsel
- 1:15 p.m. **Question and Answer**
- 1:20 p.m. III. **Implementation of Juvenile Justice Realignment**
Chief Probation Officers of California
- 1:35 p.m. **Question and Answer**
- 1:45 p.m. IV. **ACTION ITEM: CSAC 2020-21 Platform Update Process**
Josh Gauger, Legislative Representative, CSAC
Stanica Boatner, Legislative Analyst, CSAC
- 1:55 p.m. V. **ACTION ITEM: Administration of Justice 2021 Priorities and Year in Review**
Supervisor Leticia Perez, Kern County, Chair
Supervisor Jim Provenza, Yolo County, Vice Chair
Josh Gauger, Legislative Representative, CSAC
- 2:00 p.m. VI. **Adjournment**

ATTACHMENTS

Committee on Revision of the Penal Code

Attachment One.....Committee on Revision of the Penal Code Memo

Attachment TwoCommittee on Revision of the Penal Code Background
Materials

Implementation of Juvenile Justice Realignment

Attachment Three.....Juvenile Justice Realignment Memo

Attachment Four.....Senate Bill 823 Legislation

Attachment Five.....Senate Bill 823 County Partner Joint Letters

Administration of Justice Policy Platform Update – ACTION ITEM

Attachment Six..... Memo on Platform Update

Attachment Seven..... AOJ Platform Draft

Administration of Justice Year in Review and 2021 Legislative Priorities – ACTION ITEM

Attachment Eight.....Memo on AOJ Year in Review and 2021 Legislative Priorities

Committee on the Revision of the Penal Code
Attachment One

Memo: [Committee on the Revision of the Penal Code](#)



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November 3, 2020

To: Administration of Justice Policy Committee

From: Josh Gauger, CSAC Legislative Representative
Stanicia Boatner, CSAC Legislative Analyst

Re: Committee on Revision of the Penal Code

Introduction. The California Law Revision Commission (Commission) is an independent state agency created by statute in 1953. The Commission assists the Legislature and Governor by examining California law and recommending needed reforms. Under the Commission, a newly created policy-making body, the Committee on Revision of the Penal Code (Committee), was formed on January 1, 2020. The new Committee consists of one Member of the Senate appointed by the Senate Committee on Rules, one Member of the Assembly appointed by the Speaker of the Assembly, and five members appointed by the Governor.

Purpose. The purpose of the Committee is to study the California Penal Code and recommend statutory reforms to achieve the following improvements: (1) Simplify and rationalize the substance of criminal law; (2) Simplify and rationalize criminal procedures; (3) Establish alternatives to incarceration that will aid in the rehabilitation of offenders; and (4) Improve the system of parole and probation.

Duties. The Committee is currently working on its recommendations and has heard presentations regarding the length of sentence terms, diversion for misdemeanor offenses, credit-earning opportunities in county jails and state prisons, and judicial discretion on the use of probation.

When making recommendations, the committee may consider any factors, including, but not limited to: (1) the protection of the public; (2) the severity of the offense; (3) the rate of recidivism; (4) the availability and success of alternatives to incarceration; and (5) empirically significant disparities between individuals convicted of an offense and individuals convicted of other similar offenses.

New laws or policies stemming from the recommendations of the Committee could have significant impacts on the local public safety system and CSAC, and the AOJ Policy Committee, will want to stay closely informed on future developments.

Please contact Josh Gauger (jgauger@counties.org) or Stanicia Boatner (sboatner@counties.org) if you have any questions about this item.

**Committee on the Revision of the Penal Code
Attachment Two**

[Committee on the Revision of the Penal Code](#)

Committee on Revision of the Penal Code

On January 1, 2020, a new policy-making body was created -- the Committee on Revision of the Penal Code.

The Committee will study the California Penal Code and recommend statutory reforms to achieve the following improvements:

- (1) Simplify and rationalize the substance of criminal law.
- (2) Simplify and rationalize criminal procedures.
- (3) Establish alternatives to incarceration that will aid in the rehabilitation of offenders.
- (4) Improve the system of parole and probation.

Committee Members:

Michael Romano, Chairperson

Assembly Member: Honorable Sydney Kamlager

Senate Member: Honorable Nancy Skinner

Honorable John Burton

Honorable Peter Espinoza

Honorable Carlos Moreno

L. Song Richardson

Governing Statute:

The Committee was created by 2019 Cal. Stat. ch. 25. In relevant part, that bill added or amended Government Code Sections 8280, 8281.5, 8282, 8283, 8286, 8287, 8290.5, 8291, 8292, 8293, 8294, 8295, and 8296. Those provisions are set out below.

§ 8280. Creation of Commission and Committee

8280. (a) There is created in the State Government the California Law Revision Commission.

(b) Commencing January 1, 2020, there exists within the California Law Revision Commission the Committee on Revision of the Penal Code.

(c) For purposes of this article, the following terms have the following meanings:

- (1) "Commission" means the California Law Revision Commission.
- (2) "Committee" means the Committee on Revision of the Penal Code, unless otherwise specified.

§ 8281.5 Membership of Committee

8281.5. (a) The Committee on Revision of the Penal Code consists of one Member of the Senate appointed by the Senate Committee on Rules, one Member of the Assembly appointed by the Speaker of the Assembly, and five members appointed by the Governor.

(b) (1) The Members of the Legislature appointed to the committee serve at the pleasure of the appointing power and shall participate in the activities of the committee to the extent that the participation is not incompatible with their respective public offices as Members of the Legislature.

(2) For purposes of this article, those Members of the Legislature constitute a joint interim investigating committee on the subject of Section 8290.5 and, as a joint interim investigating committee, have the powers and duties imposed on those committees by the Joint Rules of the Senate and Assembly.

(c) (1) The members appointed by the Governor shall be appointed for a term of four years. The terms of the members first appointed expire as follows:

- (A) Three terms expire on January 1, 2022.
- (B) Two terms expire on January 1, 2024.

(2) When a vacancy occurs in any office within the committee filled by appointment by the Governor, the Governor shall appoint a person to the office, who shall hold office for the balance of the unexpired term of the person's predecessor.

(d) Members of the committee shall not be members of the commission.

§ 8282. Compensation and expenses

8282. (a) The members of the commission and committee shall serve without compensation, except that each member appointed by the Governor shall receive one hundred dollars (\$100) for each day's attendance at a meeting of the commission or committee.

(b) Each member of the commission and committee shall be allowed actual expenses incurred in the discharge of the member's duties, including travel expenses.

§ 8283. Chairperson

8283. (a) The commission shall select one of its members chairperson. Five members constitute a quorum of the commission.

(b) The Governor shall select one of the committee members to serve as chairperson. Three members constitute a quorum of the committee.

§ 8286. Assistance of state

8286. The material of the State Library shall be made available to the commission and the committee. All state agencies, and other official state organizations, and all persons connected therewith shall give the commission and committee full information, and reasonable assistance in any matters of research requiring recourse to them, or to data within their knowledge or control.

§ 8287. Assistance of bar

8287. The Board of Trustees of the State Bar shall assist the commission and the committee in any manner the commission or committee may request within the scope of its powers or duties.

§ 8290.5 Duties of Committee

8290.5. (a) The committee shall study and make recommendations on revision of the Penal Code to achieve all of the following objectives:

- (1) Simplify and rationalize the substance of criminal law.
- (2) Simplify and rationalize criminal procedures.
- (3) Establish alternatives to incarceration that will aid in the rehabilitation of offenders.
- (4) Improve the system of parole and probation.

(b) In making recommendations pursuant to subdivision (a), the committee may recommend adjustments to the length of sentence terms. In making that recommendation, the committee may consider any factors, including, but not limited to, any of the following:

- (1) The protection of the public.
- (2) The severity of the offense.
- (3) The rate of recidivism.
- (4) The availability and success of alternatives to incarceration.
- (5) Empirically significant disparities between individuals convicted of an offense and individuals convicted of other similar offenses.

(c) The approval by the commission of any recommendations by the committee is not required.

§ 8291. Submission and distribution of reports

8291. (a) The commission and the committee shall submit their reports, and their recommendations as to revision of the laws, to the Governor and the Legislature.

(b) Notwithstanding Section 9795, the commission and the committee may provide a copy of a recommendation to each member of a legislative committee that is hearing legislation that would implement the recommendation.

Note. Section 8291 is limited by later-enacted rules governing distribution of state reports set out in Government Code Sections 11094-11099.

§ 8292. Contents of reports

8292. The commission and the committee may, within the limitations imposed by Section 8293, include in their reports the legislative measures proposed by them to effect the adoption or enactment of the proposed revision.

The reports may be accompanied by exhibits of various changes, modifications, improvements, and suggested enactments prepared or proposed by the commission or the committee with a full and accurate index thereto.

§ 8293. Calendar of topics

8293. (a) The commission shall file a report at each regular session of the Legislature that shall contain a calendar of topics selected by it for study, including a list of the studies in progress and a list of topics intended for future consideration. The commission shall confine its studies to those topics set forth in the calendar contained in its last preceding report that have been or are thereafter approved for its study by concurrent resolution of the Legislature. The commission shall also study any topic that the Legislature, by concurrent resolution or statute, refers to it for study.

(b) The committee shall prepare an annual report that describes its work in the prior calendar year and its expected work for the subsequent calendar year.

§ 8294. Printing of reports

8294. The commission's and committee's reports, exhibits, and proposed legislative measures shall be printed by the State Printing Office under the supervision of the commission or committee, respectively. The exhibits shall be so printed as to show in the readiest manner the changes and repeals proposed by the commission or committee.

§ 8295. Cooperation with legislative committees

8295. The commission and the committee shall confer and cooperate with any legislative committee on revision of the law and may contract with any other committee for the rendition of service, by either for the other, in the work of revision.

§ 8296. Cooperation with bar and other associations

8296. The commission and the committee may cooperate with any bar association or other learned, professional, or scientific association, institution, or foundation in any manner suitable for the fulfillment of the purposes of this article.

September 14, 2020

Memorandum 2020-13

**Alternatives to Incarceration and Short Sentences:
Updates on Possible Recommendations**

This memorandum provides summary updates on areas that the Committee directed staff to research, gives brief updates on legislative progress related to the Committee's work, and then presents in greater depth three suggested staff proposals.¹

SUMMARY UPDATES ON STAFF RESEARCH

The Committee has explored a number of areas where changes to the Penal Code may be appropriate and has directed staff to continue research into these areas.² Staff also anticipates that the subject matter of the September 2020 meeting — sentencing enhancements — and the November 2020 meeting, which is tentatively set to cover parole and reentry issues, may add significantly to this list.

Reducing Common “Wobblette” Misdemeanors to Infractions

At the April Committee meeting, Judge Daniel Lowenthal of Los Angeles County Superior Court testified about how a pilot diversion program there had helped reduce the volume of misdemeanor cases. The highest volume of criminal proceedings is in traffic court, including traffic misdemeanors that result in incarceration. Two of the most common traffic misdemeanors, driving without a license and driving on a license suspended for failure to pay a court fine or appear in court, could be reduced to infractions, which may lead to less incarceration and ease court congestion. These offenses are already classified as “wobblettes,” which means a prosecutor can charge them as misdemeanors or infractions. This idea is explored further below.

1. All Committee memoranda can be downloaded from the Committee's website: <www.clrc.ca.gov/CRPC.html>.

2. The Committee also discussed collaborative courts, restorative justice, and other diversion programs at its April and July meetings. Staff is continuing research into those areas, but at lower priority than the areas presented here.

Probation Eligibility

At the April Committee meeting, San Mateo Chief Probation Officer John Keene spoke about expanding opportunities for probation. One way to expand probation would be to revise the Penal Code so that probation is the presumptive sentence for certain offenses. Another expansion would be removing restrictions on probation for other offenses. These ideas are presented more fully below.

Financial Incentives to Reduce Local Incarceration and Recidivism

At the July Committee meeting, Director of Finance Keely Bosler testified about the positive impacts that financial incentive programs to counties had on improving criminal justice outcomes. State government could develop additional financial incentives — similar to funding tied to the performance of probation departments under SB 678 (Leno) and 2011's Public Safety Realignment — that encourage counties to reduce incarceration and recidivism while improving public safety. Staff is continuing research into this area.

Policy to Address Short Stays in CDCR Custody

At the July Committee meeting, Charles Callahan of CDCR informed the Committee that 37% of people with determinate sentences who arrive at CDCR have a length of stay less than a year. In addition to the cost of housing these people, CDCR spends additional money putting them through intake at Reception Centers. The last available data is that this intake process for all new CDCR arrivals costs about \$20 million a year.³ Staff is continuing to research recommendations for potential solutions to this difficult problem, which will be greatly informed by further data about the types of offenses and other factors that lead to these short CDCR stays.

Equalize Credits Between Jail and Prison

At the July Committee meeting, Aaron Fischer of Disability Rights California, spoke about expanding credit-earning opportunities. Credit-earning opportunities at jails and prisons differ in ways that appear more random than advancing any particular policy goal. The Committee could recommend uniform credit-earning rules that treat similarly-situated people the same regardless of where they are confined, as well as expanding the amount of credit available. This idea is explored further below.

3. California Department of Corrections and Rehabilitation, 2020–21 State Budget, CR 19 <<http://www.ebudget.ca.gov/2020-21/pdf/Enacted/GovernorsBudget/5210/5225.pdf>>.

LEGISLATIVE UPDATES

Misdemeanor Diversion

At its April and July meetings, the Committee explored recommending judge-controlled diversion for misdemeanor offenses. Since then, the Legislature passed AB 3234 (Ting), which adds judge-controlled misdemeanor diversion to the Penal Code. Under this law, the diversion period may not last more than 2 years and is not allowed for some child abuse, domestic violence, and stalking offenses. This bill is currently awaiting action by the Governor.

Probation Length

At its April and July meetings, the Committee considered recommending limits on the length of probation sentences. Since then, the Legislature passed AB 1950, sponsored by Asm. Kamlager, which limits felony probation terms to two years — except for violent offenses⁴ — and misdemeanor terms to one year.⁵ It is currently awaiting action by the Governor.

Record Sealing

At the July meeting, the Committee directed staff to provide updates on recent Legislative action around record sealing. The most significant action was in AB 1076 (Ting) (2019), which provided for automatic conviction and arrest record relief for some arrests and convictions that will occur after January 1, 2021. People who successfully complete a probation sentence are covered by the law.⁶ This bill's effective date was recently delayed from January 2021 to July 2022 and is "subject to an appropriation in the annual Budget Act."⁷

4. The two-year limit also does not apply to "an offense that includes specific probation lengths within its provisions" and some theft-related offenses where value exceeds \$25,000. AB 1950 (Section 1 creating Penal Code § 1203.1(m)).

5. The one-year misdemeanor limit does not apply "to any offense that includes specific probation lengths within its provisions." AB 1950 (Section 1 creating Penal Code § 1203a(b)).

6. AB 1076 (Section 8, creating Penal Code § 1203.425(a)(2)(E)(i)).

7. SB 118 (Committee on Budget) (2020) (Section 12 amending Penal Code § 851.93(g); Section 16 amending Penal Code § 1203.425(a)).

STAFF PROPOSALS

Reclassify Common “Wobblette” Misdemeanors to Infractions

Summary Staff Proposal

Reclassify two of the most common misdemeanors offenses as infractions. One of these offenses, driving on a license suspended for failure to pay a fine or appear in court, may affect more than 500,000 people.

Current Law

Two common traffic offenses — driving without a license and driving on a license suspended for failure to appear in court — are “wobblettes,” which means they can be charged as either infractions or misdemeanors entirely at a prosecutor’s discretion.

Background

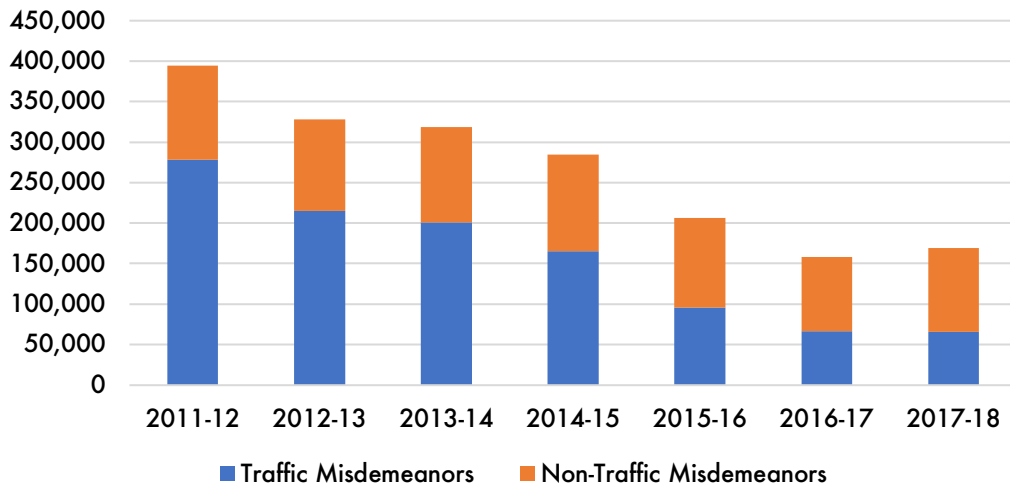
While discussing misdemeanor diversion at the July 2020 meeting, the Committee noted that overall misdemeanor filings in Los Angeles County had declined by 57% since 2011–12.⁸ The Committee expressed interest in learning more about this drop in filings.

Further analysis of the filings data showed that most of the drop was caused by misdemeanor filings in traffic cases. These filings fell by 76% from 2011-12 to 2017-18 (from 278,133 to 65,597 filings) — almost double the overall 41% decrease in all filings during this time.⁹ Non-traffic misdemeanors filings also fell during this time, but only by 11%. This chart summarizes the drop in misdemeanor filings:

8. All information about criminal filings in this memo is from the Judicial Council’s annual Statewide Caseload Trends. See, e.g., Judicial Council of California, 2019 Court Statistics Report, Statewide Caseload Trends, 2008–09 through 2017–18, 134 (Table 7a).

9. “All filings” include all traffic and non-traffic infractions and misdemeanors, as well as felony filings.

Los Angeles County Misdemeanor Filings



Staff learned of two reasons that may have contributed to this drop in filings. First, one common misdemeanor offense — driving without a license — may have occurred less often because of the passage of AB 60 (Alejo) (2013), which, beginning in 2015, gave people with undocumented immigration status the ability to obtain drivers licenses. This expansion in the availability of drivers licenses may have reduced the number of driving without a license cases.

Next, part of this drop in misdemeanor traffic filings may also be due to a policy instituted by the Los Angeles City Attorney, who handles misdemeanor cases in the incorporated parts of Los Angeles County. This policy directed that some of the most common traffic offenses — including driving without a license¹⁰ and driving on a license suspended for failure to appear in court¹¹ — be filed as infractions, not misdemeanors.¹² The City Attorney had the flexibility to implement this policy because these type of charges are “wobblettes” — meaning they can be filed as either misdemeanors or infractions.¹³ (California also has

10. Vehicle Code § 12500.

11. Vehicle Code § 14601.1. Under Vehicle Code § 13365, the DMV may suspend a license once it receives court notification that someone has failed to appear. See Vehicle Code §§ 40509 & 40509.5 (authority for courts to notify DMV). The failure to appear may also separately be charged as a misdemeanor. Vehicle Code § 40508(a).

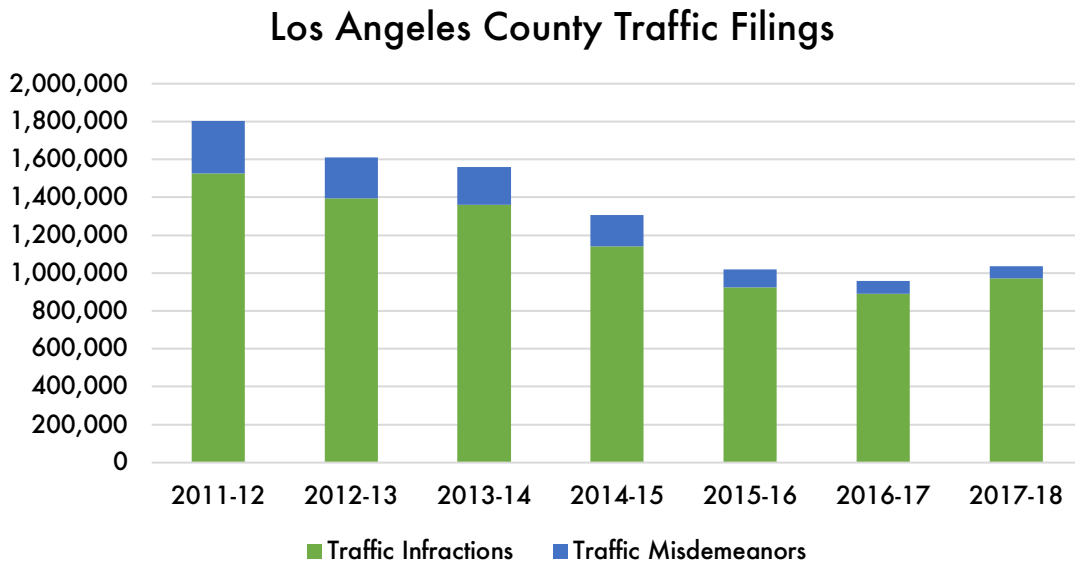
12. Memorandum from M.C. Molidor, Jose Egurbide, and Robert Cha, Re: Update to the Los Angeles City Attorney Filing Guidelines for Direct Citations — Changes Re Vehicle Code Section 14601.1(a), February 22, 2020. The offenses will be filed as misdemeanors if a police officer writes a full report, which is most likely to occur if there has been an accident.

13. Penal Code § 19.8(a) (listing Vehicle Code § 12500 (driving without a license) and Vehicle Code § 14601.1 (driving on suspended license) as “subject to subdivision (d) of Section 17”); Penal Code § 17(d) (allowing the offenses in § 19.8(a) to be filed as infractions). A court may also reduce a misdemeanor wobblette to an infraction with the defendant’s consent. Penal Code § 17(d)(2).

“wobblers,” which are offenses that can be charged as misdemeanors or felonies.)¹⁴ An infraction, unlike a misdemeanor, is “not punishable by imprisonment.”¹⁵

Neither of these offenses are associated with unsafe driving. Other provisions of the Vehicle Code cover suspensions for unsafe driving.¹⁶ The potential impact of change here is large: as of March 2017, 612,000 Californians had a license suspension for failure to appear in court or pay a fine.¹⁷ The latter situation is no longer a permissible basis for suspending a license,¹⁸ but many people likely still have a license suspended for that reason.

Traffic filings are down significantly in Los Angeles County, as is the percentage of traffic filings that are brought as misdemeanor cases. Since 2011–12, the number of traffic filings has dropped by 42% and currently stands at about a million a year. And in the last two years, about 6% of traffic offenses are filed as misdemeanors. This percentage has steadily decreased: in 2011–12, traffic filings were 15% misdemeanors. This graph shows the division between misdemeanor and infraction traffic filings over time:



14. Penal Code § 17(b).

15. Penal Code § 19.6. In addition, “A person charged with an infraction shall not be entitled to a trial by jury. A person charged with an infraction shall not be entitled to have the public defender or other counsel appointed at public expense to represent him or her unless he or she is arrested and not released on his or her written promise to appear, his or her own recognizance, or a deposit of bail.”

16. Vehicle Code §§ 14601 (driving while license is suspended for “reckless driving”); 14601.2 (driving while license suspended because of driving while under the influence); 14601.5 (similar).

17. Sen. Com. On Public Safety, Analysis of Sen. Bill No. 185 (2017–2018 Reg. Sess.) March 20, 2017, p. 5.

18. AB 103 (Committee on Budget) (2017) (amending Vehicle Code § 13365).

But even with these decreases, data from the Los Angeles County Public Defender shows that in 2018 and 2019, there were more than 14,000 charges for driving without a license and more than 24,000 for driving on a license suspended for failure to pay a fine or to appear in court. The data does not indicate which of these were filed as infractions or as misdemeanors.

