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THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT, DIVISION TWO

In re J.A., Person Coming Under Juvenile Court Law, ______________________________ RIVERSIDE COUNTY PROBATION DEPARTMENT, Petitioner, v. THE SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF RIVERSIDE, Respondent, J.A. and THE PEOPLE OF THE STATE OF CALIFORNIA, Real Parties in Interest.	Court of Appeal No.: E077962 Superior Court No.: JUV086925 Related Appeal No.: E077900

APPLICATION OF THE CALIFORNIA STATE ASSOCIATION OF COUNTIES FOR LEAVE TO FILE AMICUS CURIAE BRIEF IN SUPPORT OF PETITIONER RIVERSIDE COUNTY PROBATION DEPARTMENT; [PROPOSED] AMICUS CURIAE BRIEF

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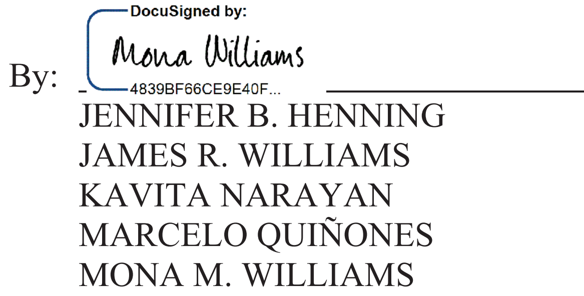
CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

There are no entities or persons that must be listed in this certificate under California Rules of Court, rule 8.208.

DATED: April 7, 2022

Respectfully submitted,

By: 

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CALIFORNIA STATE ASSOCIATION OF COUNTIES' APPLICATION FOR LEAVE TO FILE AN AMICUS CURIAE BRIEF

To the Honorable Presiding Justice of the Court of Appeal, Fourth Appellate District, Division Two: This application is submitted by the California State Association of Counties (CSAC). Pursuant to Rule 8.200(c) of the California Rules of Court, CSAC respectfully requests leave to file the attached *amicus curiae* brief included in this application in support of Petitioner Riverside County Probation Department. This application is timely made within 14 days after the filing of the reply brief on the merits.

STATEMENT OF INTEREST

CSAC is a non-profit corporation. The membership consists of the 58 California counties. CSAC sponsors a Litigation Coordination Program, which is administered by the County Counsels' Association of California and is overseen by the Association's Litigation Overview Committee, comprised of county counsels throughout the state. The Committee monitors litigation of concern to counties statewide and has submitted *amicus curiae* briefs in prior appellate court cases involving matters that impact county government in general and counties' unique ability to exercise discretion in dealing with matters that impact local public safety and justice issues.

This Court will consider whether the juvenile court acted in excess of its jurisdiction when it ordered the Riverside County Probation Department to house and supervise a 40-year-old adult in a juvenile detention facility. CSAC has an interest that dovetails with counties in ensuring that juvenile courts do not enter orders that: jeopardize the state's ability to receive federal funding; negatively impact counties' ability to rehabilitate youthful offenders; and undermine their ability to manage

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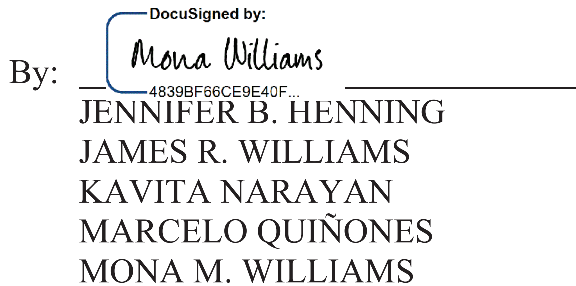
juvenile detention programs and facilities in compliance with federal and state law. The *amicus curiae* brief will assist the Court in deciding the matter by highlighting the impediments the juvenile court's order poses to counties, explaining the legal landscape that has created a situation where some juvenile offenders never reach the juvenile court until after its jurisdiction has expired, and offering a potential legislative guidepost that could support a resolution that will address the needs of youthful offenders, victims, counties, and the communities they serve. Therefore, CSAC hereby requests that leave be granted to allow the filing of the accompanying *amicus curiae* brief.

ABSENCE OF PARTY ASSISTANCE

Pursuant to California Rules of Court, rule 8.882(d)(3), CSAC confirms that no party or its counsel authored the proposed *amicus curiae* brief in whole or in part. No party or its counsel made a monetary contribution to fund the preparation or submission of the proposed brief.

DATED: April 7, 2022

Respectfully submitted,

By: 

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BRIEF OF AMICUS CURIAE CALIFORNIA SATE ASSOCIATION OF COUNTIES

I. INTRODUCTION

This matter presents fundamental questions of statewide concern regarding the jurisdictional limits of the juvenile court, the rehabilitation of juvenile offenders, and the capacity of county juvenile probation departments to care for, treat, and rehabilitate juveniles and young adults. For the reasons articulated in Petitioner's writ petition, the juvenile court exceeded its jurisdiction when it ordered a 40-year-old committed to Riverside County's secure youth treatment facility, Pathways to Success. The Petitioner's Memorandum of Points and Authorities aptly explains the clear authority establishing that, pursuant to Section 607 of the Welfare and Institutions Code,[1] juvenile court jurisdiction ends at the latest at age 25, and as a result, the Riverside County Probation Department does not have the legal authority to house or supervise J.A. (Petitioner's Petition for Writ of Mandate and Memorandum of Points and Authorities, at 24-28 ("Pet. Brief").)

The juvenile court's order would have significant ramifications for Petitioner and counties throughout the state. By requiring an adult to be housed in a juvenile detention facility, the order would frustrate counties' ability to effectively rehabilitate the youth and young adults in their care and to manage juvenile detention facilities and programs. It would also place counties in the untenable predicament of having to choose between complying with juvenile court orders requiring the confinement of adults in juvenile detention facilities and complying with a federal mandate prohibiting the co-mingling of adults and juveniles in detention—which is a

[1] All future statutory references are to the Welfare and Institutions Code, unless otherwise noted.

