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SUPREME COURT  
**FILED**

JUN 12 2017

Jorge Navarrete Clerk

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Deputy

**IN THE SUPREME COURT OF THE STATE OF CALIFORNIA**

IN RE J.G., a Person Coming Under	)	
the Juvenile Court Law.	)	<b>No. S240397</b>
	)	
PEOPLE OF THE STATE OF	)	Court of Appeal
CALIFORNIA,	)	No. C077056
	)	
Plaintiff and Respondent,	)	Shasta County
	)	Superior Court
v.	)	No. JDSQ122933901
	)	
J.G.,	)	
	)	
Defendant and Appellant.	)	
	)	

**APPELLANT’S MOTION FOR JUDICIAL NOTICE**

TO THE HONORABLE CHIEF JUSTICE AND THE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE STATE OF CALIFORNIA:

Pursuant to rules 8.252(a) and 8.520(g) of the California Rules of Court and Evidence Code sections 452 and 459, appellant, J.G., through counsel, moves this court to take judicial notice of the following documents

as they relate to an issue this Court has granted review to resolve:

1. Assembly Floor Analysis, Analysis of Assembly Bill No. 666 (2015-2016 Reg. Sess.), as amended September 4, 2015. (Attached as Exhibit A; also available online at: <[https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201520160AB666](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160AB666)> [as of June 7, 2017]);
2. Ballot Pamphlet for the Primary Election (March 7, 2000) analysis of Proposition 21. (Attached as Exhibit B; also available online at <<http://vig.cdn.sos.ca.gov/2000/primary/pdf/21.pdf>> [as of June 7, 2017]);
3. Ballot Pamphlet for the Primary Election (March 7, 2000) text of Proposition 21. (Attached as Exhibit C; also available online at <<http://vigarchive.sos.ca.gov/2000/primary/propositions/21text.htm>> [as of June 7, 2017]).

This motion for judicial notice is based on this notice, the attached memorandum of points and authorities, the declaration of appellant's counsel, and Exhibits A, B, and C.

Dated: June 9, 2017

Respectfully submitted,



William C. Whaley  
William C. Whaley  
Attorney for J.G.

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT  
OF APPELLANT’S MOTION FOR JUDICIAL NOTICE**

**A. Procedural History**

The juvenile court granted J.G. deferred entry of judgment (DEJ) and placed him on probation with a number of conditions including payment of victim restitution. (CT, at pp. 46-53.) The restitution condition was imposed over J.G.’s objection that he lacked an ability to pay it. (CT, at pp. 76, 79-84.) When J.G. completed DEJ, the juvenile court terminated probation, dismissed the Welfare and Institutions Code section 602 petition, converted the unpaid balance of restitution to a civil judgment, and ordered the juvenile record sealed. (CT, at p. 176; RT at p. 10.)

On appeal, J.G. argued, *inter alia*, that the juvenile court lacked jurisdiction to convert restitution to a civil judgment. (See Appellant’s Opening Brief, at pp. 12-25; Appellant’s Reply Brief, at pp. 15-18.) The Court of Appeal rejected that argument. (See Slip Op., at pp. 9-12.)

On May 10, 2017, this Court granted review to resolve a number of issues, including whether “the juvenile court [had] the authority to convert a restitution order to a civil judgment at the completion of deferred entry of judgment.” (See Issues Pending before the California Supreme Court in Criminal Cases, at <[http://www.courts.ca.gov/documents/JUN0217\\_crimpend.pdf](http://www.courts.ca.gov/documents/JUN0217_crimpend.pdf)> [as of June 7, 2017].)

