

AMENDED IN SENATE JUNE 19, 2020

AMENDED IN SENATE MARCH 26, 2020

SENATE BILL

No. 1111

Introduced by Senator Durazo

February 19, 2020

An act to amend Sections 207.1, 207.2, 209, 210.2, and 707.1 of, to repeal Section 207.6 of, and to repeal and add Section 208.5 of, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1111, as amended, Durazo. Juveniles: detention facilities.

Existing law provides that a person who is under 18 years of age and who commits a crime is within the jurisdiction of the juvenile court, except as specified. Existing law authorizes the 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 21 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.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. Section 207.1 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 207.1. (a) A court, judge, referee, peace officer, or employee
- 4 of a detention facility shall not knowingly detain any minor in a
- 5 jail or lockup, unless otherwise permitted by any other law.
- 6 (b) (1) A minor 14 years of age or older who is taken into
- 7 temporary custody by a peace officer on the basis of being a person
- 8 described by Section 602, and who, in the reasonable belief of the
- 9 peace officer, presents a serious security risk of harm to self or
- 10 others, may be securely detained in a law enforcement facility that
- 11 contains a lockup for adults, if all of the following conditions are
- 12 met:
- 13 (A) The minor is held in temporary custody for the purpose of
- 14 investigating the case, facilitating release of the minor to a parent
- 15 or guardian, or arranging transfer of the minor to an appropriate
- 16 juvenile facility.

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

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

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

13 (E) The minor is adequately supervised.

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

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

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

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

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

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

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

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

35 (2) Under the limited condition of temporary unavailability of
36 transportation, an extension of the six-hour maximum period of
37 detention set forth in paragraph (2) of subdivision (b) may be
38 granted by the board to an offshore law enforcement facility. The
39 extension may be granted only by the board, on an individual,
40 case-by-case basis. If the extension is granted, the detention of

1 minors under those conditions shall extend only until the next
2 available mode of transportation can be arranged.

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

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

22 (e) Any county that did not have a juvenile hall on January 1,
23 1987, may establish a special purpose juvenile hall, as defined by
24 the Board of Corrections, for the detention of minors for a period
25 not to exceed 96 hours. Any county that had a juvenile hall on
26 January 1, 1987, also may establish, in addition to the juvenile
27 hall, a special purpose juvenile hall. The board shall prescribe
28 minimum standards for that type of facility.

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

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

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

39 (3) The juvenile facility has a dedicated and separate staff from
40 the jail or lockup, including management, security, and direct care

1 staff. Staff who provide specialized services such as food, laundry,
2 maintenance, engineering, or medical services, who are not
3 normally in contact with detainees, or whose infrequent contacts
4 occur under conditions of separation of juveniles and adults, may
5 serve both populations.

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

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

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

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

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

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

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

39 (3) The evaluation, test, or chemical test administered pursuant
40 to Section 23157 of the Vehicle Code is performed as expeditiously

1 as possible, so that the minor is not delayed unnecessarily within
2 the adult detention facility or jail. Upon completion of the
3 evaluation, test, or chemical test, the minor shall be removed from
4 the detention facility or jail as soon as reasonably possible. A minor
5 shall not be held in custody in an adult detention facility or jail
6 under the authority of this paragraph in excess of two hours.

7 SEC. 2. Section 207.2 of the Welfare and Institutions Code is
8 amended to read:

9 207.2. A minor who is held in temporary custody in a law
10 enforcement facility that contains a lockup for adults pursuant to
11 subdivision (b) of Section 207.1 may be released to a parent,
12 guardian, or responsible relative by the law enforcement agency
13 operating the facility, or may at the discretion of the law
14 enforcement agency be released into their own custody, provided
15 that a minor released into their own custody is furnished, upon
16 request, with transportation to their home or to the place where
17 the minor was taken into custody.

18 SEC. 3. Section 207.6 of the Welfare and Institutions Code is
19 repealed.

20 SEC. 4. Section 208.5 of the Welfare and Institutions Code is
21 repealed.

22 SEC. 5. Section 208.5 is added to the Welfare and Institutions
23 Code, to read:

24 208.5. (a) Notwithstanding any other law, any person whose
25 case originated in juvenile court shall remain, if the person is held
26 in secure detention, in a county juvenile facility until the person
27 attains 21 years of age, except as provided in subdivisions (b) and
28 (c). This section is not intended to authorize confinement in a
29 juvenile facility where authority would not otherwise exist.

30 (b) The probation department may petition the court to house
31 a person who is 19 years of age or older in an adult facility,
32 including a jail or other facility established for the purpose of
33 confinement of adults.

34 (c) Upon receipt of a petition to house a person who is 19 years
35 of age or older in an adult facility, the court shall hold a hearing.
36 There shall be a rebuttable presumption that the person will be
37 retained in a juvenile facility. At the hearing, the court shall
38 determine whether the person will be moved to an adult facility,
39 and make written findings of its decision based on the totality of
40 the following criteria:

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

3 (2) The benefits of continued programming at the juvenile
4 facility and whether required education and other services called
5 for in any juvenile court disposition or otherwise required by law
6 or court order can be provided in the adult facility.

7 (3) The capacity of the adult facility to separate persons under
8 21 years of age from older adults and to provide them with safe
9 and age-appropriate housing and program opportunities.

