
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2019 - 2020 Regular

Bill No: SB 284 **Hearing Date:** March 26, 2019
Author: Beall
Version: February 13, 2019
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Juvenile Justice: County Support of Wards*

HISTORY

Source: Anti-Recidivism Coalition
Center on Juvenile and Criminal Justice
Communities United for Restorative Youth Justice
Community Works
Motivating Individual Leadership for Public Advancement
Youth Justice Coalition

Prior Legislation: AB 1812 (Comm. on Budget), Ch. 36, Stats. 2018
SB 1021 (Comm. on Budget), Ch. 41, Stats. 2012
SB 92 (Comm. on Budget), Ch. 36, Stats. 2011
SB 81 (Comm. on Budget), Ch. 175, Stats. 2007
AB 1758 (Comm. on Budget), Ch. 158, Stats. 2003
Proposition 21, as approved by the voters on March 7, 2000
SB 2055 (Costa), Ch. 632, Stats. 1998
SB 681 (Hurttt), Ch. 6, Stats. 1996

Support: ACLU of California; Bend the Arc; California Attorneys for Criminal Justice; California Public Defenders Association; Californians for Safety and Justice; Californians United for a Responsible Budget; Children's Defense Fund-California; Courage Campaign; Disability Rights California; Ella Baker Center for Human Rights; Father and Families of San Joaquin; Freedom 4 Youth; Friends Committee on Legislation of California; Further the Work; Initiate Justice; John Burton Advocates for Youth; Legal Services for Prisoners with Children; Los Angeles County District Attorney's Office; National Center for Youth Law; National Juvenile Justice Network; Pacific Juvenile Defender Center; Project Rebound at Sacramento State University; Re:Store Justice; Root & Rebound; RYSE Center; San Francisco Public Defender; Silicon Valley De-bug; Urban Peace Institute; Urban Peace Movement; W. Haywood Burns Institute; Young Women's Freedom Center; Youth Law Center; 1 individual

Opposition: California State Association of Counties; Chief Probation Officers of California

PURPOSE

The purpose of this bill is to increase the annual rate which a county pays to the state for a person the county commits to the Department of Corrections and Rehabilitation, Division of Juvenile Justice (DJJ) to \$125,000 if the offense on which the commitment is based, had it been filed in a court of criminal jurisdiction at the time of adjudication, had a maximum aggregate sentence of fewer than 7 years or if the offense on which the commitment is based occurred when the person was 15 years of age or younger.

Existing law provides that if a minor is adjudged a ward of the court on the ground that he or she is a person described by Welfare and Institutions Code section 602, the court may order any of the types of treatment referred to in Welfare and Institutions Code sections 727 and 730.

Authorizes the court to commit the ward to DJJ, if the ward has committed an offense described in Welfare and Institutions Code section 707 subdivision (b) or Penal Code section 290.008 subdivision (c), and is not otherwise ineligible for commitment to DJJ under Welfare and Institutions Code section 733. (Welf. & Inst. Code, § 731, subd. (a)(4).)

Existing law prohibits the following individuals from being committed to DJJ: a ward who is under 11 years of age; a ward who is suffering from any contagious, infectious, or other disease that would probably endanger the lives or health of the other inmates of any facility; and a ward who has been or is adjudged a ward of the court pursuant to Welfare and Institutions Code section 602, and the most recent offense alleged in any petition and admitted or found to be true by the court is not described in Welfare and Institutions Code section 707 subdivision (b) or Penal Code section 290.008 subdivision (c). (Welf. & Inst. Code, § 733.)

Existing law requires a county from which a person is committed to DJJ to pay to the state an annual rate of \$24,000 while the person remains in an institution under the direct supervision of DJJ, or in an institution, boarding home, foster home, or other private or public institution in which the person is placed by DJJ, and cared for and supported at the expense of DJJ, as provided in this subdivision. Provides that this only applies to a person who is committed to the division by a juvenile court on or after July 1, 2012. Requires DJJ to present to the county, not more frequently than monthly, a claim for the amount due to the state. (Welf. & Inst. Code, § 912, subd. (a).)

Existing law requires a county from which a person is committed to DJJ, on or after July 1, 2018, to pay to the state an annual rate of \$24,000 for the time the person remains in an institution under the direct supervision of DJJ, or in an institution, boarding home, foster home, or other private or public institution in which the person is placed by DJJ, and cared for and supported at the expense of DJJ. Prohibits a county from paying the annual rate of twenty-four thousand dollars (\$24,000) for a person who is 23 years of age or older. Applies to a person committed to DJJ by a juvenile court on or after July 1, 2018. (Welf. & Inst. Code, § 912, subd. (b).)