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prerequisite to receive mission-critical federal funding to sustain county-level juvenile justice operations. Therefore, in reviewing the juvenile court's order, *amicus curiae* the California State Association of Counties (CSAC), asks this Court to consider the serious statewide implications posed by the order. Given the far-reaching consequences of the order, CSAC further requests that this Court contemplate appealing to the Legislature to adopt a public safety exception that would authorize juvenile courts to order the continued detention, *in adult facilities*, of high-needs offenders who are over age 25 to ensure that communities are safe. Such an approach would provide counties with the flexibility necessary to appropriately serve *both* the over-25 population and the other youth and young adults in their care while providing a procedure that balances the integral interests of juvenile offenders, counties, and communities.

II. STATEMENT OF FACTS AND PROCEDURAL HISTORY

CSAC has not had access to the record in this matter. It has reviewed the redacted version of the writ petition and the supporting Memorandum of Points and Authorities filed by the Petitioner in this case (E077962). CSAC is aware that the Court will consider the writ petition together with the related appeal filed by J.A., a real party in interest (E077900). Therefore, any references by CSAC to facts or procedural history in this brief will cite to Petitioner's writ petition in this matter, where such information is discussed.

III. ARGUMENT

A. THE JUVENILE COURT'S ORDER IS CONTRARY TO LAW AND IN EXCESS OF ITS JURISDICTION

The juvenile court's order, which found that it had jurisdiction over 40-year-old J.A. pursuant to subdivision (h)(2) of Section 607, was in error. (Pet. Brief at 16-17.) Section 607 provides that a juvenile court may retain jurisdiction over a juvenile offender until they attain the age of 21, or 25 if

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certain conditions are met. This conclusion is supported by the plain language of the statute, its legislative history, and established principles of statutory interpretation.

1. The Juvenile Court's Determination that Jurisdiction Exists Over J.A., a 40-Year-Old, Is Belied by the Plain Language of Section 607

There are two types of jurisdiction at issue in this matter. First is the juvenile court's initial jurisdiction under Section 602. The juvenile court has initial jurisdiction pursuant to Section 602 over a person "accused of committing a crime before his or her 18th birthday." (*In re Charles C.* (1991) 232 Cal.App.3d 952, 957.) The "juvenile court's 'initial' jurisdiction under section 602 includes jurisdiction to hold a transfer hearing under section 707," as it did in this case. (*People v. Ramirez* (2019) 35 Cal.App.5th 55, 67.) The second type of jurisdiction at issue is the court's continuing jurisdiction, which is governed by Section 607. Section 607 provides the period during which the juvenile court may reach disposition over a youth who is declared a ward, conferring jurisdiction until the youth is either 21, 23, or 25 years old, depending on that youth's circumstances. (§ 607, subds. (a)-(c).)

While the juvenile court's initial jurisdiction under Section 602 is premised on a youth's age when they are found to have committed an offense, and most youthful offenders will receive treatment while still under the age of majority, the age limitations in Section 607 underscore the foremost goals of the juvenile justice system: rehabilitation of youthful offenders and community safety. (§ 202, subd. (b).) Together, Section 607 and the overarching goals of the juvenile justice system are clear that age at the time of an offense is not and should not be the litmus test for whether the rehabilitative aim of the juvenile justice system can be met. (*In re Charles C.*, *supra*, 232 Cal.App.3d at p. 957 ["The purpose of the extended

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jurisdiction [under Section 607] is to enable the juvenile court to carry out its program of rehabilitation and training" (citing *People v. Price* (1969) 1 Cal.App.3d 982, 987)].) It is within this context that the Court should consider the legality of the juvenile court's order, which relied on Section 607 to exercise jurisdiction over J.A., a person well into his adult years.

Section 607, subdivision (c), provides that the juvenile court may retain jurisdiction over a person who is found to be a ward until that person is 25, if the person committed a Section 707(b) offense and would, in criminal court, face an aggregate sentence of seven or more years. (§ 607, subd. (c).) According to Petitioner, given his offenses, J.A. would fall into category (c) if he were within its age limit. (Pet. Brief at 25.) Given that J.A. is 40, however, subdivision (c) of Section 607 compels the conclusion that he is beyond the maximum age of juvenile court jurisdiction. (*Joey W. v. Superior Court* (1992) 7 Cal.App.4th 1167, 1172 [citing to Section 607 and explaining that once a person is declared a ward of the juvenile court, the court can only "retain jurisdiction over the ward until he or she attains the age of . . . 25[.]"].) As relevant here, subdivision (h)(2) of Section 607 includes a two-year period of control, which requires that a person "who, at the time of adjudication of a crime…would, in criminal court, have faced an aggregate sentence of seven years or more" and is committed to the Division of Juvenile Justice (DJJ) by the juvenile court "be discharged" from DJJ either after two years or when they reach their 25th birthday, "whichever occurs later."[2] (§ 607, subd. (h)(2); *People v. Superior Ct.*

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[2] Subdivision (h)(2) provides that a person committed to DJJ must be discharged at age 25 or "upon the expiration of a two-year period of control" unless there is an order for further detention made by the juvenile court pursuant to Section 1800. Section 1800 is a limited public safety exception that allows the director of DJJ to request the prosecutor to file a petition in the committing court to further detain "physically dangerous" persons beyond a two-year period. The exception does not apply here since

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(Steven S.) (1981) 119 Cal.App.3d 162, 179.) The plain language of Section 607 supports the conclusion that subdivision (h)(2) applies when a person is committed to DJJ *before* the juvenile court's jurisdiction expires.[3] Subdivision (h)(2), contrary to the juvenile court's order, does not negate the age limitations in subdivision (c). J.A. is 40 and past the age at which the juvenile court could exercise jurisdiction to determine his disposition; subdivision (h)(2) does not alter this conclusion.

To fully understand subdivision (h) of Section 607, the Court must look to subdivision (g) as well. Subdivisions (g) and (h) state:

> (g) Notwithstanding subdivisions (b), (c), and (e), a person who is committed by the juvenile court to the Department of Corrections and Rehabilitation, Division of Juvenile Justice on or after July 1, 2012, but before July 1, 2018, and who is found to be a person described in Section 602 by reason of the commission of an offense listed in subdivision (b) of Section 707 shall be discharged upon the expiration of a two-year period of control, or when the person attains 23 years of age, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6

J.A. is beyond the age of juvenile court jurisdiction and was not committed to DJJ. A similar exception, which applies to persons committed to secure track programs pursuant to Section 875, is discussed, *infra*.