Another prosecutor has recently pledged to take steps similar to the Los Angeles City Attorney. The Santa Clara County District Attorney recently announced that “thousands” of driving on suspended license for failure to pay fines or failing to appear in court would be filed as infractions, not misdemeanors. As that office explained, “All of our cases in criminal court have a disproportionately high percentage of Latino and African-American defendants. By removing a large number of these cases from criminal court, and moving them instead to traffic court as infractions (like speeding tickets), we reduce the overall number of cases within the criminal justice system, and by so doing have a disproportionately positive impact on communities of color.”¹⁹ (For comparison, Santa Clara County most recently had 140,610 traffic filings, of which 10% were misdemeanors. Los Angeles County had 1,037,072, of which 6% were misdemeanors.)

In addition to the disparate racial impact that these cases may have, there have been serious problems with how the DMV is suspending people’s licenses. A recent appellate decision ruled that the DMV had been suspending licenses for failure to pay a fine or appear in court without receiving the appropriate court paperwork.²⁰ It’s unknown how many people may have had their licenses improperly suspended, but as noted, as of March 2017, 612,000 Californians had a license suspension for failure to pay a fine or appear in court.²¹

Finally, there are likely many people who have a suspended license for failure to pay a court fine. As noted, until recently, the DMV could suspend someone’s license for this reason. This law changed in 2017 and the DMV no longer has the authority to suspend a license for failure to pay a fine.²² But this change in the law was not retroactive, which means many people may have a suspended licenses for failing to pay a fine, a suspension that would not be permissible today.

19. Santa Clara County District Attorney, Bend the Arc Reforms, July 22, 2020, 9 <https://www.sccgov.org/sites/da/newsroom/newsreleases/Documents/2020NRDocs/Bend%20The%20Arc%20Reforms%20Handout_%20Final.pdf>

20. Hernandez v. Department of Motor Vehicles, 49 Cal. App. 5th 298 (2020).

21. Sen. Com. On Public Safety, Analysis of Sen. Bill No. 185 (2017–2018 Reg. Sess.) March 20, 2017, p. 5.

22. AB 103 (Committee on Budget) (2017) (amending Vehicle Code § 13365).

Staff Proposal

The Committee should decide whether to follow the lead of prosecutors in Santa Clara and Los Angeles and recommend that two traffic offenses — driving without a license and driving on a license suspended for failure to pay a fine or appear in court — be reclassified from wobblettes to infractions. Doing so would result in less incarceration because misdemeanor offenses that result in jail time²³ would be reclassified to infractions that could never lead to incarceration.

Reclassification of these offenses makes particular sense as these offenses are not connected to dangerous driving. Reducing these offenses to infractions would have significant impacts on court congestion statewide as thousands of cases would be removed from misdemeanor dockets. Finally, prosecutions for these offenses likely have a disparate impact on poor people and people of color as the license suspensions often arise from being unable to pay fines or failing to appear in court to explain why a fine could not be paid.

Create Presumption in Favor of Probation

Summary Staff Proposal

Create a general presumption in favor of probation for certain offenses.

Current Law

The Penal Code does not currently have any presumptions in favor of probation — only presumptions against probation and situations where probation is never allowed.

Background

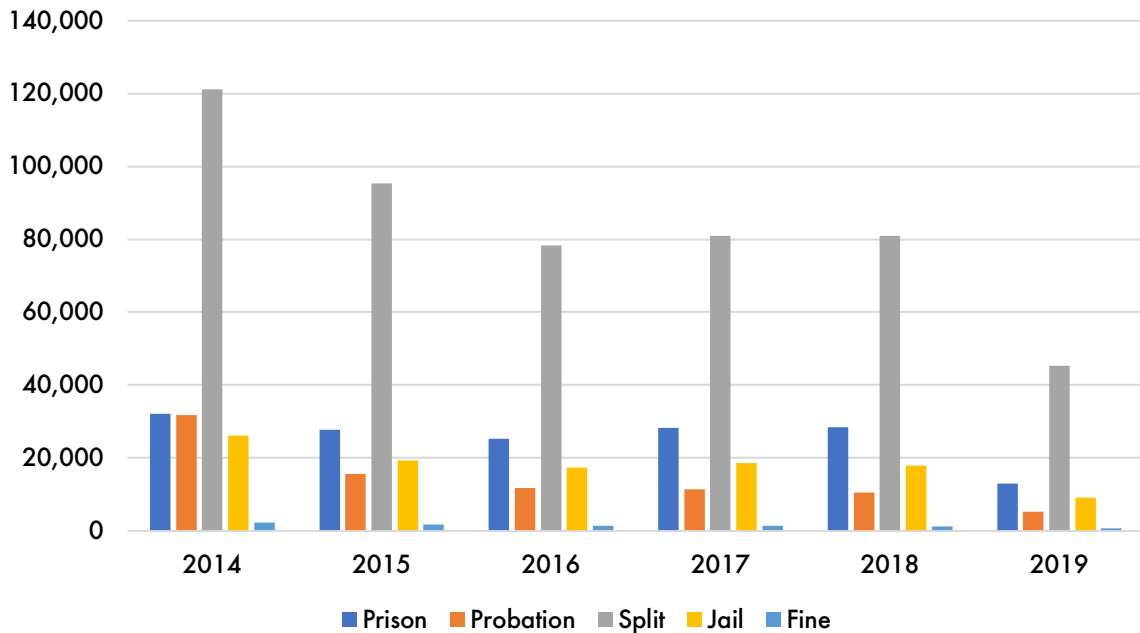
The Committee discussed probation eligibility at its April and July meetings. Straight probation sentences (which can include a period of incarceration as a condition of probation) are received in about 7% of all felony convictions.²⁴ Split sentences — a combination of jail and probation — are the most common type of sentence and account for about 60% of all felony sentences. This graph shows how the use of each sentence type has changed over recent history:²⁵

23. Vehicle Code § 14601.8 (allowing judge to permit “weekend jail” for people convicted under § 14601.1).

24. All disposition information is taken from California Department of Justice, *Crime in California* 2019, July 2020, Table 38A. Note “b” of this table states without further explanation that “In 2019, there was a decrease in the number of final dispositions and sentences for felony adult arrests reported to the California Department of Justice.”

25. The graph does not include death sentences and dispositions labeled as “other.”

California Felony Conviction Dispositions



California law currently addresses probation eligibility in three ways: ineligible, presumptively ineligible, and at the court’s discretion.²⁶ There are no offenses where probation is the presumptive sentence.

Exhibit A to this memo catalogs where probation is presumptively unavailable and where it is forbidden. For example, probation is presumptively unavailable for these offenses:

- burglary of an inhabited dwelling²⁷
- failure to register as a sex offender²⁸
- any felony if defendant has two prior felony convictions²⁹
- some sex offenses³⁰
- some drug offenses³¹

26. See, e.g., Penal Code § 667(c)(2) (probation not available if defendant has prior strike conviction); Penal Code § 1203(e) (partial catalog of where probation is presumptively unavailable); Penal Code §§ 1203(b)(3) (felony probation eligibility), § 1203a (misdemeanors). See also Cal Rules of Ct 4.413 & 4.144 (guidance for imposing probation). There is also one category of offense — non-violent drug possession — where probation is mandatory. Penal Code § 1210.1(a).

27. Penal Code § 462(a).

28. Penal Code § 290.018(e).

29. Penal Code § 1203(e)(4).

30. Penal Code § 1203.065(b); Penal Code § 1203.066(d).

31. Penal Code § 1203.07(a).

In these circumstances, probation should only be granted in “unusual cases where the interests of justice would best be served.”³²

Similarly, some offenses and circumstances are totally ineligible for probation and a mandatory term of incarceration must be imposed. These restrictions are similar to the presumptively-ineligible categories, but the offenses tend to be more serious:

- robbery where great bodily injury has been inflicted³³ or a firearm was used³⁴
- any serious or violent offense committed while the defendant is on probation³⁵ or parole³⁶
- any felony offense committed by someone who has a prior strike conviction³⁷
- other drug offenses — even though these offenses would require a county jail not state prison sentence³⁸

Staff Proposal

The current probation-eligibility structure could be modified by creating a presumption that — unless probation eligibility is otherwise addressed by the Penal Code — probation is the appropriate sentence for most offenses.

Some parts of the Penal Code are already structured in this way. For example, the mental health diversion law applies to all offenses — except for those it specifically excludes.³⁹ A presumption for probation could take a similar inclusive approach.

Other states have similar structures, though many limit the presumption of probation to certain offenses or classes of offenses.⁴⁰ If the Committee concludes that a general presumption for probation is not appropriate, the Committee could recommend an approach similar to those of other states and place the cut-off

32. Penal Code § 1203(e).

33. Penal Code § 1203.06(a)(1)(B).

34. Penal Code § 1203.075(a)(2)

35. Penal Code § 1203(k).

36. Penal Code § 1203.085(b).

37. Penal Code § 667(c)(2).

38. For example, compare Health & Safety Code § 11351 (possession for sale offense; allowing jail sentence in all circumstances) with Penal Code § 1203.07(a)(1) (forbidding probation sentence for same offense if involving heroin in excess of 14.25 grams). Once the weight is above 1 kilogram, drug-weight enhancements apply, beginning at 3 years. Health & Safety Code § 11370.4(a)(1).

39. Penal Code § 1001.36(a), (b)(2).

40. See Pew Charitable Trusts, *35 States Reform Criminal Justice Policies Through Justice Reinvestment*, July 2018 (since 2011, 9 states have created some form of presumptive probation); Alison Lawrence, *Making Sense of Sentencing: State Systems and Policies*, National Conference of State Legislatures, June 2015, 7 (describing presumptive probation systems in four states).

somewhere on the below catalog of California offenses, which is ordered from least to most serious:

- Misdemeanor offenses
- Wobbler offenses — offenses that can be charged as either a felony or misdemeanor.⁴¹ This category includes criminal threats⁴² and theft over \$950.⁴³
- Penal Code 1170(h) offenses — non-serious, non-violent, non-sex felony offenses that allow incarceration in county jail. This would include drug sales⁴⁴ and commercial burglary.⁴⁵
- Non-strike offenses — this would include the 1170(h) offenses and other offenses that are not serious or violent, such as possession of drugs and a gun.⁴⁶
- Non-violent offenses — this would include serious offenses, such as any felony that has a gang enhancement.⁴⁷
- All offenses, including violent offenses, such as robbery.

Implementing such a structure would encode directly in California law that incarceration should be the last resort. Incarceration would always be an option for a sentencing court if the presumption is overcome. This presumption would shift the burden from the defendant to show why probation was appropriate to the prosecutor, who would need to show why incarceration was appropriate.

What standard should be used to overcome the presumption? A possible model exists in South Dakota. That state allows a presumption in favor of probation to be overcome if “aggravating circumstances exist that pose a significant risk to the public and require a departure from presumptive probation under this section.”⁴⁸

If the law were changed to create a presumption of probation in some cases, the law should probably not permit incarceration to be included as a condition of probation. The point would be to identify situations where probation alone would be sufficient to protect public safety.

41. Penal Code § 17(b).

42. Penal Code § 422. Note that criminal threats, if charged as a felony, becomes a serious offense — and therefore a strike. Penal Code § 11927(c)(38).

43. Penal Code § 489(c)(1).

44. Health & Safety Code §§ 11351, 11352.

45. Penal Code §§ 459, 460(b), 461(2).

46. Health & Safety Code § 11370.1

47. Penal Code § 11927(c) (serious offenses).

48. SDCL 22-6-11.

In addition to continuing research into a general presumption, staff will continue exploring whether adjusting the offenses that are presumptively or totally ineligible for probation may be appropriate. For example, the drug offenses that are presumptively or totally ineligible for probation are county jail offenses. But there are other more serious offenses that are eligible for probation and require a state prison term if probation is not imposed. These disparities may be fruitful starting places for adjusting these lists, as are the inclusion of common offenses that can be committed in a wide variety of circumstances, such as burglary of an inhabited dwelling.

Finally, the Committee also expressed interest in learning more about the conditions of probation, including how they are imposed and monitored in practice. Staff will continue to research this topic.⁴⁹

Equalize Credit Schemes Between Jail and Prison

Summary Staff Proposal

Equalize credits between jail and prison. The current system treats similarly-situated people differently based on where they are confined.

Current law

Current law provides for “good conduct credits,” which allow someone to reduce the length of their incarceration if they follow the rules in jail or prison. Current law also creates “earned credit” opportunities where completion of specific programming, such as obtaining a GED, results in an additional reduction in incarceration. Both of these types of credit differ based on whether someone is confined in jail or prison.

Background

Issues around credits — which can reduce the amount of actual time someone is incarcerated — arose when the Committee discussed short sentences at its July 2020 meeting. The credit rules in jail and prison differ in key respects, and people who are otherwise the same are treated differently solely because of where they are incarcerated. Some people may prefer to be in prison while others prefer to be in jail purely because of the type of credits they may earn in each setting. It does

49. See generally Fiona Doherty, “Obey All Laws and Be Good”: Probation and the Meaning of Recidivism, 104 Georgetown Law Review 291 (2016) (surveying and analyzing probation conditions).

not make sense to create such incentives, which could have problematic effects on the administration of jails and prisons.

Minimizing differences in credit-earning schemes between jail and prison would seem to have a number of benefits:

- Create equity between similarly-situated people.
- Reduce incarceration for people serving short sentences.
- Eliminate irrational incentives to prolong or shorten the time spent in jail, which could have problematic side effects.

To understand this issue, consider three common scenarios:⁵⁰

1. Non-violent jail offense with a prior strike.

- Current conviction: drug sale
- Past conviction: robbery. Because of this prior strike, the sentence must be served in prison.
- Credit-earning details
 - Jail: 2 days credit for every day served.⁵¹
 - Prison: 1.5 days credit for every day served.⁵²
- Result: This person has a strong incentive to stay in county jail as long as possible by delaying their case.

2. Non-violent prison offense with no prior strikes.

- Current conviction: possession of drugs and gun. This sentence, even though not for a violent or serious offense, must be served in state prison because it has not been specifically realigned to county jail.
- Past conviction: no strikes
- Credit-earning details
 - Jail: 2 days credit for every day served.⁵³
 - Prison: up to 3 days credit for every day served.⁵⁴
- Result: This person is incentivized to get to CDCR as quickly as possible — where they may also be eligible for earned-credits like Milestones and Education Merit Credits, which are more limited in county jail.⁵⁵

50. These scenarios do not consider the effect of parole release under Proposition 57, which may further reduce the amount of incarceration someone may serve in prison. See Cal. Const., art. I, § 32(a)(1).

51. Penal Code § 4019.

52. 15 CCR § 3043.2(b)(3).

53. Penal Code § 4019.

54. 15 CCR § 3043.2(b)(5)(A) (credit available for people with no prior strikes, serving sentence for non-violent offense, and “assigned to Minimum A Custody or Minimum B Custody”).

55. CDCR provides for a variety of earned credit opportunities which can authorize more than three months off a sentence in a year. See 15 CCR § 3043.3–3043.6. Similar earned-credit opportunities in jail are limited to a reduction of six weeks in a year and seem to be little used in practice. Penal Code § 4019.4(a)(2).

3. Non-violent jail offense with no prior strikes.

- Current conviction: drug sale. This sentence must be served in jail.
- Past conviction: no strikes
- Credit-earning details
 - Jail: 2 days credit for every day served.⁵⁶
 - Prison: Unavailable. But if they were at CDCR, they could earn up to 3 days credit for every day served.⁵⁷
- Result: This person is stuck with the jail credit-earning rules. But they would earn more credit if the prison credit-earning rules, including more generous earned credit opportunities, applied.

Staff Proposal

The Committee could recommend that the credit-earning scheme be equalized in jail and prison, with the faster credit-earning rules controlling.

Jail credit-earning is currently set by the Penal Code, but CDCR sets prison credit-earning via regulation under the constitutional authority granted to them by Proposition 57.⁵⁸ However, there have been recent legislative efforts to direct how CDCR exercises its authority over credit-earning.⁵⁹ If the Committee pursues this recommendation, staff will conduct further research and consultation on how this recommendation could best be presented.

In addition to equalizing credit-earning in these two contexts, the Committee could recommend that credit-earning in both settings be expanded. This may be part of a solution to addressing the volume of short CDCR sentences.

CONCLUSION

The topics and staff proposals in this memo run the gamut from traffic infractions to credits for people serving prison time. They all share the goal of increasing public safety while reducing incarceration and improving equitable outcomes for large swathes of California's criminal legal system.

Respectfully submitted,

Thomas M. Nosewicz
Senior Staff Counsel

56. Penal Code § 4019.

57. 15 CCR § 3043.2(b)(5)(A).

58. Cal. Const., art. I, §32(a)(2) & (b).

59. AB 965 (Stone) (2019) (creating Penal Code § 3051(j) ("The Secretary of the Department of Corrections and Rehabilitation may authorize persons described in [this law] to obtain an earlier youth parole eligible date by adopting regulations pursuant to subdivision (b) of Section 32 of Article 1 of the California Constitution.")).

Exhibit A
Probation Eligibility Catalog

Probation Eligibility Catalog

This material is excerpted from CJER Felony Sentencing Handbook (2020).

Note: All citations are to the Penal Code, unless otherwise noted.

I. Eligible Only in Unusual Case

A. Serious Nature of Present Offense

1. Sex Offenses

- | | |
|-------------|--|
| 1203.065(b) | Pen C § 220 violation of assault with intent to commit one of specified sex offenses, violation of Pen C § 261(a)(7), § 286(k), § 287(k), or § 289(g) |
| 1203.066(d) | Certain Pen C § 288 (lewd or lascivious act w/ a child) or § 288.5 (continuous sexual abuse of child) violations when specified mitigating circumstances are present |

2. Drug Offenses

- | | |
|----------------|--|
| 1203(e)(8) | Knowingly furnishing or giving away PCP |
| 1203.073(b)(1) | Possession for sale or sale of specified amounts of cocaine or cocaine base in violation of Health & S C § 11351, § 11351.5, or § 11352 |
| 1203.073(b)(2) | Possession for sale or sale of specified amounts of methamphetamine in violation of Health & S C § 11378, or § 11379 |
| 1203.073(b)(3) | Manufacturing controlled substance (except PCP) in violation of Health & S C § 11379.6 |
| 1203.073(b)(4) | Employing minor to manufacture or sell heroin, cocaine, cocaine base, or methamphetamine in violation of Health & S C § 11353 or § 11380 |
| 1203.074 | Violation of Health & S C § 11366.6 (use of location specifically designed to suppress police entry in order to manufacture, sell, or possess for sale heroin, cocaine, cocaine base, PCP, amphetamine, methamphetamine, or LSD) |

3. Burglary Offenses

- | | |
|----------|--|
| 462(a) | Burglary of an inhabited dwelling, building, trailer coach, or floating home (first degree burglary) |
| 462.5(a) | Felony custodial institution burglary |

4. Arson Offenses

- 454(c) Unlawful burning within area of insurrection or emergency
- 1203(e)(9) Violation of Pen C § 451(a) (arson that causes great bodily injury), or § 451(b) (arson of inhabited structure or property)

5. Escape Offenses

- 4532(c) Specified felony escape from secure main jail facility

6. Offenses by Public Officials

- 1203(e)(7) Bribery, embezzlement, or extortion by public official or peace officer in discharge of duties

7. Weapon Offenses

- 1203(e)(11) Possession of a short-barreled rifle or shotgun under Pen C § 33215, a machinegun under Pen C § 32625, or a silencer under Pen C § 33410

8. Solicitation of a Minor

- 1203.046(a) Solicitation of a minor to commit certain felonies in violation of Pen C § 653j

9. Failure To Register as Sex Offender

- 290.018(e) Felony violation of registration provisions under Pen C § 290.018(b) and (d)

10. Unlawful Transfer of Firearm or Deadly Weapon

- 1203(e)(12) Knowing gift or sale of deadly weapon or firearm to mental patient in violation of Welf & I C § 8101
- 1203(e)(13) Unlawful firearm transaction specified in Pen C § 27590(b) or (c)

B. Aggravated Nature of Present Offense

1. Armed With Deadly Weapon

- 1203(e)(1) Armed w/a deadly weapon, other than a firearm, at the time of commission or arrest, when convicted of specified felonies

2. Deadly Weapon Use

1203(e)(2) Used or attempted to use deadly weapon on a person in any offense

3. Great Bodily Injury

1203(e)(3) Willfully inflicted great bodily injury or torture in any offense

1203(e)(10) Inflicted great bodily injury or death by discharging a firearm from or at a vehicle

4. Excessive Theft

115(c)(2) Conviction in one proceeding of more than one violation of Pen C § 115, attempt to record false or forged instrument, with intent to defraud, when violations resulted in cumulative financial loss exceeding \$100,000

1203.045(a) Theft exceeding \$100,000

1203.048(a) Computer-related crimes (Pen C § § 502, 502.1(b)) w/ taking or damage exceeding \$100,000

1203.049(a) Fraudulent appropriation or unauthorized use, transfer, sale, or purchase of CalFresh benefits committed by means of electronic transfer in violation of Welf & I C § 10980(f) or (g) and amount exceeds \$100,000

5. Elderly Victim

1203.09(f) Assault w/ a deadly weapon, battery that results in physical injury requiring professional medical treatment, robbery, carjacking, or mayhem committed against a victim 60 years of age or older

C. Prior Convictions

115(c)(1) Prior conviction of Pen C § 115, attempt to record false or forged instrument, w/ present conviction of that section in a separate proceeding

1203(e)(4) Two prior felony convictions

1203(e)(5) One prior felony conviction and present conviction of one of specified felonies

1203(e)(6) One prior felony conviction involving deadly weapon use or arming or infliction of great bodily injury

1203.073(b)(5) Prior and present conviction of certain offenses involving methamphetamine

II. Mandatory Jail Term as Condition of Probation Except in Unusual Case

186.22(c)	Participation in criminal street gang activity
186.22(d)	Wobbler committed at direction of or in association w/a criminal street gang
208(c)	Kidnapping
209(c)	Kidnapping for ransom or extortion or to commit robbery or sex crime
209.5(c)	Kidnapping during commission of carjacking
463	Looting
626.9(g)	Possession of firearm on or within 1,000 feet of school grounds with prior conviction of any felony, any crime made punishable by any provision listed in Pen C § 16580, or of any misdemeanor offense specified in Pen C § 23515
626.9(g)	Discharging or attempted discharge of firearm w/reckless disregard of safety of others on or within 1,000 feet of school grounds with prior conviction of any felony, any crime made punishable by any provision listed in Pen C § 16580, or of any misdemeanor offense specified in Pen C § 23515
1203.055(a)	Specified crimes against public transit vehicle or occupant
1203.095	Specified firearm offenses
25400(d)	Possession of a concealed firearm with prior conviction of any felony, any crime made punishable by any provision listed in Pen C § 16580, or any misdemeanor offense specified in Pen C § 23515
25850(d)	Carrying loaded firearm with prior conviction of any offense specified in Pen C § 23515 or any crime made punishable by any provision listed in Pen C § 16580
29900(a)	Possession of a firearm with prior conviction of one of specified felonies

III. Not Eligible

A. Serious Nature of Present Offense

1. Arson Offenses

1203.06(a)(3) Conviction of Pen C § 451.5 (aggravated arson)

2. Sex Offenses

667.61(h) Conviction of specified serious sex offenses committed under designated aggravated circumstances

1203.065(a) Conviction of specified serious sex offenses

1203.066(a)(1) Violation of Pen C § 288 (lewd act w/ child) or § 288.5 (continuous sexual abuse of child) by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury

1203.066(a)(6) Violation of Pen C § 207, § 209, or § 209.5 (kidnapping) for the purpose of committing a violation of Pen C § 288 or § 288.5

3. Drug Offenses

1203.07(a) Specified Health and Safety Code violations involving heroin, PCP, or other specified

4. Destructive Device Offenses

12311 Any violation of Pen C §§ 12303-12312

B. Aggravated Nature of Present Offense

1. Firearm Use

1203.06(a)(1) Personal use of a firearm in committing or attempting one of specified felonies

12022.53(g) Personal use or discharge of firearm in committing or attempting one of specified felonies

2. Great Bodily Injury

1203.075(a) Personal infliction of great bodily injury in committing or attempting one of specified felonies

3. Minor Victim

- 1203.066(a)(2)-(4) Violation of Pen C § 288 or § 288.5 when bodily injury caused, weapon used, or stranger befriended child victim for purposes of committing the offense
- 1203.066(a)(7)-(9) Violation of Pen C § 288 or § 288.5 involving more than one victim, a victim under 14 years of age, or the use of obscene matter or matter depicting sexual conduct, and specified mitigating circumstances are not present
- Health & S C § 11370(b) Violations involving specified controlled substance or narcotics when an adult involves a minor

4. Elderly or Disabled Victim

- 1203.09(a) Infliction of great bodily injury on elderly or disabled victim while committing or attempting one of specified felonies

5. Offense Committed While on Parole

- 1203.085(a) Conviction of any non-wobbler felony committed while on parole for a Pen C § 667.5(c) violent felony or a Pen C § 1192.7(c) serious felony
- 1203.085(b) Conviction of a Pen C § 667.5(c) violent felony or a Pen C § 1192.7(c) serious felony committed while on parole for any felony

6. Offense Committed While on Probation

- 1203(k) Conviction of Pen C § 667.5(c) violent felony or Pen C § 1192.7(c) serious felony while on probation for a felony offense

C. Prior Convictions

- 550(d) Two or more prior felony convictions of preparing/presenting false/fraudulent insurance claim and present felony conviction of same
- 667(c), 1170.12(a) Prior conviction of felony offense ("strike") defined in Pen C § 667(d) or § 1170.12(b) and present conviction of any felony
- 1203.055(c) Prior and present conviction of one of specified felonies committed against public transit vehicles or occupants
- 1203.06(a)(2) Prior conviction of one of specified felonies and personally armed w/a firearm at the time of commission or arrest, in any subsequent felony
- 1203.066(a)(5) Prior conviction of one of specified sex offenses and present conviction of Pen C § 288 or § 288.5

1203.07(a)(3)	Prior conviction of violating Health & S C § 11351 or § 11352 and present conviction of violating Health & S C § 11351 or § 11352 involving heroin
1203.08	Present conviction of one of "designated" felonies with prior conviction under charges separately brought and tried two or more times of any "designated" felony
Health & S C § 11370(a)	Prior conviction of one of specified Health and Safety Code provisions involving controlled substance and present conviction of an offense involving one of specified controlled substances

**Juvenile Justice Realignment
Attachment Three**

Memo: [SB 823 Juvenile Justice Realignment: Office of Youth and Community
Restoration](#)



November 3, 2020

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To: Administration of Justice Policy Committee

From: Josh Gauger, CSAC Legislative Representative
Stanicia Boatner, CSAC Legislative Analyst

Re: Juvenile Justice Realignment

Background. Chapter 337, Statutes of 2020 (SB 823) “realigns” the remaining state juvenile justice population to counties. Among other provisions, SB 823 includes the following components:

- Closes state intake July 1, 2021.
- Provides counties with \$225,000 per youth at the statewide level with a statutory formula for the distribution of those funds.
- To be eligible for funding, each county will be required to establish a subcommittee of the juvenile justice coordinating council that is charged with developing the county’s realignment plan.
- Provides \$9.6 million in one-time facilities and planning grant funding to be awarded by the Board of State and Community Corrections in 2020-21.
- Establishes the age of jurisdiction at age 23 for youth adjudicated of specified offenses and age 25 for youth adjudicated of offenses that would result in an aggregate sentence of 7 or more years in adult court.
- Legislation notes intent to create a separate jurisdictional tract for “higher need youth” by March 2021.
- Establishes a new state-level Office of Youth and Community Restoration to identify best practices, administer juvenile grant funding, and house an ombudsman for youth in the juvenile justice system.

