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JUVENILE JUSTICE AND RELATED YOUTH PROGRAM BILLS Introduced in the 2017 Session of the California Legislature

March 13, 2017 - (First 2017 report)

This bulletin describes bills introduced in the 2017 session of the California Legislature on the subjects of juvenile justice, youth crime and violence prevention, youth mental health, probation foster care and related matters. The deadline for policy committees in the house of origin to pass fiscal bills is April 28. Bill amendments and committee status in this issue are current through March 10, 2017. Several bills as indicated are “spot” bills meaning that, as introduced, they are placeholders without substantive provisions yet added. Invariably we continue to locate relevant bills that are not yet included in this first-of-session report; these will be added in future reports. The full text of each bill can be accessed on the California legislative website at www.leginfo.legislature.ca.gov. More information on legislation, budget and policy in the youth justice field is available on the Commonweal Juvenile Justice Program website-- www.comjj.org.

Assembly bills

AB 90 (Weber, D. – San Diego). CalGang spot bill. As introduced, a non-substantive spot bill stating “the intent of the Legislature to enact legislation to ensure that CalGang and any other equivalent shared gang database has an oversight structure that supports accountability for proper database use and protection of individual rights.” *Not yet assigned to committee.*

AB 159 (Jones-Sawyer, D. – L.A.). Referrals of non-citizen juveniles to ICE. Amends Section 7282.5 of the Government Code (which presently lists offense convictions for which a person can be reported to federal immigration authorities) by stating that “A law enforcement official shall not cooperate with federal immigration officials by providing information about a juvenile held in a juvenile detention facility, or by detaining a juvenile on the basis of an immigration hold after that juvenile becomes eligible for release from custody, unless not cooperating would violate any federal law and one or more of (the offenses conviction already listed in this section).” *Not yet assigned.*

AB 163 (Weber, D. – San Diego). Law enforcement presence in schools. States intent of the to limit and control the presence and activity of law enforcement officers in public schools. AB163 requires the governing board of a school district to adopt a policy to reduce the presence of peace officers on campus and to implement school safety alternatives, such as restorative justice programs, to law enforcement intervention. The bill permits calling a law enforcement officer to the school to situations in which there is an immediate physical threat to pupils, teachers and others, and places

new limits and controls on contacts or interviews of pupils by police when they are summoned to the school. *To the Assembly Education Committee.*

AB 173 (Jones-Sawyer, D. – L.A.) Peace officers' interactions with school pupils. Requires the governing board of a school district to adopt policies mandating protection of pupils' rights in all interactions with peace officers. The policies adopted would prohibit calling a peace officer to the school for listed behaviors such as loitering, profanity, vandalism, possession of alcohol or fights that do not involve weapons. Requires the policy to include exhausting all alternatives before calling law enforcement to deal with low-level conduct as defined. Sets out requirements for peace officers and pupils rights related to questioning or arrest on campus by law enforcement. Requires school districts to collect data on law enforcement contacts with students. *To the Assembly Education Committee.*

AB 223 (Eggman, D. – Stockton). Pilot projects for youth victims of sexual exploitation. Requires the Board of State and Community Corrections (BSCC) to establish a pilot project in Alameda, Sacramento and San Joaquin counties under the auspices of the chief probation officer to provide services to youth who are victims of sexual exploitation. Lists program approaches that may be utilized in the pilot projects. Contingent upon funding in the state budget. *To the Assembly Human Services Committee.*

AB 298 (Gallagher, R. – Plumas Lake). Law enforcement cooperation with federal immigration authorities. Amends Section 7282 of the Government Code to require, rather than to permit, cooperation with federal immigration officials by continuing to detain a person having a felony conviction for two days after the individual is eligible for release, in order to honor a federal immigration hold on the individual. Applies to law enforcement officers operating juvenile detention facilities. *To the Assembly Public Safety Committee for hearing 3/21.*

AB 328 (Lackey, R. – Palmdale). Notices of juvenile offenses provided by courts and probation to schools. Current law requires courts and probation officers, under listed circumstances, to provide notices to schools of any felony or listed misdemeanor found to have been committed by a pupil, with instructions governing the dissemination of the information to administrators, teachers and others. This bill would require probation officers to furnish the notice to a school district to which a pupil is returned after having been removed by order of the court within 7 days of the minor's return. *To the Assembly Public Safety Committee.*

AB 371 (Cooley, D. – Rancho Cordova). Contacting minor for purposes of human trafficking. Adds human trafficking to the list offenses in Penal Code Section 288.3 for which contact with a minor for purposes of involving the minor in the offense is a felony. *To the Assembly Public Safety Committee.*