[3] Subdivision (d) states that the "court shall not discharge a person from its jurisdiction who has been committed to [DJJ] while the person remains under the jurisdiction of [DJJ], including periods of extended control ordered pursuant to Section 1800." Therefore, if the juvenile court commits a person to DJJ, it retains jurisdiction over that person during their DJJ commitment. This concurrent jurisdiction allows the juvenile court to vacate or modify an order committing a person to DJJ, if, for example, it finds that the person is not safe or is not being provided adequate rehabilitative, educational, or other needed services. (See, e.g., *In re Antoine D*. (2006) 137 Cal.App.4th 1314, 1324 [explaining that the juvenile court could modify its order committing a youth to the California Youth Authority, the predecessor of DJJ].)

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> (commencing with Section 1800) of Chapter 1 of Division 2.5. This subdivision does not apply to a person who is committed to the Department of Corrections and Rehabilitation, Division of Juvenile Justice, or to a person who is confined in a state hospital or other appropriate public or private mental health facility, by a court prior to July 1, 2012, pursuant to subdivisions (b), (c), and (e).
>
> (h)(1) Notwithstanding subdivision (g), a person who is committed by the juvenile court to the Department of Corrections and Rehabilitation, Division of Juvenile Justice, on or after July 1, 2018, and who is found to be a person described in Section 602 by reason of the commission of an offense listed in subdivision (c) of Section 290.008 of the Penal Code or subdivision (b) of Section 707 of this code, shall be discharged upon the expiration of a two-year period of control, or when the person attains 23 years of age, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800) of Chapter 1 of Division 2.5.
>
> (2) A person who, at the time of adjudication of a crime or crimes, would, in criminal court, have faced an aggregate sentence of seven years or more, shall be discharged upon the expiration of a two-year period of control, or when the person attains 25 years of age, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800) of Chapter 1 of Division 2.5.

Absent from subdivision (h)(2) is any indication that, at the time of commitment to DJJ, a person who is over age 25 is subject to juvenile court jurisdiction. (Cf. *Kevin P. v. Superior Ct. of Contra Costa Cty*. (2020) 57

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Cal.App.5th 173, 198 ["A juvenile court can retain jurisdiction over a minor committed to DJJ for the offense of murder until the minor reaches age 25"].) Subdivision (h)(2) thus has no effect on the age limitation in subdivision (c). (See *In re Arthur N.* (1976) 16 Cal.3d 226, 238-241, superseded by statute on other grounds as stated in *In re Eddie M.*, 31 Cal.App.4th 480, 485 [finding, pursuant to Section 607, that the juvenile court no longer had jurisdiction to commit a 21-year-old youth to the California Youth Authority, the predecessor of DJJ, despite virtually identical two-year period of control language in Section 1769]; Pet. Brief at 27-28.)

2. The Legislative History of Section 607 Evinces a Legislative Intent to Limit the Maximum Age of Juvenile Court Jurisdiction to Twenty-Five

Subdivision (g), which was previously subdivision (f), was added to Section 607 in 2012 by Senate Bill 1021. Senate Bill 1021 "[r]educe[d] the maximum age of jurisdiction for youths committed to the Division of Juvenile Justice from 25 to 23." (Assem. Floor Analysis, Analysis on Sen. Bill No. 1021 (2011–2012 Reg. Sess.) as amended June 25, 2012, p. 2.) A few years later, in 2018, the Legislature decided to extend the age of jurisdiction back to 25. It did so by adding subdivision (h), which was previously subdivision (g), to Section 607 with the passage of Assembly Bill 1812.

The legislative history of Assembly Bill 1812 confirms that subdivision (h) was meant to extend the juvenile court's jurisdiction in a finite manner. Indeed, the legislative history declares that subdivision (g)(2), which is now subdivision (h)(2), "extend[ed] the age of jurisdiction for minors from 23 to age 25 in cases where a minor, if charged in criminal court, would face a total aggregate sentence of seven years or more." (Assem. Floor Analysis, Analysis on Assem. Bill No. 1812 (2017–2018

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Reg. Sess.) as amended June 12, 2018, p. 1.) Thus, the effect of the current subdivision (h)(2) was to raise the age of jurisdiction outlined in subdivision (g) (former subdivision (f)), from age 23 specifically to age 25 for youth committed to DJJ after a certain date for certain serious offenses.

The legislative history clarifies that subdivision (h)(2) was not intended to vitiate the age limit in subdivision (c). An example in which subdivision (h)(2)'s two-year period of control would apply is in the case of a 24-year-old with offenses eligible for an aggregate sentence of seven or more years in criminal court. This person would fall under the juvenile court's continuing jurisdiction pursuant to subdivision (c) given their offense and the fact that they are under the age of 25. If such a person were committed by the juvenile court to DJJ at age 24, subdivision (h)(2) would extend the juvenile court's jurisdiction over that person for two years, or until age 26. Because subdivision (h)(2) did not nullify the age limitations in subdivision (c), and the legislative history is express that it was meant to extend jurisdiction for only a limited period, it cannot grant the juvenile court jurisdiction over J.A., who is 40, for *any* period, much less two years.

The enrolled bill report prepared by the California Department of Corrections and Rehabilitation on Assembly Bill 1812 is instructive in providing a more fulsome picture of the Legislature's purpose in amending Section 607.[4] The report states that the extension of the age of jurisdiction from 23 to 25 was implemented to "allow older youths as well as more

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[4] The California Supreme Court has routinely considered enrolled bill reports under the rationale that the reports presumably indicate the perception of the Legislature. (*Conservatorship of Whitley* (2010) 50 Cal. 4th 1206, 1218, fn. 3 ["[A]n enrolled bill report, generally prepared within days after the bill's passage, [is] likely to reflect such legislative understanding, particularly because it is written by a governmental department charged with informing the Governor about the bill so that he can decide whether to sign it, thereby completing the legislative process"].)