Given that the AOJ Policy Platform has long included language calling for the state to maintain a juvenile justice system for the most complex youth cases, CSAC and other affiliate organizations opposed this realignment (letters attached). However, CSAC advocated for many important improvements to the original proposal that are included in the final bill, including: increasing funding by \$100,000 per youth, creating a statutory appropriation, delaying implementation by six months, and a requirement that the state resume responsibility for this population if it fails to continue providing annual funding.

Implementation: Despite SB 823 including components that CSAC and county affiliates opposed, counties will now need to shift focus to implementation. Largely, counties will rely on the expertise and proven success of probation departments to lead implementation efforts at the local level. The Chief Probation Officers of California has been coordinating with probation departments across the state and can share important insights with county supervisors on the status of implementation efforts and local needs.

Please contact Josh Gauger (jgauger@counties.org) or Stanicia Boatner (sboatner@counties.org) if you have any questions about this item.

**Juvenile Justice Realignment
Attachment Four**

[SB 823 Juvenile Justice Realignment: Office of Youth and Community Restoration](#)

Senate Bill No. 823

CHAPTER 337

An act to amend, repeal, and add Section 12803 of, to repeal Article 1 (commencing with Section 12820) of Chapter 1 of Part 2.5 of Division 3 of Title 2 of, and to repeal and add Sections 12838 and 12838.1 of, the Government Code, to add Section 13015 to, to repeal Section 830.5 of, and to repeal and add Sections 830.5 and 2816 to, the Penal Code, and to amend Sections 207.1, 207.2, 209, 210.2, 707.1, and 912 of, to add Sections 733.1, 736.5, and 1955.2 to, to amend and repeal Section 731 of, to amend, repeal, and add Sections 607 and 730 of, to add Section 736.5 to, to add Chapter 1.7 (commencing with Section 1990) to Division 2.5 of, to add Chapter 4 (commencing with Section 2200) to, to add Chapter 6 (commencing with Section 2260) to Division 2.5 of, to add and repeal Chapter 5 (commencing with Section 2250) of Division 2.5 of, to repeal Sections 207.6, 2201, and 2202 of, and to repeal and add Sections 208.5, 1703, 1710, 1711, 1712, 1714, 1731.5, 1752.2, and 1762 of, the Welfare and Institutions Code, relating to juveniles, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor September 30, 2020. Filed with
Secretary of State September 30, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

SB 823, Committee on Budget and Fiscal Review. Juvenile justice realignment: Office of Youth and Community Restoration.

(1) Existing law establishes the Division of Juvenile Justice within the Department of Corrections and Rehabilitation to operate facilities to house specified juvenile offenders. Existing law, commencing July 1, 2020, establishes the Department of Youth and Community Restoration in the California Health and Human Services Agency and vests the Department of Youth and Community Restoration with all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of the Division of Juvenile Justice. An existing executive order delays the deadline for transferring the Division of Juvenile Justice to the Department of Youth and Community Restoration from July 1, 2020, to July 1, 2021, inclusive.

This bill would repeal the provisions that would have created the Department of Youth and Community Restoration and the provisions that would have transferred the responsibilities of the Division of Juvenile Justice to that department. Among other things, the bill would, commencing July 1, 2021, prohibit further commitment of wards to the Division of Juvenile Justice, except as specified, and would require that all wards committed to the division prior to that date remain within the custody of the division until the ward is discharged, released, or transferred. The bill would declare the

intent of the Legislature to close the Division of Juvenile Justice through the shifting of this responsibility, as specified. The bill would, commencing July 1, 2021, establish the Office of Youth and Community Restoration in the California Health and Human Services Agency to administer these provisions and for other specified purposes to support this transition.

The bill would establish a Juvenile Justice Realignment Block Grant program to provide county-based custody, care, and supervision of youth who are realigned from the Division of Juvenile Justice or who would have otherwise been eligible for commitment to the division. The bill would appropriate moneys from the General Fund in specified amounts for these purposes, as specified. The bill would specify how those funds would be allocated to counties based on specified criteria.

By changing county responsibilities with respect to juvenile offenders, this bill would impose a state-mandated local program.

(2) Under existing law, the jurisdiction of the juvenile court may continue until a ward attains 25 years of age, if the ward committed specified offenses.

This bill would reduce that age to 23 years, unless the ward would, in criminal court, have faced an aggregate sentence of 7 years or more, in which case the juvenile court's jurisdiction would continue until the ward attains 25 years of age.

(3) Existing law authorizes a 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. Existing law requires, except as specified, a minor declared not a fit and proper subject to be dealt with under the juvenile court law, if detained, to remain in the juvenile hall pending final disposition by the criminal court or until the minor attains 18 years of age, whichever occurs first.

Existing law authorizes the detention of minors in jails or other security facilities for the confinement of adults only under specified conditions, including under circumstances upon which a minor is found not a fit and proper subject to be dealt with under the juvenile court law, their case is transferred to a court of criminal jurisdiction, and it is found that, among other things, the minor's further detention in the juvenile hall would endanger the safety of the public or other minors in the juvenile hall.

This bill would revise and recast those provisions and repeal specified provisions that authorize the detention of minors in an adult facility. The bill would instead require any person whose case originated in juvenile court to remain in a county juvenile facility until they turn 25 years of age, except as specified. The bill would make technical and conforming changes to related provisions.

By requiring local entities to retain custody of those persons in county juvenile facilities, this bill would impose a state-mandated local program.

(4) Existing law requires the Department of Justice to collect certain criminal justice data from specified persons and agencies and to present an

annual report to the Governor containing the criminal statistics of the preceding calendar year. Existing law allows the department to serve as a statistical and research agency to the Department of Corrections and Rehabilitation and the Division of Juvenile Justice.

This bill would require the Department of Justice to submit a plan for the replacement of the Juvenile Court and Probation Statistical System with a modern database and reporting system. The bill would require the department to convene a working group consisting of key stakeholders, as provided, for this purpose.

(5) The bill would also appropriate moneys from the General Fund to the Youth Programs and Facilities Grant Program, to be administered by the Board of State and Community Corrections, to award one-time grants, to counties for the purpose of providing resources for infrastructure related needs and improvements to assist counties in the development of a local continuum of care.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(7) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. (a) Evidence has demonstrated that justice system-involved youth are more successful when they remain connected to their families and communities. Justice system-involved youth who remain in their communities have lower recidivism rates and are more prepared for their transition back into the community.

(b) To ensure that justice-involved youth are closer to their families and communities and receive age-appropriate treatment, it is necessary to close the Division of Juvenile Justice and move the jurisdiction of these youth to local county jurisdiction.

(c) Counties will receive funding to meet the needs of youth by providing and implementing public health approaches to support positive youth development, building the capacity of a continuum of community based approaches, and reducing crime by youth.

(d) It is the intent of the Legislature and the administration that the youth firecamp at Pine Grove, whether through a state-local partnership, or other management arrangement, remain open and functioning to train justice-involved youth in wildland firefighting skills, and to retain the camp

as a training resource for youth in California and create pipelines from Pine Grove to gainful employment.

(e) It is the intent of the Legislature and the administration for counties to use evidence-based and promising practices and programs that improve the outcomes of youth and public safety, reduce the transfer of youth into the adult criminal justice system, ensure that dispositions are in the least restrictive appropriate environment, reduce and then eliminate racial and ethnic disparities, and reduce the use of confinement in the juvenile justice system by utilizing community-based responses and interventions.

(f) It is the intent of the Legislature to end the practice of placing youth in custodial or confinement facilities that are operated by private entities whose primary business is the custodial confinement of adults or youth in a secure setting. It is further the intent of the Legislature to end placements of justice system-involved youth in out of state facilities that do not appropriately address the programming, service, safety, and other needs of placed youth once appropriate and sufficient capacity within California is achieved.

SEC. 2. Section 12803 of the Government Code, as amended by Section 1 of Chapter 38 of the Statutes of 2019, is amended to read:

12803. (a) The California Health and Human Services Agency consists of the following departments: Aging; Community Services and Development; Developmental Services; Health Care Services; Managed Health Care; Public Health; Rehabilitation; Social Services; and State Hospitals.

(b) The agency also includes the Emergency Medical Services Authority, the Office of Health Information Integrity, the Office of Patient Advocate, the Office of Statewide Health Planning and Development, the Office of Systems Integration, the Office of Law Enforcement Support, the Office of the Surgeon General, and the State Council on Developmental Disabilities.

(c) The Department of Child Support Services is hereby created within the agency and is the single organizational unit designated as the state's Title IV-D agency with the responsibility for administering the state plan and providing services relating to the establishment of paternity or the establishment, modification, or enforcement of child support obligations as required by Section 654 of Title 42 of the United States Code. State plan functions shall be performed by other agencies as required by law, by delegation of the department, or by cooperative agreements.

(d) This section shall become inoperative on July 1, 2021, and, as of January 1, 2022, is repealed.

SEC. 3. Section 12803 of the Government Code, as added by Section 2 of Chapter 38 of the Statutes of 2019, is repealed.

SEC. 4. Section 12803 is added to the Government Code, to read:

12803. (a) The California Health and Human Services Agency consists of the following departments: Aging; Community Services and Development; Developmental Services; Health Care Services; Managed Health Care; Public Health; Rehabilitation; Social Services; and State Hospitals.

(b) The agency also includes the Emergency Medical Services Authority, the Office of Health Information Integrity, the Office of Patient Advocate,

the Office of Statewide Health Planning and Development, the Office of Systems Integration, the Office of Law Enforcement Support, the Office of the Surgeon General, the Office of Youth and Community Restoration, and the State Council on Developmental Disabilities.

(c) The Department of Child Support Services is hereby created within the agency and is the single organizational unit designated as the state's Title IV-D agency with the responsibility for administering the state plan and providing services relating to the establishment of paternity or the establishment, modification, or enforcement of child support obligations as required by Section 654 of Title 42 of the United States Code. State plan functions shall be performed by other agencies as required by law, by delegation of the department, or by cooperative agreements.

(d) This section shall become operative on July 1, 2021.

SEC. 5. Article 1 (commencing with Section 12820) of Chapter 1 of Part 2.5 of Division 3 of Title 2 of the Government Code is repealed.

SEC. 6. Section 12838 of the Government Code, as added by Section 22 of Chapter 25 of the Statutes of 2019, is repealed.

SEC. 7. Section 12838 is added to the Government Code, to read:

12838. (a) There is hereby created in state government the Department of Corrections and Rehabilitation, to be headed by a secretary, who shall be appointed by the Governor, subject to Senate confirmation, and shall serve at the pleasure of the Governor. The Department of Corrections and Rehabilitation shall consist of Adult Operations, Adult Programs, Health Care Services, Juvenile Justice, the Board of Parole Hearings, the Board of Juvenile Hearings, the State Commission on Juvenile Justice, the Prison Industry Authority, and the Prison Industry Board.

(b) The Governor, upon recommendation of the secretary, may appoint three undersecretaries of the Department of Corrections and Rehabilitation, subject to Senate confirmation. The undersecretaries shall hold office at the pleasure of the Governor. One undersecretary shall oversee administration, one undersecretary shall oversee health care services, and one undersecretary shall oversee operations for the department.

(c) The Governor, upon recommendation of the secretary, shall appoint a Chief for the Office of Victim Services, and a Chief for the Office of Correctional Safety, both of whom shall serve at the pleasure of the Governor.

SEC. 8. Section 12838.1 of the Government Code, as added by Section 24 of Chapter 25 of the Statutes of 2019, is repealed.

SEC. 9. Section 12838.1 is added to the Government Code, to read:

12838.1. (a) There is hereby created within the Department of Corrections and Rehabilitation, under the Undersecretary for Administration, the following divisions:

(1) The Division of Enterprise Information Services, the Division of Facility Planning, Construction, and Management, and the Division of Administrative Services. Each division shall be headed by a director, who shall be appointed by the Governor, upon recommendation of the secretary,

subject to Senate confirmation, who shall serve at the pleasure of the Governor.

(2) The Division of Correctional Policy Research and Internal Oversight. This division shall be headed by a director, who shall be appointed by the Governor, upon recommendation of the secretary, who shall serve at the pleasure of the Governor.

(b) There is hereby created in the Department of Corrections and Rehabilitation, under the Undersecretary for Health Care Services, the Division of Health Care Operations and the Division of Health Care Policy and Administration. Each division shall be headed by a director, who shall be appointed by the Governor, upon recommendation of the secretary, subject to Senate confirmation, who shall serve at the pleasure of the Governor.

(c) There is hereby created within the Department of Corrections and Rehabilitation, under the Undersecretary for Operations, the Division of Adult Institutions, the Division of Adult Parole Operations, the Division of Juvenile Justice, and the Division of Rehabilitative Programs. Each division shall be headed by a director, who shall be appointed by the Governor, upon recommendation of the secretary, subject to Senate confirmation, who shall serve at the pleasure of the Governor.

(d) The Governor shall, upon recommendation of the secretary, appoint four subordinate officers to the Division of Adult Institutions, subject to Senate confirmation, who shall serve at the pleasure of the Governor. Each subordinate officer appointed pursuant to this subdivision shall oversee an identified category of adult institutions, one of which shall be female offender facilities.

(e) (1) Unless the context clearly requires otherwise, whenever the term “Chief Deputy Secretary for Adult Operations” appears in any statute, regulation, or contract, it shall be construed to refer to the Director of the Division of Adult Institutions.

(2) Unless the context clearly requires otherwise, whenever the term “Chief Deputy Secretary for Adult Programs” appears in any statute, regulation, or contract, it shall be construed to refer to the Director of the Division of Rehabilitative Programs.

(3) Unless the context clearly requires otherwise, whenever the term “Chief Deputy Secretary for Juvenile Justice” appears in any statute, regulation, or contract, it shall be construed to refer to the Director of the Division of Juvenile Justice.

SEC. 10. Section 830.5 of the Penal Code, as added by Section 31 of Chapter 25 of the Statutes of 2019, is repealed.

SEC. 11. Section 830.5 is added to the Penal Code, to read:

830.5. The following persons are peace officers whose authority extends to any place in the state while engaged in the performance of the duties of their respective employment and for the purpose of carrying out the primary function of their employment or as required under Sections 8597, 8598, and 8617 of the Government Code. Except as specified in this section, these

peace officers may carry firearms only if authorized and under those terms and conditions specified by their employing agency:

(a) A parole officer of the Department of Corrections and Rehabilitation, or the Department of Corrections and Rehabilitation, Division of Juvenile Parole Operations, probation officer, deputy probation officer, or a board coordinating parole agent employed by the Juvenile Parole Board. Except as otherwise provided in this subdivision, the authority of these parole or probation officers shall extend only as follows:

(1) To conditions of parole, probation, mandatory supervision, or postrelease community supervision by any person in this state on parole, probation, mandatory supervision, or postrelease community supervision.

(2) To the escape of any inmate or ward from a state or local institution.

(3) To the transportation of persons on parole, probation, mandatory supervision, or postrelease community supervision.

(4) To violations of any penal provisions of law which are discovered while performing the usual or authorized duties of the officer's employment.

(5) (A) To the rendering of mutual aid to any other law enforcement agency.

(B) For the purposes of this subdivision, "parole agent" shall have the same meaning as parole officer of the Department of Corrections and Rehabilitation or of the Department of Corrections and Rehabilitation, Division of Juvenile Justice.

(C) Any parole officer of the Department of Corrections and Rehabilitation, or the Department of Corrections and Rehabilitation, Division of Juvenile Parole Operations, is authorized to carry firearms, but only as determined by the director on a case-by-case or unit-by-unit basis and only under those terms and conditions specified by the director or chairperson. The Department of Corrections and Rehabilitation, Division of Juvenile Justice, shall develop a policy for arming peace officers of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, who comprise "high-risk transportation details" or "high-risk escape details" no later than June 30, 1995. This policy shall be implemented no later than December 31, 1995.

(D) The Department of Corrections and Rehabilitation, Division of Juvenile Justice, shall train and arm those peace officers who comprise tactical teams at each facility for use during "high-risk escape details."

(b) A correctional officer employed by the Department of Corrections and Rehabilitation, or of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, having custody of wards or any employee of the Department of Corrections and Rehabilitation designated by the secretary or any correctional counselor series employee of the Department of Corrections and Rehabilitation or any medical technical assistant series employee designated by the secretary or designated by the secretary and employed by the State Department of State Hospitals or any employee of the Board of Parole Hearings designated by the secretary or employee of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, designated by the secretary or any superintendent, supervisor, or

employee having custodial responsibilities in an institution operated by a probation department, or any transportation officer of a probation department.

(c) The following persons may carry a firearm while not on duty: a parole officer of the Department of Corrections and Rehabilitation, or the Department of Corrections and Rehabilitation, Division of Juvenile Justice, a correctional officer or correctional counselor employed by the Department of Corrections and Rehabilitation, or an employee of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, having custody of wards or any employee of the Department of Corrections and Rehabilitation designated by the secretary or any medical technical assistant series employee designated by the secretary or designated by the secretary and employed by the State Department of State Hospitals. A parole officer of the Juvenile Parole Board may carry a firearm while not on duty only when so authorized by the chairperson of the board and only under the terms and conditions specified by the chairperson. Nothing in this section shall be interpreted to require licensure pursuant to Section 25400. The director or chairperson may deny, suspend, or revoke for good cause a person's right to carry a firearm under this subdivision. That person shall, upon request, receive a hearing, as provided for in the negotiated grievance procedure between the exclusive employee representative and the Department of Corrections and Rehabilitation, Division of Juvenile Justice, or the Juvenile Parole Board, to review the director's or the chairperson's decision.

(d) Persons permitted to carry firearms pursuant to this section, either on or off duty, shall meet the training requirements of Section 832 and shall qualify with the firearm at least quarterly. It is the responsibility of the individual officer or designee to maintain their eligibility to carry concealable firearms off duty. Failure to maintain quarterly qualifications by an officer or designee with any concealable firearms carried off duty shall constitute good cause to suspend or revoke that person's right to carry firearms off duty.

(e) The Department of Corrections and Rehabilitation shall allow reasonable access to its ranges for officers and designees of either department to qualify to carry concealable firearms off duty. The time spent on the range for purposes of meeting the qualification requirements shall be the person's own time during the person's off-duty hours.

(f) The secretary shall promulgate regulations consistent with this section.

(g) "High-risk transportation details" and "high-risk escape details" as used in this section shall be determined by the secretary, or the secretary's designee. The secretary, or the secretary's designee, shall consider at least the following in determining "high-risk transportation details" and "high-risk escape details": protection of the public, protection of officers, flight risk, and violence potential of the wards.

(h) "Transportation detail" as used in this section shall include transportation of wards outside the facility, including, but not limited to, court appearances, medical trips, and interfacility transfers.

SEC. 12. Section 830.53 of the Penal Code is repealed.

SEC. 13. Section 2816 of the Penal Code, as added by Section 40 of Chapter 25 of the Statutes of 2019, is repealed.

SEC. 14. Section 2816 is added to the Penal Code, to read:

2816. (a) With the approval of the Department of Finance, there shall be transferred to, or deposited in, the Prison Industries Revolving Fund for purposes authorized by this section, money appropriated from any source including sources other than state appropriations.

(b) Notwithstanding subdivision (i) of Section 2808, the Secretary of the Department of Corrections and Rehabilitation may order any authorized public works project involving the construction, renovation, or repair of prison facilities to be performed by inmate labor or juvenile justice facilities to be performed by ward labor, when the total expenditure does not exceed the project limit established by the first paragraph of Section 10108 of the Public Contract Code. Projects entailing expenditure of greater than the project limit established by the first paragraph of Section 10108 of the Public Contract Code shall be reviewed and approved by the chairperson, in consultation with the board.

(c) Money so transferred or deposited shall be available for expenditure by the department for the purposes for which appropriated, contributed, or made available, without regard to fiscal years and irrespective of the provisions of Sections 13340 and 16304 of the Government Code. Money transferred or deposited pursuant to this section shall be used only for purposes authorized in this section.

SEC. 15. Section 13015 is added to the Penal Code, to read:

13015. (a) The Department of Justice shall submit a plan for the replacement of the Juvenile Court and Probation Statistical System (JCPSS) with a modern database and reporting system. The plan shall be submitted to the Assembly and Senate budget subcommittees on public safety, and the Assembly and Senate Public Safety Committees by January 1, 2023.

(b) In devising the plan, the department shall convene a working group consisting of key stakeholders and experts, including, but not limited to, representatives from the Juvenile Justice Data Working Group established within the Board of State and Community Corrections pursuant to Section 6032, agencies that are responsible for the collection and submission of juvenile justice data to department, advocates with experience in the collection, analysis, and utilization of juvenile justice data in California, academic institutions or research organizations with experience in collecting, analyzing, or using juvenile justice data in California, and people directly impacted by the justice system.

(c) The plan shall consider the relevant findings and recommendations submitted by the Juvenile Justice Data Working Group in their January 2016 final report. The plan shall, at minimum, include the following:

- (1) An overall description of the goals of the new data system.
- (2) A description of all data elements proposed to be captured by the new system, including, but not limited to, all of the following:
 - (A) All data elements currently capture by JCPSS that are to be retained.

