



Part 5
YOUTH PROBATION IN CALIFORNIA
A LEGAL MAP

STATUTES CITED

This document contains the full text of the California state statutes and Rules of Court cited in Part 5: A Legal Map of Youth Probation in California.¹ For all maps in the series, visit our website: www.ylc.org/navigate-juvenile-justice-law.

Welfare & Institutions Code

- **602.**

(a) Except as provided in Section 707, any minor who is between 12 years of age and 17 years of age, inclusive, when he or she violates any law of this state or of the United States or any ordinance of any city or county of this state defining crime other than an ordinance establishing a curfew based solely on age, is within the jurisdiction of the juvenile court, which may adjudge the minor to be a ward of the court.

(b) Any minor who is under 12 years of age when he or she is alleged to have committed any of the following offenses is within the jurisdiction of the juvenile court, which may adjudge the minor to be a ward of the court:

(1) Murder.

(2) Rape by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.

(3) Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.

(4) Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.

(5) Sexual penetration by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.

(Amended by Stats. 2018, Ch. 1006, Sec. 2. (SB 439) Effective January 1, 2019. Note: This section was amended November 8, 2016, by initiative Proposition 57.)

¹ Current as of January 2020. All of California's laws are available at <http://leginfo.legislature.ca.gov/>.

- **603.**

(a) No court shall have jurisdiction to conduct a preliminary examination or to try the case of any person upon an accusatory pleading charging that person with the commission of a public offense or crime when the person was under the age of 18 years at the time of the alleged commission thereof unless the matter has first been submitted to the juvenile court by petition as provided in Article 7 (commencing with Section 650), and the juvenile court has made an order directing that the person be prosecuted under the general law.

(b) This section shall not apply in any case involving a minor against whom a complaint may be filed directly in a court of criminal jurisdiction pursuant to Section 707.01.

(Amended by Stats. 1996, Ch. 481, Sec. 1. Effective January 1, 1997.)

- **607.**

(a) The court may retain jurisdiction over a person who is found to be a ward or dependent child of the juvenile court until the ward or dependent child attains 21 years of age, except as provided in subdivisions (b), (c), and (d).

(b) The court may retain jurisdiction over a person 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, until that person attains 25 years of age if the person was committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

(c) The court shall not discharge a person from its jurisdiction who has been committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities while the person remains under the jurisdiction of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, including periods of extended control ordered pursuant to Section 1800.

(d) The court may retain jurisdiction over a person described in Section 602 by reason of the commission of an offense listed in subdivision (b) of Section 707, who has been confined in a state hospital or other appropriate public or private mental health facility pursuant to Section 702.3 until that person attains 25 years of age, unless the court that committed the person finds, after notice and hearing, that the person's sanity has been restored.

(e) The court may retain jurisdiction over a person while that person is the subject of a warrant for arrest issued pursuant to Section 663.

(f) Notwithstanding subdivisions (b) and (d), a person who is committed by the juvenile court to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities 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 (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 Facilities, 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) and (d).

(g)

(1) Notwithstanding subdivision (f), a person who is committed by the juvenile court to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, 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.

(3) This subdivision does not apply to a person who is committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, 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, 2018, as described in subdivision (f).

(h) The amendments to this section made by Chapter 342 of the Statutes of 2012 apply retroactively.

(i) This section does not change the period of juvenile court jurisdiction for a person committed to the Division of Juvenile Facilities prior to July 1, 2018.

(Amended by Stats. 2018, Ch. 36, Sec. 30. (AB 1812) Effective June 27, 2018.)

- **625.**

A peace officer may, without a warrant, take into temporary custody a minor:

(a) Who is under the age of 18 years when such officer has reasonable cause for believing that such minor is a person described in Section 601 or 602, or

(b) Who is a ward of the juvenile court or concerning whom an order has been made under Section 636 or 702, when such officer has reasonable cause for believing that person has violated an order of the juvenile court or has escaped from any commitment ordered by the juvenile court, or

(c) Who is under the age of 18 years and who is found in any street or public place suffering from any sickness or injury which requires care, medical treatment, hospitalization, or other remedial care.

