Recent Court Decisions and Legislation

United States Supreme Court

🕮 *Ohio v. Clark*

135 S. Ct. 43 (2014)

Ohio v. Clark was granted a writ of certiorari by the United States Supreme Court and was argued in early March 2015.[1] This outcome of this case will have significant implications for child abuse jurisprudence in the United States.

At issue is: (1) whether an individual's obligation to report suspected child abuse makes that individual an agent of law enforcement; and (2) whether a child's out-of-court statements to a teacher in response to concerns of child abuse qualify as "testimonial" statements for purposes of the Confrontation Clause.[2]

The case is on appeal from the Supreme Court of Ohio decision in *State v. Clark*, which considered the admissibility of a statement made by three-year-old L.P., to his teacher about bruising on his face.[3] The statement implicated Clark, the boyfriend of L.P's mother.[4] As a mandated reporter – a person required by law to report suspected child abuse – the teacher contacted authorities.[5] Clark was ultimately arrested and charged with numerous counts of child endangerment, felonious assault, and domestic violence.[6] The trial court declared L.P. incompetent

[1] *Ohio v. Clark*, 135 S. Ct. 43 (2014), *cert. granted*, 135 S. Ct. 43 (U.S. Oct. 2, 2014) (No. 13–1352).
[2] *Id*.
[3] *State v. Clark*, 999 N.E.2d 592, 594 (2013), *cert. granted*, 135 S. Ct. 43 (U.S. Oct. 2, 2014) (No. 13–1352).
[4] *Id.* at 594-95.
[5] *Id.*
[6] *Id.*

to testify at trial, but permitted his teacher to testify about L.P's statements.[7]

The Supreme Court of Ohio affirmed the judgment of the Court of Appeal and held that L.P's statement was testimonial in nature and its admission into evidence violated Clark's right to "confront witnesses against him" under the Confrontation Clause of the Sixth Amendment.[8]

The Supreme Court of Ohio held that when questioning a child about suspected abuse in furtherance of a duty as a mandated reporter, a teacher acts in a dual capacity as both an instructor and as an agent of law-enforcement.[9] Accordingly, the Supreme Court's "primary-purpose test" should be used to determine if such hearsay statements are testimonial for the purposes of the Confrontation Clause, and thus inadmissible into evidence.[10] Under this test, statements are non-testimonial if the primary purpose is to help law enforcement in an ongoing emergency; they are testimonial when there is no ongoing emergency and the purpose is to establish or prove past events potentially relevant to later criminal prosecution.[11]

Applying the primary-purpose test to L.P.'s statement, the court found it to be testimonial.[12] It reasoned that the primary purpose of the teacher's questions was not to remove L.P. from an emergency situation, but rather to determine what had occurred in the past and who had perpetrated the abuse.[13]

It further reasoned that because the statement was testimonial, its admission into evidence violated Clark's confrontation rights. [14] Under the Confrontation Clause of the Sixth Amendment, defendants have a right to confront witness against them.[15] Testimonial statements are barred unless the witness appears at trial; or if the witness is unavailable, the accused had a prior opportunity for cross-examination.[16] Here, L.P's out of court

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[7] *Id.* at 595.
[8] *Id.* at 600-01.
[9] *Id.* at 600.
[10] *Id.* at 598 (citing *Davis v. Washington*, 547 U.S. 813, 822 (2006)).
[11] *Id*.
[12] *Id*. at 600
[13] *Id.*
[14] *Id*. at 600-01
[15] *Id*. at 597
[16] *Id*.

statement to his teacher was inadmissible because L.P was declared incompetent to testify, and thus, Clark could not confront him at trial.[17]

CALIFORNIA

California Supreme Court

🕮 *People v. Gutierrez*

58 Cal. 4th 1354 (2014)

In *People v. Gutierrez*, the California Supreme Court clarified how the Supreme Court's decision in *Miller v. Alabama* affects the interpretation of California Penal Code section 190.5.[18] In *Miller*, the Supreme Court held that statutes with mandatory sentencing for juveniles of life without the possibility of parole (LWOP) are unconstitutional under the Eighth Amendment as cruel and unusual punishment.[19] Section 190.5 states that the punishment for a juvenile convicted of special circumstance murder "shall be confinement in the state prison for life without the possibility of parole or, at the discretion of the court, 25 years to life."[20] In *People v. Guinn*, the California Supreme Court established LWOP as the presumptive sentence.[21] *Gutierrez* holds that *Guinn*'s understanding of the statute as presumptive is unconstitutional under *Miller*.[22]