(B) Data and outcome measures needed to produce, at minimum, recidivism reports for youth organized by age, gender identity, race, ethnicity, and other demographic factors.

(C) Data and outcome measures needed to document caseload and placement changes due to the realignment of the state Division of Juvenile Justice to counties.

(D) How the revised system will document all of the following:

(i) Subsequent referrals to the justice system for violations of probation and warrants.

(ii) The use of preadjudication and postadjudication detention, including length of stay.

(iii) The use of detention alternatives, such as electronic monitoring, house arrest, or home supervision.

(iv) Dispositional placement outcomes by facility type, including length of stay in facilities. "Facility type" includes juvenile halls, group homes, foster care, county camp or ranch, and local facilities developed as an alternative to Division of Juvenile Justice facilities.

(3) The use of individual unique identifiers.

(4) An analysis of what features must be included to allow users to access and analyze data easily through standard or customized reports, and an analysis of how system data can be made publicly available on the department's internet website.

(5) A discussion of how the new system can be designed to ensure that it may be modified in the future to reflect relevant changes to the juvenile justice system.

(6) An analysis of how this new system may impact state and local agencies that provide the department with data for inclusion in JCPSS, including an assessment of how state and local data systems may need to be modified to ensure that comprehensive and high-quality data is collected and transmitted to the department.

(7) Major challenges or obstacles, if any, to implementing a new system and recommendations for addressing those challenges.

(8) A cost estimate or estimates for the new system and for implementing and funding a new system. These recommendations may include, but are not limited to, a phased implementation approach, providing various options based on a system with differing data capabilities, or providing funding recommendations based on specific system components.

(10) A projected implementation timeline.

(d) The plan shall also include an assessment of the operational and fiscal feasibility of including both of the following capacities in the new system:

(1) Adult court dispositions of youth.

(2) Youth development and wellness data including, but not limited to, education attainment, employment, mental health, housing, family connections, foster care, and other wellness outcomes as recommended by the Juvenile Justice Data Working Group in their January 2016 final report.

SEC. 16. Section 207.1 of the Welfare and Institutions Code is amended to read:

207.1. (a) A court, judge, referee, peace officer, or employee of a detention facility shall not knowingly detain any minor in a jail or lockup, unless otherwise permitted by any other law.

(b) (1) A minor 14 years of age or older who is taken into temporary custody by a peace officer on the basis of being a person described by Section 602, and who, in the reasonable belief of the peace officer, presents a serious security risk of harm to self or others, may be securely detained in a law enforcement facility that contains a lockup for adults, if all of the following conditions are met:

(A) The minor is held in temporary custody for the purpose of investigating the case, facilitating release of the minor to a parent or guardian, or arranging transfer of the minor to an appropriate juvenile facility.

(B) The minor is detained in the law enforcement facility for a period that does not exceed six hours except as provided in subdivision (d).

(C) The minor is informed at the time the minor is securely detained of the purpose of the secure detention, of the length of time the secure detention is expected to last, and of the maximum six-hour period the secure detention is authorized to last. In the event an extension is granted pursuant to subdivision (d), the minor shall be informed of the length of time the extension is expected to last.

(D) Contact between the minor and adults confined in the facility is restricted in accordance with Section 208.

(E) The minor is adequately supervised.

(F) A log or other written record is maintained by the law enforcement agency showing the offense that is the basis for the secure detention of the minor in the facility, the reasons and circumstances forming the basis for the decision to place the minor in secure detention, and the length of time the minor was securely detained.

(2) Any other minor, other than a minor to which paragraph (1) applies, who is taken into temporary custody by a peace officer on the basis that the minor is a person described by Section 602 may be taken to a law enforcement facility that contains a lockup for adults and may be held in temporary custody in the facility for the purposes of investigating the case, facilitating the release of the minor to a parent or guardian, or arranging for the transfer of the minor to an appropriate juvenile facility. While in the law enforcement facility, the minor may not be securely detained and shall be supervised in a manner so as to ensure that there will be no contact with adults in custody in the facility. If the minor is held in temporary, nonsecure custody within the facility, the peace officer shall exercise one of the dispositional options authorized by Sections 626 and 626.5 without unnecessary delay and, in every case, within six hours.

(3) "Law enforcement facility," as used in this subdivision, includes a police station or a sheriff's station, but does not include a jail, as defined in subdivision (g).

(c) The Board of State and Community Corrections shall assist law enforcement agencies, probation departments, and courts with the implementation of this section by doing all of the following:

(1) The board shall advise each law enforcement agency, probation department, and court affected by this section as to its existence and effect.

(2) The board shall make available and, upon request, shall provide, technical assistance to each governmental agency that reported the confinement of a minor in a jail or lockup in calendar year 1984 or 1985. The purpose of this technical assistance is to develop alternatives to the use of jails or lockups for the confinement of minors. These alternatives may include secure or nonsecure facilities located apart from an existing jail or lockup, improved transportation or access to juvenile halls or other juvenile facilities, and other programmatic alternatives recommended by the board. The technical assistance shall take any form the board deems appropriate for effective compliance with this section.

(d) (1) (A) Under the limited conditions of inclement weather, acts of God, or natural disasters that result in the temporary unavailability of transportation, an extension of the six-hour maximum period of detention set forth in paragraph (2) of subdivision(b) may be granted to a county by the Board of Corrections. The extension may be granted only by the board, on an individual, case-by-case basis. If the extension is granted, the detention of minors under those conditions shall not exceed the duration of the special conditions, plus a period reasonably necessary to accomplish transportation of the minor to a suitable juvenile facility, not to exceed six hours after the restoration of available transportation.

(B) A county that receives an extension under this paragraph shall comply with the requirements set forth in subdivision (b). The county also shall provide a written report to the board that specifies when the inclement weather, act of God, or natural disaster ceased to exist, when transportation availability was restored, and when the minor was delivered to a suitable juvenile facility. If the minor was detained in excess of 24 hours, the board shall verify the information contained in the report.

(2) Under the limited condition of temporary unavailability of transportation, an extension of the six-hour maximum period of detention set forth in paragraph (2) of subdivision(b) may be granted by the board to an offshore law enforcement facility. The extension may be granted only by the board, on an individual, case-by-case basis. If the extension is granted, the detention of minors under those conditions shall extend only until the next available mode of transportation can be arranged.

An offshore law enforcement facility that receives an extension under this paragraph shall comply with the requirements set forth in subdivision (b). The facility also shall provide a written report to the board that specifies when the next mode of transportation became available, and when the minor was delivered to a suitable juvenile facility. If the minor was detained in excess of 24 hours, the board shall verify the information contained in the report.

(3) At least annually, the board shall review and report on extensions sought and granted under this subdivision. If, upon that review, the board determines that a county has sought one or more extensions resulting in the excessive confinement of minors in adult facilities, or that a county is engaged in a pattern and practice of seeking extensions, it shall require the county to submit a detailed explanation of the reasons for the extensions sought and an assessment of the need for a conveniently located and suitable juvenile facility. Upon receiving this information, the board shall make available, and the county shall accept, technical assistance for the purpose of developing suitable alternatives to the confinement of minors in adult lockups.

(e) Any county that did not have a juvenile hall on January 1, 1987, may establish a special purpose juvenile hall, as defined by the Board of Corrections, for the detention of minors for a period not to exceed 96 hours. Any county that had a juvenile hall on January 1, 1987, also may establish, in addition to the juvenile hall, a special purpose juvenile hall. The board shall prescribe minimum standards for that type of facility.

(f) No part of a building or a building complex that contains a jail may be converted or utilized as a secure juvenile facility unless all of the following criteria are met:

(1) The juvenile facility is physically, or architecturally, separate and apart from the jail or lockup such that there could be no contact between juveniles and incarcerated adults.

(2) Sharing of nonresidential program areas only occurs where there are written policies and procedures that assure that there is time-phased use of those areas that prevents contact between juveniles and incarcerated adults.

(3) The juvenile facility has a dedicated and separate staff from the jail or lockup, including management, security, and direct care staff. Staff who provide specialized services such as food, laundry, maintenance, engineering, or medical services, who are not normally in contact with detainees, or whose infrequent contacts occur under conditions of separation of juveniles and adults, may serve both populations.

(4) The juvenile facility complies with all applicable state and local statutory, licensing, and regulatory requirements for juvenile facilities of its type.

(g) (1) "Jail," as used in this chapter, means a locked facility administered by a law enforcement or governmental agency, the purpose of which is to detain adults who have been charged with violations of criminal law and are pending trial, or to hold convicted adult criminal offenders sentenced for less than one year.

(2) "Lockup," as used in this chapter, means any locked room or secure enclosure under the control of a sheriff or other peace officer that is primarily for the temporary confinement of adults upon arrest.

(3) "Offshore law enforcement facility," as used in this section, means a sheriff's station containing a lockup for adults that is located on an island located at least 22 miles from the California coastline.

(h) This section shall not be deemed to prevent a peace officer or employee of an adult detention facility or jail from escorting a minor into the detention facility or jail for the purpose of administering an evaluation, test, or chemical test pursuant to Section 23157 of the Vehicle Code, if all of the following conditions are met:

(1) The minor is taken into custody by a peace officer on the basis of being a person described by Section 602 and there is no equipment for the administration of the evaluation, test, or chemical test located at a juvenile facility within a reasonable distance of the point where the minor was taken into custody.

(2) The minor is not locked in a cell or room within the adult detention facility or jail, is under the continuous, personal supervision of a peace officer or employee of the detention facility or jail, and is not permitted to come in contact or remain in contact with in-custody adults.

(3) The evaluation, test, or chemical test administered pursuant to Section 23157 of the Vehicle Code is performed as expeditiously as possible, so that the minor is not delayed unnecessarily within the adult detention facility or jail. Upon completion of the evaluation, test, or chemical test, the minor shall be removed from the detention facility or jail as soon as reasonably possible. A minor shall not be held in custody in an adult detention facility or jail under the authority of this paragraph in excess of two hours.

SEC. 17. Section 207.2 of the Welfare and Institutions Code is amended to read:

207.2. A minor who is held in temporary custody in a law enforcement facility that contains a lockup for adults pursuant to subdivision (b) of Section 207.1 may be released to a parent, guardian, or responsible relative by the law enforcement agency operating the facility, or may at the discretion of the law enforcement agency be released into their own custody, provided that a minor released into their own custody is furnished, upon request, with transportation to their home or to the place where the minor was taken into custody.

SEC. 18. Section 207.6 of the Welfare and Institutions Code is repealed.

SEC. 19. Section 208.5 of the Welfare and Institutions Code is repealed.

SEC. 20. Section 208.5 is added to the Welfare and Institutions Code, to read:

208.5. (a) Notwithstanding any other law, 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, except as provided in subdivisions (b) and (c) of this section and paragraph (4) of subdivision (a) of Section 731. This section is not intended to authorize confinement in a juvenile facility where authority would not otherwise exist.

(b) The probation department may 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.

(c) Upon receipt of a petition to house a person who is 19 years of age or older in an adult facility, the court shall hold a hearing. There shall be a

rebuttable presumption that the person will be retained in a juvenile facility. At the hearing, the court shall determine 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:

(1) The impact of being held in an adult facility on the physical and mental health and well-being of the person.

(2) 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.

(3) The capacity of the adult facility to separate younger and older people as needed and to provide them with safe and age-appropriate housing and program opportunities.

(4) The capacity of the juvenile facility to provide needed separation of older from younger people given the youth currently housed in the facility.

(5) 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.

(d) If a person who is 18 to 24 years of age, inclusive, is removed from a juvenile facility pursuant to this section, upon the motion of any party and a showing of changed circumstances, the court shall consider the criteria in subdivision (c) and determine whether the person should be housed at a juvenile facility.

(e) A person who is 19 years of age or older and who has been committed to a county juvenile facility or a facility of a contracted entity shall remain in the facility and shall not be subject to a petition for transfer to an adult facility. This section is not intended to authorize or extend confinement in a juvenile facility where authority would not otherwise exist.

SEC. 21. Section 209 of the Welfare and Institutions Code is amended to read:

209. (a) (1) The judge of the juvenile court of a county, or, if there is more than one judge, any of the judges of the juvenile court shall, at least annually, inspect any jail, juvenile hall, or special purpose juvenile hall that, in the preceding calendar year, was used for confinement, for more than 24 hours, of any minor.

(2) The judge shall promptly notify the operator of the jail, juvenile hall, or special purpose juvenile hall of any observed noncompliance with minimum standards for juvenile facilities adopted by the Board of State and Community Corrections under Section 210. Based on the facility's subsequent compliance with the provisions of subdivisions (d) and (e), the judge shall thereafter make a finding whether the facility is a suitable place for the confinement of minors and shall note the finding in the minutes of the court.

(3) The Board of State and Community Corrections shall conduct a biennial inspection of each jail, juvenile hall, lockup, or special purpose juvenile hall situated in this state that, during the preceding calendar year, was used for confinement, for more than 24 hours, of any minor. The board

shall promptly notify the operator of any jail, juvenile hall, lockup, or special purpose juvenile hall of any noncompliance found, upon inspection, with any of the minimum standards for juvenile facilities adopted by the Board of State and Community Corrections under Section 210 or 210.2.

(4) If either a judge of the juvenile court or the board, after inspection of a jail, juvenile hall, special purpose juvenile hall, or lockup, finds that it is not being operated and maintained as a suitable place for the confinement of minors, the juvenile court or the board shall give notice of its finding to all persons having authority to confine minors pursuant to this chapter and commencing 60 days thereafter the facility shall not be used for confinement of minors until the time the judge or board, as the case may be, finds, after reinspection of the facility that the conditions that rendered the facility unsuitable have been remedied, and the facility is a suitable place for confinement of minors.

(5) The custodian of each jail, juvenile hall, special purpose juvenile hall, and lockup shall make any reports as may be requested by the board or the juvenile court to effectuate the purposes of this section.

(b) (1) The Board of State and Community Corrections may inspect any law enforcement facility that contains a lockup for adults and that it has reason to believe may not be in compliance with the requirements of subdivision (b) of Section 207.1 or with the certification requirements or standards adopted under Section 210.2. A judge of the juvenile court shall conduct an annual inspection, either in person or through a delegated member of the appropriate county or regional juvenile justice commission, of any law enforcement facility that contains a lockup for adults which, in the preceding year, was used for the secure detention of any minor. If the law enforcement facility is observed, upon inspection, to be out of compliance with the requirements of subdivision (b) of Section 207.1, or with any standard adopted under Section 210.2, the board or the judge shall promptly notify the operator of the law enforcement facility of the specific points of noncompliance.

(2) If either the judge or the board finds after inspection that the facility is not being operated and maintained in conformity with the requirements of subdivision (b) of Section 207.1 or with the certification requirements or standards adopted under Section 210.2, the juvenile court or the board shall give notice of its finding to all persons having authority to securely detain minors in the facility, and, commencing 60 days thereafter, the facility shall not be used for the secure detention of a minor until the time the judge or the board, as the case may be, finds, after reinspection, that the conditions that rendered the facility unsuitable have been remedied, and the facility is a suitable place for the confinement of minors in conformity with all requirements of law.

(3) The custodian of each law enforcement facility that contains a lockup for adults shall make any report as may be requested by the board or by the juvenile court to effectuate the purposes of this subdivision.

(c) The board shall collect biennial data on the number, place, and duration of confinements of minors in jails and lockups, as defined in

subdivision (g) of Section 207.1, and shall publish biennially this information in the form as it deems appropriate for the purpose of providing public information on continuing compliance with the requirements of Section 207.1.

(d) Except as provided in subdivision (e), a juvenile hall, special purpose juvenile hall, law enforcement facility, or jail shall be unsuitable for the confinement of minors if it is not in compliance with one or more of the minimum standards for juvenile facilities adopted by the Board of State and Community Corrections under Section 210 or 210.2, and if, within 60 days of having received notice of noncompliance from the board or the judge of the juvenile court, the juvenile hall, special purpose juvenile hall, law enforcement facility, or jail has failed to file an approved corrective action plan with the Board of State and Community Corrections to correct the condition or conditions of noncompliance of which it has been notified. The corrective action plan shall outline how the juvenile hall, special purpose juvenile hall, law enforcement facility, or jail plans to correct the issue of noncompliance and give a reasonable timeframe, not to exceed 90 days, for resolution, that the board shall either approve or deny. In the event the juvenile hall, special purpose juvenile hall, law enforcement facility, or jail fails to meet its commitment to resolve noncompliance issues outlined in its corrective action plan, the board shall make a determination of suitability at its next scheduled meeting.

(e) If a juvenile hall is not in compliance with one or more of the minimum standards for juvenile facilities adopted by the Board of State and Community Corrections under Section 210, and where the noncompliance arises from sustained occupancy levels that are above the population capacity permitted by applicable minimum standards, the juvenile hall shall be unsuitable for the confinement of minors if the board or the judge of the juvenile court determines that conditions in the facility pose a serious risk to the health, safety, or welfare of minors confined in the facility. In making its determination of suitability, the board or the judge of the juvenile court shall consider, in addition to the noncompliance with minimum standards, the totality of conditions in the juvenile hall, including the extent and duration of overpopulation as well as staffing, program, physical plant, and medical and mental health care conditions in the facility. The Board of State and Community Corrections may develop guidelines and procedures for its determination of suitability in accordance with this subdivision and to assist counties in bringing their juvenile halls into full compliance with applicable minimum standards. This subdivision shall not be interpreted to exempt a juvenile hall from having to correct, in accordance with subdivision (d), any minimum standard violations that are not directly related to overpopulation of the facility.

(f) In accordance with the federal Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. Sec. 5601 et seq.), the Corrections Standards Authority shall inspect and collect relevant data from any facility that may be used for the secure detention of minors.

(g) All reports and notices of findings prepared by the Board of State and Community Corrections pursuant to this section shall be posted on the Board of State and Community Corrections' internet website in a manner in which they are accessible to the public.

SEC. 22. Section 210.2 of the Welfare and Institutions Code is amended to read:

210.2. (a) The Board of Corrections shall adopt regulations establishing standards for law enforcement facilities which contain lockups for adults and which are used for the temporary, secure detention of minors upon arrest under subdivision (b) of Section 207.1. The standards shall identify appropriate conditions of confinement for minors in law enforcement facilities, including standards for places within a police station or sheriff's station where minors may be securely detained; standards regulating contact between minors and adults in custody in lockup, booking, or common areas; standards for the supervision of minors securely detained in these facilities; and any other related standard as the board deems appropriate to effectuate compliance with subdivision (b) of Section 207.1.

(b) Every person in charge of a law enforcement facility which contains a lockup for adults and which is used in any calendar year for the secure detention of any minor shall certify annually that the facility is in conformity with the regulations adopted by the board under subdivision (a). The certification shall be endorsed by the sheriff or chief of police of the jurisdiction in which the facility is located and shall be forwarded to and maintained by the board. The board may provide forms and instructions to local jurisdictions to facilitate compliance with this requirement.

SEC. 23. Section 607 of the Welfare and Institutions Code is amended to read:

607. (a) The court may retain jurisdiction over a person who is found to be a ward or dependent child of the juvenile court until the ward or dependent child attains 21 years of age, except as provided in subdivisions (b), (c), and (d).

(b) The court may retain jurisdiction over a person who is found to be a person described in Section 602 by reason of the commission of an offense listed in subdivision (b) of Section 707, until that person attains 25 years of age if the person was committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

(c) The court shall not discharge a person from its jurisdiction who has been committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities while the person remains under the jurisdiction of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, including periods of extended control ordered pursuant to Section 1800.

(d) The court may retain jurisdiction over a person described in Section 602 by reason of the commission of an offense listed in subdivision (b) of Section 707, who has been confined in a state hospital or other appropriate public or private mental health facility pursuant to Section 702.3 until that

person attains 25 years of age, unless the court that committed the person finds, after notice and hearing, that the person's sanity has been restored.

(e) The court may retain jurisdiction over a person while that person is the subject of a warrant for arrest issued pursuant to Section 663.

(f) Notwithstanding subdivisions (b) and (d), a person who is committed by the juvenile court to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities on or after July 1, 2012, but before July 1, 2018, and who is found to be a person described in Section 602 by reason of the commission of an offense listed in subdivision (b) of Section 707 shall be discharged upon the expiration of a two-year period of control, or when the person attains 23 years of age, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800) of Chapter 1 of Division 2.5. This subdivision does not apply to a person who is committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, or to a person who is confined in a state hospital or other appropriate public or private mental health facility, by a court prior to July 1, 2012, pursuant to subdivisions (b) and (d).

(g) (1) Notwithstanding subdivision (f), a person who is committed by the juvenile court to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, on or after July 1, 2018, and who is found to be a person described in Section 602 by reason of the commission of an offense listed in subdivision (c) of Section 290.008 of the Penal Code or subdivision (b) of Section 707 of this code, shall be discharged upon the expiration of a two-year period of control, or when the person attains 23 years of age, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800) of Chapter 1 of Division 2.5.

(2) A person who, at the time of adjudication of a crime or crimes, would, in criminal court, have faced an aggregate sentence of seven years or more, shall be discharged upon the expiration of a two-year period of control, or when the person attains 25 years of age, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800) of Chapter 1 of Division 2.5.

(3) This subdivision does not apply to a person who is committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, or to a person who is confined in a state hospital or other appropriate public or private mental health facility, by a court prior to July 1, 2018, as described in subdivision (f).

(h) The amendments to this section made by Chapter 342 of the Statutes of 2012 apply retroactively.

(i) This section does not change the period of juvenile court jurisdiction for a person committed to the Division of Juvenile Facilities prior to July 1, 2018.

(j) This section shall become inoperative on July 1, 2021, and, as of January 1, 2022, is repealed.

SEC. 24. Section 607 is added to the Welfare and Institutions Code, to read:

607. (a) The court may retain jurisdiction over a person who is found to be a ward or dependent child of the juvenile court until the ward or dependent child attains 21 years of age, except as provided in subdivisions (b), (c), and (d).

(b) The court may retain jurisdiction over a person who is found to be a person described in Section 602 by reason of the commission of an offense listed in subdivision (b) of Section 707, until that person attains 23 years of age, subject to the provisions of subdivision (c).

(c) The court may retain jurisdiction over a person who is found to be a person described in Section 602 by reason of the commission of an offense listed in subdivision (b) of Section 707 until that person attains 25 years of age if the person, at the time of adjudication of a crime or crimes, would, in criminal court, have faced an aggregate sentence of seven years or more.

(d) The court shall not discharge a person from its jurisdiction who has been committed to the Department of Corrections and Rehabilitation, Division of Juvenile Justice while the person remains under the jurisdiction of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, including periods of extended control ordered pursuant to Section 1800.

(e) The court may retain jurisdiction over a person described in Section 602 by reason of the commission of an offense listed in subdivision (b) of Section 707, who has been confined in a state hospital or other appropriate public or private mental health facility pursuant to Section 702.3 until that person attains 25 years of age, unless the court that committed the person finds, after notice and hearing, that the person's sanity has been restored.

(f) The court may retain jurisdiction over a person while that person is the subject of a warrant for arrest issued pursuant to Section 663.

(g) Notwithstanding subdivisions (b) and (d), a person who is committed by the juvenile court to the Department of Corrections and Rehabilitation, Division of Juvenile Justice on or after July 1, 2012, but before July 1, 2018, and who is found to be a person described in Section 602 by reason of the commission of an offense listed in subdivision (b) of Section 707 shall be discharged upon the expiration of a two-year period of control, or when the person attains 23 years of age, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800) of Chapter 1 of Division 2.5. This subdivision does not apply to a person who is committed to the Department of Corrections and Rehabilitation, Division of Juvenile Justice, or to a person who is confined in a state hospital or other appropriate public or private mental health facility, by a court prior to July 1, 2012, pursuant to subdivisions (b) and (d).

(h) (1) Notwithstanding subdivision (f), a person who is committed by the juvenile court to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, on or after July 1, 2018, and who is found to be a person described in Section 602 by reason of the commission of an

offense listed in subdivision (c) of Section 290.008 of the Penal Code or subdivision (b) of Section 707 of this code, shall be discharged upon the expiration of a two-year period of control, or when the person attains 23 years of age, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800) of Chapter 1 of Division 2.5.

(2) A person who, at the time of adjudication of a crime or crimes, would, in criminal court, have faced an aggregate sentence of seven years or more, shall be discharged upon the expiration of a two-year period of control, or when the person attains 25 years of age, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800) of Chapter 1 of Division 2.5.

