

By Susan Ferriss for iWatchNews.org

California, often a trendsetter, could make history if it approves Gov. Jerry Brown's bid to close all state-run youth prisons and eliminate its state Division of Juvenile Justice.

Much depends, though, on whether the state's politically influential prison guards, probation officers and district attorneys can be convinced — or forced by legislators — to agree to Brown's proposal. That won't be an easy sell, due to both public-safety arguments and sure-to-surface haggling over just who pays to house juvenile offenders.

Vowing to restructure government more efficiently, Brown, a Democrat, wants to close the last three of 11 youth prisons that have long been attacked by critics as "expensive failures." If the state phases out the last three of its aging detention centers, all future young offenders would be held, schooled and treated by California's 58 counties.

This is the second time since taking office last year that Brown has proposed closing the state juvenile division, which is part of its corrections system. The division's responsibility has already been slashed dramatically from 10,000 wards in the mid-1990s to about 1,100 in state custody today. Their numbers may be few, but the cost for keeping those youth in state custody runs about \$200,000-a-year for every ward.

A host of agendas

The drop in numbers of youths in state custody is due in part to a decline in juvenile crime in California, but also to state legislation in 2007 that blocked counties from sending nonviolent youth offenders to state-run detention centers.

It was a move driven, some argue, largely by California's massive budget deficits and the desire to lower ballooning incarceration costs. But the decision also dovetailed with an emerging national philosophy favoring locally-based rehabilitation programs over state-run facilities that have been plagued with records of neglect, danger and sexual abuse.

Behind the policy debate: never-ending negotiations over money. The 2007 initiative included millions in state money to counties to devise and provide more effective treatment closer to wards' home areas and families. Last year, after wrangling with Brown, legislators approved a deal requiring counties to begin paying \$125,000 for each ward they sent to the state, if the state's revenues didn't improve.

Sure enough, revenues didn't improve, and now the counties are balking at having to pay the \$125,000 per ward they owe. And Brown isn't collecting. Instead he has resurrected his idea to shut down the state facilities, and give counties even less than he offered before.

Many, but not all, juvenile justice reformers nationwide are cheering Brown's announcement this month.

"The same phenomenon is happening on the two coasts," said Bart Lubow, director of programs for high-risk youth at the Annie E. Casey Foundation. He noted that New York State, too, is shifting care for juveniles more to local custody for cost-control and quality reasons.

Gov. Andrew Cuomo's budget proposal this year includes a deal for New York City to keep most of its offenders locally. Mayor Michael Bloomberg complained in 2010 that it cost New York City \$62 million in 2009 to satisfy a requirement that it pay half the state's costs for jailing, on daily average, fewer than 600 youth offenders from the city.

The state-run jails were far from New York City wards' families, the mayor argued, and had dubious records, like California's, with recidivism rates of about 80 percent.

Lubow of the Annie E. Casey Foundation said that if Brown is able to pull off the feat of closing all state facilities, other states will have a model to follow. "California is at the leading edge of a national trend," he said, "to abandon centralized facilities that are scandal-prone and ineffective."

What's best for juvenile offenders?

As it was last year, Brown's idea is embedded in his proposed 2012-13 state budget announced this month. It will be hashed over publicly and privately before legislators make a decision by a June 15 deadline.

Most legislators in California are Democrats, as Brown is, but they are always under pressure not to appear soft on crime. They are also mindful that California's correctional workers' union is a big player in state politics and a heavy donor to campaigns.

This time, given that only three state juvenile facilities remain, legislators are perhaps under more pressure not to overburden counties, which are already coping with fallout from last year's budget deal.

That deal was considered historic because after years of waffling, legislators authorized a significant shift of certain low-level adult felons to county responsibility. The aim was to cut state costs and satisfy federal court orders to clear California's overcrowded prisons.

Mark Varela, legislative chairman for the Chief Probation Officers of California, said his group continues to oppose closing the last three state juvenile detention centers, although, individually, there are some probation chiefs in California who favor it and say they are ready.

Varela said opponents' "concern is that the youth in DJJ [the Division of Juvenile Justice] represent offenders with a high degree of sophistication," who could have a "negative impact" on lower-level offenders who might not easily be separated from them in local facilities.

By mixing the populations, Varela said, the more violent youths, some of them incarcerated for murder or sex offenses, could endanger or influence others and undermine their progress.