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

13 (5) Evidence demonstrating that the juvenile facility is unable
14 to currently manage the person's needs without posing a significant
15 danger to staff or other youth in the facility.

16 (d) If a person ~~between 18 and 21~~ *who is 18 to 20* years of age,
17 inclusive, is removed from a juvenile facility pursuant to this
18 section, upon the motion of any party and a showing of changed
19 circumstances, the court shall consider the criteria in subdivision
20 (c) and determine whether the person should be housed at a juvenile
21 facility.

22 SEC. 6. Section 209 of the Welfare and Institutions Code is
23 amended to read:

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

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

38 (3) The Board of State and Community Corrections shall
39 conduct a biennial inspection of each jail, juvenile hall, lockup, or
40 special purpose juvenile hall situated in this state that, during the

1 preceding calendar year, was used for confinement, for more than
2 24 hours, of any minor. The board shall promptly notify the
3 operator of any jail, juvenile hall, lockup, or special purpose
4 juvenile hall of any noncompliance found, upon inspection, with
5 any of the minimum standards for juvenile facilities adopted by
6 the Board of State and Community Corrections under Section 210
7 or 210.2.

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

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

23 (b) (1) The Board of State and Community Corrections may
24 inspect any law enforcement facility that contains a lockup for
25 adults and that it has reason to believe may not be in compliance
26 with the requirements of subdivision (b) of Section 207.1 or with
27 the certification requirements or standards adopted under Section
28 210.2. A judge of the juvenile court shall conduct an annual
29 inspection, either in person or through a delegated member of the
30 appropriate county or regional juvenile justice commission, of any
31 law enforcement facility that contains a lockup for adults which,
32 in the preceding year, was used for the secure detention of any
33 minor. If the law enforcement facility is observed, upon inspection,
34 to be out of compliance with the requirements of subdivision (b)
35 of Section 207.1, or with any standard adopted under Section 210.2,
36 the board or the judge shall promptly notify the operator of the
37 law enforcement facility of the specific points of noncompliance.

38 (2) If either the judge or the board finds after inspection that
39 the facility is not being operated and maintained in conformity
40 with the requirements of subdivision (b) of Section 207.1 or with

1 the certification requirements or standards adopted under Section
2 210.2, the juvenile court or the board shall give notice of its finding
3 to all persons having authority to securely detain minors in the
4 facility, and, commencing 60 days thereafter, the facility shall not
5 be used for the secure detention of a minor until the time the judge
6 or the board, as the case may be, finds, after reinspection, that the
7 conditions that rendered the facility unsuitable have been remedied,
8 and the facility is a suitable place for the confinement of minors
9 in conformity with all requirements of law.

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

14 (c) The board shall collect biennial data on the number, place,
15 and duration of confinements of minors in jails and lockups, as
16 defined in subdivision (g) of Section 207.1, and shall publish
17 biennially this information in the form as it deems appropriate for
18 the purpose of providing public information on continuing
19 compliance with the requirements of Section 207.1.

20 (d) Except as provided in subdivision (e), a juvenile hall, special
21 purpose juvenile hall, law enforcement facility, or jail shall be
22 unsuitable for the confinement of minors if it is not in compliance
23 with one or more of the minimum standards for juvenile facilities
24 adopted by the Board of State and Community Corrections under
25 Section 210 or 210.2, and if, within 60 days of having received
26 notice of noncompliance from the board or the judge of the juvenile
27 court, the juvenile hall, special purpose juvenile hall, law
28 enforcement facility, or jail has failed to file an approved corrective
29 action plan with the Board of State and Community Corrections
30 to correct the condition or conditions of noncompliance of which
31 it has been notified. The corrective action plan shall outline how
32 the juvenile hall, special purpose juvenile hall, law enforcement
33 facility, or jail plans to correct the issue of noncompliance and
34 give a reasonable timeframe, not to exceed 90 days, for resolution,
35 that the board shall either approve or deny. In the event the juvenile
36 hall, special purpose juvenile hall, law enforcement facility, or jail
37 fails to meet its commitment to resolve noncompliance issues
38 outlined in its corrective action plan, the board shall make a
39 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. 7. 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

1 confinement for minors in law enforcement facilities, including
2 standards for places within a police station or sheriff's station
3 where minors may be securely detained; standards regulating
4 contact between minors and adults in custody in lockup, booking,
5 or common areas; standards for the supervision of minors securely
6 detained in these facilities; and any other related standard as the
7 board deems appropriate to effectuate compliance with subdivision
8 (b) of Section 207.1.

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

18 SEC. 8. Section 707.1 of the Welfare and Institutions Code is
19 amended to read:

20 707.1. (a) If, pursuant to a transfer hearing, the minor's case
21 is transferred from juvenile court to a court of criminal jurisdiction,
22 the district attorney or other appropriate prosecuting officer may
23 file an accusatory pleading against the minor in a court of criminal
24 jurisdiction. The case shall proceed from that point according to
25 the laws applicable to a criminal case. If a prosecution has been
26 commenced in another court but has been suspended while juvenile
27 court proceedings are being held, it shall be ordered that the
28 proceedings upon that prosecution shall resume.

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

34 SEC. 9. If the Commission on State Mandates determines that
35 this act contains costs mandated by the state, reimbursement to
36 local agencies and school districts for those costs shall be made
37 pursuant to Part 7 (commencing with Section 17500) of Division
38 4 of Title 2 of the Government Code.

O