## B. Judicial Notice

Evidence Code section 459, subdivision (a), provides that this Court “may take judicial notice of any matter specified in [Evidence Code] [s]ection 452.” Section 452, subdivision (c) provides that “Judicial notice may be taken of . . . [o]fficial acts of the legislative, executive, and judicial departments of the United States and of any state of the United States.” The documents for which judicial notice is sought in this case – floor analysis of a bill and a ballot pamphlet – qualify as official acts. (See *Vargas v. City of Salinas* (2009) 46 Cal.4th 1, 22, fn. 10 [“The ballot pamphlet . . . is not included in the record on appeal, but, as an official government document, is a proper subject of judicial notice.”]; *People v. Mazurette* (2001) 24 Cal.4th 789, 796, fn. 4 [taking judicial notice of the third reading analysis for Senate Bill No. 1369 (1995-1996 Reg. Sess.)].) The materials were not presented to the juvenile court. (See Cal. Rules of Court, rule 8.252(a)(2)(B).)

The Assembly Floor analysis of Assembly Bill No. 666 (2015-2016 Reg. Sess.) is relevant to understanding the statutory language in Welfare and Institutions Code<sup>1</sup> section 793. Section 793 discusses the effect of

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<sup>1</sup> All further undesignated statutory references are to the Welfare and Institutions Code unless otherwise specified.

dismissal of the section 602 petition and sealing of the juvenile record upon completion of DEJ. Similarly, section 786 discusses the effect of dismissal and sealing the juvenile record upon completion of juvenile probation. Before section 786 was amended by Assembly Bill No. 666 (2015-2016 Reg. Sess.), its language concerning the effect of dismissal and sealing mirrored section 793.

Over concerns that the statutory language in section 786 prohibited restitution from being converted to a civil judgment at the completion of probation, the Legislature passed Assembly Bill No. 666 (2015-2016 Reg. Sess.). The amendment created an exception to the otherwise broad dismissal and sealing provisions, which expressly permits unpaid restitution to be converted to a civil judgment despite the dismissal of the section 602 petition and sealing of the juvenile record. (See Stats. 2015, ch. 368 § 1.) The Assembly Floor Analysis discusses this history.

Appellant believes that legislative history is relevant to interpreting section 793, which was never amended to create an exception permitting unpaid restitution to be converted to a civil judgment. (See *Miklosy v. Regents of University of California* (2008) 44 Cal.4th 876, 896 [“[W]hen the Legislature uses a critical word or phrase in one statute, the omission of that word or phrase in another statute dealing with the same general subject

generally shows a different legislative intent.”].) The full text of Proposition 21 as set forth in the Ballot Pamphlet for the Primary Election of March 7, 2000, demonstrates that the Legislature possessed the ability to amend section 793. (See Exhibit C.)

Finally, the analysis of Proposition 21 in the Ballot Pamphlet for the Primary Election of March 7, 2000, is relevant because it does not contain any indication that the voters intended for section 793 to permit the conversion of restitution to a civil judgment at the completion of DEJ. (See Exhibit B.)

Thus, J.G. respectfully requests that this Court grant this motion and take judicial notice of the attached Assembly Floor Analysis and Ballot Pamphlet materials.

Dated: June 9, 2017

Respectfully submitted,

A handwritten signature in black ink that reads "William Whaley". The signature is written in a cursive style and is positioned above a horizontal line.

William C. Whaley  
Attorney for J.G.

## DECLARATION OF WILLIAM C. WHALEY

I, William C. Whaley, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

1. I am an attorney in good standing and licensed to practice before the courts of the State of California.
2. I have been appointed by this Court to represent J.G. in this stage of his appeal.
3. Exhibits A, B, and C are true and accurate copies of the information contained at the following web addresses on June 7, 2017:  
<[https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201520160AB666](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160AB666)>  
<<http://vig.cdn.sos.ca.gov/2000/primary/pdf/21.pdf>>  
<<http://vigarchive.sos.ca.gov/2000/primary/propositions/21text.htm>>

Dated: June 9, 2017

  
\_\_\_\_\_  
William C. Whaley

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 Executive Director  
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**IN THE SUPREME COURT OF THE STATE OF CALIFORNIA**

IN RE J.G., a Person Coming Under	)	
the Juvenile Court Law.	)	<b>No. S240397</b>
_____	)	
PEOPLE OF THE STATE OF	)	Court of Appeal
CALIFORNIA,	)	No. C077056
	)	
Plaintiff and Respondent,	)	Shasta County
	)	Superior Court
v.	)	No. JDSQ122933901
	)	
J.G.,	)	
	)	
Defendant and Appellant.	)	
_____	)	

**[PROPOSED] ORDER**

Appellant’s request for judicial notice of legislative history and  
 ballot materials filed \_\_\_\_\_, is granted.