AB 529 (Stone, D. – Santa Cruz). Sealing of juvenile offense records. This bill amends Section 786 of the Welfare and Institutions Code to require the juvenile court to order the sealing of arrest and related records held by law enforcement and probation agencies and the Department of Justice, in cases where a petition filed to declare the minor a ward of the court has been dismissed or has resulted in an acquittal on the charges. *To the Assembly Public Safety Committee.*

AB 620 (Holden, D. – Pasadena). Trauma informed therapy for CDCR inmates. Requires the Dept. of Corrections and Rehabilitation (CDCR) to offer adult and juvenile inmates “access to individual introspective trauma informed therapy by clinical social workers, psychologists, or accredited violence peer counselors for those offenders in need of this therapy.” Spells out the elements of trauma informed therapy for purposes of the bill and permits the Board of Parole Hearings to consider the inmate’s trauma informed therapy in release decision making. *To the Assembly Public Safety Committee.*

AB 689 (Obernolte, R. - Big Bear Lake). Juvenile competency in delinquency cases. This is a reintroduction of last year’s stalled Obernolte bill on juvenile competency. AB 689 completely revises the current provisions in Welfare and Institutions Code Section 709 relating to the competency of juveniles in delinquency (WIC 601 and 602) proceedings. The bill broadens the definition of incompetency to include reference to extrinsic factors including mental or developmental disorders or immaturity. Requires the court to suspend proceedings and to retain a competency expert where the competency is in doubt and the parties do not stipulate incompetency. Recasts the hearing and evidentiary rules for determination of competency. Upon a finding of incompetency, requires the court to suspend delinquency proceedings and to refer the minor to a remediation program with services designed to restore competency if possible, with court reviews of the remediation program process every 30 days. If the court finds that the minor has been remediated, the delinquency proceedings are to be reinstated. If the court determines that competency cannot be restored within a reasonable period, the petition is to be dismissed and the agencies having information about the case are invited by the court to discuss the services available to the minor after dismissal. The bill also requires listed county agencies to collaborate in the adoption of a local protocol for handling competency cases in a manner consistent with the new provisions. *To the Assembly Public Safety Committee for hearing on 3/21.*

AB 811 (Gipson, D. – Carson). Access to computer technology and internet for confined and placed juveniles. Amends Welfare and Institutions Code Section 224.71 to add “reasonable access to computer technology and the Internet for the purposes of education and maintaining contact with family and supportive adult” to the existing list of rights of youth confined in the state Division of Juvenile Justice. Adds new sections to the the Welfare and Institutions Code to guarantee access to computers and internet by juveniles in county juvenile halls, camps or ranches. Amends Welfare and Institutions Code Section 16001.9 (foster care bill of rights) to add the right of “reasonable access to computer technology and internet” for foster youth. *To the Assembly Human Services Committee for hearing 3/21.*

AB 878 (Gipson, D. – Carson). Physical restraints used on minors during transportation from local juvenile justice facilities. Bans the use of physical restraints on minors being transported to or from local juvenile facilities, including camps or ranches, and applies specifically to the use of handcuffs, chains, irons, straitjackets or cloth or leather restraints—unless the use of handcuffs is deemed necessary to prevent physical harm for flight by the minor and then only if the handcuffs are fastened frontally and not behind the minor’s back. *To the Assembly Public Safety Committee.*

AB 935 (Stone, D. – Santa Cruz). Juvenile competency spot bill. Makes non-substantive changes to Welfare and Institutions Code Section 708 regarding juvenile competency in delinquency proceedings. *Not assigned.*

AB 1181 (Stone, D. – Santa Cruz). Sealing of juvenile dependency records. Amends Welfare and Institutions Code Section 389 by eliminating references in that section to delinquency records and modifying its provisions as applied to dependency jurisdiction and records. AB 1181 authorizes the juvenile court to seal all records relating to a dependency petition that has been dismissed, including records held by law enforcement, child welfare, the court, schools or placement agencies. The bill provides that where the court does not seal the record under these circumstances, the minor or non-minor dependent may petition the court to order sealing which the court must then do unless it finds compelling reasons not to seal the record on the dismissed petition. Provides that a record sealed under the bill may be reopened if a dependency petition is eventually filed on the individual; and provides further that a record that has been sealed under this section must be destroyed at age 21 unless the court orders otherwise for good cause. *To the Assembly Judiciary Committee.*

AB 1262 (Eduardo Garcia, D. - Coachella). California Gang, Crime & Violence Prevention Partnership spot bill. Makes non-substantive changes to Section 13825.1 of the Penal Code regarding funds for gang violence prevention programs under the California Gang, Crime and Violence Prevention Partnership. *Not assigned.*

AB 1402 (Allen, R. – Huntington Beach). Restores prostitution crimes for minors. AB 1402 would reverse legislation enacted last year (SB 1322, Mitchell) that exempts minors (under 18) from prosecution for prostitution offenses described in Penal Code Section 647 (b) (5). The 2016 Mitchell bill also provides that a commercially exploited child alleged to have engaged in prostitution may be adjudged a dependent ward of the court in lieu of the now-banned prosecution for prostitution. This bill would repeal the exemption from prosecution and restore criminal liability for minors alleged to have committed prostitution offenses under Penal Code Section 647 (b).