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adult court youths to be housed at DJJ," and to "reduce the number of youth who are transferred to adult court," and it notes that "[r]esearch and case law suggest that youths in this age range are less culpable for their crimes than adults, and that youth who spend time in prison have worse outcomes than those who remain in juvenile facilities." (Cal. Dept. of Corrections and Rehabilitation, Enrolled Bill Rep. on Assem. Bill No. 1812 (2017–2018 Reg. Sess.) prepared for Governor Brown (June 20, 2018) p. 10.) The enrolled bill report indicates that the Legislature's intent in adding subdivision (h)(2) was to ensure that transition-aged youth remained eligible for treatment and rehabilitation in the juvenile justice system, and to facilitate the provision of targeted age-appropriate rehabilitation services to this population, in recognition of the research regarding young adults. The Legislature judiciously crafted subdivision (h)(2) to extend jurisdiction for a finite amount of time, *not* to indefinitely increase the age of jurisdiction over offenders well into their adulthood.

3. The Newly Enacted Welfare and Institutions Code Section 875 Also Does Not Provide the Court with Jurisdiction

Section 875, which establishes secure youth treatment facilities (SYTF) for those youth realigned to the responsibility of local county governments, was recently added to the Welfare and Institutions Code by Senate Bill 92 (Stats. 2021. Ch. 18, § 12, eff. May 14, 2021.) The juvenile court's reliance on Section 875 as a basis for jurisdiction is contradicted by the clear language of the statute and other relevant authority. It also contravenes the statutory scheme providing for the rehabilitation of juvenile justice involved youth. As articulated in Section III.A, *supra*, Section 607 governs the period during which the juvenile court may exercise jurisdiction over a youth adjudicated a ward pursuant to Section 602 and reach disposition. (§ 726, subd. (d)(6)); *In re Antoine D.* (2006) 137 Cal.App.4th 1314, 1322 [stating that "Section 726 explicitly acknowledges

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the power of the juvenile court to retain jurisdiction over a minor and *to make appropriate orders . . . for the period permitted by Section 607*" (citation omitted)]; *Joey W. v. Superior Court, supra,* 7 Cal.App.4th at p. 1172 [citing to Section 607: "Once an individual is adjudged a ward of the juvenile court that court may retain jurisdiction over the ward until he or she attains the age of 21 or 25 depending upon the nature of the offense"].) When a youth is declared a ward of the court, the juvenile laws provide the juvenile court with various disposition options to rehabilitate that youth. (§§ 726, 727, 730, 731, and 875.) One such disposition, commitment to a SYTF, is provided for by Section 875. (§ 875, subd. (a).) Subdivision (a) of Section 875 makes clear that commitment to a SYTF is one type of disposition available to the juvenile court "in addition to" other dispositions, such as those detailed in Sections 727 and 730.[5] (*Id.*)

Because commitment to a SYTF under Section 875 is only one of the court's myriad disposition options, and those options are available to the court only during the period that it can exercise continuing jurisdiction under Section 607, Section 875, subdivision (c)(1) cannot serve as an independent basis for jurisdiction after a youth exceeds statutory age limits. (*People v. Ramirez, supra,* 35 Cal.App.5th 55 at p. 60 [stating that the juvenile court no longer had continuing jurisdiction over defendants who were over 25 when their cases were remanded to the juvenile court for a transfer hearing]; *In re Arthur N., supra,* 16 Cal.3d 226 at p. 241 [finding that, where a ward had reached the age of 21, the juvenile court no longer had jurisdiction, making remand for a modification of disposition not

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[5] Section 727 allows the juvenile court to make "reasonable orders for the care, supervision, custody, conduct, maintenance, and support of" youth declared wards of the court. (§ 727, subd. (a)(1).) Section 730 allows the juvenile court to commit a ward to "a juvenile home, ranch, camp, or forestry camp." (§ 730, subd. (a)(1).)

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"necessary"]; *In re Antoine D., supra,* 137 Cal.App.4th at p. 1322 [explaining that "Section 726 explicitly acknowledges the power of the juvenile court to retain jurisdiction over a minor and to make appropriate orders . . . for the period permitted by Section 607" (italics and citation omitted)].)

Section 875 states, in relevant part:

> (a) In addition to the types of treatment specified in Sections 727 and 730, commencing July 1, 2021, the court may order that a ward who is 14 years of age or older, be committed to a secure youth treatment facility for a period of confinement described in subdivision (b) if the ward meets the following criteria . . .
>
> (c) In making its order of commitment, the court shall additionally set a maximum term of confinement for the ward in a secure youth treatment facility. The maximum term of confinement shall represent the longest term of confinement in a facility that the ward may serve subject to the following:
>
> (1) A ward committed to a secure youth treatment facility under this section shall not be held in secure confinement beyond 23 years of age, or two years from the date of the commitment, whichever occurs later. However, if the ward has been committed to a facility based on adjudication for an offense or offenses for which the ward, if convicted in adult criminal court, would face an aggregate sentence of seven or more years, the maximum period of confinement shall not exceed the ward attaining 25 years of age or two years from the date of the commitment, whichever occurs later.

Subdivision (c)(1) addresses the maximum term of confinement for youth committed to a SYTF. It merely provides that the juvenile court may confine a person committed to a SYTF for certain serious offenses until age

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25, or two years after the date of commitment, whichever occurs later. Subdivision (c)(1) does not state that the juvenile court can commit a person to a SYTF when they are already over age 25—as the juvenile court did here. If it did, Section 875 would vitiate the clear age limitations in Section 607 and upset the carefully crafted statutory scheme governing juvenile court continuing jurisdiction, which juvenile offenders, courts, and counties have been operating under for decades.