Date: \_\_\_\_\_

\_\_\_\_\_  
 Chief/Associate Justice



Supreme Court Case No. No. S240397  
*The People v. J.G.*, Case No. C077056

**DECLARATION OF ELECTRONIC SERVICE AND SERVICE BY  
PLACEMENT AT PLACE OF BUSINESS FOR COLLECTION AND  
DEPOSIT IN MAIL**

(Code Civ. Proc., § 1013a, subd. (3); Cal. Rules of Court, rules 8.71(f) and 8.77)

**I, *Debra Lancaster*, declare as follows:**

I am, and was at the time of the service mentioned in this declaration, over the age of 18 years and am not a party to this cause. My electronic service address is [eservice@capcentral.org](mailto:eservice@capcentral.org) and my business address is 2150 River Plaza Dr., Ste. 300, Sacramento, CA 95833 in Sacramento County, California.

On **June 9, 2017**, I served the persons and/or entities listed below by the method checked. For those marked "Served Electronically," I transmitted a PDF version of **APPELLANT'S MOTION FOR JUDICIAL NOTICE** by TrueFiling electronic service or by e-mail to the e-mail service address(es) provided below. Transmission occurred at approximately **9:30 AM** For those marked "Served by Mail," I enclosed a copy of the document identified above in an envelope or envelopes, addressed as provided below, and placed the envelope(s) for collection and mailing on the date and at the place shown below, following the Central California Appellate Program's ordinary business practices. I am readily familiar with this business's practice of collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service, in sealed envelope(s) with postage fully prepaid.

Office of the Attorney General  
P.O. Box 944255  
Sacramento, CA 94244  
[SacAWTTrueFiling@doj.ca.gov](mailto:SacAWTTrueFiling@doj.ca.gov)

J.G.  


**AND**

Third District Court of Appeal  
914 Capitol Mall  
Sacramento, CA 95814

Served Electronically  
 Served by Mail

Served Electronically  
 Served by Mail

Shasta County Superior Court  
1500 Court Street  
Redding, CA 96001

Shasta County District Attorney  
1355 West Street  
Redding, CA 96001

Served Electronically  
 Served by Mail

Served Electronically  
 Served by Mail

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **June 9, 2017**, at Sacramento, California.

  
\_\_\_\_\_  
Debra Lancaster

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**EXHIBITS TO  
APPELLANT'S MOTION FOR JUDICIAL NOTICE**

<b><u>EXHIBIT</u></b>	<b><u>BATES NO.</u></b>	<b><u>DESCRIPTION</u></b>
A	JG001	Analysis of Assembly Bill No. 666
B	JG006	Ballot Pamphlet for the Primary Election (March 7, 2000) Analysis of Proposition 21
C	JG012	Ballot Pamphlet for the Primary Election (March 7, 2000) Text of Proposition 21

# **EXHIBIT 'A'**

## CONCURRENCE IN SENATE AMENDMENTS

AB 666 (Mark Stone)

As Amended September 4, 2015

Majority vote

ASSEMBLY: 42-33 (June 2, 2015)

SENATE: 24-16 (September 10, 2015)

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Original Committee Reference: PUB. S.

**SUMMARY:** Requires records in the custody of law enforcement agencies, the probation department, or the Department of Justice (DOJ), to also be sealed, in a case where a court has ordered a juvenile's records to be sealed, as specified.