Hardball in Sacramento

District attorneys, too, are expected to fight Brown's proposal; indeed, the California District Attorneys Association has already shown it can play hardball on the issue.

In hearings and official letters last year, the association argued that if California youth prisons were no longer an option, it was "inevitable" that for public safety, prosecutors would likely try many more juveniles as adults and send them to adult state prison. District attorneys also argued that if counties had to pay the state \$125,000 per ward, more youths would also likely be prosecuted as adults.

Books Not Bars, a prison rights group that backs Brown's proposal, is preparing to counter the prosecutors' threat.

The group has crafted a draft bill designed to force counties to pay for minors they send to state prison, Jennifer Kim, a Books Not Bars leader, told the Center for Public Integrity. "We are currently shopping it around the Legislature," Kim said.

Kim said the bill calls for counties to pay the state the going adult rate — about \$52,500 a year — for each minor put in adult prison based on the discretion of a prosecutor.

That's not as much as the \$200,000 a year it costs the state for each ward in existing youth prisons, Kim said. But she said it could help dissuade counties from trying to avoid keeping young offenders by putting them in adult prison.

Kim said that while legislators might be vulnerable to soft-on-crime accusations, they also are under fire after years of chopping education severely, closing parks and stripping down other

services. They need to justify, Kim said, spending millions on a system that fails to reform most of its wards, and has a record of documented abuses.

“California could be its own country,” Kim said. “It’s so big. And we can’t figure out how to handle about 1,000 kids? That’s smaller than the high school I went to.”

Like the district attorneys association, the California Correctional Peace Officers Association is also opposed to Brown’s idea.

“We’re very disappointed with the proposal. We feel it is an immense disservice to youth offenders,” JeVaughn Baker, spokesman for the correctional workers’ union, told the Center for Public Integrity.

Baker said that instead of a complete closure, the union favors trying to reduce costs per ward, and continuing improvements at the state-run juvenile prisons, which have been operating for a number of years under court decree to improve conditions.

However, Baker said, the union also is willing to talk about a compromise and “wants to be part of the solution.” A meeting is planned in mid-February among union representatives to discuss more steps toward continuing reforms to the state facilities, he said.

The correctional workers’ union contributed heavily to Brown’s election, and continues to have a seat at the table when it comes to prison reforms. But with California reeling from waves of budget cuts, it doesn’t have the clout it used to at the state Capitol and has had to accept changes that cut jobs, said Barry Krisberg, an expert on incarceration policy at the University of California at Berkeley School of Law.

Krisberg, who is also an appointed monitor reporting on improvements at state-run youth facilities, predicted a tough sell for Brown’s proposal at the Capitol. “I’m hearing there is not much enthusiasm in the Legislature for this,” he said.

Krisberg also has his own doubts that the state government should completely phase out its ability to take custody of minors.

He fears that some counties aren't bluffing when they argue that they are not suited to handle high-level young offenders.

Krisberg said a total closure "would be the most radical juvenile justice reform in history." He'd rather see the division shifted to the state's Department of Education, possibly, and out of the prison system.

He also noted that county systems for youth offenders are not scandal-free. The Los Angeles County Probation Department is under federal order to rein in use of force, including pepper spray, as well as neglect of wards with mental health problems and suicidal tendencies.

In December, a federal report found that the Los Angeles probation department still fell short of improvements it was ordered to make.

Krisberg said that in the end, he'd prefer to see California keep a few hundred beds for juveniles at the state level and enact strong policies and provide adequate funding for monitoring and improving local treatment.

Because many high-level wards are adults by the time they've served their sentences, what they critically need, Krisberg said, is help from the state with post-incarceration re-entry to society, including housing, access to mental-health medication and job placement.

Dan Macallair, executive director of the Center on Juvenile and Criminal Justice, a nonpartisan group in San Francisco, is a friend of Krisberg, but differs with him on this issue, arguing for a shutdown of state facilities that he says are relics of a failed rehabilitation model.

Besides, Macallair said, the majority of the state's wards come from only about a dozen

Fight brewing over historic California plan to close last three youth prisons

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counties, out of 58, that have grown reliant on the state, and need to be pushed to develop a better infrastructure locally for rehabilitation. His group's research, Macallair said, shows that despite claims to the contrary, California's counties have enough room and the ability to appropriately separate juveniles.

Meanwhile, he said, "you've got a state system that's really hanging by a thumbnail."