This bill requires a county from which a person is committed to DJJ to pay to the state the following rate for the time the person remains in an institution under the direct supervision of DJJ, or in an institution, boarding home, foster home, or other private or public institution in which the person is placed by DJJ, and cared for and supported at the expense of DJJ:

- a) If the offense on which the commitment is based, had it been filed in a court of criminal jurisdiction at the time of adjudication, had a maximum aggregate sentence of fewer than seven years, the annual rate is \$125,000.

- b) If the offense on which the commitment is based occurred when the person was 15 years of age or younger, the annual rate is \$125,000.
- c) If the offense on which the commitment is based occurred when the person was 16 years of age or older and, had it been filed in a court of criminal jurisdiction at the time of adjudication, had a maximum aggregate sentence of 7 years or more, the annual rate is \$24,000.

This bill specifies that the above rates apply to a person committed to DJJ by a juvenile court on or after January 1, 2020.

COMMENTS

1. Need for This Bill

According to the author:

The annual cost to the state to confine youth at the Division of Juvenile Justice (DJJ) averages more than \$300,000 per person, yet counties contribute only \$24,000 annually per youth. Best practices show local rehabilitation is more effective; however, the current low fee incentivizes counties to send individuals to DJJ, where they are isolated from family and community-based support.

Justice involved youth are more effectively rehabilitated in small, close to home facilities, allowing for a smooth transition back into their communities. Nearly every county in California has its own secure, probation-run facility for youth, yet they operate at just 30 percent of capacity, and many have abundant treatment space for high-needs individuals. Much of this space was paid for by the state with \$300 million in construction financing.

In 1961, counties began paying a flat fee of \$25 per month to house youth in a state facility. In 1996, California passed SB 681 (Hurt) which established a sliding scale fee designed to keep most youth close to home. The Legislature continued to maintain an annual fee for counties with the intent to incentivize local rehabilitation.

In 2012, SB 1021 established the \$24,000 flat fee. With the costs of local juvenile halls, camps, and ranches generally exceeding \$24,000 per year, and increasing annually, counties have financial incentive to send youth to the state facility.

Youth sent to DJJ experience trauma of separation from family, and are often exposed to violence. DJJ's most recent recidivism report shows that 74 percent of youth released in FY 2011-12 were rearrested within three years of release, 54 percent were reconvicted for a new offense, and 37 percent returned to a state institution (DJJ or prison).

There are extreme discrepancies in counties' rates of sending individuals to DJJ. Taxpayers in counties that manage much or all of their high-needs youth locally still pay to support DJJ due to other counties that rely most heavily on it.

In order to reduce county reliance on DJJ and increase local juvenile justice innovation, SB 284 creates an incentive to keep youth closer to home by:

- Increasing the cost of county confinement to DJJ from \$24,000 to \$125,000 for youth who were:
 - Committed for an offense that occurred when under 16 years of age, or
 - Committed for an offense that would carry a sentence of fewer than 7 years in criminal court had they been tried as an adult.
- Maintaining a fee of \$24,000 per youth per year for cases most at risk of transfer to adult court:
 - Committed for an offense that occurred when they were 16 or 17 years old, and
 - Committed for an offense that would carry a sentence of 7 or more years in criminal court had they been tried as an adult.

2. Past Legislation Related to County Fees for DJJ Commitments

Between 1961 and 1996, counties paid a flat \$25 fee per month per youth committed to the California Youth Authority (CYA, now DJJ)¹. By the mid-1990s, the CYA population had grown to over 9,000 wards, and the department's facilities were significantly overcrowded. (Department of the Youth Authority, *Monthly Population Report as of December 31, 1996* <https://www.cdcr.ca.gov/Reports_Research/docs/research/Highest%20Facility%20Population%201995%20-%201996.pdf>; Legislative Analyst's Office (LAO), *Analysis of the 1995-1996 Budget Bill* <https://lao.ca.gov/analysis_1996/a96d2.html>.) In 1995, CYA's average annual cost of housing and caring for a ward was \$31,200 per offender. (*Id.*)