**The Senate amendments:**

- 1) Recast a provision in the bill that prohibits the court from sealing a record or dismissing a petition if the petition was sustained based on the commission of an offense listed in subdivision (b) of Welfare and Institutions Code Section 707 that was committed when the individual was 14 years of age or older and specifies that this does not apply if the finding on that offense was dismissed or was reduced to a lesser offense.
- 2) Provide that an unfulfilled restitution fine that can be converted to a civil judgment or an unpaid restitution fee may not be used to constitute unsatisfactory completion of supervision or probation.
- 3) Authorize the court, in making its order to seal the record and dismiss the instant petition, to include an order to seal a record relating to, or to dismiss, any prior petition or petitions that have been filed or sustained against the individual and that appear to the satisfaction of the court to meet the sealing and dismissal criteria otherwise described in this bill.
- 4) Specify that a court may also access, inspect or utilize a record that has been ordered sealed by the court for the limited purpose of determining whether a minor is eligible and suitable for deferred entry of judgment or is ineligible for a program of supervision, as defined.
- 5) State upon a subsequent adjudication of a minor whose record has been sealed and a finding that the minor is a ward of the court based on the commission of a felony offense, the probation department, prosecuting attorney, counsel for the minor, or the court may access, inspect or utilize a record that has been ordered sealed by the court for the limited purpose of determining an appropriate juvenile court disposition. Specify that access, inspection, or use under this provision shall not be construed as a reversal or modification of the court's order dismissing the petition and sealing the records in the prior case.
- 6) State that upon the prosecuting attorney's motion to initiate court proceedings to determine the minor's fitness to be dealt with under the juvenile court law, the probation department, the prosecuting attorney, counsel for the minor, or the court may access, inspect or utilize a record that has been ordered sealed by the court for the limited purpose of evaluating and determining the minor's fitness to be dealt with under the juvenile court law. Specify that this access, inspection, or use under this provision shall not be construed as a reversal or modification of the court's order dismissing the petition and sealing the records in the prior case.

- 7) Provide that a court is not prohibited from enforcing a civil judgment for an unfulfilled order of restitution as specified and a minor is not relieved from the obligation to pay victim restitution, restitution fines, and court-ordered fines and fees because the minor's records are sealed.
- 8) Authorize that a victim or local collection program to continue to enforce victim restitution orders, restitution fines, and court-ordered fines and fees after a record is sealed.
- 9) State that a juvenile court shall have access to the records sealed for the limited purpose of enforcing a civil judgment or restitution order.
- 10) Provide, notwithstanding any other law, a record sealed may be accessed by a law enforcement agency, probation department, court, or other state or local agency that has custody of the sealed record for the limited purpose of complying with data collection or data reporting requirements that are imposed by other provisions of law. However, no personally identifying information from a sealed record accessed under this provision may be released, disseminated, or published by or through an agency, department, court, or individual that has accessed or obtained information from the sealed record.
- 11) State, notwithstanding any other law, a court may authorize a researcher or research organization to access information contained in records that have been sealed for the purpose of conducting research on juvenile justice populations, practices, policies, or trends, if certain conditions are met.
- 12) Define the term "personally identifying information."
- 13) Allow a court, upon request of an individual who has a record that is eligible to be sealed, to order the sealing of a record that is in the custody of a public agency other than a law enforcement agency, the probation department, or DOJ, if the court determines that sealing the additional record will promote the successful reentry and rehabilitation of the individual.
- 14) Authorize DOJ to access the sealed record for the limited purpose of complying with data collection or data reporting requirements that are imposed by other provisions of law.
- 15) Double joins this bill with AB 989 (Cooper) of the current legislative session to avoid chaptering out issues.

**EXISTING LAW:**

- 1) Provides that five years or more after the jurisdiction of the juvenile court has terminated over a person adjudged a ward of the court or after a minor appeared before a probation officer, or, in any case, at any time after the person has reached the age of 18, the person or county probation officer, with specified exceptions, may petition the juvenile court for sealing of the records, including arrest records, relating to the person's case, in the custody of the juvenile court, the probation officer, or any other agency or public official.
- 2) States that once the court has ordered the person's records sealed, the proceedings in the case shall be deemed never to have occurred, and the person may reply accordingly to any inquiry about the events.