In *Gutierrez*, the Supreme Court consolidated the cases of two 17-year-old defendants, Luis Angel Gutierrez and Andrew Lawrence Moffett, who were both convicted of special circumstance murders and sentenced to LWOP.[23] They both appealed and Moffett's sentence was reversed by the Court of Appeals twice, while the sentence was affirmed for Gutierrez.[24] Both defendants appealed after *Miller* was decided, arguing

[17] *Id.* at 600.
[18] *People v. Gutierrez*, 58 Cal. 4th 1354, 1379 (2014); *Miller v. Alabama*, 132 S. Ct. 2455, 2469 (2012); Cal. Penal Code § 190.5.
[19] *Miller v. Alabama*, 132 S. Ct. 2455, 2469 (2012).
[20] Cal. Penal Code § 190.5 (Deering 2014).
[21] *People v. Guinn*, 28 Cal.App.4th 1130, 1147 (1994).
[22] *People v. Gutierrez*, 58 Cal. 4th 1354, 1361 (2014).
[23] *Id.* at 1360.
[24] *Id*. at 1365-68.

that their sentences were unconstitutional because the court sentenced them under *Guinn*'s presumptive interpretation.[25]

Guinn's interpretation of the text of section 190.5 to indicate a presumption in favor of LWOP hinged on the word "shall."[26] The *Gutierrez* court decided that an analysis of the text does not lead to such a conclusive result, and subjects the statute to other means of interpretation.[27] The court concludes that the legislative intent of the statute is ambiguous, so it moves to constitutional analysis.[28] The court recognizes that when two or more interpretations of a statute are possible, the constitutionally permissible interpretation shall be used.[29] The California Supreme Court, therefore adopts the "less constitutionally problematic interpretation," thereby disapproving of *Guinn*'s presumption analysis.[30] Accordingly, the Supreme Court remanded both cases to the trial court to consider all relevant factors discussed in *Miller* before imposing a LWOP sentence on a juvenile.[31]

Court of Appeal, Fourth District

🕮 *Cuff v. Grossmont Union High School District*

221 Cal. App. 4th 582 (2013)

In *Cuff v. Grossmont Union High School District*, the Fourth District of the California Court of Appeal held that a school district and counselor were not immune from suit when the counselor shared information documenting suspected child abuse with a non-custodial parent.[32]

Two minors reported to a school counselor that they were being verbally and physically abused by their mother, Cuff.[33] As a mandated reporter – a person required to report suspected child abuse – the counselor prepared a Suspected Child Abuse Report (SCAR) and notified

[25] *Id*. at 1368-69.
[26] *Id*. at 1370.
[27] *Id*. at 1371.
[28] *Id*. at 1371-73.
[29] *Id*. at 1373.
[30] *Id*. at 1374.
[31] *Id*. at 1388, 1389-91.
[32] *Cuff v. Grossmont Union High Sch. Dist.*, 221 Cal. App. 4th 582, 584-85 (2013).
[33] *Id*. at 585-86.

Child Protective Services.[34] She also made a copy of the SCAR, gave it the non-custodial father, and suggested he take the report to a law enforcement agency so that the authorities could take the boys into custody.[35] Instead of taking the boys to law enforcement, the father used the SCAR to file a protective order against Cuff and to seek custody of the boys.[36]

After the hearing, Cuff filed a complaint against the counselor and the Grossmont Union High School District, alleging that sharing the SCAR with the father was a violation of the Child Abuse and Neglect Reporting Act (CANRA).[37] The Superior Court granted summary judgment for the Defendants, finding both parties were immune from suit.[38]

The Court of Appeal reversed the judgment of the Superior Court, and concluded that the counselor's conduct did not qualify for immunity under the applicable statutes, and that Grossmont may be vicariously liable for the counselor's conduct.[39]

The court established that the counselor violated § 11167.5 of CANRA, which provides that the SCAR is, with specified exceptions, confidential.[40] Violations of confidentiality are subject to criminal charges.[41] The court held that this violation prohibited immunity under § 1172, which provides limited immunity to a mandatory reporter for making a SCAR report.[42] It reasoned that while a mandated reporter may not be sued for making a required report to an authorized agency, this provision does not immunize conduct that does not comply with the statute's strict confidentiality requirements.[43]

