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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

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**Bill No:** SB 498                      **Hearing Date:** April 21, 2015  
**Author:** Hancock  
**Version:** April 13, 2015 Amended  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** LT

**Subject:** *Criminal statistics: juveniles.*

## HISTORY

**Source:** Human Rights Watch

**Prior Legislation:** SB 1198 (Hancock, 2014) – Held in Senate Appropriations  
SB 314 (Alpert) – Ch. 468, Stats.2001

**Support:** California Alliance for Youth and Community Justice; Center on Juvenile and Criminal Justice; W. Haywood Burns Institute; The National Employment Law Project; The National Compadres Network; Policy Link; Alliance for Boys and Men of Color; The National Center for Youth Law; Motivating Individual Leadership for Public Advancement; Children’s Defense Fund California; Youth Law Center; California Public Defenders Association

**Opposition:** Chief Probation Officers of California

## PURPOSE

*The purpose of this bill is to expand the kind of juvenile data now collected and reported on by the Department of Justice (DOJ), including 1) data broken down by county of commitment; 2) data describing how minors who are remanded to adult court get there (by a decision of the court, the district attorney, or as a matter of law) and outcomes from each of these remand mechanisms; 3) data indicating how many inmates are in prison for crimes committed when they were under the age of 21, broken down by offense, age, gender, ethnicity and county of commitment; and 4) an Internet web-based database operated by DOJ containing more detailed information about juvenile offenders, in a format that would allow users to query the system and download requested subsets of information, as specified.*

*The California Constitution provides that, subject “to the powers and duties of the Governor, the Attorney General shall be the chief law officer of the State. It shall be the duty of the Attorney General to see that the laws of the State are uniformly and adequately enforced. The Attorney General shall have direct supervision over every district attorney and sheriff and over such other law enforcement officers as may be designated by law, in all matters pertaining to the duties of their respective offices, and may require any of said officers to make reports concerning the investigation, detection, prosecution, and punishment of crime in their respective jurisdictions as to the Attorney General may seem advisable. Whenever in the opinion of the Attorney General any law of the State is not being adequately enforced in any county, it shall be the duty of the*

Attorney General to prosecute any violations of law of which the superior court shall have jurisdiction, and in such cases the Attorney General shall have all the powers of a district attorney. When required by the public interest or directed by the Governor, the Attorney General shall assist any district attorney in the discharge of the duties of that office.” (Cal. Const. Art. V § 13.)

*Existing law* provides that the Attorney General is the head of the Department of Justice (“DOJ”). (Government Code § 12510.)

*Existing law* requires DOJ to “present to the Governor, on or before July 1st, an annual report containing the criminal statistics of the preceding calendar year and to present at other times as the Attorney General may approve reports on special aspects of criminal statistics. A sufficient number of copies of all reports shall be prepared to enable the Attorney General to send a copy to all public officials in the state dealing with criminals and to distribute them generally in channels where they will add to the public enlightenment.” (Penal Code § 13010(g).)

*Existing law* requires this report to contain statistics showing all of the following:

- (a) The amount and the types of offenses known to the public authorities.
- (b) The personal and social characteristics of criminals and delinquents.
- (c) The administrative actions taken by law enforcement, judicial, penal, and correctional agencies or institutions, including those in the juvenile justice system, in dealing with criminals or delinquents.
- (d) **The administrative actions taken by law enforcement, prosecutorial, judicial, penal, and correctional agencies, including those in the juvenile justice system, in dealing with minors who are the subject of a petition or hearing in the juvenile court to transfer their case to the jurisdiction of an adult criminal court or whose cases are directly filed or otherwise initiated in an adult criminal court.**
- (e) The number of citizens’ complaints received by law enforcement agencies under Section 832.5. These statistics shall indicate the total number of these complaints, the number alleging criminal conduct of either a felony or misdemeanor, and the number sustained in each category. The report shall not contain a reference to any individual agency but shall be by gross numbers only.