- 3) Prohibits, notwithstanding any other provision of law, the court from ordering a person's records sealed in any case in which the person has been found to have committed an offense listed in Welfare and Institutions Code Section 707(b), which are offenses for which certain minors could be tried in adult court.
- 4) Permits the court to access a file that has been sealed for the limited purpose of verifying the prior jurisdictional status of the ward who is petitioning the court to resume its jurisdiction, as specified. This access is not to be deemed an unsealing of the records.
- 5) Allows a judge of the juvenile court in which a petition was filed to dismiss the petition, or to set aside the findings and dismiss the petition, if the court finds that the interests of justice and the welfare of the person who is the subject of the petition require that dismissal, or if it finds that he or she is not in need of treatment or rehabilitation. The court has jurisdiction to order dismissal or setting aside of the findings and dismissal regardless of whether the person who is the subject of the petition is, at the time of the order, a ward or dependent child of the court.
- 6) Provides that, if a minor satisfactorily completes an informal program of supervision, probation as specified, or a term of probation for any offense other than a specified serious, sexual, or violent offense, then the court shall order sealed all records pertaining to that dismissed petition in the custody of the juvenile court, except that the prosecuting attorney and the probation department of any county shall have access to these records after they are sealed for the limited purpose of determining whether the minor is eligible for deferred entry of judgment. The court may access a file that has been sealed pursuant to this section for the limited purpose of verifying the prior jurisdictional status of a ward who is petitioning the court to resume its jurisdiction. This access shall not be deemed an unsealing of the record and shall not require notice to any other entity.

**AS PASSED BY THE ASSEMBLY, this bill:**

- 1) Required the court to send a copy of the order to each agency and official named therein, directing the agency to seal its records and specifying a date thereafter to destroy the sealed records.
- 2) Stated that each such agency and official shall seal the records in its custody as directed by the order, advise the court of its compliance and thereupon seal the copy of the court's order or sealing of records that was received.
- 3) Required the court to provide notice to the minor and minor's counsel that it has ordered the petition dismissed and the record sealed in the case, including notice of the minor's right to nondisclosure of the arrest and proceedings as specified.
- 4) Stated that upon the court's order of dismissal of the petition, the arrest and other proceedings in the case shall be deemed not to have occurred and the person who was the subject of the petition may properly reply accordingly to any inquiry by employers, educational institutions or other persons or entities regarding the arrest and proceedings in the case.
- 5) Provided that satisfactory completion of informal supervision or another term of probation shall be deemed to have occurred if the person has no new finding of wardship or conviction for a felony offense for or a misdemeanor involving moral turpitude during the period of

supervision or probation and if he or she has not failed substantially to comply with the reasonable orders of supervision or probation that are within his or her capacity to perform.

- 6) Prohibited the extension of the period of supervision or probation solely for the purpose of deferring or delaying eligibility for dismissal of the petition and sealing of the records.
- 7) Stated that an unfulfilled order or condition of restitution that can be converted to a civil judgment shall not be deemed to constitute unsatisfactory completion of supervision or probation.
- 8) Specified that a record that has been ordered sealed by the court under this section may be accessed, inspected or used only under the following circumstances:
  - a) By the prosecuting attorney and the probation department for the limited purpose of determining whether the minor is eligible for deferred entry of judgment or for a program of supervision, as defined.
  - b) By the court for the limited purpose of verifying the prior jurisdictional purpose of a ward who is petitioning the court to resume its jurisdiction.
  - c) If a new petition has been filed against a minor for a felony offense, by the probation department for the limited purpose of identifying the minor's previous court-ordered programs or placements, and in that event solely to determine the individual's eligibility or suitability for remedial programs or services. The information obtained under this exception shall not be disseminated to other agencies or individuals, except as necessary to implement referral to a remedial program or service, and shall not be used to support the imposition of penalties or detention or other sanctions upon the minor.
  - d) By the person whose record has been sealed, upon his or her request and petition to the court to permit inspection of the records.
- 9) Stated that access to or inspection of a sealed record authorized by these provisions shall not be deemed an opening of the record and shall not require notice to any other agency.
- 10) Required Judicial Council to adopt rules of court, and shall make available appropriate forms, providing for the standardized implementation of this section by the juvenile courts.
- 11) Revised the exclusion of Welfare and Institutions Code Section 707(b) offenses from sealing under this section to specify that the offense must have been committed when the minor was 14 years of age or older.
- 12) Stated the finding of the Legislature that in order to protect the privacy of children who have had their juvenile delinquency court records sealed, it is necessary that related records in the custody of law enforcement agencies, the probation department, or any other public agency also be sealed.