The court also held that the SCAR was not a "pupil record" for purposes of Ed. Code § 49076.[44] Therefore, the release of the SCAR to the boys' father — allegedly in response to an "emergency"— was not immunized pursuant to the Education Code provision that authorizes the

[34] *Id.*
[35] *Id.*
[36] *Id.*
[37] *Id.* at 587.
[38] *Id.*
[39] *Id.*
[40] *Id.* at 589-90.
[41] *Id.* at 591.
[42] *Id.*
[43] *Id.*
[44] *Id.* at 591-93.

release of certain information from "pupil records" in an emergency situation.[45]

Finally, the court held that the counselor was not immune under Gov. Code § 820.2, which allows public employees to be immune from liability when acting with discretion that has been vested in them.[46] It reasoned that the statute confers immunity only with respect to policy decisions that have been committed to coordinate branches of government, not for ministerial actions taken to implement those policies. [47] Here, filing a CANRA report was a ministerial action, not a policy decision.[48]

Legislation

CALIFORNIA

🕮 S.B. 838

2013-2014 Leg., Reg. Sess.

On January 6, 2014, Senator Jim Beall (D-Silicon Valley) introduced Senate Bill Number 838 (SB 838), alternatively known as Audrie's Law.[49] The bill passed in the Assembly on August 25, 2014, and the Senate on August 26, 2014.[50] Governor Jerry Brown signed the bill on September 30, 2014.[51]

SB 838 was created in response to the rape of Audrie Pott. Audrie was a 15-year-old high school student who hung herself after three teenage boys sexually assaulted her at a party, took pictures of the assault, and posted them online.[52] At the time of the assault, Audrie was intoxicated to the point of unconsciousness, and thus was in a defenseless state.[53]

Any person under 18 years of age who commits a crime is

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[45] *Id.*
[46] *Id.* at 593-94.
[47] *Id.*
[48] *Id.*
[49] Sen. Bill 838, 2013-2014 Reg. Sess. (Cal. 2014), *available at*, http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB838.
[50] *Id*.
[51] *Id*.
[52] *Justice for Audrie*, JIM BEALL'S SENATE WEBSITE, http://sd15.senate.ca.gov/audrie-s-law (last visited Mar. 3, 2015).
[53] *Id*.

generally within the jurisdiction of the juvenile court, and hearings are closed to the public.[54] First-time offenders may be enlisted in the Deferred Entry of Judgment (DEJ) Program, a sentencing alternative to the juvenile delinquency process that reduces, or even eliminates, jail time and erases the arrest record from the minor's file.[55]

There are however several exceptions to this rule. Proposition 21 enumerates certain felonies for which a minor 14 years of age or older can be tried in adult courts, including forced rape, sodomy, and oral copulation.[56] However, the list did not previously include sex offenses where the victim is in a defenseless state because of intoxication. Accordingly, the teenagers who raped Audrie Pott were tried in juvenile court and received minimum sentences, ranging from 30 to 40 days in juvenile detention[57].

SB 838 amends Proposition 21 to include sex offenses where the victim is in a defenseless state due to intoxication or is unable to give consent because of a disability. The bill also decreases the confidentiality granted to minors under existing law, and forces courts to disclose the name and any court records of the offender to the general public.[58]

In addition to these sentencing provisions, SB 838 will focus on rehabilitative measures to help juvenile sex offenders. If the court determines that a suitable program is available, a minor convicted of a sex crime will be ordered to pay for and complete a sex offender treatment program.[59] By increasing the duties on county officials in implementing the treatment program requirement, this bill would impose a state-mandated local program.[60]

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[54] Sen. Bill 838, *supra* note 1.
[55] *Id*.; *see Special Courts for Minors*, THE SUPERIOR COURT OF CALIFORNIA, SANTA CLARA COUNTY, http://www.scscourt.org/self_help/juvenile/jjustice/special_courts.shtml#dejp (last visited Mar. 3, 2015).
[56] *Id*.
[57] Julia Sulek, *Audrie Pott: Boys Admit Sexually Assaulting Saratoga Teen Who Committed Suicide*, Mercury News (Jan. 14, 2014, 07:00:24 PM), http://www.mercurynews.com/crime-courts/ci_24913018/audrie-pott-boys-admit-sexually-assaulting-saratoga-teen.
[58] *Id*.
[59] *Id*.
[60] *Id*.