It shall be the duty of the department to give adequate interpretation of the statistics and so to present the information that it may be of value in guiding the policies of the Legislature and of those in charge of the apprehension, prosecution, and treatment of the criminals and delinquents, or concerned with the prevention of crime and delinquency. The report shall also include statistics which are comparable with national uniform criminal statistics published by federal bureaus or departments heretofore mentioned. (Penal Code § 13012 (emphasis added).)

*Existing law* requires DOJ to “collect data pertaining to the juvenile justice system for criminal history and statistical purposes. This information shall serve to assist the department in complying with the reporting requirement of subdivisions (c) and (d) of Section 13012, measuring the extent of juvenile delinquency, determining the need for and effectiveness of relevant legislation, and identifying long-term trends in juvenile delinquency. Any data collected pursuant to this section may include criminal history information which may be used by the

department to comply with the requirements of Section 602.5 of the Welfare and Institutions Code.” (Penal Code § 13010.5.)

*Existing law* requires the following information be included in the annual report described above concerning juvenile justice:

(1) The annual number of fitness hearings held in the juvenile courts under Section 707 of the Welfare and Institutions Code, and the outcomes of those hearings including orders to remand to adult criminal court, cross-referenced with information about the age, gender, ethnicity, and offense of the minors whose cases are the subject of those fitness hearings.

(2) The annual number of minors whose cases are filed directly in adult criminal court under Sections 602.5 and 707 of the Welfare and Institutions Code, cross-referenced with information about the age, gender, ethnicity, and offense of the minors whose cases are filed directly to the adult criminal court.

(3) The outcomes of cases involving minors who are prosecuted in adult criminal courts, regardless of how adult court jurisdiction was initiated, including whether the minor was acquitted or convicted, or whether the case was dismissed and returned to juvenile court, including sentencing outcomes, cross-referenced with the age, gender, ethnicity, and offense of the minors subject to these court actions.

(b) The department’s annual report published under Section 13010 shall include the information described in subdivision (d) of Section 13012, as further delineated by this section, beginning with the report due on July 1, 2003, for the preceding calendar year. (Penal Code § 13012.5.)

*This bill* would recast Penal Code Section 13012.5 to do all of the following:

- Include “county level” information;
- Include commitment county in the adult court data described in (1) above;
- With respect to adult court filings described in (2) above, provide that data be classified according to the manner in which adult court jurisdiction was initiated, and include county of referral;
- With respect to outcomes from adult court filings described in (3) above, provide that the data be classified according to the manner in which adult court jurisdiction was initiated, and include length of time in custody prior to disposition, sentencing outcomes and county of referral; and
- Add to the required data, the total number of people who were under 21 years of age at the time of their offenses who are currently committed to the California Department of Corrections and Rehabilitation cross-referenced with the age, gender, ethnicity, county of referral, and most serious offense at the time of referral.

*This bill* would require DOJ to post on its Internet Web site all of the juvenile information described above “in a format that allows a user to query and download the information for the most recent reporting year and for prior years or reporting cycles for which the information is available.”

*This bill* would require DOJ to use for its Internet Web site “data submitted by the California Department of Corrections and Rehabilitation, for each year, the number of people who were under 21 years of age at the time of the offense and who were committed to the Department of Corrections and Rehabilitation cross-referenced with the most serious offense resulting in conviction and the sentence, including any gang, weapon, or other sentencing enhancements that were attached, cross-referenced with the person’s age at the time of the offense, age at admission to the Department of Corrections and Rehabilitation, current age, gender, race or ethnic subgroup, and county of commitment.”

#### RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past eight years, this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state’s ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its “ROCA” policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In February of this year the administration reported that as “of February 11, 2015, 112,993 inmates were housed in the State’s 34 adult institutions, which amounts to 136.6% of design bed capacity, and 8,828 inmates were housed in out-of-state facilities. This current population is now below the court-ordered reduction to 137.5% of design bed capacity.”( Defendants’ February 2015 Status Report In Response To February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).