(3) This subdivision does not apply to a person who is committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, or to a person who is confined in a state hospital or other appropriate public or private mental health facility, by a court prior to July 1, 2018, as described in subdivision (f).

(i) The amendments to this section made by Chapter 342 of the Statutes of 2012 apply retroactively.

(j) This section does not change the period of juvenile court jurisdiction for a person committed to the Division of Juvenile Facilities prior to July 1, 2018.

(k) This section shall become operative July 1, 2021.

SEC. 25. Section 707.1 of the Welfare and Institutions Code is amended to read:

707.1. (a) 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. The case shall proceed from that point according to the laws applicable to a criminal case. If a prosecution has been commenced in another court but has been suspended while juvenile court proceedings are being held, it shall be ordered that the proceedings upon that prosecution shall resume.

(b) A minor whose case is transferred to a court of criminal jurisdiction shall, upon the conclusion of the transfer hearing, be entitled to release on bail or on their own recognizance on the same circumstances, terms, and conditions as an adult alleged to have committed the same offense.

SEC. 26. Section 730 of the Welfare and Institutions Code is amended to read:

730. (a) When a minor is adjudged a ward of the court on the ground that they are a person described by Section 602, the court may order any of the types of treatment referred to in Section 727, and as an additional alternative, may commit the minor to a juvenile home, ranch, camp, or forestry camp. If there is no county juvenile home, ranch, camp, or forestry camp within the county, the court may commit the minor to the county juvenile hall.

(b) When a ward described in subdivision (a) is placed under the supervision of the probation officer or committed to the care, custody, and control of the probation officer, the court may make any and all reasonable orders for the conduct of the ward including the requirement that the ward go to work and earn money for the support of their dependents or to effect reparation and in either case that the ward keep an account of their earnings and report the same to the probation officer and apply these earnings as directed by the court. The court may impose and require any and all reasonable conditions that it may determine fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced.

(c) When a ward described in subdivision (a) is placed under the supervision of the probation officer or committed to the care, custody, and control of the probation officer, and is required as a condition of probation to participate in community service or graffiti cleanup, the court may impose a condition that if the minor unreasonably fails to attend or unreasonably leaves prior to completing the assigned daily hours of community service or graffiti cleanup, a law enforcement officer may take the minor into custody for the purpose of returning the minor to the site of the community service or graffiti cleanup.

(d) When a minor is adjudged or continued as a ward of the court on the ground that the minor is a person described by Section 602 by reason of the commission of rape, sodomy, oral copulation, or an act of sexual penetration specified in Section 289 of the Penal Code, the court shall order the minor to complete a sex offender treatment program, if the court determines, in consultation with the county probation officer, that suitable programs are available. In determining what type of treatment is appropriate, the court shall consider all of the following: the seriousness and circumstances of the offense, the vulnerability of the victim, the minor's criminal history and prior attempts at rehabilitation, the sophistication of the minor, the threat to public safety, the minor's likelihood of reoffending, and any other relevant information presented. If ordered by the court to complete a sex offender treatment program, the minor shall pay all or a portion of the reasonable costs of the sex offender treatment program after a determination is made of the ability of the minor to pay.

(e) This section shall remain in effect only until July 1, 2021, and as of that date is repealed.

SEC. 27. Section 730 is added to the Welfare and Institutions Code, to read:

730. (a) (1) When a minor is adjudged a ward of the court on the ground that they are a person described by Section 602, the court may order any of the types of treatment referred to in Section 727, and as an additional alternative, may commit the minor to a juvenile home, ranch, camp, or forestry camp. If there is no county juvenile home, ranch, camp, or forestry camp within the county, the court may commit the minor to the county juvenile hall. In addition, the court may also make any of the following orders:

(A) Order the ward to make restitution, to pay a fine up to two hundred fifty dollars (\$250) for deposit in the county treasury if the court finds that the minor has the financial ability to pay the fine, or to participate in uncompensated work programs.

(B) Commit the ward to a sheltered-care facility.

(C) Order that the ward and the ward's family or guardian participate in a program of professional counseling as arranged and directed by the probation officer as a condition of continued custody of the ward.

(2) A court shall not commit a juvenile to any juvenile facility for a period that exceeds the middle term of imprisonment that could be imposed upon an adult convicted of the same offense.

(b) When a ward described in subdivision (a) is placed under the supervision of the probation officer or committed to the care, custody, and control of the probation officer, the court may make any and all reasonable orders for the conduct of the ward including the requirement that the ward go to work and earn money for the support of the ward's dependents or to effect reparation and in either case that the ward keep an account of the ward's earnings and report the same to the probation officer and apply these earnings as directed by the court. The court may impose and require any and all reasonable conditions that it may determine fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced.

(c) When a ward described in subdivision (a) is placed under the supervision of the probation officer or committed to the care, custody, and control of the probation officer, and is required as a condition of probation to participate in community service or graffiti cleanup, the court may impose a condition that if the minor unreasonably fails to attend or unreasonably leaves prior to completing the assigned daily hours of community service or graffiti cleanup, a law enforcement officer may take the minor into custody for the purpose of returning the minor to the site of the community service or graffiti cleanup.

(d) When a minor is adjudged or continued as a ward of the court on the ground that the ward is a person described by Section 602 by reason of the commission of rape, sodomy, oral copulation, or an act of sexual penetration specified in Section 289 of the Penal Code, the court shall order the minor to complete a sex offender treatment program, if the court determines, in consultation with the county probation officer, that suitable programs are available. In determining what type of treatment is appropriate, the court shall consider all of the following: the seriousness and circumstances of the offense, the vulnerability of the victim, the minor's criminal history and prior attempts at rehabilitation, the sophistication of the minor, the threat to public safety, the minor's likelihood of reoffending, and any other relevant information presented. If ordered by the court to complete a sex offender treatment program, the minor shall pay all or a portion of the reasonable costs of the sex offender treatment program after a determination is made of the ability of the minor to pay.

(e) This section shall become operative July 1, 2021.

SEC. 28. Section 731 of the Welfare and Institutions Code is amended to read:

731. (a) If a minor is adjudged a ward of the court on the ground that the minor is a person described by Section 602, the court may order any of the types of treatment referred to in Sections 727 and 730 and, in addition, may do any of the following:

(1) Order the ward to make restitution, to pay a fine up to two hundred fifty dollars (\$250) for deposit in the county treasury if the court finds that the minor has the financial ability to pay the fine, or to participate in uncompensated work programs.

(2) Commit the ward to a sheltered-care facility.

(3) Order that the ward and the ward's family or guardian participate in a program of professional counseling as arranged and directed by the probation officer as a condition of continued custody of the ward.

(4) Commit the ward to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, if the ward has committed an offense described in subdivision (b) of Section 707 or subdivision (c) of Section 290.008 of the Penal Code, and is not otherwise ineligible for commitment to the division under Section 733.

(b) The Division of Juvenile Facilities shall notify the Department of Finance when a county recalls a ward pursuant to Section 731.1. The division shall provide the department with the date the ward was recalled and the number of months the ward has served in a state facility. The division shall provide this information in the format prescribed by the department and within the timeframes established by the department.

(c) A ward committed to the Division of Juvenile Justice shall not be confined in excess of the term of confinement set by the committing court. The court shall set a maximum term 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. The court shall not commit a ward to the Division of Juvenile Justice for a period that exceeds the middle term of imprisonment that could be imposed upon an adult convicted of the same offense. This subdivision does not limit the power of the Board of Juvenile Hearings to discharge a ward committed to the Division of Juvenile Justice pursuant to Sections 1719 and 1769. Upon discharge, the committing court may retain jurisdiction of the ward pursuant to Section 607.1 and establish the conditions of supervision pursuant to subdivision (b) of Section 1766.

(d) This section shall become inoperative on July 1, 2021, and, as of January 1, 2022, is repealed.

SEC. 29. Section 733.1 is added to the Welfare and Institutions Code, to read:

733.1. (a) Notwithstanding any other law, except as otherwise provided in this section, a ward of the juvenile court shall not be committed to the Department of Corrections and Rehabilitation, Division of Juvenile Justice on or after July 1, 2021.

(b) A court may commit a ward to the Department of Corrections and Rehabilitation, Division of Juvenile Justice as authorized in subdivision (c) of Section 736.5.

(c) Effective July 1, 2021, a person adjudged a ward of the court pursuant to Section 602, shall not be committed to the Department of Corrections and Rehabilitation, Division of Juvenile Justice, as long as allocations required by Section 1991 are authorized in statute and disbursed by September 1, 2021, and September 1 annually thereafter. To the extent that the allocations required by Section 1991 are not authorized in statute and disbursed annually thereafter, it is the intent of this section that wards adjudged wards of the court pursuant to Section 602 for an offense described in subdivision (b) of Section 707 of this code or subdivision (c) of Section 290.008 of the Penal Code may be committed to a state-funded facility pursuant to Sections 731, 733, and 734. For the purpose of determining the state's compliance with this subdivision, the presumption shall be that the state is meeting its commitment in Section 1991 if that section is not materially changed from the law in effect on the operative date of this section.

SEC. 30. Section 736.5 is added to the Welfare and Institutions Code, to read:

736.5. (a) It is the intent of the Legislature to close the Division of Juvenile Justice within the Department of Corrections and Rehabilitation, through shifting responsibility for all youth adjudged a ward of the court, commencing July 1, 2021, to county governments and providing annual funding for county governments to fulfill this new responsibility.

(b) Beginning July 1, 2021, a ward shall not be committed to the Department of Corrections and Rehabilitation, Division of Juvenile Justice, except as described in subdivision (c).

(c) Pending the final closure of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, a court may commit a ward who is otherwise eligible to be committed under existing law and in whose case a motion to transfer the minor from juvenile court to a court of criminal jurisdiction was filed.

(d) All wards committed to the Department of Corrections and Rehabilitation, Division of Juvenile Justice prior to July 1, 2021 or pursuant to (c), shall remain within its custody until the ward is discharged, released or otherwise moved pursuant to law.

(e) It is the intent of the Legislature to establish a separate dispositional track for higher-need youth by March 1, 2021. The framework for consideration shall be the processes laid out in Section 30 of Senate Bill 823 as amended on August 24, 2020.

SEC. 31. Section 912 of the Welfare and Institutions Code is amended to read:

912. (a) A county from which a person is committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, shall pay to the state an annual rate of twenty-four thousand dollars (\$24,000) while the person remains in an institution under the direct supervision of the

division, or in an institution, boarding home, foster home, or other private or public institution in which the person is placed by the division, and cared for and supported at the expense of the division, as provided in this subdivision. This subdivision applies to a person who is committed to the division by a juvenile court on or after July 1, 2012.

The Department of Corrections and Rehabilitation, Division of Juvenile Facilities, shall present to the county, not more frequently than monthly, a claim for the amount due to the state under this subdivision, which the county shall process and pay pursuant to Chapter 4 (commencing with Section 29700) of Division 3 of Title 3 of the Government Code.

(b) A county from which a person is committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, on or after July 1, 2018, shall pay to the state an annual rate of twenty-four thousand dollars (\$24,000) for the time the person remains in an institution under the direct supervision of the division, or in an institution, boarding home, foster home, or other private or public institution in which the person is placed by the division, and cared for and supported at the expense of the division, as provided in this subdivision. A county shall not pay the annual rate of twenty-four thousand dollars (\$24,000) for a person who is 23 years of age or older. This subdivision applies to a person committed to the division by a juvenile court on or after July 1, 2018.

(c) A county from which a person is committed to the Department of Corrections and Rehabilitation, Division of Juvenile Justice, on or after July 1, 2021, shall pay to the state an annual rate of one-hundred and twenty-five thousand dollars (\$125,000) for the time the person remains in an institution under the direct supervision of the division, or in an institution, boarding home, foster home, or other private or public institution in which the person is placed by the division, and cared for and supported at the expense of the division, as provided in this subdivision. A county shall not pay the annual rate of one-hundred and twenty-five thousand dollars (\$125,000) for a person who is 23 years of age or older. This subdivision applies to a person committed to the division by a juvenile court on or after July 1, 2021.

(d) Consistent with Article 1 (commencing with Section 6024) of Chapter 5 of Title 7 of Part 3 of the Penal Code, the Board of State and Community Corrections shall collect and maintain available information and data about the movement of juvenile offenders committed by a juvenile court and placed in any institution, boarding home, foster home, or other private or public institution in which they are cared for, supervised, or both, by the division or the county while they are on parole, probation, or otherwise.

SEC. 32. Section 1703 of the Welfare and Institutions Code, as added by Section 56 of Chapter 25 of the Statutes of 2019, is repealed.

SEC. 33. Section 1703 is added to the Welfare and Institutions Code, to read:

1703. As used in this chapter the following terms have the following meanings:

(a) "Public offenses" means public offenses as that term is defined in the Penal Code.

(b) “Court” includes any official authorized to impose sentence for a public offense.

(c) “Youth Authority,” “Authority,” “authority,” or “division” means the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

(d) “Board” or “board” means the Board of Parole Hearings, until January 1, 2007, at which time “board” shall refer to the body created to hear juvenile parole matters under the jurisdiction of the Director of the Division of Juvenile Justice in the Department of Corrections and Rehabilitation.

(e) The masculine pronoun includes the feminine.

SEC. 34. Section 1710 of the Welfare and Institutions Code, as added by Section 58 of Chapter 25 of the Statutes of 2019, is repealed.

SEC. 35. Section 1710 is added to the Welfare and Institutions Code, to read:

1710. (a) Any reference to the Department of the Youth Authority in this code or any other code refers to the Department of Corrections and Rehabilitation, Division of Juvenile Justice.

(b) The Legislature finds and declares the following:

(1) The purpose of the Division of Juvenile Justice within the Department of Corrections and Rehabilitation is to protect society from the consequences of criminal activity by providing for the secure placement of youth, and to effectively and efficiently operate and manage facilities housing youthful offenders under the jurisdiction of the department, consistent with the purposes set forth in Section 1700.

(2) The purpose of the Division of Juvenile Programs within the Department of Corrections and Rehabilitation is to provide comprehensive education, training, treatment, and rehabilitative services to youthful offenders under the jurisdiction of the department, that are designed to promote community restoration, family ties, and victim restoration, and to produce youth who become law-abiding and productive members of society, consistent with the purposes set forth in Section 202.

(3) The purpose of the Division of Juvenile Parole Operations within the Department of Corrections and Rehabilitation is to monitor and supervise the reentry into society of youthful offenders under the jurisdiction of the department, and to promote the successful reintegration of youthful offenders into society, in order to reduce the rate of recidivism, thereby increasing public safety.

SEC. 36. Section 1711 of the Welfare and Institutions Code, as added by Section 60 of Chapter 25 of the Statutes of 2019, is repealed.

SEC. 37. Section 1711 is added to the Welfare and Institutions Code, to read:

1711. Any reference to the Director of the Youth Authority shall be to the Director of the Division of Juvenile Justice in the Department of Corrections and Rehabilitation, unless otherwise expressly provided.

SEC. 38. Section 1712 of the Welfare and Institutions Code, as added by Section 62 of Chapter 25 of the Statutes of 2019, is repealed.

SEC. 39. Section 1712 is added to the Welfare and Institutions Code, to read:

1712. (a) All powers, duties, and functions pertaining to the care and treatment of wards provided by any provision of law and not specifically and expressly assigned to the Juvenile Justice branch of the Department of Corrections and Rehabilitation, or to the Board of Parole Hearings, shall be exercised and performed by the Secretary of the Department of Corrections and Rehabilitation. The secretary shall be the appointing authority for all civil service positions of employment in the department. The secretary may delegate the powers and duties vested in the secretary by law, in accordance with Section 7.

(b) Commencing July 1, 2005, the secretary is authorized to make and enforce all rules appropriate to the proper accomplishment of the functions of the Division of Juvenile Facilities, Division of Juvenile Programs, and Division of Juvenile Parole Operations. The rules shall be promulgated and filed pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and shall, to the extent practical, be stated in language that is easily understood by the general public.

(c) The secretary shall maintain, publish, and make available to the general public, a compendium of rules and regulations promulgated by the department pursuant to this section.

(d) The following exceptions to the procedures specified in this section shall apply to the department:

(1) The department may specify an effective date that is any time more than 30 days after the rule or regulation is filed with the Secretary of State; provided that no less than 20 days prior to that effective date, copies of the rule or regulation shall be posted in conspicuous places throughout each institution and shall be mailed to all persons or organizations who request them.

(2) The department may rely upon a summary of the information compiled by a hearing officer; provided that the summary and the testimony taken regarding the proposed action shall be retained as part of the public record for at least one year after the adoption, amendment, or repeal.

SEC. 40. Section 1714 of the Welfare and Institutions Code, as added by Section 64 of Chapter 25 of the Statutes of 2019, is repealed.

SEC. 41. Section 1714 is added to the Welfare and Institutions Code, to read:

1714. The Secretary of the Department of Corrections and Rehabilitation may transfer persons confined in one institution or facility of the Division of Juvenile Justice to another. Proximity to family shall be one consideration in placement.

SEC. 42. Section 1731.5 of the Welfare and Institutions Code, as added by Section 66 of Chapter 25 of the Statutes of 2019, is repealed.

SEC. 43. Section 1731.5 is added to the Welfare and Institutions Code, to read:

1731.5. (a) After certification to the Governor as provided in this article, a court may commit to the Division of Juvenile Justice any person who meets all of the following:

(1) Is convicted of an offense described in subdivision (b) of Section 707 or subdivision (c) of Section 290.008 of the Penal Code.

(2) Is found to be less than 21 years of age at the time of apprehension.

(3) Is not sentenced to death, imprisonment for life, with or without the possibility of parole, whether or not pursuant to Section 190 of the Penal Code, imprisonment for 90 days or less, or the payment of a fine, or after having been directed to pay a fine, defaults in the payment thereof, and is subject to imprisonment for more than 90 days under the judgment.

(4) Is not granted probation, or was granted probation and that probation is revoked and terminated.

(b) The Division of Juvenile Justice shall accept a person committed to it pursuant to this article if it believes that the person can be materially benefited by its reformatory and educational discipline, and if it has adequate facilities to provide that care.

(c) A person under 18 years of age who is not committed to the division pursuant to this section may be transferred to the division by the Secretary of the Department of Corrections and Rehabilitation with the approval of the Director of the Division of Juvenile Justice. In sentencing a person under 18 years of age, the court may order that the person be transferred to the custody of the Division of Juvenile Justice pursuant to this subdivision. If the court makes this order and the division fails to accept custody of the person, the person shall be returned to court for resentencing. The transfer shall be solely for the purposes of housing the inmate, allowing participation in the programs available at the institution by the inmate, and allowing division parole supervision of the inmate, who, in all other aspects shall be deemed to be committed to the Department of Corrections and Rehabilitation and shall remain subject to the jurisdiction of the Secretary of the Department of Corrections and Rehabilitation and the Board of Parole Hearings. Notwithstanding subdivision (b) of Section 2900 of the Penal Code, the secretary, with the concurrence of the director, may designate a facility under the jurisdiction of the director as a place of reception for a person described in this subdivision. The director has the same powers with respect to an inmate transferred pursuant to this subdivision as if the inmate had been committed or transferred to the Division of Juvenile Justice either under the Arnold-Kennick Juvenile Court Law or subdivision (a). The duration of the transfer shall extend until any of the following occurs:

(1) The director orders the inmate returned to the Department of Corrections and Rehabilitation.

(2) The inmate is ordered discharged by the Board of Parole Hearings.

(3) The inmate reaches 18 years of age. However, if the inmate's period of incarceration would be completed on or before the inmate's 25th birthday, the director may continue to house the inmate until the period of incarceration is completed.

(d) The amendments to subdivision (c), as that subdivision reads on July 1, 2018, made by the act adding this subdivision, apply retroactively.

SEC. 44. Section 1752.2 of the Welfare and Institutions Code, as added by Section 70 of Chapter 25 of the Statutes of 2019, is repealed.

SEC. 45. Section 1752.2 is added to the Welfare and Institutions Code, to read:

1752.2. (a) The Division of Juvenile Justice, in partnership with the California Conservation Corps and participating certified local conservation corps, shall develop and establish a precorps transitional training program within the Division of Juvenile Justice. This program shall operate within a facility identified by the Division of Juvenile Justice, with partnering state and local conservation corps responsible for program content, delivery, and administration. This program shall provide participating Division of Juvenile Justice corps members with a training and development program to approximate the experience of serving in a conservation corps, and include opportunities for skill building, job readiness training, community service, and conservation activities. Training shall include, but is not limited to, transferable professional skills known as “soft skills,” social emotional learning, transitional life skills, and conservation jobs skills. Division of Juvenile Justice participants who successfully complete program curriculum shall qualify for a paid full-time placement within a local community corps program, and may be considered for a placement in the California Conservation Corps. This program shall be considered for expansion to additional Division of Juvenile Justice facilities if effective at reducing recidivism among participants.

(b) The Division of Juvenile Justice and the California Conservation Corps shall enter into an interagency agreement to implement this section. The agreement shall include input from participating certified local conservation corps.

SEC. 46. Section 1762 of the Welfare and Institutions Code, as added by Section 4 of Chapter 857 of the Statutes of 2019, is repealed.

SEC. 47. Section 1762 is added to the Welfare and Institutions Code, to read:

1762. (a) It is the intent of the Legislature that youth with a high school diploma or California high school equivalency certificate who are detained in, or committed to, a Division of Juvenile Justice facility shall have access to rigorous postsecondary academic and career technical education programs that fulfill the requirements for transfer to the University of California and the California State University and prepare them for career entry, respectively.

(b) (1) The Division of Juvenile Justice shall, to the extent feasible using available resources, ensure that youth with a high school diploma or California high school equivalency certificate who are detained in, or committed to, a Division of Juvenile Justice facility have access to, and can choose to participate in, public postsecondary academic and career technical courses and programs offered online, and for which they are eligible based on eligibility criteria and course schedules of the public postsecondary

education campus providing the course or program. The division is also encouraged to develop other educational partnerships with local public postsecondary campuses, as is feasible, to provide programs on campus and onsite at the Division of Juvenile Justice facility.

(2) These programs shall be considered part of the current responsibilities of the Division of Juvenile Justice to provide and coordinate services for youth that enable the youth to be law-abiding and productive members of their families and communities.

(c) For purposes of this section, “youth” means any person detained in, or committed to, a Division of Juvenile Justice facility.

(d) This section does not preclude youth who have not yet completed their high school graduation requirements from concurrently participating in postsecondary academic and career technical education programs.

SEC. 48. Section 1955.2 is added to the Welfare and Institutions Code, to read:

1955.2. Notwithstanding subdivision (c) of Section 1731.5, when an individual under 18 years of age is convicted of an offense in superior court on or after July 1, 2021, and sentenced to state prison, that individual shall remain in a county juvenile facility until the individual reaches 18 years of age and may be transferred to state prison. The Department of Corrections and Rehabilitation shall pay a daily rate of six hundred fourteen dollars and forty-four cents (\$616.44) to a county for the number of days a qualifying individual is in a local juvenile facility. This section only applies once an individual has been convicted and is under 18 years of age. This section does not require the county of conviction to enter into a contract with the Department of Corrections and Rehabilitation for the care and custody of the individuals described in this section.

SEC. 49. Chapter 1.7 (commencing with Section 1990) is added to Division 2.5 of the Welfare and Institutions Code, to read:

CHAPTER 1.7. JUVENILE JUSTICE REALIGNMENT BLOCK GRANT

1990. (a) The Juvenile Justice Realignment Block Grant program is hereby established for the purpose of providing county based custody, care, and supervision of youth who are realigned from the state Division of Juvenile Justice or who were otherwise eligible for commitment to the Division of Juvenile Justice prior to its closure.

(b) The realignment target population for the grant program shall be defined as youth who were eligible for commitment to the Division of Juvenile Justice prior to its closure, and shall further be defined as persons who are adjudicated to be a ward of the juvenile court based on an offense described in subdivision (b) of Section 707 or on offense described in Section 290.008 of the Penal Code.