Senate bills

SB 190 (Mitchell, D. – L.A. and Lara, D. – L.A.) Elimination of costs imposed by counties for juvenile detention, placement, legal services and related charges. This bill reintroduces the content of last year’s SB 941, eliminating costs that could be imposed on minors and parents by juvenile justice agencies. SB 190 would delete provisions in multiple sections of the Welfare and Institutions Code that now permit counties to assess minors and parents for the costs of juvenile processing, defense representation, detention, drug testing and placement. The bill is comprehensive in the sense that it strikes cost language from nearly every section of the Welfare and Institutions Code from Section 207.2 through and including Section 904. On the adult side the bill limits fees that can be imposed on adult defendants who are under the age of 21 for home detention, drug testing and electronic monitoring. *To the Senate Public Safety Committee.*

SB 211 (Berryhill, R. – Modesto). Juvenile spot bill. Spot bill making non-substantive amendments to the “purpose” section of the Juvenile Court Law (WIC Section 202). *Not assigned.*

SB 304 (Portantino, D. - Glendale). Joint transitional plans for juveniles transferring from court schools to public schools. Current law requires the county office of education and the county probation department to have a joint transitional planning policy providing for the effective transfers of pupils and their records from juvenile court schools to public schools. This bill adds new requirements for the joint plans, including that the plan shall provide for an individual transition plan for each pupil detained for more than four school days, which individual plan shall provide for furnishing each detained pupil with a portfolio of his or her education records and provide for “the

identification and engagement of programs, services, and individuals to support a pupil's successful transition in to and out of the juvenile detention facility, including, but not limited to, family members, probation services, education services, social services, mental health services, higher education programs, and community-based organizations.” *To the Assembly Education Committee.*

SB 312 (Skinner, D. – Berkeley). Sealing of juvenile offense records involving listed serious offenses (WIC Section 707). Current law (Welfare and Institutions Code Section 786) authorizes the juvenile court to order the sealing of a juvenile offense record in the custody of the court, prosecution, probation of Department of Justice upon the juvenile's satisfactory completion of a program of diversion or probation. This bill would modify the exception in Section 786 that disallows the sealing of a record involving a serious offense listed in subdivision (b) of WIC Section 707, by allowing the record to be sealed if the 707 (b) offense has been reduced to a misdemeanor by the court. The bill responds to a request of the Sixth District Court of Appeal to remove the 707 sealing ban as applied to misdemeanor reductions of 707 listed offenses. Subject to a 2/3 vote of each house as an amendment of the Proposition 21. *To the Senate Public Safety Committee.*

SB 394 (Lara, D. – L.A. and Mitchell, D. -L.A.). Parole hearings for persons sentenced to LWOP for crimes committed prior to age 18. This bill expands the coverage of recently enacted bills that provide for parole board review of long prison sentences imposed on individuals who were under the age of 23 at the time of commission of the offense. SB 394 would allow for parole board review of a Life-Without-Parole (LWOP) sentence, and for possible release, of an individual who received the LWOP for a crime committed prior to age 18 and who has served at least 25 years of his or her prison sentence. *To the Senate Public Safety Committee.*

SB 395 (Lara, D. -L.A. and Mitchell, D. – L.A.). Juvenile interrogation rights. Reintroduces last year's bill, vetoed by the Governor, that would have required consultation with counsel prior the custodial interrogation of any juvenile under the age of 18. SB 395 requires that a youth under age 18, prior to any custodial interrogation, and prior to the waiver of any Miranda rights, be permitted to consult with counsel either in person, by telephone or by video conference. Requires a court, prior to the admission of any statements by the minor, to consider the effect of any failure to comply with the counsel consultation requirement. Includes an exception allowing a law enforcement officer to make inquiries of the juvenile where the information sought is reasonably necessary “to protect life or property from a substantial threat.” *To the Senate Public Safety Committee.*

SB 439 (Mitchell, D. – L.A. and Lara, D. – L.A.) Limiting delinquency jurisdiction to minors between ages 12 and 18. SB 439 would limit the jurisdiction of the juvenile court in delinquency cases (WIC 601 status offenses and WIC 602 criminal offenses) to minors between the ages of 12 and 18—effectively exempting minors below age 12 from petitions and proceedings under those sections of the Welfare and Institutions Code. *To the Senate Public Safety Committee.*

SB 462 (Atkins, D. – San Diego). Record sealing spot bill. Makes non-substantive changes to Welfare and Institutions Code Section 787 regarding how juvenile delinquency records that are sealed under Section 786 may be accessed by probation and other agencies for purposes of completing grant, data and evaluation reports so long as personally identifying information is not included or disseminated. *Not assigned.*