While significant gains have been made in reducing the prison population, the state now must stabilize these advances and demonstrate to the federal court that California has in place the “durable solution” to prison overcrowding “consistently demanded” by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants’ Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee’s consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

## COMMENTS

### 1. Stated Need for this Bill

The author states:

Existing law requires the California Department of Justice (DOJ) to present a report to the Governor annually that contains the statewide criminal statistics of the preceding year, including specified information about the minors who were charged and convicted as adults in criminal court.

Current statistical requirements were developed shortly after Proposition 21 took effect in 2000, which vastly expanded the circumstances under which juveniles in California may be handled in the adult criminal system. In 2001, the Penal Code was amended to add Section 13012.5 which lists specific data elements that the DOJ must annually collect and report on juveniles tried as adults.

As a result of Proposition 21, prosecutors gained the authority to file juvenile cases directly in adult criminal court without a fitness hearing in the juvenile court. Moreover, filing in adult court became automatic for homicide and other listed serious crimes. Throughout the state, the number of juveniles who are handled in the adult system has grown significantly since 2001. However, the data requirements adopted in 2001 fall short of what is needed to provide a full and accurate picture of transfers, direct files and important sentencing consequences. For example, data that is currently collected does not disaggregate adult court outcomes by the mechanism of transfer to the adult court. Only statewide rather than county-level data are reported, and important sentencing details for these cases are lacking. Policymakers, researchers and the public need to know more about the social, economic, corrections and public safety consequences surrounding these critical cases. Better access to individual data is needed to assess sentencing practices related to the adoption of SB 260 (Hancock, 2013) and to California Supreme Court sentencing decisions such as *People v. Caballero* 55 Cal.4th 262 (2012).

SB 1198 will require the DOJ to expand the collection and reporting statistics on minors whose cases are handled in adult criminal court. This bill seeks to provide policymakers and the public with a better understanding of the criminal justice system as well as the background of minors being charged as adults. It will also require that the DOJ continue to post information required in the annual report on their website but to do so in a format that allows users to query and download the material.

## 2. What This Bill Would Do

As explained in detail above, this bill would expand the kind of juvenile data now collected and reported on by DOJ. The key new features this bill would provide include:

- Data broken down by county of referral;
- How minors who are remanded to adult court get there – by a decision of the court, the district attorney, or as a matter of law – and outcomes from each of these remand mechanisms; and
- How many inmates are in prison for crimes committed when they were under the age of 21, broken down by offense, age, gender, ethnicity, county of referral, and most serious offense at the time of referral.

In addition, this bill would require DOJ to post certain information concerning juvenile crime and offenders on its website, including in a format that allows users to query the system and download requested subsets of information, as specified.

## 3. Background: Juvenile Justice Data in California

Currently, the state's key source of annual data concerning juvenile offenders is prepared by DOJ, *Juvenile Justice in California*. The most recently-available report is from 2012.<sup>1</sup> As explained in that report:

*Juvenile Justice in California 2012* provides insight into the juvenile justice process by reporting the number of arrests, referrals to probation departments, petitions filed, and dispositions for juveniles tried in juvenile and adult courts. Law enforcement agencies provide information on the number of arrests, and probation departments and superior courts provide information on the types of offenses and administrative actions taken by juvenile and adult courts.

The California Department of Justice (DOJ) is required to collect and report statistics on juvenile justice in California. *Juvenile Justice in California 2012* reflects data extracted from the Monthly Arrest and Citation Register, Offender-Based Transaction Statistics file, and the Juvenile Court and Probation Statistical System. (Appendix 1 describes the evolution of this system.) Referral and petition statistics were submitted to the Juvenile Court and Probation Statistical System by 56 of California's 58 counties, representing over 99 percent of the state's juvenile population. Del Norte and Sierra Counties are not included in the referral and petition sections of this report.