🕮 A.B. 1276

2013-2014 Leg., Reg. Sess.

California AB 1276 "Youth Offenders: Security Placement" was initially introduced and sponsored by Assembly Member Richard Bloom and was recently approved by Governor Brown on September 26, 2014.[61] This bill requires that the Department of Corrections and Rehabilitation conduct a youth offender Institutional Classification Committee review for all youth offenders upon reception.[62] A review must consider the option of sending the youth offender to a lower security level facility, which would lessen the risks associated with higher security prisons.[63] Youth offenders determined to be ineligible for lower security level facilities can have the issue reconsidered at their annual reviews until they turn 25.[64] Youth offenders, for the purposes of this bill, are those who are under 22 years old when committed to the Department of Corrections and Rehabilitation.[65] The bill refers to *Miller v. Alabama*[66] and stresses that a key difference between youth and adult offenders is that youth brains are still developing.[67] By giving youth offenders the ability to enter the prison system through a lower level facility, they will be given access to more programs that encourage positive change.[68] AB 1276 helps address recidivism by potentially shielding lower risk youth offenders from the dangers of higher security prisons through the access to programs and safer settings.[69] Ultimately, this bill, which becomes operative on July 1, 2015, recognizes that youth offenders are not the same as their adult counterparts because they are still developing and changing and have likely not developed entrenched patterns of problem behavior.[70]

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[61] Assemb. Bill 1276, 2013-2014 Reg. Sess. (Cal. 2014), *available at* http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1276.
[62] *Id*.
[63] *Id*.
[64] *Id*.
[65] *Id*.
[66] *Miller v. Alabama*, 132 S.Ct. 2455, 2464 (2012).
[67] Assemb. Bill 1276, *supra* note 1.
[68] *Id*.
[69] *Id*.
[70] *Id*.

🕮 A.B. 1477

2013-2014 Leg., Reg. Sess.

On September 27, 2014, Governor Jerry Brown signed into law Assembly Bill 1477,[71] which seeks to advance the rights of unaccompanied alien children (UAC).[72] Among other provisions, the bill amends the human services-related provisions of the Budget Act of 2014 to provide $3 million[73] for the representation of UACs facing removal from the United States.[74] This bill also establishes certain court procedures for a category of immigration relief called Special Immigrant Juvenile Status (SIJS).[75] This legislation is intended to provide UACs with legal services to facilitate a fair immigration trial.[76]

This bill, which passed the senate floor on August 11, 2014, and the assembly floor on August 18, 2014, provides clear statutory language about SIJS.[77] The bill specifically outlines the requirements necessary for this designation, and the authority of California Superior Courts to make these designations.[78] A minor must be designated as having SIJS with a court order before they can proceed in immigration court with these protections.[79]

This bill also provides funding for pro bono representation for UACs to secure their due process rights.[80] It sets out specific parameters for representation, including a requirement that the legal services include "culturally and linguistically appropriate services."[81] In order to qualify,

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[71] Assem. Bill 1477, 2013-2014 Leg., Reg. Sess.
[72] OFFICE OF GOVERNOR, GOVERNOR BROWN SIGNS LEGISLATION TO HELP UNACCOMPANIED MINORS, September 27, 2014, http://gov.ca.gov/news.php?id=18734.
[73] CALIFORNIA ANNOUNCES LEGISLATION TO AID UNDOCUMENTED AND UNACCOMPANIED CHILDREN, [CALIFORNIA ANNOUNCES LEGISLATION], Senator Darrell Steinberg, (August 21, 2014) http://sd06.senate.ca.gov/news/2014-08-21-california-announces-legislation-aid-undocumented-and-unaccompanied-children (last visited October 24, 2014).
[74] Assem. Bill 1477, 2013-2014 Leg., Reg. Sess.
[75] *Id.*
[76] CALIFORNIA ANNOUNCES LEGISLATION, *supra* note 73.
[77] *Votes*, CALIFORNIA LEGISLATIVE INFORMATION, http://leginfo.legislature.ca.gov/faces/billHistoryClient.xhtml (last visited October 25, 2014).
[78] Assem. Bill 1477, 2013-2014 Leg., Reg. Sess.
[79] CALIFORNIA ANNOUNCES LEGISLATION, *supra* note 73.
[80] Assem. Bill 1477, 2013-2014 Leg., Reg. Sess.
[81] *Id*.

