

JUVENILE JUSTICE REALIGNMENT - 2021
A General Overview
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Introduction

[Senate Bill No. 823](#),¹ which became effective immediately when Governor Gavin Newsom signed it on September 30, 2020, provides remarkable reformation of the juvenile justice system. The following discussion highlights principal changes and timelines.²

The new laws direct the gradual closure of the Department of Juvenile Justice (DJJ) and transfer the management, supervision, and care of juveniles to county jurisdictions. They provide resources to counties to undertake this new responsibility. The newly created Office of Youth Community and Restoration (OYCR) will oversee the gradual transition from state to local custody. The new laws create a separate dispositional track for higher-need youth, adjust the age requirement for court jurisdiction over a minor, and modify the provisions governing the detention of minors in adult facilities. To gather relevant information, the new laws require establishment of a modern database and reporting system for tracking realigned juveniles.

Reformation is premised on “[e]vidence . . . demonstrat[ing] that justice system-involved youth are more successful when they remain connected to their families and communities” and that “[j]ustice system-involved youth who remain in their communities have lower recidivism rates and are more prepared for their transition back into the community.” (Sen. Bill No. 823 (2019-2020 Reg. Sess.), § 1(a).)

To meet the needs of youth and achieve successful outcomes, local counties are tasked with employing “evidence-based and promising practices and programs” which:

- “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”

¹ Stats. 2020, ch. 337 (Sen. Bill No. 823).

² This article is intended to be a general overview only. Not all changes are reflected. The reader is encouraged to carefully review Senate Bill No. 823 and the corresponding statutes.

- “reduce the use of confinement in the juvenile justice system by utilizing community-based responses and interventions.” (Sen. Bill No. 823, § 1(e).)

DJJ closure and court commitments

The intent of the Legislature is to close DJJ commencing July 1, 2021. (Sen. Bill No. 823, § 30; Welf. & Inst. Code, § 736.5, subd. (a).) To that end, intake of new wards into DJJ will end on June 30, 2021. After that date, a court shall not commit a minor to DJJ unless minor qualifies under stringent criteria. (Sen. Bill No. 823, § 30; Welf. & Inst. Code, § 736.5, subd. (b)-(c).) A date for final DJJ closure is not identified in Senate Bill No. 823.³ Pending is [Senate Bill No. 92](#) which proposes closure on June 30, 2023. (Sen. Bill No. 92 (2021 - 2022 Reg. Sess.), amended April 8, 2021.)

Hence, commencing July 1, 2021, the juvenile court will no longer commit minors adjudged a ward of the court to the DJJ (Sen. Bill No. 823, §§ 29, 30; Welf. & Inst. Code, §§ 733.1, subd. (a), 736.5, subd. (b)) except for a small group of eligible youth. Pending final closure of DJJ, minors who can be committed to DJJ are those in whose case a motion to transfer from juvenile court to criminal court was filed and granted and whose case involves a Welfare and Institutions Code section 707, subdivision (b)/Penal Code section 290.008 offense. (Sen. Bill No. 823, §§ 29, 30; Welf. & Inst. Code, §§ 733.1, subd. (b), 736.5, subd. (c); see also Sen. Bill No. 823, § 43; Welf. & Inst. Code, § 1731.5, subd. (a) [court commitment to DJJ after certification to the Governor based on specified criteria of youth convicted of a Welf. & Inst. Code, § 707, subd. (b) (§ 707(b)) serious or violent felony offense or Pen. Code, § 290.008 sex offense and was under 21 years of age at time of apprehension] & subd. (c) [youth under 18 years of age not committed to the DJJ may be transferred by the Department of Corrections and Rehabilitation to DJJ]; Sen. Bill No. 823, § 48; Welf. & Inst. Code, § 1955.2 [notwithstanding Welf. & Inst. Code, § 1731.5, when a youth 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 person is to remain in a county juvenile facility until the age of 18 at which time that person may be transferred to state prison].)

Shifting of responsibility and OYCR

Responsibility for all youth adjudged a ward of the court will transfer to county governments on July 1, 2021, and annual funding for county governments will be

³ The Department of Corrections and Rehabilitation has a realignment portal for information for families and staff:

<https://www.cdcr.ca.gov/juvenile-justice/djj-realignment-portal/>.

provided to fulfill this new responsibility. (Sen. Bill No. 823, § 30; Welf. & Inst. Code, § 736.5, subd. (a); see also Sen. Bill No. 823, § 49; Welf. & Inst. Code, § 1990, et seq.; Sen. Bill No. 823, § 51; Welf. & Inst. Code, § 2250.)

