

**OVERVIEW OF SB 81 AND AB 191 AND THE ALAMEDA COUNTY PROBATION
DEPARTMENT RESPONSE AND IMPLEMENTATION**
Juvenile Justice Realignment
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SB 81 was authored by the Committee on Budget and Fiscal Review and chaptered on August 24, 2007; AB 191 was authored by the Committee on Budget and intended to clarify the legislative intent of SB 81. AB 191 was chaptered on September 29, 2007. The Chief Probation Officers of California (CPOC) and Counties were not included in the initial planning process. In July 2007, CPOC and the Counties received little information about the changes which were inconsistent and conflicting regarding the context and implementation of SB 81. The entire process was poorly thought out and did not allow the Counties adequate time to prepare for the September 1, 2007 implementation date.

- **SB 81** - Prohibits the commitment of a ward of the juvenile court to DJJ unless the ward has been or is adjudged a ward of the court pursuant to WIC Section 602, and the most recent offense alleged in any petition and admitted or found to be true by the court is not described in subdivision (b) of WIC Section 707, unless the offense is a sex offense set forth in paragraph (3) of subdivision (d) of Section 290 of the Penal Code (PC). The effective date was September 1, 2007.

Note: Initially all gang and sex offenders were included in this legislation. There is concern regarding the requirement of the most recent offense to be WIC 707(b) because counties may be more inclined to commit a young youth to DJJ rather than opting for county alternatives because it is unknown if a DJJ commitment may be warranted in the youth's future. This may be the only WIC 707(b) offense committed making the DJJ commitment a viable option much earlier in the youthful offender's delinquent career. In the past, the WIC 707(b) offense did not have to be the most recent offense (i.e., violation of probation, program failure, exhausted all county alternatives).

On September 1, 2007, the Alameda County Probation Department had 39 wards described as non- WIC 707(b) youth committed to DJJ. 33 of these youth had previously committed a WIC 707(b) offense and were committed to the alternatives within the County. They were committed to DJJ only after they had exhausted all of the County resources. Thus, the offense most recent to the DJJ commitment was not a WIC 707(b) offense. The extensive delinquent history and the consequential exhaustion of available County resources of these non-WIC 707(b) youth committed to DJJ from Alameda County demonstrates that the final commitment to the DJJ was the most appropriate placement for these youth.

- **SB 81**- Provides the committing court with the option to recall and re-disposition a portion or all of the current youthful offender population with the DJJ, if the ward was not committed to the DJJ for a WIC 707(b) offense or a sex offense listed in PC 290 (d) (3) (non-WIC 707(b) offender, non PC 290(d)(3) offender).

AB 191 - This section was amended to require the recall to be based upon the recommendation of the Chief Probation Officer of the county and authorizes pro-rated funding to be forwarded to the county when a ward is recalled under this provision.

Note: \$9,750 per month for each month less than 24 months spent in DJJ prior to recall. Probation needs to be notified of WIC 779 recalls, because funding only attaches to WIC 731.1 recalls.

Alameda County Probation Department has not been receiving information from DJJ in a timely manner.

- The Department created a specialized unit to begin implementation and establish procedures.
 - Established communication between DJJ Facility staff and Probation staff to coordinate release information and planning, including faxing of reports from the facility and field, notice of parole board hearing, notice of release date, and written notice verification to the ward regarding their modification hearing with the Juvenile Court.
 - Planning meetings were held with the local Parole Office with agreements that records on wards to be modified will be made available for review by the DJJ DPO and upon release, the Parole Agent and Probation Officer will meet to discuss the wards facility program, release plan, conditions, and modification hearing for transfer to Probation. Discussion included the transfer of non-WIC 707(b) parolees that have been revoked.
 - Planning meetings with the Juvenile Court were held to outline processes for the modification of wards to Juvenile Probation. Prior to release, modification hearings are scheduled and DJJ notifies the ward with written verification sent to the DJJ DPO.
 - Meetings were held with primary providers and county mental health managers to identify and coordinate current services available for DJJ wards. One provider that contracts with the City of Oakland and meets with wards while institutionalized plans to take the DJJ DPO to the facilities to meet the non-WIC 707(b) wards that will eventually be released. Other service providers offered support to Probation, including the Mentoring Center and Dream Catchers.
 - Several county managers (Health Services, Behavioral Health, ICPC, Probation) are planning a committee project to identify alternatives for those youth that were previously committed to DJJ in the past. This will involve identifying current services, gaps in services, needs of wards that were previously sent to DJJ, and the identification of best practice models that address such needs.
- **SB 81** – Limits female commitments to DJJ. While DJJ is still accepting WIC 707(b) and specified sex offenders, SB 81 halts the acceptance of non-WIC 707(b) females.

Note: This exponentially expands the lack of services for females through the entire State. This amounts to unequal rehabilitative opportunity for females. It appears to violate female equality rights.

- **SB 81** - Requires all non-violent, non-serious offenders released to parole from DJJ after September 1, 2007 to become the responsibility of the counties.

AB 191 - Excluded specified sex offenders from this provision. In addition, non WIC 707(b) parolees are to be supervised by the DJJ for up to 15 court days following release, pending a hearing in the committing court to determine an alternative disposition and set conditions of a parole. Also, assigns timelines for notification to the County from DJJ and transportation of wards responsibilities on DJJ.