SB 681 (Hurt), Ch. 6, Stats. of 1996, increased the fees that counties pay to the state to \$150 per month per youth, and established a sliding fee scale whereby counties were charged an increasingly higher fee for sending lower level offenders to CYA. One of the primary goals of SB 681 was to create an incentive for counties to treat less serious offenders at the local level and to invest in prevention and early intervention programs. According to an LAO analysis, in 1995, 65 percent of CYA's wards were committed for a violent offense and the remainder were committed for nonviolent offenses, including misdemeanors. (*Id.*) SB 681 went into effect on January 1, 1997 and had an immediate effect in reducing county commitments to CYA. (LAO, *Analysis of the 1998-1999 Budget Bill* <https://lao.ca.gov/analysis_1998/pdfs_anl98/crim_justice_anl98.pdf>.) Specifically, county juvenile court commitments to CYA dropped 25 percent between 1996 and 1997. (*Id.*) In its analysis of the 1998-1999 Budget Bill, the LAO reported that several counties had informed the LAO that they had developed local alternatives to CYA, including new ranch and camp beds as well as non-residential options, in response to the increased fees. (*Id.*) Initially, the additional cost to counties due to the increased fees was offset by an increase in federal funding, part of which was allocated to county probation departments. (*Id.*) Since that time, a number of funding mechanisms have been created to assist local governments with preventing juvenile crime, supporting alternatives to detention, and retaining youth at the county level. (See AB 1913 (Cardenas), Ch. 353, Stats. 2000; SB 81 (Comm. on Budget), Ch. 175, Stats. 2007; and SB 678 (Leno), Ch. 608, Stats. 2009.)

¹ This analysis refers to the department now known as DJJ as CYA during the years in which it was named CYA.

Several legislative measures have amended or proposed to amend the fee structure in the years since SB 681 was enacted. Proposition 21 was passed by the voters in March 2000. One of the initiative's provisions narrowed the sliding fee scale by requiring the state to pay the full per capita cost for each person committed to CYA who has been convicted of specified gang-related offenses. (Pen. Code, §186.22, subd. (h).) AB 1758, enacted in 2003, required the counties to pay the state \$176 per month per person for commitments to CYA or a specified percentage of the per capita cost, redefined the per capita institutional cost, and required that the fee would be adjusted annually for inflation.

SB 81 (Comm. on Budget), Ch. 175, Stats. 2007, created several significant changes to the juvenile justice system, including prohibiting the commitment of juveniles who committed non-violent, non-serious offenses to DJJ. Changes to the fee structure occurred a few years later. SB 92 (Comm. on Budget), Ch. 36, Stats. 2011, established a flat fee of \$125,000 per year per person committed to DJJ. However, the fee provision of SB 92 never went into effect. Instead, SB 1021 (Comm. on Budget), Ch. 41, Stats. 2012, replaced the fee in SB 92 and established the current flat fee of \$24,000 per year per DJJ commitment as well as lowered DJJ's maximum age of jurisdiction from 25 to 23 years old. Notably, AB 1812 (Comm. on Budget), Ch. 36, Stats. 2018, increased the maximum age of jurisdiction for DJJ from 23 to 25 under certain circumstances.

3. Effect of This Bill

Under current law, a county may commit a person to DJJ if the person has committed a Welfare and Institutions Code section 707 (b) offense or a sex offense that would require registration under Penal Code section 290.008 (c), and is not otherwise ineligible for commitment to DJJ under Welfare and Institutions Code section 733. (Welf. & Inst. Code, § 731.) DJJ currently houses youth who have committed the most serious offenses.

The sponsors of this bill argue that justice-involved youth have better outcomes when treated at the local level. A recent report published by one of the bill's sponsors highlighted the geographic disparities with respect to placement of youth in DJJ. (Center on Juvenile and Criminal Justice, *Unmet Promises: Continued Violence & Neglect in California's Division of Juvenile Justice* <http://www.cjcj.org/uploads/cjcj/documents/unmet_promises_continued_violence_and_neglect_in_california_division_of_juvenile_justice.pdf>.) The report noted that five counties account for nearly half of the DJJ population despite only accounting for 41 percent of the state's 10- to 17-year-old population and 37 percent of the state's 2017 juvenile felony arrests. (*Id.*) Those figures were contrasted with data showing that 16 counties with a population of more than 600,000 youth and approximately 2,400 juvenile felony arrests each held five or fewer youth in DJJ facilities. (*Id.*)

The intent of this bill is to incentivize counties to treat juvenile offenders who have committed less serious offenses as well as young offenders in a local setting rather than committing them to DJJ. Specifically, this bill increases the annual rate from \$24,000 to \$125,000 for youth who:

- (1) Committed an offense that had a maximum aggregate sentence of fewer than 7 years had it been filed in adult criminal court at the time of adjudication; or
- (2) Committed an offense when the person was 15 years of age or younger.

