

YOUTH DETENTION HEARINGS

KEY GUIDEPOSTS FOR REFORM:

- ✦ For all detained youth, the court could hold immediate detention hearings to significantly reduce the amount of time that a youth is held in custody. California law requires that detention hearings be held “as soon as possible,” but also allows detention hearings to be delayed for several days.
- ✦ Because California law allows detention hearings to be conducted several days after arrest, there is tension between state law and the federal constitutional requirement that a court must review an arrest within 48 hours. Under the Fourth Amendment, an arrest must be supported by evidence amounting to “probable cause” to believe that the person committed the offense charged. If a county does not have separate procedures for reviewing probable cause prior to the detention hearing, it is likely that the county is routinely violating this constitutional requirement.
- ✦ Detention hearings must be conducted by a judge or juvenile court referee. Court sessions need not take place in a courthouse. Counties could explore creative options for satisfying the hearing requirements outside of the traditional courthouse process.
- ✦ There are no statutory requirements that the court detain a youth for certain types of cases or charges. Instead, this determination is made on a case-by-case basis and it is discretionary with the court.
- ✦ Unless certain factors are present, the law presumes that the court must order release. In addition, if there are factors present to justify detention, but services could eliminate the need for detention, the court must order those services and release the young person.

- ✦ When the court orders a young person to be detained, that detention is time-limited to 15 court days, and the detention does not have to be in juvenile hall. The court may designate another “suitable place” for detention, including a non-secure detention facility, or the court may release the minor on “Home Supervision.”
- ✦ If a young person is detained, the court must order Probation to provide the services necessary to safely return the young person home to their parent/guardian.
- ✦ If a young person is detained and at risk of entering foster care, Probation must develop a case plan, and must include services to be provided to both the youth and family if such services will enable the youth to return home safely.

For more information:
ylc.org/navigate-juvenile-justice-law