SB 502 (Portantino, D. - Glendale). BSCC tattoo removal program. SB 502 would restore the California Voluntary Tattoo Removal Program under a grant program administered by the Board of State and Community Corrections (BSCC). Grant funds would be used for tattoo removal for

individuals between 14 and 24 years of age who are in the custody of the Department of Corrections and Rehabilitation or county probation departments, who are on parole or probation, or who are in a community-based program serving at-risk youth and meet specified criteria. Limits funding source to federal funds and encourages BSCC to access federal Byrne Justice Assistance Grants to support the program. *To the Senate Public Safety Committee.*

SB 505 (Mendoza, D. – Artesia). Shared gang databases. Specifies that responsibility for the state oversight of shared gang databases, including the CalGang data based, resides with the California Department of Justice and not with the CalGang Executive Board. *To the Senate Public Safety Committee.*

SB 607 (Skinner, D. – Berkeley). School suspension. SB 607 places new limits on the criteria or reasons for a pupil may be suspended from school. The bill modifies Section 48900 of the Education Code, which requires the district superintendent or school principal to verify that a suspension is based on the pupil's commission of specific acts, by removing willful disruption of school activities or willful defiance of authority as reasons for suspension. Additionally, the bill repeals Section 48910 of the Ed. Code which allows a teacher to suspend a pupil from class for the day for any of the acts enumerated in Section 48900. *To the Senate Education Committee.*

SB 613 (DeLeon, D. – L.A.). Removal of mandate for cooperation by the Division of Juvenile Justice with the U.S. Bureau of Immigration. SB 613 deletes Section 1008 of the Welfare and Institutions Code which presently requires that the Division of Juvenile Justice (DJJ) must cooperate with the US Bureau of Immigration in arranging for the deportation of aliens committed to the Division of Juvenile Justice. The bill also deletes similar provisions requiring state-federal cooperation on deportation between the US Immigration Bureau and both the California Dept. of Developmental Services and the Calif. Dept. of State Hospitals. *To the Senate Human Services Committee.*

SB 625 (Atkins, D. – San Diego). Honorable Discharge from the Division of Juvenile Facilities (DJF). Prior to the realignment of state youth parole to counties in 2010, honorable discharge status could be awarded to wards paroled from the Division of Juvenile Facilities (also known as the Division of Juvenile Justice). After DJF/DJJ parole realignment this practice became dormant. AB 625 would now authorize the Board of Juvenile Hearings (BJH) to award Honorable Discharge status to DJF wards who have been discharged and returned to the county for continuing probation supervision. Honorable discharge status is to be granted by the BJH to an individual whose “discharge is granted based on good performance on release”, without further elaboration of the qualifying criteria. The effect of honorable discharge is to release the individual “from all penalties and disabilities resulting from the offense or crime for which he or she was committed, including, but not limited to, any disqualification for any employment or occupational license”, but includes limits on employment as a peace officer. The bill also provides that an honorably discharged ward may petition the committing court to set aside a guilty verdict or indictment (terms that would be applicable only to an adult court commitment to DJJ). The bill would effectively extend the jurisdiction of the Board of Juvenile Hearings beyond the present termination period (upon convening of the local court's re-entry disposition hearing) until the termination of local court jurisdiction over the ward, for the purpose of determining honorable discharge status. *To the Senate Public Safety Committee.*

SB 695 (Lara, D. – L.A.). Tiered sex offender registration. This bill revises the terms and time periods for which individuals must register as sex offenders with local law enforcement agencies. The current requirement of lifetime sex offender registration is modified by breaking the registration requirement into three tiers (10 year, 20 year or lifetime registration) based on the conviction offense and subsequent offense history. The applicability of the bill to the lifetime sex offender registration requirement now imposed on Division of Juvenile Justice wards with listed sex offenses is not entirely clear; there is arguably no relief from lifetime registration for DJJ wards since the bill does not modify the DJJ sex offender registration section (PC 290.008) in its present form. *To the Senate Public Safety Committee.*

SB 708 (Skinner, D. – Berkeley). LWOP sentences limited to 25 years for those under age 25 at the time of the offense. SB 708 would re-define “life without the possibility of parole” (LWOP) sentences imposed on any person who was under the age of 25 at the time of committing the offense as “life without the possibility of parole for 25 years”—thus providing an opportunity for release after serving 25 years of the sentence. If enacted, SB 708 would instruct the Secretary of State to submit the measure to state voters for approval in the June 2018 state primary election as an amendment to prior LWOP voter initiatives. *To the Senate Public Safety Committee.*

Bill digests by David Steinhart, Director, Commonweal Juvenile Justice Program. Updated reports are posted on our website at www.comjj.org.