Note: Court and probation to be notified by DJJ 60 days in advance of parole board hearing. Probation may submit a report to be considered by parole board.

DJJ often funds initial housing for wards without a place to live (i.e., drug programs, etc.) This is not an option for Probation because Probation has no funds to utilize to do this. Probation does not have funding to utilize some of the places that parole uses. The youth will have to fend for themselves.

There is a lack of long-term housing available for those just being released from DJJ. We have found that facilities with long-term housing have a lengthy process with a minimum of 30 days on the waiting list. All places willing to accept a parolee immediately cost about \$700 per month, and a shelter kicks them out at 7am and puts them on the street until 5 pm when they can check back in.

- **SB 81** - Requires that the supervision of non- WIC 707(b) wards whose DJJ parole is revoked after September 1, 2007, be transferred to the county of commitment.

AB 191 - Attempts to clarify this provision by setting timelines for DJJ to notify the committing court and the probation officer of the county of the alleged parole violation and providing transportation to the county. Also indicates that the committing court will determine whether a violation occurred and determine the alternative local disposition.

Note: Intent of legislators (or at least their consultants) is for revocation/violation hearing to be held by committing court. These provisions are not consistent with delegation of revoke power to the parole board.

The revocation process is unclear. If parole is revoking a parolee who has not had a Reentry Disposition hearing prior to release to probation, and calendared 15 days prior, how can you violate "terms, conditions responsibilities, and sanctions that are relevant to their reentry plan" as stated in AB 191? If there has not been a previous reentry disposition hearing then no such orders exist. Receiving direction from the state office of parole to finish a process started by their agency (revocation) does not provide legal or responsible actions by our department to facilitate wards and could potentially violate civil rights.

Probation can not proceed with a WIC 777 petition as this person has not been modified from the status as a commitment to the DJJ, as DJJ is the existing order. The same could be true if the parolee is missing or unaccounted for, again how can we assume violation and request a warrant? Under the provisions of the law, each person is entitled to legal representation, and this could be a problem if protocols are not aligned with the law.

Also, by keeping the parolee in custody for up to 15 days for the reentry disposition, do we violate his rights under juvenile law in regards to having him at a detention hearing within 48 hours on a Misdemeanor to 72 hours for a Felony?

DJJ staff have told county staff that pursuant to AB 191, if Parole detains a parolee on a violation that they deem justifies his or her return to DJJ, they notify probation within 48 hours and we have 15 days to calendar the ward for a hearing. After notifying DJJ of the court hearing they have up to 72 hours to bring the subject to our detention facility for the Court hearing. DJJ will give us a report of the violation and we have to submit a report to the court to make a decision whether we will accept the ward to our county.

- **SB 81** - Authorizes a new annual block grant to the counties to support local programs for the care and custody of the non-violent, non-serious offenders that will no longer be in the custody of the state. The block grants will be continuously appropriated and automatically transferred to the counties based on a schedule established by the Department of Finance. Requires counties to submit plan to CSA by January 1, 2008.

Note: Initially SB 81 did not allocate start up money to the counties. However, on September 12, 2007, prior to the passage of AB 191, Governor Schwarzenegger signed an allocation to the counties for \$22,658,771. Alameda County will receive \$730,128. These funds flow directly to the Counties from the State Controllers Office.

The annual Youthful Offender Block Grant stated in SB 81 is formula based for the individual counties.

The Bay Region CPOC has had preliminary discussion regarding a high level regional facility(ies).

- **SB 81** - Requires the State Commission on Juvenile Justice to develop a Juvenile Justice Operational Master Plan that will develop and make available for implementation by the counties, a common risk and needs assessment tool, universal data collection elements, and criteria and strategies for implementing evidence-based programs. This bill also modified the membership of the State Commission on Juvenile Justice and expanded its focus to include the entire Juvenile Justice System throughout the State.
- **SB 81** - Authorizes \$100 million in lease revenue bonds for the construction of new local facilities for youthful offenders. These funds will be administered by the CSA.
- **SB 81** - Authorizes two probation pilots to be administered through the CSA in the amount of \$5,000,000 per county to be spent over a three year period. One pilot is designated for Alameda County. The other is designated for a large urban county with a gang problem.
- **AB 191** - Eliminated language requiring the CSA to develop and design the probation pilots by allowing the counties to submit their proposed pilot program to the CSA for approval.

Note: Focus is on emerging adults 18-25 years of age. Alameda has designed a preliminary "Plan of Action: A Continuum of Services for 18-25 Year Old Offenders," which is an evidenced based program with a focus on reducing the number of adult offenders sentenced to state prison.

- **AB 191** - Changes WIC 208.5 (a) to allow juvenile facilities to house juvenile court wards up until 21 years old where they may come into contact with youth 18 years old. Additionally, it requires each county to obtain prior approval from CSA to be able to utilize their juvenile facilities to house 19-20 year olds.

Note: This could create a number of complications that would negate any long-term benefit. Without the DJJ option for chronic offenders (non WIC 707(b) and non PC 290 (d)(3)) the courts may order more long commitments of juvenile wards to County facilities. The court can order a ward to remain in a juvenile facility until the age of 21.

CSA approves a facility to house these wards based on available programming, safety of the facility, and capacity. It places an assessment on the facility rather than the individual wards. This may be beyond CSA's authority as it extends beyond Title 15 and 24 of the California Code of Regulations.