This bill maintains the current \$24,000 annual fee in cases in which the offense occurred when the person was 16 or older and would have faced a prison sentence of 7 years or greater had the person been tried in adult criminal court, who the sponsors argue are at the greatest risk of transfer from juvenile to adult criminal court.

The provision in this bill that mandates the higher fee based on sentence length is similar to the sliding fee scale that used to exist in that both distinguish between more and less serious offenses. However, the provision in this bill that mandates the higher fee when the person being committed to DJJ committed the offense when the person was under 16 is unique when compared to previous iterations of the fee structure.

It is worth noting that although county prosecutors have discretion with respect to filing charges, petitioning to transfer a youth from juvenile to adult criminal court in cases that are eligible for transfer, and recommending a sentence or disposition, judges ultimately maintain discretion with respect to the treatment ordered and whether a youth is committed to DJJ.

4. Argument in Support

The co-sponsors of the bill, the Center on Juvenile and Criminal Justice, Anti-Recidivism Coalition, Youth Justice Coalition, Communities United for Restorative Youth Justice, Motivating Individual Leadership for Public Advancement, and Community Works write:

We support an increase in the DJJ fee...

Importantly, SB 284 is not a prohibition on committing youth to DJJ, nor does it interfere with judges' authority to place youth in the most suitable treatment setting. Rather, it aims to establish greater parity between the fee for committing youth to DJJ and the cost of serving them in an alternative to state confinement, allowing counties to select placements that best meet the needs of their youth.

...

SB 284 aims to reduce reliance on DJJ and boost local innovation in all counties by creating an incentive to keep youth closer to home. Specifically, the bill establishes a two-tiered county fee that increases the annual cost of placing youth at DJJ from \$24,000 to \$125,000 for most young people committed to DJJ by a juvenile court and maintains a fee of \$24,000 for youth most at risk of transfer to adult court, defined as those aged 16 or older who would have faced a prison term of seven or more years had they been tried as adults. By exempting youth at the greatest risk of transfer from the increased fee, SB 284 ensures that the DJJ fee does not negatively affect the number of adult transfer proceedings or the outcomes of those hearings.

SB 284 presents California with an opportunity to promote best practices for effective rehabilitation, reduce recidivism, and minimize county reliance on the harmful DJJ institutions by creating an incentive for retaining youth closer to home.

5. Argument in Opposition

According to a joint letter submitted by the California State Association of Counties and the Chief Probation Officers of California:

Probation departments and counties throughout California have invested millions of dollars, countless staff time and other resources to ensure our departments reflect the values we know guide a therapeutic and rehabilitative environment for youth. The health, welfare, and safety of the youth and our communities continue to be the guiding principles in looking at the most appropriate response based on an individual's circumstances. To this end, California counties and probation departments have clearly demonstrated a commitment to serving youth locally whenever possible, in the least restrictive setting, as evidenced by the over 74% decline in the youth committed to DJJ, and over 60% decline in juvenile detention in its entirety. In fact, over 90% of youth served in California's juvenile justice system are safely treated in the community.

That said, the continuum of care for youth who enter our juvenile justice system is critical to have the kind of success in juvenile justice like California has seen in the past decade. While the vast majority of youth are safely served at the front-end of that continuum, in our communities, we must responsibly address all points in that continuum of care. For those youth at the other end of the continuum who qualify for DJJ placement and whose risks and needs rise to the level of requiring state investment and responsibility, the state has an important role to invest in youth who require this kind of specialized treatment. This option for youth is needed to be able to successfully rehabilitate and ultimately, successfully return them to our communities.

While we certainly understand the author's goal of incentivizing counties to reduce the number of youth that they send to DJJ, the final decision as to where youth are placed following adjudication is one held and decided by a juvenile court judge. This legislation will do little to prevent youth from being sent to DJJ and instead result in significant financial impacts on counties. This fiscal impact, especially in smaller counties, will negatively impact counties and the progress we have made to enhance services and could put programming for youth in jeopardy.

-- END --