4. Sound and Well-Established Principles of Statutory Interpretation Support Petitioner's Argument that Section 875 Cannot Serve as a Basis for Juvenile Court Jurisdiction

This Court must interpret Sections 607 and 875 in a manner that does not nullify either section. (*Jurcoane v. Superior Ct.* (2001) 93 Cal.App.4th 886, 893 ["We must read statutes as a whole, giving effect to all their provisions, neither reading one section to contradict others or its overall purpose, *nor reading the whole scheme to nullify one section*" (italics added)].) An interpretation of Sections 607 and 875 that gives effect to each section is that a person must qualify for the juvenile court's continuing jurisdiction under Section 607 for the juvenile court to reach disposition—including committing a person to a SYTF under Section 875. (See, e.g., *In re Antoine D.*, *supra*, 137 Cal.App.4th at p. 1322 [noting that "Section 726 explicitly acknowledges the power of the juvenile court to retain jurisdiction over a minor and to make appropriate orders" during the period the court has jurisdiction pursuant to Section 607].) If a person is subject to juvenile court jurisdiction under one of the relevant subdivisions of Section 607—for example, subdivision (c)—then the juvenile court can consider various disposition options, including committing that person to a SYTF, as long as the person meets the eligibility criteria for the commitment. (§ 875, subds. (a)(1)–(3).) If the juvenile court commits the person to a SYTF while they are subject to the court's continuing

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jurisdiction under Section 607, then subdivision (c)(1) of Section 875, if applicable, would potentially prolong the period that the juvenile court confines the person. Subdivision (c)(1) of Section 875 does not and cannot, in and of itself, *provide for or create continuing jurisdiction* where it does not otherwise exist under Section 607.

B. THE JUVENILE COURT'S ORDER IMPEDES THE REHABILITATIVE EFFORTS OF COUNTIES

In addition to being contrary to the law governing juvenile court jurisdiction, the juvenile court order, if allowed to stand, would present counties with serious legal and compliance issues that would hamper their role in providing care to and rehabilitating youth. Section 875 does not require that SYTFs be housed in one particular setting. Instead, the statute specifies that SYTFs must satisfy certain criteria: SYTFs must be secure and *may* be located in an existing juvenile facility, such as a juvenile hall or juvenile camp. (§ 875, subds. (g)(1)-(2).) Yet *every* California county of which CSAC is aware operates their SYTFs in existing secure juvenile detention facilities.[6] The counties have thus determined that such facilities are the most appropriate, safe, and secure locales to house and rehabilitate the high-needs youth realigned to their care. The juvenile court's order, which requires a juvenile probation department to house in its juvenile detention facility an adult who exceeds age 25—the maximum age of juvenile court jurisdiction—is therefore contrary to federal and state law, frustrates counties' ability to effectively operate and manage their juvenile detention facilities, and undermines their capacity to provide rehabilitative services, treatment, and care to in-custody youth and young adults in a safe and secure environment.

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[6] See https://www.bscc.ca.gov/s_djjrealignment/.

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1. The Juvenile Court's Order Contravenes Federal and State Law Mandating the Separation of Juveniles and Adult Inmates

Federal law, codified in the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDPA), establishes federal minimum standards to ensure that youth in custody are cared for in an equitable and safe environment. (34 U.S.C. § 11101 *et seq.*) All counties must ensure compliance with JJDPA requirements to guarantee that they receive, and that the State of California continues to qualify for, federal funding under the JJDPA that is critical to supporting ongoing local juvenile justice operations.

A fundamental protection of the JJDPA lies in the requirement of "sight or sound" separation between adult inmates and juveniles held in detention. (34 U.S.C. § 11133(a)(11)(B).)[7] The Board of State and Community Corrections (BSCC), the state body designated to monitor counties' compliance with federal law, including the JJDPA, has adopted "minimum standards for the operation and maintenance of juvenile halls for the confinement of minors." (§ 210.) BSCC has provided guidance to juvenile probation departments throughout the state on complying with the JJDPA's sight and sound separation requirement. The guidance clarifies that 25 is the maximum age of juvenile court jurisdiction in California, that once a person reaches age 25 they are considered an adult inmate for

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[7] The restriction on the co-mingling of adults and juveniles in detention is also codified in state law: Section 208.5. Because Petitioner discusses how the juvenile court order violates Section 208.5 (Pet. Brief at 31-32), this brief will focus on how the order conflicts with federal law.

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purposes of the JJDPA, and that adult inmates must be detained separately, at all times, from youth in detention.[8]

The juvenile court's order, if allowed to stand, however, would require juvenile probation departments to risk non-compliance with federal minimum standards for the care and custody of youth housed in juvenile detention facilities. The order would place California in a precarious position as it could lose federal funding that is essential to providing care, services, and treatment to juvenile justice involved youth. Indeed, states that fail to adhere to the JJDPA's requirements risk *a minimum* 20% reduction in funding and are ineligible for future funding, unless they devote 50% of the allocated funding towards reaching compliance. (34 U.S.C. § 11133(c)(1)(B)(i).) In fiscal year 2020, California received over $5.9 million in JJDPA funds.[9] Reducing that amount by 20% would translate to fewer programs, services, and housing options to support juvenile justice involved youth. (See 34 U.S.C. § 11133(a)(9)) [listing the types of juvenile justice programming for which JJDPA funds must be used, including, *inter alia*, "community-based alternatives . . . to incarceration and institutionalization"; programs that treat "youths' dependence on or abuse of alcohol or other addictive or nonaddictive drugs"; and "educational programs or supportive services"].) The funding reduction could result in less rehabilitative opportunities for youth, increased detention in juvenile facilities, and higher recidivism rates.

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[8] Board of State and Community Corrections, "Sight and Sound Separation" for Adult and Juvenile Populations Requirements under 34 U.S.C. § 11133 (2020), https://www.bscc.ca.gov/wp-content/uploads/SB-823-Separation-11.23.20-for-web.pdf.

[9] See https://ojjdp.ojp.gov/states/california?page=0#sncxcl.