OYCR is tasked with providing oversight of and accountability within the new juvenile system, commencing July 1, 2021. (Sen. Bill No. 823, § 50, Ch. 4; Welf. & Inst. Code, § 2200, subds. (a), (c)-(e).) “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.” (Sen. Bill No. 823, § 50, Ch. 4; Welf. & Inst. Code, § 2200, subd. (b).)

Youths committed prior to July 1, 2021 and those otherwise DJJ eligible

All wards committed to DJJ prior to July 1, 2021 or pursuant to section 736.5, subdivision (c) [ward who is otherwise eligible to be committed under existing law and a motion to transfer the minor to criminal court was filed and granted], remain in DJJ until discharged, released or otherwise moved pursuant to law. (Sen. Bill No. 823, § 30; Welf. & Inst. Code, § 736.5, subd. (d).)

For those minors who are realigned from DJJ or who were eligible for DJJ commitment before final DJJ closure, the bill establishes “The Juvenile Justice Realignment Block Grant” program to provide for their transition to local custody, care, and supervision. (Sen. Bill No. 823, § 49; Welf. & Inst. Code, § 1990, subd. (a).) This would pertain to youth who were eligible for DJJ commitment prior to its closure and youth who are adjudicated to be a ward based on a § 707(b) offense or Penal Code section 290.008 sex offense. (Sen. Bill No. 823, § 49; Welf. & Inst. Code, § 1990, subd. (b).)

Higher-need youth

Senate Bill No. 823 also sets forth the Legislature’s intent to establish a separate dispositional track for higher-need youth by March 1, 2021. (Sen. Bill No. 823, § 30; Welf. & Inst. Code, § 736.5, subd. (e).) The framework is laid out in section 30 of Senate Bill No. 823, [as amended August 24, 2020](#). (Sen. Bill No. 823, § 30; § 736.5, subd. (e).) That earlier version set forth Article 23.5 of section 30 which provides for an available disposition to a “Secure Youth Treatment Facility.” The criteria are:

- (1) a § 707(b) offense was committed when the juvenile was 14 years of age or older;
- (2) the adjudication of that offense is the most recent offense for which the juvenile has been adjudicated; and
- (3) a less restrictive, alternative disposition for the ward is determined by the court

to be unsuitable based on specified criteria.

The framework also sets forth various other requirements some of which include an individual treatment plan; the baseline term in custody necessary to meet the developmental and treatment needs of the ward and to prepare the ward for safe discharge to a period of probation supervision; progress review hearings; and the maximum time of confinement.

Age requirement for court jurisdiction over a minor

The juvenile court continues to retain jurisdiction over a ward until age 21. (Sen. Bill No. 823, § 24; Welf. & Inst. Code, § 607, subd. (a) (operative July 1, 2021) [Until July 1, 2021 see Sen. Bill No. 823, § 23].) Where the offense is a § 707(b) offense, the court retains jurisdiction until age 23 (Sen. Bill No. 823, § 24; Welf. & Inst. Code, § 607, subd. (b)) and to age 25 if the ward would have faced an aggregate sentence of seven years or more in criminal court (Sen. Bill No. 823, § 24; Welf. & Inst. Code, § 607, subd. (c)). If the ward was committed to a state hospital or other mental health facility, jurisdiction continues until age 25, unless the court finds sanity was restored. (Sen. Bill No. 823, § 24; Welf. & Inst. Code, § 607, subd. (e).)

Provisions governing the detention of minors in adult facilities

A youth whose case originated in juvenile court and who is detained in a secure juvenile facility may remain in that facility until age 25. (Sen. Bill No. 823, § 20; Welf. & Inst. Code, § 208.5, subd. (a) [no time line is specified].) At age 19, the probation department may petition the court to move the youth to an adult facility, which is followed by a hearing and findings on specified criteria. (Sen. Bill No. 823, § 20; Welf. & Inst. Code, § 208.5, subd. (b) & (c).)

Modern database and reporting system for tracking realigned juveniles

The Department of Justice is required to submit a plan for replacement of the Juvenile Court and Probation Statistical System with a modern database and reporting system by January 1, 2023. (Sen. Bill No. 823, § 15; Pen. Code, § 13015, subd. (a).) The plan is to be devised by a working group of experts and advocates with experience in collecting, analyzing, and utilizing juvenile justice data in California, including people directly impacted by the justice system. Minimum requirements of the plan are enumerated.