**FISCAL EFFECT:** According to the Senate Appropriations Committee:

- 1) Potentially significant state court costs in the range of \$200,000 to \$400,000 (General Fund\*) annually to comply with the administrative and noticing requirements specified in the bill.



- 2) Minor one-time costs of \$10,000 to \$20,000 (General Fund\*) to the Judicial Council for the creation of rules and necessary forms.
- 3) Potentially significant ongoing state-reimbursable costs in the hundreds of thousands dollars (General Fund) annually to local law enforcement agencies and probation departments to seal and subsequently destroy all specified records in the entity's custody. Costs would vary by county and be dependent on the number and volume of records to be sealed and destroyed

**COMMENTS:** According to the author, "AB 666 is an important measure that can reduce recidivism and open doors to jobs and education for many of California youth. The goal is to open pathways to college and jobs for justice-involved youth whose criminal records and histories stand in the way of employment and other re-entry opportunities. SB 1038 (Leno), [Chapter 249, Statutes of 2014], revised the central policy and process for the sealing and dismissal of charges in non-violent juvenile delinquency cases. However, in the past few months experience in the courts has revealed implementation concerns. If passed AB 666 will provide for statewide standards for the courts and ensure access of youth to jobs and higher education."

**Analysis Prepared by:** Stella Choe / PUB. S. / (916) 319-3744

FN: 0002248

# **EXHIBIT 'B'**



## Juvenile Crime. Initiative Statute.

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### Official Title and Summary Prepared by the Attorney General

#### JUVENILE CRIME. INITIATIVE STATUTE.

- Increases punishment for gang-related felonies; death penalty for gang-related murder; indeterminate life sentences for home-invasion robbery, carjacking, witness intimidation and drive-by shootings; and creates crime of recruiting for gang activities; and authorizes wiretapping for gang activities.
- Requires adult trial for juveniles 14 or older charged with murder or specified sex offenses.
- Eliminates informal probation for juveniles committing felonies.
- Requires registration for gang related offenses.
- Designates additional crimes as violent and serious felonies, thereby making offenders subject to longer sentences.

#### Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- State costs: Ongoing annual costs of more than \$330 million. One-time costs of about \$750 million.
  - Local costs: Potential ongoing annual costs of tens of millions of dollars to more than \$100 million. Potential one-time costs in the range of \$200 million to \$300 million.
-



## Overview

This measure makes various changes to laws specifically related to the treatment of juvenile offenders. In addition, it changes laws for juveniles and adults who are gang-related offenders, and those who commit violent and serious crimes. Specifically, it:

- Requires more juvenile offenders to be tried in adult court.
- Requires that certain juvenile offenders be held in local or state correctional facilities.
- Changes the types of probation available for juvenile felons.
- Reduces confidentiality protections for juvenile offenders.
- Increases penalties for gang-related crimes and requires convicted gang members to register with local law enforcement agencies.
- Increases criminal penalties for certain serious and violent offenses.

The most significant changes and their fiscal effects are discussed below.