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2. The Juvenile Court's Order Frustrates Counties' Ability to Effectively Operate and Manage Juvenile Detention Facilities and Provide Appropriate Programming

California law confers on counties the obligation to manage and control the day-to-day functions of juvenile detention facilities. (See, e.g., § 852 ["The juvenile hall shall be under the management and control of the probation officer"]; § 881 [counties have "[c]omplete operation and authority for the administration" of juvenile ranches, camps, or forestry camps]; Govt. Code, § 27771, subd. (a)(2)-(a)(3) [chief probation officers must operate juvenile halls and juvenile camps and ranches].) If this Court upholds the juvenile court's order, it would significantly undermine counties' ability to effectively run and manage juvenile detention facilities. Because (as discussed above) juvenile probation departments must separate any adult, at all times, from all juveniles housed in juvenile detention facilities, practically speaking the juvenile court's order in this case requires dedicated staff to monitor the adult inmate, virtually 24 hours a day, so that the adult would never come into physical contact with, never see or be seen by, and never hear or be heard by the juveniles housed in the facility. Such an arrangement would prove unduly burdensome at best, and wholly unworkable at worst, for counties—especially smaller counties that may be short-staffed or operate small juvenile detention facilities. These counties could be forced to be out of compliance with the JJDPA.

Even if a county could comply with both federal sight and sound separation requirements and an order of the type the juvenile court issued in this case, the disproportionate resources required to serve an adult in a juvenile facility would significantly burden the county's ability to appropriately care for detained youth and young adults. Many of the services and programs offered to youth detained in juvenile detention

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facilities are in group settings, such as counseling, religious services, educational, vocational, and health and fitness programming. Juvenile probation departments would be required to provide the same services and programming to an adult detained in juvenile hall, all while ensuring the adult and juveniles could never hear or see each other. This obligation would require additional staffing that would likely exceed the staff-to-youth ratio required in juvenile detention facilities and multiply the necessary coordination, planning, and scheduling among the juvenile hall staff that monitor and supervise youth. County juvenile probation departments would most likely need to expend additional funds to engage and contract with service providers with expertise and experience in providing services to adults—stressing their often already-thin budgets.

Counties would also face significant barriers to providing meaningful rehabilitative services and experiences to adults committed to their juvenile facilities given the sight and sound separation requirements pursuant to which the adult inmate would have to receive treatment, educational/vocational services, sleep, eat, recreate, and even worship separately from youth housed in juvenile halls. In counties with only one adult inmate assigned to a juvenile facility, the adult inmate's sole interaction would be with staff. Such an isolating experience could undermine a county's rehabilitative efforts and could prove detrimental to the adult's mental health and well-being. Isolated confinement of "more than 10 days . . . results in a distinct set of emotional, cognitive, social, and physical pathologies." (Cloud et al., *Public Health and Solitary Confinement in the United States* (2015) 105 Am. J. Pub. Health 18, 21.) And, when a person is released, the psychological effects of isolated confinement significantly and negatively impact the person's ability to reenter society. (Haney & Lynch, *Regulating Prisons of the Future: A Psychological Analysis of Supermax and Solitary Confinement* (1997) 23

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N.Y.U. Rev. L. & Soc. Change 477, 568.) In sum, the juvenile court's order places onerous requirements that serve to upset, not support, the overarching goal and function of counties to provide for the appropriate care and treatment of juveniles, young adults, and adults and to ensure offenders reenter their communities with the capacity to contribute to society.

C. THE JUVENILE COURT'S ORDER COMMITTING A 40-YEAR-OLD TO A JUVENILE FACILITY AND REHABILITATION PROGRAM CONFLICTS WITH THE DESIGN AND PURPOSE OF CALIFORNIA'S JUVENILE JUSTICE SYSTEM

As articulated, *supra*, the paramount objectives of the juvenile justice system are rehabilitation of youthful offenders and community safety. (§ 202, subd. (b).) The age limitations in Section 607, which provide for juvenile court jurisdiction over youth and young adults until age 25, are consistent with the design and purpose of the juvenile justice system. (*In re Charles C., supra,* 232 Cal.App.3d at p. 957 ["The purpose of the extended jurisdiction [under Section 607] is to enable the juvenile court to carry out its program of rehabilitation and training" (citing *People v. Price* (1969) 1 Cal.App.3d 982, 987)].) In fashioning the juvenile justice system, the Legislature's fundamental premise is that "minors are inherently different from adults and therefore should be treated differently." (*Id.* at p. 955 (citation omitted).) A "juvenile commitment is geared toward treatment and rehabilitation with the state providing substitute parental care for wayward youths *during their minority*." (*Id*. (italics added).) Juvenile delinquency laws focus on youth, and, to some extent, younger adults. "Minors under the jurisdiction of the juvenile court as a consequence of delinquent conduct shall, in conformity with the interests of public safety and protection, receive care, treatment, and guidance that is consistent with their best interest, that holds them accountable for their behavior, and that is

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appropriate for their circumstances." (§ 202, subd. (b).) Accordingly, the rehabilitative focus of the juvenile justice system is to provide youth that commit offenses with care and treatment so they can rehabilitate and eventually contribute to society. While, at times, that treatment and care *may continue into young adulthood*, there is no indication in statutory or case law that the juvenile justice system was meant to serve people who are well into their adult years. "[T]he justification for a juvenile commitment which extends into adulthood lies in the rehabilitative function of the juvenile court system." (*In re Charles C.*, *supra*, 232 Cal.App.3d at p. 960.) The age limitations in Section 607 work in tandem with the juvenile justice system, which was designed to guide, treat, and rehabilitate young people.

Indeed, in devising recent legislation meant to provide safeguards for juveniles being interrogated, the Legislature was animated by a statement of the American Academy of Child and Adolescent Psychiatry, noting that research supports the premise that adolescent brain development "continues throughout adolescence and into early adulthood." The statement went on to note that "[a]dolescents use their brains in a fundamentally different manner than adults." (Sen. Comm. Public Safety Analysis, Analysis on Sen. Bill No. 395 (2017-2018 Reg. Sess.) Mar. 21, 2017, p. 4.) This policy statement supports an essential tenet of the juvenile justice system: "minors are inherently different from adults and should therefore be treated differently." (*In re Robert D.* (1979) 95 Cal.App.3d 767, 776.) Since the research demonstrates that adolescents and young adults experience brain development that is different from adults, the statement also reinforces the Legislature's decision to extend juvenile court jurisdiction until age 25—an age that marks a turning point from adolescence to adulthood. Because adolescent brains shift and develop during minority, youthful offenders are more open to guidance, more

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amenable to change, and more acquiescent to receiving and benefitting from the rehabilitative services that are at the heart of the juvenile justice system. Given these considerations, the juvenile justice system was not meant to serve or treat adult offenders.