attorneys must "have at least three years of experience," "have represented at least 25 individuals," and be "accredited by the Board of Immigration Appeals."[82] Pro bono representation for UACs helps avoid deportation, which, as stated by Senator Ricardo Lara, deportation for "some of these kids is tantamount to a virtual death sentence."[83]

🕮 A.B. 1579

2013-2014 Leg., Reg. Sess.

On September 26, 2014, California Governor Jerry Brown signed Assembly Bill 1579 into law.[84] AB 1579, or the Healthy Babies Act of 2014,[85] amends the California Welfare and Institutions Code section 11450 to expand prenatal benefits from three months before the infant's due date to six months.[86] The act will become operative on July 1, 2015.[87]

AB 1579 was widely lauded for its positive impact on needy families.[88] Under this law, pregnant women in need may qualify for CalWORKs, a cash welfare program,[89] and Cal-Learn, an education services program for parents under the age of 18.[90] Under prior law, CalWORKs and Cal-Learn were only available to a pregnant woman starting three months before her due date.[91] While these benefits provide important support for expectant mothers, the legislature found the benefits

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[82] *Id*.
[83] Senator Ricardo Lara *quoted* in CALIFORNIA ANNOUNCES LEGISLATION, *supra* note 73.
[84] Assem. Bill 1579, 2013-2014 Reg. Sess. (Cal. 2014) (to be codified at Cal. Welf. & Inst. Code § 11450).
[85] OFFICE OF ASSEMBLYMEMBER MARK STONE, 29TH A.D., *AB 1579 (STONE) HEALTHY BABIES ACT OF 2014*, JEWISH FAMILY SERVICE, HTTP://WWW.JFSSD.ORG/SITE/DOCSERVER/AB_1579_FACT_SHEET.PDF?DOCID=3961 (LAST VISITED OCT. 23, 2014).
[86] ASSEM. BILL 1579, *supra* note 1.
[87] Assem. Bill 1579, *supra* note 1.
[88] AB 1579 was co-sponsored by the Western Center on Law and Poverty and the Women's Policy Institute. AB 1579 was supported by organizations such as the Asian Law Alliance, Asian Women's Shelter, Building Future, California Partnership to End Domestic Violence, Center on Reproductive Rights and Justice, Family Violence Law Center, and many more. Stone, *supra* note 2.
[89] *CalWORKs Home*, CDSS, http://www.cdss.ca.gov/calworks/ (last visited Nov.3, 2014).
[90] Pregnant or parenting minors receiving CalWORKs qualify for the Cal-Learn program. Cal-Learn supports minor parents in graduating high school or its equivalent. Stone, *supra* note 2.
[91] Assem. Bill 1579, *supra* note 1.

insufficient in addressing the special needs of pregnant women.[92] Women who experience hardships during their pregnancy are more likely to have complications related to childbirth.[93] Childhood poverty is linked with poor health and socioeconomic outcomes in adulthood.[94] Extending benefits could also alleviate the financial and emotional stress of expectant mothers, which may have a lasting, positive impact on infant health.[95] Additionally, making aid available earlier in pregnancy could encourage teenage parents to complete their secondary education.[96]

🕮 A.B. 1733

2013-2014 Leg., Reg. Sess.

On September 29, 2014, California Governor Edmund Brown, Jr. signed into law Assembly Bill (AB) 1733.[97] AB 1733 changes the law in two ways. First, AB 1733 adds section 103577 to the California Health and Safety Code, so that homeless children can obtain a certified record of live birth without a fee.[98] Second, AB 1733 similarly amends section 14092 of the Vehicle Code, authorizing the DMV to issue an original or replacement identification card to any homeless child without a fee.[99]

The bill was introduced by California Assemblywoman Sharon Quirk-Silva (D-Fullerton).[100] Before AB 1733, state and local registrars requested a required fee for certified copies of birth, death, marriage, or