## Prosecution of Juveniles in Adult Court

**Background.** Currently, a minor 14 years of age or older can be tried as an adult for certain offenses. Generally, in order for this to occur, the prosecutor must file a petition with the juvenile court asking the court to transfer the juvenile to adult court for prosecution. The juvenile court then holds a hearing to determine whether the minor should be transferred. However, if an offender is 14 years of age or older, has previously committed a felony, and is accused of committing one of a specified list of violent crimes, then that offender must be prosecuted in adult court.

**Proposal.** This measure changes the procedures under which juveniles are transferred from juvenile court to adult court. Juveniles 14 years of age or older charged with committing certain types of murder or a serious sex offense generally would no longer be eligible for juvenile court and would have to be tried in adult court. In addition, prosecutors would be allowed to directly file charges against juvenile offenders in adult court under a variety of circumstances without first obtaining permission of the juvenile court.

**Fiscal Effect.** The fiscal effect of these changes is unknown and would depend primarily on the extent to which prosecutors use their new discretion to increase the number of juveniles transferred from juvenile to adult court. If they elect to transfer only the cases that they currently ask the juvenile court to transfer, then the fiscal impact on counties and the state could likely be some small savings because the courts currently grant most of the requests of the prosecutors. However, if prosecutors use their new discretion to expand the use of adult courts for juvenile offenders, the combined costs to counties and the state could be significant. Specifically,

the annual operating costs to counties to house these offenders before their adult court disposition could be tens of millions of dollars to more than \$100 million annually, with one-time construction costs of \$200 million to \$300 million.

## Juvenile Incarceration and Detention

**Background.** Under existing law, probation departments generally can decide whether a juvenile arrested for a crime can be released or should be detained in juvenile hall pending action by the court. These determinations generally are based on whether there is space in the juvenile hall and the severity of the crime. The main exception concerns offenses involving the personal use or possession of a firearm, in which case the offender must be detained until he or she can be brought before a judge. Most juveniles detained in juvenile halls for a long time are awaiting court action for very serious or violent offenses.

If, after a hearing, a court declares a juvenile offender a delinquent (similar to a conviction in adult court), the court in consultation with the probation department, will decide where to place the juvenile. Generally, those options range from probation within the community to placement in a county juvenile detention facility or placement with the California Youth Authority (CYA).

For juveniles tried as adults, the adult criminal court can generally, depending on the circumstances, commit the juvenile to the jurisdiction of either the CYA or the California Department of Corrections (CDC). In addition, juvenile offenders convicted in adult court who were *not* transferred there by the juvenile court can petition the adult court to be returned to juvenile court for a juvenile court sanction, such as probation or commitment to a local juvenile detention facility.

Because current law prohibits housing juveniles with adult inmates or detainees, any juvenile housed in an adult jail or prison must be kept separate from the adults. As a result, most juveniles—even those who have been tried in adult court or are awaiting action by the court—are housed in a juvenile facility such as the juvenile hall or the CYA until they reach the age of 18.

**Proposal.** Under this measure probation departments would no longer have the discretion to determine if juveniles arrested for any one of more than 30 specific serious or violent crimes should be released or detained until they can be brought before a judge. Rather, such detention would be required under this measure. In addition, the measure requires the juvenile court to commit certain offenders declared delinquent by the court to a secure facility (such as a juvenile hall, ranch or camp, or CYA). It also requires that any juvenile 16 years of age or older who is convicted in adult court must be sentenced to CDC instead of CYA.

**Fiscal Effect.** Because this measure requires that certain juvenile offenders be detained in a secure facility,

it would result in unknown, potentially significant, costs to counties.

Requiring juveniles convicted in adult court to be sentenced to CDC would probably result in some net state savings because it is cheaper to house a person in CDC than in CYA.

A number of research studies indicate that juveniles who receive an adult court sanction tend to commit more crimes and return to prison more often than juveniles who are sent to juvenile facilities. Thus, this provision may result in unknown future costs to the state and local criminal justice systems.