*Juvenile Justice in California 2012* presents juvenile justice statistics in four sections: Arrests, Referrals, Petitions, and Adult Court Dispositions. The arrest data were reported by law enforcement agencies and law enforcement referral data were reported by probation departments. Comparisons between arrest data

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<sup>1</sup> The annual report is due on or before July 1<sup>st</sup>.

and referral data should not be made because of differences in the way data were reported between the two sources...<sup>2</sup>

The 2012 report contains the following information about juvenile offenders remanded to adult court that year:

Of the 532 adult-level court dispositions received:

- 93.2 percent (496) were males.
- 6.8 percent (36) were females.
- 1.9 percent (10) were 14 years of age.
- 10.3 percent (55) were 15 years of age.
- 27.8 percent (148) were 16 years of age.
- 60.0 percent (319) were 17 years of age.
- 11.1 percent (59) were white.
- 58.3 percent (310) were Hispanic.
- 25.8 percent (137) were black.
- 4.9 percent (26) were from other race/ethnic groups.

Of the 532 adult-level court dispositions received:

- 86.1 percent (458) resulted in a conviction.
- 13.2 percent (70) were dismissed.
- 0.2 percent (1) were acquitted.
- 0.6 percent (3) were certified to juvenile court
- Regardless of gender, age, and race/ethnicity juveniles in adult court were convicted in the majority of cases.
- Females were more likely to be dismissed (27.8 percent) and certified to juvenile court (2.8 percent) compared to males (12.1 percent and 0.4 percent, respectively).
- Juveniles 17 years old were more likely to be dismissed (14.1 percent) compared to other age groups.
- A greater percentage of black juveniles were convicted (89.1 percent) compared to all other race/ethnic groups.
- Black juveniles were also the least likely to be dismissed (10.9 percent) compared to all other race/ethnic groups.

Of the 458 convictions received:

- 64.0 percent (293) were sentenced to adult prison or the Division of Juvenile Justice (DJJ).
- 2.2 percent (10) received probation.
- 29.7 percent (136) received probation with jail.
- 3.1 percent (14) received jail.
- 1.1 percent (5) received another sentence.

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<sup>2</sup> <http://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/publications/misc/jj12/preface.pdf>

- Males were more likely than females to be sent to adult prison or the Division of Juvenile Justice (65.6 vs. 36.0 percent).
- Females were more likely to be sentenced to probation with jail than males (48.0 vs. 28.6 percent).
- Regardless of age, juveniles convicted in adult court were most likely to be sentenced to adult prison or the Division of Juvenile Justice.
- Hispanic, black, and “other” juveniles convicted in adult court were most likely sentenced to adult prison or the Division of Juvenile Justice.

In addition to the annual report on juvenile justice, DOJ also maintains the following data relevant to juvenile offenders:

- The Monthly Arrest and Citation Register (MACR) database provides information on felony and misdemeanor level arrests for adults and juveniles and status offenses (e.g., truancy, incorrigibility, running away, and curfew violations) for juveniles. The following data elements are included in this file: race/ethnicity, date of birth, gender, date of arrest, offense level, status of the offense, and law enforcement disposition. MACR data are published in *Crime in California*, *Homicide in California*, *Juvenile Justice in California*, and the *Criminal Justice Profile* series. Age, gender, race/ethnicity, and offense information from the MACR are forwarded to the FBI for publication in Crime in the United States. The MACR data, in a consistent format, is available from 1979 to the present.
- The Juvenile Court and Probation Statistical System (JCPSS) database is designed to collect, compile, and report statistical data on the administration of juvenile justice in California. It provides information on a juvenile's process through the juvenile justice system from probation intake to final case disposition. Data from the JCPSS database is available in an electronic format from 2004 to the present.<sup>3</sup>

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<sup>3</sup> <https://oag.ca.gov/cjsc/databases>