[92] *See* Assem. Bill 1579, *supra* note 1.
[93] Assem. Bill 1579, *supra* note 1 (finding "[w]omen who experience multiple stressful situations during pregnancy, such as homelessness, hunger, violence, and deep poverty, are more likely to have premature and low birth weight babies, or to experience high rates of mother and infant mortality" and "[d]omestic violence causes more health problems among pregnant women than any other single cause").
[94] Assem. Bill 1579, *supra* note 1 (finding "[c]hildren whose birth mothers experience the harmful stressor of deep poverty are more likely to suffer poor health and less likely to succeed academically".). *See generally* Katherine Magnuson & Elizabeth Votruba-Drzal, *Enduring Influences of Childhood Poverty*, 26 FOCUS 32 (2009) (noting the correlation of childhood poverty to "many undesirable outcomes, including reduced academic attainment, higher rates of nonmarital childbearing, and a greater likelihood of health problems.").
[95] Stone, *supra* note 2.
[96] *Id.*
[97] Assemb. Bill 1733, 2013-2014 Reg. Sess. (Cal. 2014).
[98] *Id.*
[99] *Id.*
[100] *Id.*

marriage dissolution records registered with the official.[101] Similarly, the California Department of Motor Vehicles (DMV) required a $26 fee to issue an identification card.[102] Assemblywoman Quirk-Silva noted the significance of the bill for juveniles in that "people experiencing homelessness rely on access to government programs and social services in order to obtain housing, employment, nutrition, health services, education, public assistance and other benefits."[103]

🕮 A.B. 1887

2013-2014 Leg., Reg. Sess.

On February 19, 2014, California Assemblywoman and Speaker pro Tempore Nora Campos (D-San Jose)[104] introduced Assembly Bill (AB) 1887.[105] Under AB 1887, juvenile victims of human sex trafficking would have the opportunity to clear their criminal record of convictions relating to prostitution and solicitation.[106] This would allow youth victims easier access to services for student loans, housing, state licenses, and employment.[107]

Under existing law, a person arrested for prostitution can petition the court for a finding that he or she is factually innocent of the charges.[108] If the petitioner is found factually innocent, the court is required to seal and destroy the records of arrest.[109] AB 1887 would extend these rules for those with prostitution convictions.[110] The bill amends California Penal Code section 851.8, authorizing a child victim of human trafficking to petition a court to set aside a conviction relating to solicitation or

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[101] *See id.*
[102] *See* Press Release, Assembly woman Sharon Quirk-Silva, Quirk-Silva's Bill to Help Those Experiencing Homelessness Passes Health Committee (Apr. 2, 2014), http://asmdc.org/members/a65/news-room/press-releases/quirk-silva-s-bill-to-help-those-experiencing-homelessness-passes-health-committee.
[103] *Id.*
[104] *Biography for Nora Campos*, CALIFORNIA STATE ASSEMBLY DEMOCRATIC CAUCUS, http://asmdc.org/members/a27/about/biography (last visited Oct. 30, 2014).
[105] Assemb. Bill 1887, 2013-2014 Reg. Sess. (Cal. 2014).
[106] Assemb. Comm. on Pub. Safety, Bill Analysis, A.B. 1887, 2013-2014 Leg. (Cal. 2014).
[107] *See id.*
[108] CAL. PENAL CODE § 851.8. (West 2014).
[109] *Id.*
[110] *See* Cal. A.B. 1887.

prostitution.[111] In order for the record to be sealed or destroyed, (1) the petitioner must be found factually innocent of the charge, and (2) the offense is the result of the petitioner's status as a victim of that crime.[112]

In April 2014, AB 1887 passed out of the Assembly Committee on Public Safety and referred to the Appropriations Committee.[113] Since May 2014, however, it has been held under submission.[114] It remains to be seen whether the Legislature will move forward with the bill during the new term in January 2015.

🕮 A.B. 2276

2013-2014 Leg., Reg. Sess.