### **Changes in Juvenile Probation**

**Background.** Statewide there are more than 100,000 juvenile offenders annually on probation. Most are on "formal" probation, while the remainder are on "informal" probation. Under formal probation, a juvenile has been found by a court to be a delinquent, while under informal probation there has been no such finding. In most informal probation cases, no court hearing has been held because the probation department can directly impose this type of sanction. If the juvenile successfully completes the informal probation, he or she will have no record of a juvenile crime.

**Proposal.** This measure generally prohibits the use of informal probation for any juvenile offender who commits a felony. Instead, it requires that these offenders appear in court, but allows the court to impose a newly created sanction called "deferred entry of judgment." Like informal probation, this sanction would result in the dismissal of charges if an offender successfully completes the term of probation.

**Fiscal Effect.** On a statewide basis the fiscal effect of these changes is not likely to be significant. In those counties where a large portion of the informal probation caseload is made up of felony offenders, there would be some increased costs for both the state and the county to handle an increased number of court proceedings for these offenders. In addition, county probation departments would face some unknown, but probably minor, costs to enforce the deferred entry of judgment sanction.

### **Juvenile Record Confidentiality and Criminal History**

**Background.** Current law protects the confidentiality of criminal record information on juvenile offenders. However, such protections are more limited for juvenile felons and those juveniles charged with serious felonies.

**Proposal.** This measure reduces confidentiality protections for juvenile suspects and offenders by:

- Barring the sealing or destruction of a juvenile offense record for any minor 14 years of age or older who has committed a serious or violent offense, instead of requiring them to wait six years from when the crime was committed as provided under current law.
- Allowing law enforcement agencies the discretion to disclose the name of a juvenile charged with a serious felony at the time of arrest, instead of requiring them to wait until a charge has been filed as under current law.
- Providing law enforcement agencies with the discretion to release the name of a juvenile suspect

alleged to have committed a violent offense whenever release of the information would assist in apprehending the minor and protecting public safety, instead of requiring a court order as under current law.

In addition, this measure requires the California Department of Justice (DOJ) to maintain complete records of the criminal histories for all juvenile felons, not just those who have committed serious or violent felonies.

**Fiscal Effect.** These provisions would result in some savings to counties for not having to seal the records of certain juvenile offenders. There would also be unknown, but probably minor, costs to state and local governments to report the complete criminal histories for juvenile felons to DOJ, and to the state for DOJ to maintain the new information.

### **Gang Provisions**

**Background.** Current law generally defines "gangs" as any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of certain crimes. Under current law, anyone convicted of a gang-related crime can receive an extra prison term of one, two, or three years.

**Proposal.** This measure increases the extra prison terms for gang-related crimes to two, three, or four years, unless they are serious or violent crimes in which case the new extra prison terms would be five and ten years, respectively. In addition, this measure adds gang-related murder to the list of "special circumstances" that make offenders eligible for the death penalty. It also makes it easier to prosecute crimes related to gang recruitment, expands the law on conspiracy to include gang-related activities, allows wider use of "wiretaps" against known or suspected gang members, and requires anyone convicted of a gang-related offense to register with local law enforcement agencies.

**Fiscal Effect.** The extra prison sentences added by the measure would result in some offenders spending more time in state prison, thus increasing costs to the state for operating and constructing prisons. The CDC estimates the measure would result in ongoing annual costs of about \$30 million and one-time construction costs totaling about \$70 million by 2025 to house these offenders for longer periods.

Local law enforcement agencies would incur unknown annual costs to implement and enforce the gang registration provisions.

### **Serious and Violent Felony Offenses**

**Background.** Under current law, anyone convicted of a serious or violent offense is subject to a longer prison sentence, restrictive bail and probation rules, and certain prohibitions on plea bargaining. The "Three Strikes and You're Out" law provides longer prison sentences for new offenses committed by persons previously convicted of a violent or serious offense. In addition, persons convicted of violent offenses must serve at least 85 percent of their sentence before they can be released (most offenders must serve at least 50 percent of their sentence).

**Proposal.** This measure revises the lists of specific crimes defined as serious or violent offenses, thus making most of them subject to the longer sentence