1991. (a) Commencing with the 2021-22 fiscal year, and annually thereafter, there shall be an allocation to the county for use by the county to provide appropriate rehabilitative housing and supervision services for

the population specified in subdivision (b) of Section 1990. In making allocations, the Board of Supervisors shall consider the plan required in Section 1995. Any entity receiving a direct allocation of funding from the Board of Supervisors under this section for any secure residential placement for court ordered detention will be subject to existing regulations. A local public agency that has primary responsibility for prosecuting or making arrests or detentions shall not provide rehabilitative and supervision services for the population specified in subdivision (b) of Section 1990 or receive funding pursuant to this section:

(1) For the 2021-22 fiscal year, thirty-nine million nine hundred forty-nine thousand dollars (\$39,949,000) shall be appropriated from the General Fund to provide appropriate rehabilitative and supervision services for the population specified in subdivision (b) of Section 1990 based on a projected average daily population of 177.6 wards. The by-county distribution shall be based on 30 percent of the per-county percentage of the average number of wards committed to the Department of Corrections and Rehabilitation, Division of Juvenile Justice, as of December 31, 2018, June 30, 2019, and December 31, 2019, 50 percent of the by-county distribution of juveniles adjudicated for certain violent and serious felony crime categories per 2018 Juvenile Court and Probation Statistical System data, updated annually based on the most recently available data, and 20 percent of the by-county distribution of all individuals between 10 and 17 years of age, inclusive, from the preceding calendar year.

(2) For the 2022-23 fiscal year, one hundred eighteen million three hundred thirty-nine thousand dollars (\$118,339,000) shall be appropriated from the General Fund to provide appropriate rehabilitative and supervision services for the population specified in subdivision (b) of Section 1990. The by-county distribution is based the per-county percentage referenced in paragraph (1) of subdivision (a) and a projected average daily population of 526 wards.

(3) For the 2023-24 fiscal year, one hundred ninety two million thirty-seven thousand dollars (\$192,037,000) shall be appropriated from the General Fund to provide appropriate rehabilitative and supervision services for the population specified in subdivision (b) Section 1990. The by-county distribution is based the per-county percentage referenced in paragraph (1) of subdivision (a) and a projected average daily population of 853.5 wards.

(4) For the 2024-25 fiscal year and each year thereafter, two hundred eight million eight hundred thousand dollars (\$208,800,000) shall be appropriated from the General Fund to provide appropriate rehabilitative and supervision services for the population specified in subdivision (b) of Section 1990 based on a projected average daily population of 928 wards. The Governor and the Legislature shall work with stakeholders to establish a distribution methodology for the funding in this paragraph by January 10, 2024, and ongoing that improves outcomes for this population.

(5) The Department of Finance shall increase to no more than two hundred fifty thousand dollars (\$250,000) the award amount for any county whose

allocation as calculated pursuant to paragraphs (1), (2), (3), and (4) totals less than two hundred fifty thousand dollars (\$250,000). The appropriation in paragraphs (1), (2), (3), and (4) shall be increased by the amount(s) needed to bring each counties allocation to \$250,000.

(b) Commencing with the 2024-25 fiscal year, the allocations determined by paragraphs (4) and (5) of subdivision (a) and shall be adjusted annually by a rate commensurate with any applicable growth in the Juvenile Justice Growth Special Account in the prior fiscal year. Each year this growth shall become additive to the next year's base allocation.

(c) By September 1, 2021, and each September 1 annually thereafter, the Department of Finance shall allocate the amount calculated in paragraphs (1), (2), (3), (4), and (5) of subdivision (a) from the General Fund and provide a schedule for the allocation of funds among counties to the State Controller. The State Controller shall allocate these funds in monthly installments according to the same schedule for allocations from the Youthful Offender Block Grant Special Account.

1995. (a) To be eligible for funding described in Section 1991, a county shall create a subcommittee of the multiagency juvenile justice coordinating council, as described in Section 749.22, to develop a plan describing the facilities, programs, placements, services, supervision and reentry strategies that are needed to provide appropriate rehabilitation and supervision services for the population described in subdivision (b) of Section 1990.

(b) The subcommittee shall be composed of the chief probation officer, as chair, and one representative each from the district attorney's office, the public defender's office, the department of social services, the department of mental health, the county office of education or a school district, and a representative from the court. The subcommittee shall also include no fewer than three community members who shall be defined as individuals who have experience providing community-based youth services, youth justice advocates with expertise and knowledge of the juvenile justice system, or have been directly involved in the juvenile justice system.

(c) The plan described in subdivision (a) shall include all of the following elements:

(1) A description of the realignment target population in the county that is to be supported or served by allocations from the block grant program, including the numbers of youth served, disaggregated by factors including their ages, offense and offense histories, gender, race or ethnicity, and other characteristics, and by the programs, placements, or facilities to which they are referred.

(2) A description of the facilities, programs, placements, services and service providers, supervision, and other responses that will be provided to the target population.

(3) A description of how grant funds will be applied to address each of the following areas of need or development for realigned youth:

(A) Mental health, sex offender treatment, or related behavioral or trauma-based needs.

(B) Support programs or services that promote the healthy adolescent development.

(C) Family engagement in programs.

(D) Reentry, including planning and linkages to support employment, housing, and continuing education.

(E) Evidence-based, promising, trauma-informed, and culturally responsive.

(F) Whether and how the plan will include services or programs for realigned youth that are provided by nongovernmental or community-based providers.

(4) A detailed facility plan indicating which facilities will be used to house or confine realigned youth at varying levels of offense severity and treatment need, and improvements to accommodate long-term commitments. This element of the plan shall also include information on how the facilities will ensure the safety and protection of youth having different ages, genders, special needs, and other relevant characteristics.

(5) A description of how the plan will incentivize or facilitate the retention of realigned youth within the jurisdiction and rehabilitative foundation of the juvenile justice system in lieu of transfers of realigned youth into the adult criminal justice system.

(6) A description of any regional agreements or arrangements to be supported by the block grant allocation pursuant to this chapter.

(7) A description of how data will be collected on the youth served and outcomes for youth served by the block grant program, including a description the outcome measures that will be utilized to measure or determine the results of programs and interventions supported by block grant funds.

(e) In order to receive 2022-2023 funding pursuant to Section 1991, a plan shall be filed with the Office of Youth and Community Restoration by January 1, 2022. In order to continue receiving funding, the subcommittee shall convene to consider the plan every third year, but at a minimum submit the most recent plan regardless of changes. The plan shall be submitted to the Office of Youth and Community Restoration by May 1 of each year.

(f) The Office of Youth and Community Restoration shall review the plan to ensure that the plan contains the all elements described in this section and may return the plan to the county for revision as necessary prior to final acceptance of the plan.

(g) The Office of Youth and Community Restoration shall prepare and make available to the public on its internet website a summary and a copy of the annual county plans submitted pursuant to this section.

SEC. 50. Chapter 4 (commencing with Section 2200) is added to Division 2.5 of the Welfare and Institutions Code, to read:

CHAPTER 4. OFFICE OF YOUTH AND COMMUNITY RESTORATION

2200. (a) Commencing July 1, 2021, there is in the California Health and Human Services Agency the Office of Youth and Community Restoration.

(b) The office's mission is to promote trauma responsive, culturally informed services for youth involved in the juvenile justice system that support the youths' successful transition into adulthood and help them become responsible, thriving, and engaged members of their communities.

(c) The office shall have the following responsibility and authority:

(1) Once data becomes available as a result of the plan developed to Section 13015 of the Penal Code, develop a report on youth outcomes in the juvenile justice system.

(2) Identify policy recommendations for improved outcomes and integrated programs and services to best support delinquent youth.

(3) Identify and disseminate best practices to help inform rehabilitative and restorative youth practices, including education, diversion, re-entry, religious and victims' services.

(4) Provide technical assistance as requested to develop and expand local youth diversion opportunities to meet the varied needs of the delinquent youth population, including but not limited to sex offender, substance abuse, and mental health treatment.

(5) Report annually on the work of the Office of Youth and Community Restoration.

(d) The office shall have an ombudsman that has the authority to do all of the following:

(1) Investigate complaints from youth, families, staff, and others about harmful conditions or practices, violations of laws and regulations governing facilities, and circumstances presenting an emergency situation.

(2) Decide, in its discretion, whether to investigate a complaint, or refer complaints to another body for investigation.

(3) Resolve complaints when possible, collaborating with facility administrators and staff to develop resolutions that may include training.

(4) Publish and provide regular reports to the Legislature about complaints received and subsequent findings and actions taken. The report shall comply with all confidentiality laws.

(e) The Office of Youth and Community Restoration shall evaluate the efficacy of local programs being utilized for realigned youth. No later than July 1, 2025, the office shall report its findings to the Governor and the legislature.

(f) Juvenile grants shall not be awarded by the Board of State and Community Corrections without the concurrence of the office. All juvenile justice grant administration functions in the Board of State and Community Corrections shall be moved to the office no later than January 1, 2025.

2201. (a) Until July 1, 2023, the committee established pursuant to Section 12824 of the Government Code shall be responsible for advising and providing recommendations related to policies, programs, and

approaches that improve youth outcomes, reduce youth detention, and reduce recidivism for the population in subdivision (b) of Section 1990.

(b) The committee established pursuant to Section 12824 of the Government Code shall work directly with the Office of Youth and Community Restoration, the Division of Juvenile Justice, and shall be staffed by the California Health and Human Services Agency.

SEC. 51. Chapter 5 (commencing with Section 2250) is added to Division 2.5 of the Welfare and Institutions Code, to read:

CHAPTER 5. REGIONAL YOUTH PROGRAMS AND FACILITIES GRANT
PROGRAM

2250. (a) Nine million six hundred thousand dollars (\$9,600,000) is hereby appropriated from the General Fund to the Youth Programs and Facilities Grant Program, which shall be administered by the Board of State and Community Corrections, to award one-time grants, to counties for the purpose of providing resources for infrastructure related needs and improvements to assist counties in the development of a local continuum of care.

(b) Each entity receiving a grant from the Youth Programs and Facilities Grant Program shall submit a detailed report to the office with the following information:

- (1) An accounting of expenditures.
- (2) A description of the physical and system enhancements made.
- (3) How many regional placement beds were supported with the funding.
- (4) What proportion of the regional placement beds were contracted to other counties and which counties.

(c) A local public agency that has responsibility for making arrests and detaining suspects as its primary responsibility, or which is responsible for prosecutions, is ineligible to apply for this grant.

(d) Funds from the Youth Programs and Facilities Grant Program shall not be used by counties to enter into contracts with private entities whose primary business is the custodial confinement of adults or youth in a prison or prison-like setting.

(e) (1) The Board of State and Community Corrections shall complete and submit, no later than October 1, 2024, a report to the budget and public safety policy committees of the Legislature describing the expenditures of the Youth Programs and Facilities Grant Program, including, but not limited to, recipients and award amounts, how funding was spent, how many regional placements were supported and a detailed description of the counties that contracted to utilize the regional facility beds. The report shall also be made available to the public on the board's internet website.

(2) The report required by paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(f) Any costs incurred by the office in connection with the development or administration of the grant program shall be deducted from the amount

appropriated before awarding any grants, not to exceed five percent of the amount appropriated.

(g) This chapter shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 52. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 53. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

**Juvenile Justice Realignment
Attachment Five**

[SB 823 Juvenile Justice Realignment: Office of Youth and Community Restoration
County Partner Joint Letters](#)



**CALIFORNIA STATE
ASSOCIATION OF COUNTIES**



**RURAL COUNTY
REPRESENTATIVES OF
CALIFORNIA**



**URBAN COUNTIES
of CALIFORNIA**

May 18, 2020

The Honorable Gavin Newsom
Governor, State of California
State Capitol Building, 1st Floor
Sacramento, CA 95814

Dear Governor Newsom,

On behalf of the California State Association of Counties (CSAC), the Urban Counties of California (UCC), and the Rural County Representatives of California (RCRC), we write to express our opposition to the 2020-21 May Revision proposal to close, or “realign,” the state Division of Juvenile Justice (DJJ). The proposal would cease intake of youthful offenders into DJJ facilities beginning January 1, 2021, and close the associated state facilities through attrition, making counties responsible for the entirety of the juvenile justice system.

Probation departments exemplify the county spirit of problem solving through collaboration and partnerships at both the state and local level. The implementation of monumental California criminal justice reforms is due, in large part, to county probation departments. Recent reforms such as SB 81 (Juvenile Realignment of 2007), SB 678 (Community Corrections Performance Incentive Act of 2009), AB 109 (Public Safety Realignment Act of 2011), would not have occurred without the thoughtful partnership between county probation departments and the state. However, these reforms could have only been made by reimagining the criminal justice continuum through careful planning and robust discussion between county leaders, probation departments, and state-level stakeholders. In truth, that is what defines a “realignment” in California—a careful division of system responsibilities designed through a thoughtful and deliberative partnership that aims to benefit the counties, the state, and the populations we serve. An important component of 2011 Public Safety Realignment, which built off lessons learned from 1991 Realignment, was the constitutional protection of a dedicated fund source for realigned programs. Even with those protections currently in place, counties are facing billions in realignment revenue losses due to plummeting state and local revenues, while confronting other state-level proposals that directly reduce public safety resources.

Our primary concern is the absence of collaboration to date on this proposal and the extremely compressed timeline associated with a May Revision proposal. This would be the case even without the additional challenges presented by COVID-19. It resembles a similar proposal from the last recession that appeared to be aimed at merely reducing state costs to close a budget gap. If this proposal is intended to achieve improved rehabilitation and treatment of youthful offenders, while maintaining public safety, it must be accompanied by the same careful deliberation as past criminal justice reforms. The June 15 deadline and subsequent budget actions expected throughout the summer do not allow for such a process.

Additionally, previous legislation which transfers youthful offender population to counties restricts placements in a DJJ facility to only the most serious and violent youth. This population, in most cases, is decidedly unfit for current local placement options because these youth possess complex criminal profiles often accompanied by significant mental health, behavioral health, and sex offender treatment

needs. Many counties are not currently equipped to adequately address the needs of this population. It remains our collective view that the state has a necessary role in the juvenile justice continuum — a role that has been narrowed over the years to housing and rehabilitation of the most serious youthful offenders.

Regrettably, given either the severity of the crime or the extent of a youth’s treatment needs, DJJ often is the only practical, and sometimes last available, placement option for this population. While not impossible, overcoming this challenge would require significant new, stable, and protected resources to ensure the county system could be successful in rehabilitating these individuals. Again, this critical aspect is something not offered by this May Revision proposal as it lacks clarity about the sufficiency and stability of a funding source. This factor is even more troubling in today’s circumstances when core revenue streams will leave counties struggling to assure an appropriate level of service for the youth for whom the counties already are responsible. Although low-population counties may send only one or two commitments to DJJ once every three to four years, it is difficult to conceive a scenario where a realignment structure will ever sufficiently assure the capacity, facilities, and financial resources needed to successfully manage this population.

Lastly, we are concerned that if future DJJ commitments were eliminated, there could be a multitude of undesirable outcomes. Although recent legislation and Proposition 57 of 2016 have significantly changed the process for transferring youthful offenders to adult court, the state could still see an increase in adult court proceedings for youthful offenders — reflecting the fact that a local option either may not exist to manage this population or may be viewed as inappropriate given the nature of the crime. Furthermore, if counties must absorb this population at the local level, we are concerned that mixing the most serious and violent juvenile offenders with the youth currently in local custody and care could greatly compromise rehabilitative efforts of the existing local population.

It is for these reasons that our associations must oppose the proposed closure, or “realignment,” of DJJ. If the state is interested in designing an appropriately resourced system and shifting responsibility for a population of youth with extraordinarily acute and complex needs, the current proposal and available timeframe fall well short of assuring success. While we appreciate the severity of the fiscal problems facing the state and the extremely limited options available, we believe this is not a solution the state and counties are currently prepared to implement. However, counties, including the membership of our individual associations, remain committed to opening productive dialogue with the Legislature and Administration in exploring solutions to perplexing problems—and this issue is no different.

We appreciate your consideration of the county perspective on this important policy issue.

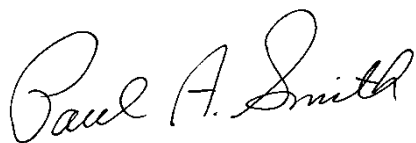
Sincerely,



Darby Kernan
CSAC Deputy Executive Director, Legislative Affairs



Elizabeth Espinosa
UCC Legislative Representative



Paul Smith
RCRC Vice President of Government Affairs

cc The Honorable Holly Mitchell, Chair, Senate Budget and Fiscal Review Committee
The Honorable Phil Ting, Chair, Assembly Budget Committee

Honorable Members, Senate Budget and Fiscal Review Committee
Honorable Members, Assembly Budget Committee
Chris Woods, Office of the Senate President pro Tempore
Jason Sisney, Office of the Assembly Speaker
Joe Stephenshaw, Senate Budget and Fiscal Review Committee
Christian Griffith, Assembly Budget Committee
Gabriel Petek, Legislative Analyst's Office
Ana Matosantos, Cabinet Secretary, Office of the Governor
Daniel Seeman, Deputy Cabinet Secretary, Office of the Governor
Anthony Williams, Legislative Affairs Secretary, Office of Governor
Jessica Devencenzi, Deputy Legislative Secretary, Office of the Governor
Keely Bosler, Director, Department of Finance
Amy Jarvis, Program Budget Manager, Department of Finance
Clint Kellum, Assistant Program Budget Manager, Department of Finance
Ralph Diaz, Secretary, California Department of Corrections and Rehabilitation



August 23, 2020

The Honorable Holly Mitchell
Chair, Senate Budget and Fiscal Review
Committee
State Capitol, Room 5050
Sacramento, CA 95814

The Honorable Phil Ting
Chair, Assembly Budget Committee
State Capitol, Room 6026
Sacramento, CA 95814

**RE: SB 823 (Committee on Budget and Fiscal Review) – Division of Juvenile Justice (DJJ)
Realignment
As amended 8/24/20200 – OPPOSE**

Dear Senator Mitchell and Assembly Member Ting:

On behalf of the California State Association of Counties (CSAC), the Urban Counties of California (UCC), and the Rural County Representatives of California (RCRC), we write to express our opposition to SB 823 (Committee on Budget and Fiscal Review), the legislative alternative to the 2020-21 May Revision proposal to close, or “realign,” the state Division of Juvenile Justice (DJJ). Regrettably, we do not believe the approach in SB 823 – which substantially departs from the Administration’s framework in several critical areas – will achieve the goals of improving outcomes for this population of young people who often have complex treatment needs.

When the Administration unveiled its May Revision proposal to stop intake at DJJ facilities in 2021 and prospectively shift responsibility to counties – ultimately making our member counties responsible for the entirety of the juvenile justice system – we expressed opposition based on our historical policy that the state has a necessary and critical role on the service and treatment continuum for this population of young people. Additionally, we raised considerable concerns regarding the sufficiency of time available to design a realignment that provides (1) the necessary flexibility for adapting to new service demands, (2) an accompanying fiscal structure with certainty and protections needed to assure adequate and sustainable funding over the long-term, and (3) an appropriate timeframe that built in adequate opportunity for planning and ramp-up activities.

Counties and probation chiefs engaged in productive conversations with the Administration in late May into June to negotiate amendments to their proposal so that it provides such a framework. Our perspective remains unchanged on the need to maintain a juvenile justice system that relies on the shared service commitment and participation of both state and county organizations. However, if the policy choice is made to close the DJJ facilities, then it is our view that the framework negotiated between counties and the Administration offers the most promising approach to supporting a flexible,

responsive, and sustainable structure that can adapt and expand to the new service responsibilities transferred squarely to local governments. As with previous realignments, counties believe strongly that a shift in programmatic responsibility must be accompanied by sufficient and protected funding as well as the flexibility to design responsive local systems that meet the needs of our communities, permit innovation, and encourage partnership with community organizations. Authority and responsibility must remain connected to ensure the system can function and respond appropriately.

Counties are fully invested in a strong, vibrant, and responsive juvenile justice system. Our organizations understand the value of and share a commitment to keeping as many youth as possible close to home during periods of rehabilitation and detention; we are committed to a system design that does not result in more kids being referred to the adult court system; and we share the goals of producing improved and sustainable positive outcomes for system-involved youth. The approach in SB 823 features a three-pronged funding structure that leaves counties with considerable questions about the ability to support the complex needs of the youth and to catalyze needed programmatic capacity. As drafted, the totality of resources to be made available to counties and other eligible entities is unclear. Further, the legislative alternative in SB 823 confers considerable control and authority to a new, untested state office that will presumably require a considerable financial commitment that we would argue would be better invested in services at the local level to meet the needs of the youth population.

Finally, we have consistently expressed an openness to continued conversation about oversight and accountability. However, we also believe that any such oversight structure should both respect that the state is proposing to realign the responsibility to the local level and appropriately hold counties accountable for delivering results for a vulnerable population. We think it would be most prudent to focus on additional and appropriate oversight to supplement the Administration's revised proposal, rather than other large-scale changes to the core structure and funding that the Legislature's alternative proposal in SB 823 contemplates. With merely days remaining in the legislative session, it seems problematic – when the stakes are so very high for the youth in need – to press forward with a proposal to shift a critical programmatic responsibility to counties when those same entities are not confident that the structure will achieve our shared goals and when there is insufficient time to negotiate changes.

It is for these reasons that counties must reiterate our historic position on a joint state-county juvenile justice delivery system and that we must also restate that – if the policy choice is made to close DJJ and shift the responsibility to counties – then the revised framework negotiated previously with the Administration offers greater promise for success. Thank you for considering our organizations' perspectives. Should you have any questions, please do not hesitate to contact Josh Gauger of CSAC (jgauger@counties.org), Elizabeth Espinosa of UCC (ehe@hbeadvocacy.com), or Paul Smith of RCRC (psmith@rcrcnet.org).

August 23, 2020

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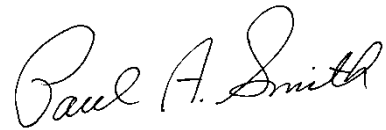
Sincerely,



Josh Gauger
CSAC Legislative Advocate



Elizabeth Espinosa
UCC Legislative Advocate



Paul A. Smith
RCRC Senior Vice President,
Governmental Affairs

cc: All Members, Senate Budget and Fiscal Review Committee
All Members, Assembly Budget Committee
Christopher A. Francis, Ph.D., Senate Budget and Fiscal Review Committee
Matt Osterli, Senate Republican Fiscal
Jennifer Kim, Assembly Budget Committee
Jessica Devencenzi, Office of the Governor
Amy Jarvis, Department of Finance
Clint Kellum, Department of Finance



LEGISLATIVE ALERT

▶ **Counties / Probation OPPOSE DJJ Realignment** ◀

August 30, 2020

TO: All Members of the Legislature

FROM: Graham Knaus, Executive Director, California State Association of Counties (CSAC)
Karen Pank, Executive Director, Chief Probation Officers of California (CPOC)
Elizabeth Espinosa, Legislative Advocate, Urban Counties of California (UCC)
Paul A. Smith, Senior Vice President of Governmental Affairs, Rural Counties
Representatives of California (RCRC)
Michelle Cabrera, Executive Director, County Behavioral Health Directors Association of
California (CBHDA)

RE: **Senate Bill 823 (Committee on Budget and Fiscal Review) / Assembly Bill 1868 (Budget
Committee) DJJ Realignment - OPPOSE**

For decades, the State has struggled mightily to find the appropriate policy solutions and system responses for its portion of responsibility on the juvenile justice service continuum. This year, yet another proposal to close the Division of Juvenile Justice and shift this critical service responsibility to counties was unveiled late in a year otherwise marred by a global pandemic, a resulting economic crisis, and lengthy, unplanned delays in the normal legislative and budget process. Counties raised the alarm in May that – given the sensitive nature of the youths’ needs, the complex jurisdictional issues associated with the proposed realignment, and the absolute necessity of building an operational and funding framework to appropriately catalyze local innovation – there simply was not enough time to resolve the myriad issues.