AB 2276,[115] approved by Governor Brown on September 30, 2014, amends Sections 48645.5 and 49069.5, adds Section 48647, and repeals Section 48648 of the Education Code.[116] This legislation changes how youths are transferred from juvenile court schools to district schools.[117] First, students who have been enrolled in juvenile court schools cannot be denied enrollment in a public schools for attending a juvenile court school.[118] Second, AB 2276 encourages local education agencies to create joint policies and uniform systems for calculating and awarding course credit for students transferring from juvenile court schools to public schools.[119] Third, it encourages the county office of education and county probation department to develop a transition planning policy to improve communication regarding juvenile release dates and the youth's educational needs.[120] Finally, the law requires the Superintendent of Public Instruction and the Board of State and Community Corrections to develop county programs for the immediate transfer of educational

[111] *Id.*
[112] *Id.*
[113] ASSEMB. DAILY JOURNAL, 2013-2014 Reg. Sess. 4384 (2014).
[114] *Current Bill Status*, OFFICE OF LEGISLATIVE COUNSEL, http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_1851-1900/ab_1887_bill20120523_status.html (last visited Nov. 7, 2014).
[115] A.B. 2276, 2013-2014 Leg., Reg. Sess. (Cal. 2013).
[116] CAL. EDUC. CODE § 48645.5 (2014).
[117] EDUC. § 48645.5.
[118] *Id.*
[119] EDUC. § 48647.
[120] *Id.*

records, credits, and prompt enrollment of students transferring from juvenile court schools to public schools.[121]

In addition, the bill requires that there be no delay in school enrollment or loss of earned school credit. It specifies that the timely transfer between schools is the responsibility of the local educational agency, county office of education for students in foster care, and the county placing agency, which includes the county probation department.[122] Furthermore, the legislation dictates that the records and educational information of the transferring students should be received by the next educational placement within two business days.[123] This bill ensures the quick and efficient transfer of students from juvenile court schools to district schools without any interruptions in the pupils' education.[124] This will assist youth in transitioning seamlessly into the public education system and in continuing their educational achievement post-detention.

🕮 A.B. 2454

2013-2014 Leg., Reg. Sess

California law allows foster youths to receive extended foster care past the age of 18 and until the age of 21.[125] These extended benefits are unavailable to youths who exit foster care to a permanency plan before their 18th birthday.[126] A permanency plan is a permanent living situation for foster youths, such as legal guardianship or adoption.[127] Prior law prohibits a former foster youth who has a permanency plan before the age of 18 from receiving extended foster care unless the youth's legal guardian or adoptive parent dies.[128] This can cause problems for a former foster

[121] EDUC. § 48648.
[122] EDUC. § 49069.5.
[123] *Id.*
[124] EDUC. § 48645.5.
[125] Cal. Welf. & Inst. Code § 388.1 (2013). Foster youths past the age 18 who petition the court for extended foster care until the age of 21 are called non-minor dependents. *Non-Minor Dependents*, CASA, http://www.californiacasa.org/LocalPrograms/nonminor_dependents.html (last visited Oct. 22, 2014).
[126] *New Legislation Would Help Former Foster Youth Re-Enter Care When Guardianship or Adoption Fails*, Alliance for Children's Rights (Apr. 14, 2014), http://kids-alliance.org/galleries/ab2454/.
[127] *See* Cal. Welf. & Inst. § 727.3.
[128] Assem. Bill 2454, 2013-2014 Reg. Sess. (Cal. 2014).

youth placed in a permanency plan and whose guardians or adoptive parents, while alive, are no longer supporting them.[129] In cases where a permanency plan fails, the former foster youth is left without their family and without the foster care system.[130]

On September 29, 2014, California Governor Jerry Brown signed Assembly Bill 2454 into law.[131] AB 2454 amends California Welfare and Institutions Code sections 388.1 and 11403 to allow a former foster youth to petition the court for extended foster care.[132] The former foster youth must be under the age of 21 and must have, after turning the age of 18, received public assistance and had their legal guardianship or adoption fail.[133] This amendment creates a safety net, and ensures that former foster youths receive the support they need even if their permanency plans fall through.[134]

[129] In voicing its support for AB 2454, the Alliance for Children's Rights pointed to the former foster youths it had seen "kicked out" by their guardians or adoptive parents "shortly after their 18th birthday or high school graduation". *New Legislation Would Help Former Foster Youth Re-Enter Care When Guardianship or Adoption Fails*, Alliance for Children's Rights (Apr. 14, 2014), http://kids-alliance.org/galleries/ab2454/.
[130] *New Legislation*, *supra* note 2.
[131] Assem. Bill 2454, *supra* note 4.
[132] *Id.*
[133] *Id.*
[134] *Id.*