D. THE GAP IN THE CURRENT LEGAL FRAMEWORK, AND THE CHALLENGES POSED BY THE JUVENILE COURT'S ORDER, COULD BE ADDRESSED BY PROCEDURES SIMILAR TO THOSE OUTLINED IN SECTION 876

1. Recent Changes to the Juvenile Laws Have Created a Complex Situation

The interplay between statutory law, a voter initiative, and case law has placed counties and juvenile justice stakeholders in a unique dilemma. Due to the prevailing legal framework, certain juvenile offenders find themselves before the juvenile court after its jurisdiction over them has expired, with no legal option for the juvenile court to transfer such offenders to criminal court. While some courts have acknowledged this predicament, CSAC is not aware of any case law that has squarely addressed or resolved this issue. (See, e.g., *People v. Superior Court (T.D.)* (2019) 38 Cal.App.5th 360, 374 [recognizing the "predicament" created "by Proposition 57 being found retroactive," which results in a juvenile offender that is close to the maximum age of juvenile court jurisdiction being transferred to juvenile court and barred from transfer to criminal court]; *People v. Hwang* (2021) 60 Cal.App.5th 358, 365-366 [acknowledging that the defendant, who was over 25, "may no longer receive rehabilitation in the juvenile justice system"].)

The Public Safety and Rehabilitation Act of 2016 (Cal. Const. art. II, § 10, subd. (a)) (Proposition 57), a voter initiative that went into effect on November 9, 2016, Senate Bill 1391 (2017-2018 Reg. Sess.) (Stats. 2018, Ch. 1012, § 1) ("SB 1391"), and the case law interpreting them, provide important legal context for this matter and the dilemma discussed *supra*.

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Proposition 57, in part, amended Section 707 to eliminate prosecutors' ability to direct-file charges against juvenile offenders, age 14 and older, in adult criminal court. (§ 707, former subd. (a)(1)). Proposition 57 requires that a judge, not a prosecutor, decide whether a person charged with committing an offense at age 14 or older should be tried in adult court. An uncodified section of Proposition 57 expresses the initiative's intent, which, in relevant part, is to "[p]rotect and enhance public safety . . . [and] [s]top the revolving door of crime by emphasizing rehabilitation, especially for juveniles." (Voter Information Guide, Gen. Elec. (Nov. 8, 2016) text of Proposition 57, § 2, p. 141.)

Not long after Proposition 57 went into effect, the Legislature amended Proposition 57 by enacting SB 1391. SB 1391 removed a prosecutor's ability to petition for the transfer of juveniles to criminal court if they were 14 or 15 years old at the time of their alleged offense, with a narrow exception for juveniles alleged to have committed specified serious offenses who were not apprehended before the end of juvenile court jurisdiction. (§ 707, subd. (a)(1)-(a)(2).) A subsequent decision of the California Supreme Court found that Proposition 57 applies retroactively to cases filed in criminal court that were not yet final when the Proposition went into effect. (*People v. Superior Court (Lara)* (2018) 4 Cal.5th 299, 303-304 [holding that Proposition 57 applies retroactively to "all juveniles charged directly in adult court whose judgement was not final at the time it was enacted"].) Case law has also held that SB 1391 applies retroactively. (*See, e.g.*, *People v. Ramirez* (2021) 71 Cal.App.5th 970, 999-1000.)

Under the procedures outlined in *Lara*, a juvenile offender sentenced in criminal court whose case is not yet final may petition the criminal court to remand their matter to the juvenile court—which, pursuant to its initial jurisdiction under Section 602, can then hold a transfer hearing pursuant to Section 707. (See *People v. Ramirez*, *supra*, 35 Cal.App.5th at p. 67 [Even

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as to offenders that are over age 25, the "juvenile court's jurisdiction under section 602 includes jurisdiction to hold a transfer hearing under section 707"].) During the transfer hearing the juvenile court may consider, *inter alia*, whether the person can be rehabilitated before the end of juvenile court jurisdiction. (§ 707, subd. (3)(B)(i).) However, SB 1391 bars the transfer to adult court of certain juvenile offenders who committed offenses at age 14 or 15. When such an offender has exceeded the maximum age of juvenile court jurisdiction, a conundrum in the prevailing legal framework becomes obvious: Section 607 requires dismissal even though the juvenile offender will have no opportunity for rehabilitation. (See *In re Arthur N.*, *supra,*16 Cal.3d at p. 228 ["Since the juvenile court retains jurisdiction only until a ward becomes 21 (§ 607) that court no longer has jurisdiction except to enter its order dismissing the wardship petition nunc pro tunc to the date on which its jurisdiction terminated"]; *People v. Superior Court (T.D.), supra,* 38 Cal.App.5th at p. 374 [acknowledging the "predicament" created "by Proposition 57 being found retroactive"].)

2. Section 876 May Provide Helpful Guidance to Address the Challenges, Outlined by Petitioner and CSAC, Posed by the Juvenile Court's Order

CSAC reasserts its support for Petitioner's argument that, pursuant to Section 607, the juvenile court lacked jurisdiction to commit a 40-year-old who exceeds the maximum age of juvenile court jurisdiction to a SYTF. CSAC also acknowledges that the current legal landscape has placed counties, juvenile courts, juvenile offenders, and communities in a unique situation. Decisions regarding this high-needs population have significant implications for the functioning of the juvenile justice system and public safety. Where a juvenile offender is remanded or sent for the first time to a juvenile court after its jurisdiction has expired, and the offender cannot be transferred to adult criminal court due to statutory prohibitions resulting

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from the offender's age at the time of their offense, the process outlined in Section 876 serves as a legislative guidepost. It provides a framework to fashion an approach that could support the rehabilitation of juvenile offenders, ensure community safety, and provide counties with the authority and flexibility to supervise offenders without negatively impacting county juvenile probation departments' federal compliance obligations.