Today, in the final hours of the Legislative Session, county governments and our probation departments are being required to accept a sensitive and vital responsibility – one that shapes the future paths of youth in our juvenile justice system – in a form that is unworkable, does not reflect county or probation input on critical aspects, and cannot assure delivery of improved outcomes for the young people we are being asked to serve. The State is attempting to reduce costs and transfer liability by shifting the remainder of the entire juvenile justice system

responsibility to county governments without giving us the necessary authority and flexibility to respond to local conditions. **CSAC, CPOC, UCC, RCRC and CBHDA unequivocally oppose the DJJ Realignment structure the Legislature is proposing to send to the Governor for his signature in SB 823/AB 1868.**

While we only have had the benefit of evaluating the final framework for a matter of hours, we highlight the principal components of the measure that underlie our opposition, including:

- Establishment of a new, untested state bureaucracy with overly expansive authority, including the power to exert broad control over existing local programs despite the historic success of these programs in diverting youth out of detention;
- Expectation of considerable and costly local data collection and reporting requirements that span the entire juvenile justice system, which – while offering benefits – will impose a large state mandate;
- Inference that counties cannot be fully trusted with this responsibility, while the state appears eager to offload to counties a very challenging, costly, and sensitive service responsibility on the juvenile justice service continuum;
- Transfer of existing, critical funding streams under the purview of a new layer of state bureaucracy with the intent of disrupting the fund flow for long-standing, successful programs that represent foundational support for our core local services.
- Creation of multiple processes and bureaucracy to define and plan for realignment that will hamper rather than promote innovation, most likely delaying implementation efforts and diverting critical funding away from direct services to youth.
- Mere intent language to protect against an increase in adult court commitments, rather than a thoughtful or complete process.
- A July 1, 2021, DJJ intake closure date that, under this proposal, does not provide counties and probation departments with sufficient time to prepare local programs and facilities for the population being shifted to local government.

The state consistently relies on counties for extensive partnership in the delivery of programs for our mutual constituents. We are routinely asked to help solve complex societal problems and drive innovation in delivering services to the most vulnerable in our communities. The DJJ realignment approach in SB 823/AB 1868 lacks any reflection of this long-standing approach.

The proposal to close DJJ facilities and realign the responsibility to counties as contemplated in SB 823/AB 1868 is unacceptable. The State cannot expect local practitioners to fulfill this responsibility without taking into account our needs and expertise – an expertise that counties have demonstrated successfully among the nearly 90 percent of the youth (all but those with most serious and complex treatment needs) currently being rehabilitated under counties' care.

For these reasons, CSAC, CPOC, UCC, RCRC and CBHDA urge the Legislature to reject SB 823/AB 1868.

cc: Ana Matasantos, Cabinet Secretary, Office of Governor Gavin Newsom
Keely Bosler, Director of Finance
Christopher Woods, Budget Director, Senate President pro Tempore Toni Atkins
Christopher A. Francis, Ph.D., Senate Budget and Fiscal Review Committee
Matt Osterli, Senate Republican Fiscal
Jason Sisney, Budget Director, Assembly Speaker Anthony Rendon
Jennifer Kim, Assembly Budget Committee
Lyndsay Mitchell, Assembly Republican Fiscal Office
Jessica Devencenzi, Office of the Governor
Amy Jarvis, Department of Finance
Clint Kellum, Department of Finance



September 7, 2020

The Honorable Gavin Newsom
Governor, State of California
State Capitol
Sacramento, CA 95814

**RE: SB 823 (Committee on Budget and Fiscal Review) – DJJ Realignment
*Request for Veto***

Dear Governor Newsom:

On behalf of the California State Association of Counties (CSAC), the Urban Counties of California (UCC), the Rural County Representatives of California (RCRC), and the County Behavioral Health Directors Association (CBHDA), we regrettably must request a veto on SB 823, the trailer bill that carries out the closure of the Division of Juvenile Justice (DJJ) and transfers associated responsibilities to county governments.

As we have repeatedly stated, counties have a long-standing policy of opposing the closure of DJJ and the state divesting itself of a small but consequential role in the juvenile justice system. Despite our historic position and our concerns about the sufficiency of time available to design a thoughtful alternative, counties came to the table following the May Revision. We sat down in good faith to negotiate key deal points to ensure that the fiscal and operational structure offered sufficient flexibility and resources to meet the needs of the youth whose care and custody was proposed to be shifted to counties. A reasonable and workable framework was developed that counties and the Administration believed could support the new service responsibilities and offered the tools and resources needed to drive improved outcomes for the youth.

However, the final proposal that appeared mere hours before the final bill amendment deadline – and arrived at without the consent of the entities charged with its implementation – departs substantially from the agreement previously arrived at with counties. SB 823 now imposes a disjointed approach that seems focused on disrupting existing county programs and hampering individual and regional county implementation. We question the necessity of and motivation for conferring considerable administrative and oversight responsibilities to a new, untested office with a far broader reach than the narrow set of responsibilities being shifted to counties.

SB 823 in its final form was hastily drafted and contains considerable flaws. While we appreciate the Administration's expressed willingness to work with counties in implementing this consequential measure, it is imperative that – should this measure be signed – particular attention be given to assessing and resolving the following areas of concern:

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- The agreement – unlike previous realignments – did not, in its final form, represent a partnership agreement with the entities charged with carrying out a new set of intensive services for a high-need population. Given the rushed nature of its development, the bill includes multiple drafting errors that require technical cleanup, some of which jeopardize foundational county protections.
- The proposal risks disrupting the most foundational juvenile funding streams and programs, where counties have shown success with our current local juvenile justice population, which represents more than 90% of the statewide total.
- The funding formula creates inequitable by-county allocations and does not create a “bridge to success” for those communities needing to build out local programmatic capacity or the appropriate infrastructure. The distribution methodology perpetuates concerns that the system will result in “justice by geography” and, because it is proposed to be revisited in its entirety in three years, does not create the certainty or stability for counties to make long-term investments.
- The proposal lacks a complete process for protecting against adult court commitments due to its rushed construction.

Overall, we are concerned that the approach to DJJ realignment in its totality does not provide counties the tools to deliver improved outcomes for this population of youth. We share the goals of keeping youth close to home and helping them succeed, but SB 823 misses the mark in several notable ways. For these reasons, we ask that you veto this measure and return to the table for a more comprehensive, collaborative and less punitive approach to this highly complex policy matter. Thank you for considering our perspective.

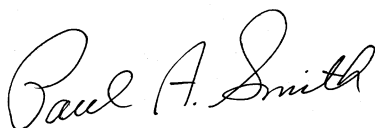
Sincerely,



Joshua Gauger
CSAC Legislative Advocate



Elizabeth Espinosa
UCC Legislative Advocate



Paul A. Smith
RCRC Senior Vice President, Governmental Affairs



Michelle Doty Cabrera
CBHDA Executive Director

cc: Ana Matosantos, Cabinet Secretary, Office of the Governor
Keely Bosler, Director of Finance

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Jessica Devencenzi, Deputy Legislative Secretary, Office of the Governor
Amy Jarvis, Program Budget Manager, Department of Finance
Clint Kellum, Assistant Program Budget Manager, Department of Finance
Joe Stephenshaw, Staff Director, Senate Budget and Fiscal Review Committee
Christopher A. Francis, Ph.D., Consultant, Senate Budget and Fiscal Review Committee
Christian Griffith, Chief Consultant, Assembly Budget Committee
Jennifer Kim, Consultant, Consultant, Assembly Budget Committee

Administration of Justice Policy Platform Update
Attachment Six
Memo: AOJ Platform Update



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Graham Knaus

November 3, 2020

To: Administration of Justice Policy Committee Members

From: Josh Gauger, Legislative Representative
Stanicia Boatner, Legislative Analyst

Re: Administration of Justice Platform Review – ACTION ITEM

Recommendation. Staff recommends that the Administration of Justice Policy Committee approve the recommended changes to the California State Association of Counties (CSAC) policy platform as drafted and forwarded to the CSAC Board of Directors.

Background. The California County Platform is a statement of basic policies on issues of concern and interest to California’s counties. CSAC’s policy committees and Board of Directors review the platform regularly, amending and updating when necessary. In addition, the CSAC policy committees recommend updates to their relevant platform chapters every two years, with action taken at the Annual Meeting by the respective committee and Board of Directors.

As part of this biannual process, the Administration of Justice staff in early October recommended a few changes to the AOJ platform chapter and invited committee members to provide additional suggestions.

Summary of Platform Changes:

Chapter Two – Administration of Justice

- Updating language, deleting outdated references, and reformatting throughout document.
- Section 2: Legislative and Executive Matters:
 - Public Defense Services - ability to pay language clarification.
 - Pre Sentence Detention:
 - Juveniles:
 - General – removal of portions of the current juvenile justice language per the passage of SB 823 (DJJ Realignment, 2020).
 - Treatment and Rehabilitation – rewording of reference to risk level of offenders and removal of Division of Juvenile Justice (DJJ) language per SB 823.
 - General Principles for Local Corrections:
 - Impact on Local Treatment Capacity – replacement of drug treatment wording with substance use disorder treatment.
 - General Principles for Juvenile Corrections – removal of fines and sanctions language per SB 190 (Mitchell, 2017) and SB 1290 (Durazo, 2020).
 - Removal of Juvenile Correctional Institutions section and replaced with Youthful Offenders section to reflect county principles related to the passage of SB 823.
 - Juvenile Probation – removal of fines and/or sanctions language per SB 190 (Mitchell, 2017) and SB 1290 (Durazo, 2020).

- Human Services System Referral of Juveniles – addition of language that reflects the counties responsibility for juveniles per SB 823.

Action Requested. Staff requests approval from the committee to advance the proposed changes to the CSAC Board of Directors.

Attachment. Marked up copy of the following platform chapter to illustrate the proposed changes:

Chapter 2 – Administration of Justice

Contacts. Please contact Josh Gauger (jgauger@counties.org or 916/955-3932), or Stanicia Boatner (sboatner@counties.org or 916/764-7698) for additional information.

Administration of Justice Policy Platform Update
Attachment Seven
AOJ Platform Draft

Chapter Two

Administration of Justice

Section 1: General Principles

This chapter is intended to provide a policy framework to direct needed and inevitable change in our justice system without compromising our commitment to both public protection and the preservation of individual rights. CSAC supports improving the efficiency and effectiveness of the California justice systems without compromising the quality of justice.

The Role of Counties

The unit of local government that is responsible for the administration of the justice system must be close enough to the people to allow direct contact, but large enough to achieve economies of scale. While acknowledging that the state has a constitutional responsibility to enact laws and set standards, California counties are uniquely suited to continue to have major responsibilities in the administration of justice. However, the state must recognize differences arising from variations in population, geography, industry, and other demographics and permit responses to statewide problems to be tailored to the needs of individual counties.

We believe that delegation of the responsibility to provide a justice system is meaningless without provision of adequate sources of funding.

Section 2: Legislative and Executive Matters

Board of Supervisors Responsibilities

It is recognized that the state, and not the counties, is responsible for trial court operations costs and any growth in those costs in the future. Nevertheless, counties continue to be responsible for justice-related services, such as, but not limited to, probation, prosecutorial and defense services, as well as the provision of local juvenile and adult detention facilities. Therefore, county board of supervisors should have budget control over all executive and administrative elements of local justice programs for which we continue to have primary responsibility.

Law Enforcement Services

While continuing to provide the full range of police services, county sheriffs should move in the direction of providing less costly specialized services, which can most effectively be managed on a countywide basis. Cities should provide for patrol and emergency services within their limits or spheres of influence. However, where deemed mutually beneficial to counties and cities, it may be appropriate to establish contractual arrangements whereby a county would provide law enforcement services within incorporated areas. Counties should maintain maximum flexibility in their ability to contract with municipalities to provide public safety services.

District Attorney Services

The independent, locally-elected nature of the district attorney must be protected. This office must have the capability and authority to review suspected violations of law and bring its conclusions to the proper court.

Victim Indemnification

Government should be responsive to the needs of victims. Victim indemnification should be a state responsibility, and the state should adopt a program to facilitate receipt of available funds by victims, wherever possible, from the perpetrators of the crime who have a present or future ability to pay, through means that may include, but are not limited to, long-term liens of property and/or long-term payment schedules.

Witness Assistance

Witnesses should be encouraged to become more involved in the justice system by reporting crime, cooperating with law enforcement, and participating in the judicial process. A cooperative anonymous witness program funded jointly by local government and the state should be encouraged, where appropriate, in local areas.

Grand Juries

Every grand jury should continue to have the authority to report on the needs of county offices, but no such office should be investigated more than once in any two-year period, unless unusual circumstances exist. Grand juries should be authorized to investigate all local government agencies, not just counties. Local government agencies should have input into grand jury reports on non-criminal matters prior to public release. County officials should have the ability to call the grand jury foreman and his or her representative before the board of supervisors, for the purpose of gaining clarification on any matter contained in a final grand jury report. Counties and courts should work together to ensure that grand jurors are properly trained and that the jury is provided with an adequate facility within the resources of the county and the court.

Public Defense Services

Adequate legal representation must be provided for indigent persons as required by constitutional, statutory, and case law. Such representation includes both criminal and mental health conservatorship proceedings. The mechanism for meeting this responsibility should be left to the discretion of individual counties.

Counsel should be appointed for indigent juveniles involved in serious offenses and child dependency procedures. —The court-appointed or -selected attorney in these procedures should be trained specifically to work with juveniles.

Adult defendants and parents of represented juveniles who have a ~~present and/or future~~ ability to pay part of the costs of defense should continue to be required to do so as determined by the court. ~~The establishment of procedures to place the responsibility for the cost of juvenile defense rightfully upon the parents should be encouraged.~~ The state should increase its participation in sharing the costs of public defense services.

Coroner Services

The independent and investigative function of the coroner must be assured. State policy should encourage the application of competent pathological techniques in the determination of the cause of death.

The decision as to whether this responsibility should be fulfilled by an independent coroner, sheriff-coroner combination, or a medical examiner must be left to the individual boards of supervisors. In rural counties, the use of contract medical examiners shall be encouraged on a case-by-case basis where local coroner judgment is likely to be challenged in court. A list of expert and highly qualified medical examiners, where available, should be circulated to local sheriff-coroners.

Pre-Sentence Detention

Adults

1) Facility Standards

The state's responsibility to adopt reasonable, humane, and constitutional standards for local detention facilities must be acknowledged.

Recognizing that adequate standards are dynamic and subject to constant review, local governments must be assured of an opportunity to participate in the development and modification of standards.

It must be recognized that the cost of upgrading detention facilities presents a nearly insurmountable financial burden to most counties. Consequently, enforcement of minimum standards must depend upon state financial assistance, and local costs can be further mitigated by shared architectural plans and design.

2) Pre-sentence Release

Counties' discretion to utilize the least restrictive alternatives to pre-sentence incarceration that are acceptable, in light of legal requirements and counties' responsibility to protect the public, should be unfettered.

3) Bail

We support a bail system that would validate the release of pre-sentence persons using risk assessment tools as a criteria for release. Risk assessment tools and pre-trial release assessments should be designed to mitigate racial and economic disparities while maintaining public safety.→

Any continuing county responsibility in the administration or operation of the bail system must include: 1) a mechanism to finance the costs of such a system and 2) provide counties with adequate local flexibility.

Juveniles

1) General

We view the juvenile justice system as being caught between changing societal attitudes calling for harsher treatment of serious offenders and its traditional orientation toward assistance and rehabilitation. ~~Therefore, we believe a thorough review of state juvenile laws is necessary. Any changes to the juvenile justice system~~

~~should fully involve and draw upon the experience of county officials and personnel responsible for the administration of the present system.~~ CSAC must be involved in state-level discussions and decision-making processes regarding changes to the juvenile justice system that will have a local impact. There must also be recognition that changes do not take place overnight and that an incremental approach to change may be most appropriate.

~~Counties must be given the opportunity to analyze the impact, assess the feasibility, and determine the acceptability of any juvenile justice proposal that would realign services from the state to the local level. As with any realignment, responsibility and authority must be connected, and sufficient resources — with a built-in growth factor adjustment — must be provided. Any shift in juvenile detention or incarceration from large state-run facilities to local facilities — if determined to be appropriate — must be pre-planned and funded by the state. However, counties believe that a class of juvenile offenders exists that is best treated by the state. These juvenile offenders are primarily those offenders whose behavioral problems, treatment needs, or criminogenic profile are so severe as to outstrip the local ability to properly treat.~~

We support a juvenile justice system that is adapted to local circumstances and increased state and federal funding support for local programs that are effective.

2) Facility Standards

The state's responsibility to adopt reasonable, humane, and constitutional standards for juvenile detention facilities is recognized. The adoption of any standards should include an opportunity for local government to participate. The state must recognize that local government requires financial assistance in order to effectively implement state standards, particularly in light of the need for separating less serious offenders from more serious offenders.

3) Treatment and Rehabilitation

As with adult defendants, counties should have broad discretion in developing programs for juveniles.

To reduce overcrowding of juvenile institutions and to improve the chances for treatment and rehabilitation of more serious offenders, it is necessary that ~~lesser~~ lower-level offenders be diverted from the formal juvenile justice system to their families and appropriate community-based programs. Each juvenile should receive individual consideration and, where feasible, a risk assessment.

Counties should pursue efficiency measures that enable better use of resources and should pursue additional funding from federal, state, and private sources to establish appropriate programs at the county level.

Prevention and diversion programs should be developed by each county or regionally to meet the local needs and circumstances, which vary greatly among urban, suburban, and rural areas of the state. Programs should be monitored and evaluated on an ongoing basis to ensure their ability to protect public safety and to

ensure compliance with applicable state and federal regulations. ~~Nevertheless, counties believe that the state must continue to offer a commitment option for those juvenile offenders with the most serious criminogenic profile and most severe treatment needs.~~

4) Bail

Unless transferred to adult court, juveniles should not be entitled to bail. Release on their own recognizance should be held pending the outcome of the proceedings.

5) Separation of Offenders

We support the separation of juveniles into classes of sophistication. Separation should be based upon case-by-case determinations, taking into account age, maturity, need for secure custody among other factors, since separation by age or offense alone can place very unsophisticated offenders among the more mature, sophisticated offenders.

In view of the high cost of constructing separate juvenile hall facilities, emphasis should be placed on establishment of facilities and programs that facilitate separation.

6) Removal of Serious Offenders to Adult Court

To the greatest extent possible, determinations regarding the fitness of serious offenders should be made by the juvenile court on a case-by-case basis.

7) Jury Trial for Serious Offenders

Except when transferred to adult court, juveniles should not be afforded the right to a jury trial — even when charged with a serious offense.

General Principles for Local Corrections

Definition

Local corrections include maximum, medium and minimum security incarceration, work furlough programs, home detention, county parole, probation, Post Release Community Supervision (PRCS) and community-based programs for convicted persons.

Purpose

We believe that swift and certain arrest, conviction, and punishment is a major deterrent to crime. Pragmatic experience justifies the continuation of rehabilitative programs for those convicted persons whom a court determines must be incarcerated and/or placed on local supervision.

In light of the state's recent efforts on corrections reform — primarily on recidivism and overcrowding in state detention facilities, counties feel it is essential to articulate their values and objectives as vital participants in the overall corrections continuum. Further, counties understand that they must be active participants in any successful effort to improve the corrections system in our state. Given that local and state corrections systems are interconnected, true reform must consider the advantage — if not necessity — of investing in local programs and services to help the state reduce the rate of growth in the prison population. Front-end investment in local programs and initiatives will enrich the changes

currently being contemplated to the state system and, more importantly, will yield greater economic and social dividends that benefit communities across the state.

An optimum corrections strategy must feature a strong and committed partnership between the state and local governments. State and local authorities must focus on making productive use of offenders' time while in custody or under state or local supervision. A shared commitment to rehabilitation can help address the inextricably linked challenges of recidivism and facility overcrowding. The most effective method of rehabilitation is one that maintains ties to an offender's community.

Programs and services must be adequately funded to enable counties to accomplish their functions in the corrections system and to ensure successful outcomes for offenders. To the extent that new programs or services are contemplated, or proposed for realignment, support must be in the form of a dedicated, new and sustained funding source specific to the program and/or service rather than a redirection of existing resources, and adequate to achieve specific outcomes. In addition, any realignment must be examined in relation to how it affects the entire corrections continuum and in context of sound, evidence based practices. Any proposed realignment of programs and responsibility from the state to counties must be guided by CSAC's existing Realignment Principles.

System and process changes must recognize that the 58 California counties have unique characteristics, differing capacities, and diverse environments. Programs should be designed to promote innovation at the local level and to permit maximum flexibility, so that services can best target individual community needs and capacities. Data collection and sharing is additionally critical as counties implement new criminal justice efforts.

Equal Treatment

Conditions, treatment and correctional opportunities that are equal for all detainees, regardless of gender, are strongly supported. State policy must allow recognition of the individual's right to privacy and the differing programmatic needs of individuals.

Community-Based Corrections

The most cost-effective method of rehabilitating convicted persons is the least restrictive alternative that is close to the individual's community and should be encouraged where possible.

State policy must recognize that correctional programs must always be balanced against the need for public protection and that community-based corrections programs are only successful to the extent that they are sufficiently funded.

Relationship to Human Services Systems

State policy toward corrections should reflect a holistic philosophy, which recognizes that most persons entering the correctional system should be provided welfare, medical, mental health, vocational and educational services. Efforts to rehabilitate persons entering the correctional system should involve these other services, based on the needs — and, when possible, a risk assessment — of the individual.

Relationship to Mental Health System: Mentally Ill Diversion Programs

Adequate mental health services can reduce criminal justice costs and utilization. Appropriate diagnosis and treatment services, as well as increased use of diversion programs, will result in positive outcomes for offenders with a mental illness. Ultimately, appropriate mental health services will benefit the public

safety system. Counties continue to work across disciplines to achieve good outcomes for persons with mental illness and/or co-occurring substance use disorder issues.

Inmate Medical Services

CSAC supports efforts at the federal level to permit local governments to access third-party payments for health care provided in detention facilities, including medical services provided for those who are accused, but not yet convicted. CSAC also supports efforts to ensure continuity of benefits for those detained in county detention facilities – adult and juvenile – and for swift reenrollment in the appropriate benefits program upon a detainee’s release.

Private Programs

Private correctional programs should be encouraged for those categories of offenders that can most effectively be rehabilitated in this manner.

Investment in Local Programs and Facilities

The state’s investment in local programs and facilities returns an overall benefit to the state corrections system and community safety. –State support of local programs and facilities will aid materially in addressing the “revolving door” problem in state and local detention facilities.

The state should invest in improving, expanding and renovating local detention facilities to address overcrowding, early releases, and improved delivery of inmate health care. Incentives should be included to encourage in-custody treatment programs and other services.

The state should invest in adult probation services — using as a potential model the Juvenile Justice Crime Prevention Act (JJCPA) — to build a continuum of intervention, prevention, and supervision services for adult offenders.

The state should continue to fully support the successful JJCPA initiative, which provides a range of juvenile crime prevention and intervention programs and which represents a critical component of an overall crime reduction and public safety improvement strategy. Diverting juveniles from a life of offending will help to reduce pressure on the adult system.

The state should invest in mentally ill in-custody treatment and jail diversion programs, where treatment and services can help promote long-term stability in mentally ill offenders or those with co-occurring disorders, decrease recidivism, and divert appropriate offenders out of the criminal justice system.

The state should continue to invest in alcohol and substance use disorder treatment and diversion programs, including but not limited to outpatient treatment facilities, given that the vast majority of inmates in state and local systems struggle with addiction, which is a primary factor in their criminality.

Inmate Reentry Programs

Reentry programs represent a promising means for addressing recidivism by providing a continuum of care that facilitates early risk assessment, prevention, and transition of inmates back into the community through appropriate treatment, life skills training, job placement, and other services and supports. The state should consider further investment in multiagency programs authorized under SB

618¹, which are built on proven, evidence-based strategies including comprehensive pre-sentence assessments, in-custody treatment, targeted case management, and the development of an individualized life plan. These programs promote a permanent shift in the way nonviolent felony offenders are managed, treated and released into their respective communities. Examples of program elements that have been demonstrated to improve offenders' chances for a successful reintegration into their communities upon release from custody include, but are not limited to, the following:

- a. Early risks and needs assessment that incorporates assessments of the need for treatment of alcohol and substance use disorders, and the degree of need for literacy, vocational and mental health services;
- b. In-custody treatment that is appropriate to each individual's needs — no one-size-fits-all programming;
- c. After care and relapse prevention services to maintain a "clean and sober" lifestyle;
- d. Strong linkages to treatment, vocational training, and support services in the community;
- e. Prearranged housing and employment (or vocational training) for offenders before release into their communities of residence;
- f. Completion of a reentry plan prior to the offenders' transition back into the community that addresses the following, but is not limited to: an offender's housing, employment, medical, dental, and rehabilitative service needs;
- g. Preparation of the community and offenders' families to receive and support each offender's new law-respecting and productive lifestyle before release through counseling and public education that recognize and address the inter-generational impact and cycles of criminal justice system involvement;
- h. Long-term mentorship and support from faith-based and other community and cultural support organizations that will last a lifetime, not just the duration of the parole period; and
- i. Community-based treatment options and sanctions.
- j. Counties believe that such reentry programs should include incentives for inmate participation.

Siting of New Facilities

Counties acknowledge that placement of correctional facilities is controversial. However, the state must be sensitive to community response to changing the use of, expanding, or siting new correctional facilities (prisons, community correctional facilities, or reentry facilities). Counties and other affected municipalities must be involved as active participants in planning and decision-making processes regarding site selection. Providing for security and appropriate mitigations to the local community are essential.

Impact on Local Treatment Capacity

Counties and the state must be aware of the impact on local communities' existing treatment capacity (e.g., mental health, drug-substance use disorder treatment, vocational services, sex offender treatment, indigent healthcare, developmental services, and services for special needs populations) if the correction reforms contemplate a major new demand on services as part of development of community correctional facilities, reentry programs, or other locally based programs. Specialized treatment services that are not widely available are likely the first to be overtaxed. To prevent adverse impacts upon existing alcohol and substance use disorder and mental health treatment programs for

¹Chapter 603, Statutes of 2005.

primarily non-criminal justice system participants, treatment capacity shall be increased to accommodate criminal justice participants. In addition, treatment capacity shall be separately developed and funded.

Impact on Local Criminal Justice Systems

Proposals must adequately assess the impact on local criminal justice systems (courts, prosecution and defense, probation, detention systems and local law enforcement).

Emerging and Best Practices

Counties support the development and implementation of a mechanism for collecting and sharing of best practices that can help advance correction reform efforts.

Adult Correctional Institutions

Counties should continue to administer adult correctional institutions for those whose conviction(s) require and/or results in local incarceration.

The state and counties should establish a collaborative planning process to review the relationship of local and state corrections programs.

Counties should continue to have flexibility to build and operate facilities that meet local needs. Specific methods of administering facilities and programs should not be mandated by statute.

Adult Probation

Counties should continue to provide adult probation services as a cost-effective alternative to post-sentence incarceration and to provide services—as determined appropriate—to persons released from local correctional facilities. Counties should be given flexibility to allocate resources at the local level according to the specific needs of their probation population and consideration should be granted to programs that allow such discretion. State programs that provide fiscal incentives to counties for keeping convicted offenders out of state institutions should be discouraged unless such programs – on balance – result in system improvements. State funding should be based upon a state-county partnership effort that seeks to protect the public and to address the needs of individuals who come into contact with the justice system. Such a partnership would acknowledge that final decisions on commitments to state institutions are made by the courts, a separate branch of government, and are beyond the control of counties. Some integration of county probation and state parole services should be considered. Utilization of electronic monitoring for probationers and parolees should be considered where cost-effective and appropriate for local needs.

General Principles for Juvenile Corrections

We believe that efforts to curtail the criminal behavior of young people are of the highest priority need within the correctional area. The long-term costs resulting from young offenders who continue their criminal activities justifies extraordinary efforts to rehabilitate them.

~~Efforts should be made to force parents~~ Parents should assume ~~greater~~ responsibility for the actions of their children, ~~including fines and sanctions, if necessary~~. Counties should be given flexibility to allocate resources at the local level according to the specific needs of their probation population and consideration should be granted to programs that allow such discretion. State programs that provide fiscal incentives to counties for keeping convicted offenders out of state institutions should be discouraged unless such programs – on balance – result in system improvements. Any program should

recognize that final decisions on commitments to state institutions are made by the courts, a separate branch of government, and are beyond the control of counties.

Juvenile-Youthful Correctional Institutions Offenders

~~Counties should continue to administer juvenile correctional institutions and programs for the majority of youths requiring institutionalization. Retention of youths at the local level benefits the state by reducing demands on programs and institutions operated by the California Division of Juvenile Justice.~~

~~While counties believe that a state-operated rehabilitation and detention system is a necessary component of the continuum of services for juvenile offenders, CSAC opposes efforts that would require any additional county subsidy of that system. The state should provide subvention for these activities at a reasonable level, with provisions for escalation so that actual expenses will be met.~~

~~After multiple realignments at the state level, generally counties are responsible for the custody and care of all youthful offenders adjudicated as of July 1, 2021. To carry out this responsibility, counties believe it is necessary for the state to provide adequate funding; local flexibility to develop responses and partnerships between counties to adequately serve youth, especially those with higher-level treatment needs; and appropriate oversight and accountability that is commensurate to the responsibility and liability being realigned. Additionally, oversight and accountability measures associated with the most complex youth cases that were last to be realigned should not disrupt the success counties have proven with existing juvenile programs and funding streams.~~

~~Funding should recognize the unique position, needs, and conditions of each county and include a growth factor so that future funding keeps pace with growing programmatic costs. To the extent the state does not provide adequate funding for counties to be successful with youthful offenders, responsibility for the care and custody of the most complex juvenile cases should return to the state.~~

~~Counties support evidence-based efforts to protect against unnecessary transfers of juvenile offenders to the adult system. However, these efforts should not reduce local flexibility or create unfunded costs for counties to build new, or retrofit existing, facilities.~~

Juvenile Probation

Counties should continue to provide juvenile probation services as a cost-effective alternative to post-adjudication and to provide juvenile probation services to individual youths and their families after the youth's release from a local correctional facility.

Truants, run-a-ways, and youths who are beyond the control of their parents should continue to be removed from the justice system except in unusual circumstances. These youths should be the responsibility of their parents and the community, not the government. ~~Imposing fines and/or sanctions on parents to prompt their participation in their children's lives and involvement in the process should remain an option.~~

Gang Violence Prevention

Counties recognize the devastating societal impacts of gang violence – not only on the victims of gang-related crimes, but also on the lives of gang members and their families. Counties are committed to working with allied agencies, municipalities, and community-based organizations to address gang violence and to promote healthy and safe communities. These efforts require the support of federal and state governments and should employ regional strategies and partnerships, where appropriate.

Human Services System Referral of Juveniles

State policy toward juvenile corrections must be built on the realization that a juvenile offender may be more appropriately served in the human services system. As counties are responsible for the entirety of the juvenile justice population, these decisions should be left to counties based on local needs and priorities. Considering the high suicide potential of youths held in detention facilities and, acknowledging the fact that juvenile offenses are more often impulse activities than are adult offenses, juvenile cases and placement decisions should be reviewed more closely under this light.

Federal Criminal Justice Assistance

The federal government should continue to provide funding for projects that improve the operation and efficiency of the justice system and that improve the quality of justice. Such programs should provide for maximum local discretion in designing programs that are consistent with local needs and objectives.

Section 3: Sex Offender Management

For the safety and well-being of California's citizens, especially those most vulnerable to sexual assault, it is essential for counties and the state to manage known sex offenders living in our communities in ways that most effectively reduce the likelihood that they will commit another offense, whether such reoffending occurs while they are under the formal supervision of the criminal justice system or takes place after that period of supervision comes to an end.

In light of this counties need to develop strategies to 1) educate county residents, 2) effectively manage the sex offender population, which may or may not coincide with existing state policy, 3) assess which sex offenders are at the highest risk to re-offend and thus in need of monitoring and 4) partner with other state and local organizations that assist in supervision of sex offenders.

To that end, CSAC has adopted the following principles and policy on sex offender management.

Any effective sex offender management policy should contain restriction clauses that do not focus on where a sex offender lives but rather on the offender's movements. Counties believe an offender's activities and whereabouts pose a greater danger than his or her residence. Therefore, any strategy should consider the specific offense of the sex offender and prohibit his/her travel to areas that relate to their specific offense.

Each county, when taking actions to address and/or improve sex offender management within its boundaries, should do so in a manner that does not create difficulties for other counties to manage the sex offender population within their jurisdiction.

There are many community misconceptions about how to best monitor the sex offender population, how sex offenders are currently monitored and the threats sex offenders do and do not pose to communities. Any comprehensive sex offender management program must contain a community education component for it to be successful.

Supervision programs administered at the local level will require stable and adequate funding from the State to ensure that the programs are appropriately staffed, accessible to local law enforcement departments, and effective.

Global Positioning Systems (GPS) devices are but one of a multitude of tools that can be used simultaneously to monitor and supervise sex offenders. California counties believe that if the State is to adopt the use of GPS to monitor sex offenders a common system should be developed. This system should be portable and accessible no matter where an offender travels within California.

Counties and the state should rely more heavily on the use of risk and needs assessments to determine how to allocate resources. These assessments will allow an agency at the local level to determine who is most at risk to reoffend and in need of monitoring.

Regional collaboration should be encouraged as a means to address sex offender management.

The level of government with jurisdiction to supervise a sex offender (state parole or county probation) should be responsible and be given the authority for managing that offender.

Counties believe that for any policy to work, local governments and the State must work collaboratively to manage this population of offenders. The passage of Jessica's Law (Proposition 83, November 2006) intensified discussions regarding sex offender management and the public's perception about effective sex offender management policies. Accordingly, state and local governments should reexamine sex offender management policies.

Section 4: Judicial Branch Matters

Trial Court Management

The recognized need for greater uniformity and efficiency in the trial courts must be balanced against the need for a court system that is responsive and adaptable to unique local circumstances. Any statewide administrative structure must provide a mechanism for consideration of local needs.

Trial Court Structure

We support a unified consolidated trial court system of general jurisdiction that maintains the accessibility provided by existing trial courts. The state shall continue to accept financial responsibility for any increased costs resulting from a unified system.

Trial Court Financing

Sole responsibility for the costs of trial court operations should reside with the state, not the counties. Nevertheless, counties continue to bear the fiscal responsibility for several local judicial services that are driven by state policy decision over which counties have little or no control. We strongly believe that it is appropriate for the state to assume greater fiscal responsibility for other justice services related to trial courts, including collaborative courts. Further, we urge that the definition of court operations financed by the state should include the district attorney, the public defender, court appointed counsel, and probation.

Trial Court Facilities

The court facility transfers process that concluded in 2009 places responsibility for trial court facility maintenance, construction, planning, design, rehabilitation, replacement, leasing, and acquisition squarely with the state judicial branch. Counties remain committed to working in partnership with the courts to fulfill the terms of the transfer agreements and to address transitional issues as they arise.

Court Services

Although court operation services are the responsibility of the state, certain county services provided by probation and sheriff departments are directly supportive of the trial courts. Bail and own recognizance investigations, as well as pre-sentence reports, should be provided by probation, sheriff, and other county departments to avoid duplication of functions, but their costs should be recognized as part of the cost of operating trial courts.

Jurors and Juries

Counties should be encouraged to support programs that maximize use of potential jurors and minimize unproductive waiting time. These programs can save money, while encouraging citizens to serve as jurors. These efforts must consider local needs and circumstances. To further promote efficiency, counties support the use of fewer than twelve person juries in civil cases.

Collaborative Courts

Counties support collaborative courts that address the needs and unique circumstances of specified populations such as the mentally ill, those with substance use disorders, and veterans. Given that the provision of county services is vital to the success of collaborative courts, these initiatives must be developed locally and entered into collaboratively with the joint commitment of the court and county. This decision making process must include advance identification of county resources – including, but not limited to, mental health treatment and alcohol and substance use disorder treatment programs and services, prosecution and defense, and probation services – available to support the collaborative court in achieving its objectives.

Court and County Collection Efforts

Improving the collection of court-ordered debt is a shared commitment of counties and courts. An appropriately aggressive and successful collection effort yields important benefits for both courts and counties. Counties support local determination of both the governance and operational structure of the court-ordered debt collection program and remain committed to jointly pursuing with the courts strategies and options to maximize recovery of court-ordered debt.

Section 5: Family Violence

CSAC remains committed to raising awareness of the toll of family violence on families and communities by supporting efforts that target family violence prevention, intervention and treatment. Specific strategies for early intervention and success should be developed through cooperation between state and local governments, as well as community, and private organizations addressing family violence issues taking into account that violence adversely impacts Californians, particularly those in disadvantaged communities, at disproportionate rates.

Since counties have specific responsibilities in certifying domestic violence batterer intervention programs, it is in the best interest of the state and counties that these programs provide treatment that addresses the criminogenic needs of offenders and looks at evidence-based or promising practices as the most effective standard for certifying batterer intervention programs.

Section 6: Government Liability

The current government liability system is out of balance. It functions almost exclusively as a source of compensation for injured parties. Other objectives of this system, such as the deterrence of wrongful conduct and protection of governmental decision-making, have been largely ignored. Moreover, as a

compensatory system of ever-increasing proportions, it is unplanned, unpredictable and fiscally unsound – both for the legitimate claimant and for the taxpayers who fund public agencies.

Among the principal causes of these problems is the philosophy – expressed in statutes and decisions narrowing governmental immunities under the Tort Claims Act – that private loss should be shifted to society where possible on the basis of shared risk, irrespective of fault or responsibility in the traditional tort law sense.

The expansion of government liability over recent years has had the salutary effect of forcing public agencies to evaluate their activities in terms of risk and to adopt risk management practices. However, liability consciousness is eroding the independent judgment of public decision-makers. In many instances, mandated services are being performed at lower levels and non-mandated services are being reduced or eliminated altogether. Increasingly, funds and efforts are being diverted from programs serving the public to the insurance and legal judicial systems.

Until recently, there appeared to be no end to expansion of government liability costs. Now, however, the "deep pocket" has been cut off. Insurance is either unavailable or cost prohibitive and tax revenues are severely limited. Moreover, restricted revenue authority not only curtails the ability of public entities to pay, but also increases exposure to liability by reducing funding for maintenance and repair programs. As a result, public entities and ultimately, the Legislature, face difficult fiscal decisions when trying to balance between the provision of governmental service and the continued expansion of government liability.

There is a need for data on the actual cost impacts of government tort liability. As a result of previous CSAC efforts, insurance costs for counties are fairly well documented. However, more information is needed about the cost of settlements and awards and about the very heavy "transactional costs" of administering and defending claims. We also need more information about the programmatic decisions being forced upon public entities: e.g., what activities are being dropped because of high liability? CSAC and its member counties must attempt to fill this information gap.

CSAC should advocate for the establishment of reasonable limits upon government liability and the balancing of compensatory function of the present system with the public interests in efficient, fiscally sound government. This does not imply a return to "sovereign immunity" concepts or a general turning away of injured parties. It simply recognizes, as did the original Tort Claims Act, that: (1) government should not be more liable than private parties, and (2) that in some cases there is reason for government to be less liable than private parties. It must be remembered that government exists to provide essential services to people and most of these services could not be provided otherwise. A private party faced with risks that are inherent in many government services would drop the activity and take up another line of work. Government does not have that option.

In attempting to limit government liability, CSAC's efforts should bring governmental liability into balance with the degree of fault and need for governmental service.

In advocating an "era of limits" in government liability, CSAC should take the view of the taxpayer rather than that of counties per se. At all governmental levels, it is the taxpayer who carries the real burden of government liability and has most at stake in bringing the present system into better balance. In this regard, it should be remembered that the insurance industry is not a shield, real or imagined, between the claimant and the taxpayer.

**Administration of Justice Year in Review and 2021 Legislative Priorities
Attachment Eight**

Memo: AOJ Year in Review and 2021 Legislative Priorities



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November 3, 2020

To: CSAC Administration of Justice Policy Committee

From: Josh Gauger, Legislative Representative
Stanicia Boatner, Legislative Analyst

Re: **Administration of Justice Year in Review and 2021 Legislative Priorities**

The second year of the 2019-20 legislative session presented many high-priority bills with significant impacts to counties. In this memo, please find a review of this legislation as well as Administration of Justice priorities for the coming 2021-22 session.

2020 Legislation

The below public safety bills were signed into law by the Governor:

[SB 823 \(Committee on Budget and Fiscal Review\)](#) - This bill by the Senate Committee on Budget and Fiscal Review realigns the responsibility to counties for the remaining youthful offenders currently eligible for placement in the state Division of Juvenile Justice (DJJ). The bill includes the closure of DJJ intake on July 1, 2021, with ongoing funding for counties to serve youth locally. Additionally, the bill provides \$9.6 million in 2020-21 for competitive implementation grants. CSAC, UCC, RCRC, CPOC, and CBHDA were opposed to SB 823 and will continue to advocate for needed changes prior to implementation. SB 823 was signed by the Governor on September 30th (Chapter 337, Statutes of 2020).

[AB 1869 \(Committee on Budget\)](#) - This bill by the Assembly Committee on Budget repeals the authority to collect various criminal justice administrative fees upon conviction or arrest and also appropriate \$65 million annually for five years to counties to backfill associated revenue losses. AB 1869 was supported by CSAC, UCC, and RCRC. AB 1869 was signed by the Governor on September 18th (Chapter 92, Statutes of 2020).

[AB 3364 \(Committee on Judiciary\)](#) - This bill by the Assembly Judiciary Committee enacts numerous technical changes to several of the California codes as part of the judiciary omnibus bill. One of the technical changes in AB 3364 is the delay of implementation of SB 10 (Hertzberg), Chap. 244, Stats. 2018, which repeals the cash bail system and instead requires Pretrial Assessment Services to assess a person arrested or detained according to a risk assessment instrument and specifies the procedures for the detention or release of that person until October 1, 2021. AB 3364 was signed by the Governor on August 31st (Chapter 36, Statutes of 2020).

[AB 1950 \(Kamlager\)](#) - This bill by Assembly Member Sydney Kamlager limits the term of probation to no longer than two years for a felony conviction and provides that the two-year probation limit does not apply to offenses defined by law as violent felonies, or to an offense that includes a specific probation term within its provisions. The bill also limits the probation term to one year for

misdemeanor offenses and provides that the two-year probation limit does not apply to a felony conviction for grand theft from an employer, embezzlement, or theft by false pretenses, if the total value of property taken exceeds \$25,000. AB 1950 was signed by the Governor on September 30th (Chapter 328, Statutes of 2020).

[AB 1185 \(McCarty\)](#) - This bill by Assembly Member Kevin McCarty authorizes a county to establish a sheriff oversight board to assist the board of supervisors with those duties as they relate to the sheriff, either by action of the board of supervisors or through a vote of county residents; authorizes a county, either by action of the board of supervisors or through a vote of county residents, to establish an office of the inspector general to assist the board of supervisors with these duties as they relate to the sheriff; and authorizes the chair of the oversight board and the inspector general to issue a subpoena or subpoena duces tecum when deemed necessary to investigate a matter within their jurisdiction. AB 1185 was signed into law by the Governor on September 30th (Chapter 342, Statutes of 2020).

[AB 3234 \(Ting\)](#) – This bill by Assembly Member Phil Ting creates a court-initiated misdemeanor diversion program and lowers the minimum age limitation for the California Department of Corrections and Rehabilitation’s Elderly Parole Program to inmates who are 50 years of age and who have served a minimum of 20 years. Specifically, this bill authorizes a superior court judge to offer diversion to a person charged with a misdemeanor over the objection of a prosecuting attorney, except that a defendant may not be offered diversion for specific charged offenses and authorizes the court to exercise various other options with regards to diversion. AB 3234 was signed into law by the Governor on September 30th (Chapter 334, Statutes of 2020).

[SB 1290 \(Durazo\)](#) – This bill by Senator Maria Elena Durazo vacates certain county-assessed or court-ordered costs imposed before January 1, 2018, against parents and guardians of youth subject to the juvenile delinquency system and against persons aged 18 to 21 subject to the criminal justice system. This bill is an extension of SB 190 (Mitchell), Chapter 678, Statutes of 2017, which limits the authority of local agencies to assess and collect specified fees against families of persons subject to the juvenile delinquency system. SB 1290 was signed into law by the Governor on September 30th (Chapter 340, Statutes of 2020).

The below public safety bills did not pass during this year’s legislative session:

[SB 144 \(Mitchell\)](#) – This bill by Senator Holly Mitchell would have eliminated various criminal justice fees. Specifically, the measure would have ended the assessment and collection of administrative fees imposed against people in the criminal justice system. County partners opposed the legislation on funding grounds. Late in the 2019 legislative session, Senator Mitchell made it a two year bill to give counties the opportunity to determine the amount of lost revenue. CSAC continued discussions with the author’s office and legislative staff throughout the fall and into the 2020 legislative session and the author pushed for discussions to move to the Budget process. The 2020-21 Budget set aside \$65 million to backfill lost revenue associated with a future criminal justice fee repeal proposal. SB 144 failed to meet legislative deadlines on August 14, 2020, as the conversation moved to AB 1869.

[AB 1007 \(Jones-Sawyer\)](#) – This bill by Assembly Member Reggie Jones-Sawyer would have redirected Juvenile Justice Crime Prevention Act (JJCPA) funds, revised the composition of local Juvenile Justice

Coordinating Councils, and recast various elements of required multiagency juvenile justice plans. This measure proposed redirecting 95% of JJCPA funds away from probation departments and would have allocated the funding to community-based organizations and other public agencies or departments that are not law enforcement entities. Currently, in most instances, these funds are dedicated to staffing and personnel costs that make up the backbone of county juvenile probation departments. CSAC, UCC and RCRC were [opposed](#) to this measure and it did not move forward in the legislative process.

The below public safety bill was vetoed by the Governor:

[SB 555 \(Mitchell\)](#) – This bill by Senator Holly Mitchell would have required that the sale prices of the items in a county jail canteen were offered for sale at the cost paid to the vendor supplying the items; renamed the inmate welfare fund to the incarcerated people’s fund; required that funds from the incarcerated people’s fund be expended solely for the benefit, education, and welfare of the inmates confined within the jail; prohibited commissions in telephone and communication service contracts for juvenile facilities and county jails; and required such telephone and communication service contracts to be negotiated and awarded to the lowest cost provider. The Governor vetoed this bill on September 30th. In his veto message the Governor stated that he strongly supported the goals of this bill but he could not support the bill in its current form. He expressed his concerns that the bill would have had unintended consequences with regards to rehabilitative and educational programming for individuals in custody. The full veto message can be found [here](#).

2021 Legislative Priorities

Juvenile Justice Realignment

After multiple realignments at the state level, generally counties are responsible for the custody and care of all youthful offenders adjudicated as of July 1, 2021. CSAC will partner with county departments and affiliate organizations, such as the Chief Probation Officers of California, to facilitate a successful implementation of SB 823 (the most recent Division of Juvenile Justice Realignment). Additionally, CSAC will advocate for necessary clean-up legislation to protect county interests consistent with the Administration of Justice Policy Platform.

Criminal Justice Fine and Fees. For decades, the Legislature has funded a wide array of criminal justice programs using fine and fee revenue. As numerous and diverse programs and reforms have been enacted by the State, many of which are tied to an associated fee or fine as a funding source, counties rely on the current funding structure now in place. Funding is critical to ensuring counties can continue to carry out a number of these programs. The recently enacted AB 1869 eliminates the ability for counties to collect certain administrative criminal justice fees and provides a \$65 million annual backfill for lost revenue. CSAC will continue to work with the Legislature, Administration, and stakeholders to determine a methodology for distributing this funding and advocate for county interests on any future legislation.

Bail Reform. The California Money Bail Reform Act was signed into law in August 2018. This new law changes the current money bail system to a risk-based system. It would have become effective October 1, 2019; however, a referendum qualified for the November 2020 ballot requiring a majority of voters to affirm the new law (Proposition 25). Should the law become effective, CSAC

will work with relevant stakeholders on the implementation. Should Proposition 25 fail, CSAC will utilize existing bail reform language from the Administration of Justice Policy Platform to guide advocacy on any future legislative efforts.

2021 Federal Priorities

Justice and Public Safety Funding. The State Criminal Alien Assistance Program (SCAAP) remains a key source of federal justice funding for many California counties. CSAC will continue to serve as a lead advocate in efforts to protect and enhance SCAAP funding and will urge Congress to pass a long-term SCAAP reauthorization. CSAC also will continue to monitor potential administrative changes to the program, including modifications affecting eligibility standards.

In addition, CSAC will continue to advocate for maximum program resources for other key federal justice and public safety programs, including the Edward Byrne Memorial Justice Assistance Grant (JAG) Program, the Victims of Crime Act (VOCA), and the Violence Against Women Act (VAWA).