Section 876 codifies a public safety exception that, under certain prescribed circumstances, allows the juvenile court to detain a person committed to a SYTF beyond the period that juvenile court jurisdiction would normally expire. Section 876 sets forth a detailed process for the retention of jurisdiction and continued confinement of juvenile offenders who are found to be "physically dangerous to the public because of the person's mental or physical condition, disorder, or other problem that causes the person to have serious difficulty controlling their dangerous behavior." (§ 876, subd. (a).) It gives the juvenile probation department managing a SYTF the ability to request that the prosecutor file a petition with the committing court, supported by a statement of facts, requesting that the department retain control over the offender beyond the term of physical confinement already ordered. (*Id.*) If the prosecutor elects to file the petition with the juvenile court, the court must determine if, on its face, the petition is supported by probable cause. (*Id.*, subd. (c).) An initial finding of probable cause requires the court to conduct a noticed probable cause hearing, while a determination that there is probable cause to further detain an offender obligates the juvenile court to submit the matter to a jury for trial.[10] (*Id.*, subds. (d)-(e).) And if a jury finds that the juvenile

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[10] The offender may waive a jury trial, in which case, the court will conduct a bench trial. (§ 876, subd. (e).)

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offender is physically dangerous, the committing court can enter an order to further detain them, allowing the juvenile probation department to retain control, and the juvenile court to maintain jurisdiction, for two years, after which time the juvenile probation department may file a new application for continued detention. (*Id*., subd. (f).) Significantly, Section 876 further states that if the person subject to an order for further detention is 25 years of age or older, the court "shall have the power" to transfer the custody of that person to the adult probation department, which may place the person "in an appropriate institution." (*Id*.) An order for further detention is appealable. (*Id*., subd. (g).)

While the public safety exception of Section 876 is intended to apply only to youth who have been receiving rehabilitative services in a secure track facility, a similar procedural scheme and process applied narrowly to the category of juvenile offenders who, due to Proposition 57 and SB 1391, have found themselves before the juvenile court after its jurisdiction has expired, could mitigate the legal and operational complications presented by the juvenile court's order. The process could address the important intents of community safety and rehabilitation that underpin the juvenile justice system by ensuring that those persons deemed physically dangerous are subject to continued detention, during which they could continue to receive care, treatment, and services to support their rehabilitation and reentry into the community. Local probation departments and district attorneys have the experience and expertise to determine whether a particular person should continue to be detained and to engage in the complex calculus that balances supporting and rehabilitating juvenile offenders before and after they are released into the community while simultaneously ensuring that release is consistent with community safety.

The adoption of a public safety exception would support the provision of rehabilitative services to the adult population returning to

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juvenile courts and juveniles and young adults detained in juvenile detention facilities. As long as the process allows for the transfer of jurisdiction to *adult* probation departments, it would relieve counties of the burden of potentially violating state and federal law, codified in Section 208.5 and the JJDPA, respectively, as it would not obligate counties to house offenders 25 and older in juvenile detention facilities.[11] By not requiring counties to detain adults in juvenile facilities, the approach would lead to more tailored treatment and less isolating detention, because the offenders would not have to be separated by sight and sound from others in detention. Counties would also be alleviated of the substantial operational and managerial challenges articulated *supra*. Such a framework would offer procedural protections to juvenile offenders, who would have the option of a jury trial to determine the propriety of further detention and the ability to appeal an order for further detention. In recognition of the fact that establishing such a process and procedure would be within the province of the Legislature, CSAC respectfully requests that the Court call upon the Legislature to craft a solution to this unique situation.

IV. CONCLUSION

The juvenile court's order exceeds its jurisdiction, places counties in an untenable position that risks a marked reduction in federal funding meant to support juvenile justice involved youth, and negatively impacts counties' abilities to fulfill their duties to care for, treat, and rehabilitate

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[11] CSAC notes that Section 208.5 gives juvenile probation departments the discretion to petition the juvenile court to house offenders aged 19 and older in an adult facility, which the court may grant upon consideration of five criteria, including whether the offender will be able to receive similar programming in the adult facility and whether remaining in the juvenile facility would endanger staff and other youth. (§ 208.5, subd. (c)). But the provision does not allow for transfer to an adult facility when a youth has been committed to a juvenile facility, as is the case here. (*Id.*, subd. (e)).

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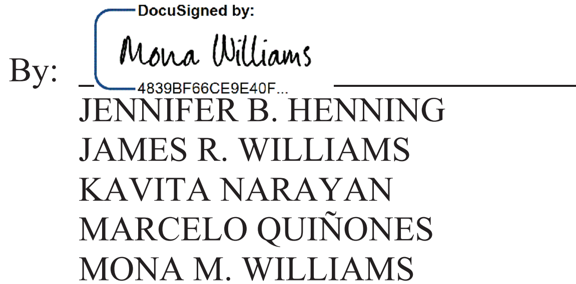
youth. CSAC, on behalf of its 58 member counties, respectfully contends that the negative impact such an order would have on Petitioner, and the consequences that could manifest statewide, do not support upholding the juvenile court's order. CSAC requests that the Court appeal to the Legislature to create a resolution that mitigates the financial and operational burdens placed on county governments, upholds the integral goals of the juvenile justice system, and champions public safety.

DATED: April 7, 2022 Respectfully submitted,

By: 

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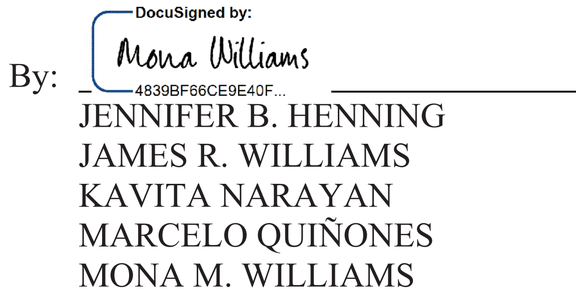
CERTIFICATION OF COMPLIANCE WITH CALIFORNIA RULES OF COURT, RULE 8.204(c)(1)

I hereby certify that this brief has been prepared using proportionately spaced 13-point Times New Roman typeface. According to the word count feature in Microsoft Word, this brief contains 8,048 words. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 7th day of April, 2022 in San José, California.

DATED: April 7, 2022

Respectfully submitted,

By: 

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