In any case where a minor is taken into temporary custody on the ground that there is reasonable cause for believing that such minor is a person described in Section 601 or 602, or that he has violated an order of the juvenile court or escaped from any commitment ordered by the juvenile court, the officer shall advise such minor that anything he says can be used against him and shall advise him of his constitutional rights, including his right to remain silent, his right to have counsel present during any interrogation, and his right to have counsel appointed if he is unable to afford counsel.

(Amended by Stats. 1976, Ch. 1068.)

- **626.**

An officer who takes a minor into temporary custody under the provisions of Section 625 may do any of the following:

(a) Release the minor.

(b) Deliver or refer the minor to a public or private agency with which the city or county has an agreement or plan to provide shelter care, counseling, or diversion services to minors so delivered. A placement of a child in a community care facility as specified in Section 1530.8 of the Health and Safety Code shall be made in accordance with Section 319.2 or 319.3, as applicable, and with paragraph (8) or (9) of subdivision (e) of Section 361.2, as applicable.

(c) Prepare in duplicate a written notice to appear before the probation officer of the county in which the minor was taken into custody at a time and place specified in the notice. The notice shall also contain a concise statement of the reasons the minor was taken into custody. The officer shall deliver one copy of the notice to the minor or to a parent, guardian, or responsible relative of the minor and may require the minor or the minor's parent, guardian, or relative, or both, to sign a written promise to appear at the time and place designated in the notice. Upon the execution of the promise to appear, the officer shall immediately release the minor. The officer shall, as soon as practicable, file one copy of the notice with the probation officer. The written notice to appear may require that the minor be fingerprinted, photographed, or both, upon the minor's appearance before the probation officer, if the minor is a person described in Section 602 and he or she was taken into custody upon reasonable cause for the commission of a felony.

(d) Take the minor without unnecessary delay before the probation officer of the county in which the minor was taken into custody, or in which the minor resides, or in which the acts take place or the circumstances exist which are alleged to bring the minor within the provisions of Section 601 or 602, and deliver the custody of the minor to the probation officer. The peace officer shall prepare a concise written statement of the probable cause for taking the minor into temporary custody and the reasons the minor was taken into custody and shall provide the statement to the probation officer at the time the minor is delivered to the probation officer. In no case shall the officer delay the delivery of the minor to the probation officer for more than 24 hours if the minor has been taken into custody without a warrant on the belief that the minor has committed a misdemeanor.

In determining which disposition of the minor to make, the officer shall prefer the alternative which least restricts the minor's freedom of movement, provided that alternative is compatible with the best interests of the minor and the community.

(Amended by Stats. 2013, Ch. 21, Sec. 10. (AB 74) Effective June 27, 2013.)

• **628.**

(a) (1) Upon delivery to the probation officer of a minor who has been taken into temporary custody under the provisions of this article, the probation officer shall immediately investigate the circumstances of the minor and the facts surrounding his or her being taken into custody and shall immediately release the minor to the custody of his or her parent, legal guardian, or responsible relative unless it can be demonstrated upon the evidence before the court that continuance in the home is contrary to the minor's welfare and one or more of the following conditions exist:

(A) Continued detention of the minor is a matter of immediate and urgent necessity for the protection of the minor or reasonable necessity for the protection of the person or property of another.

(B) The minor is likely to flee the jurisdiction of the court.

(C) The minor has violated an order of the juvenile court.

(2) The probation officer's decision to detain a minor who is currently a dependent of the juvenile court pursuant to Section 300 or the subject of a petition to declare him or her a

dependent of the juvenile court pursuant to Section 300 and who has been removed from the custody of his or her parent or guardian by the juvenile court shall not be based on any of the following:

(A) The minor's status as a dependent of the juvenile court or as the subject of a petition to declare him or her a dependent of the juvenile court.

(B) A determination that continuance in the minor's current placement is contrary to the minor's welfare.

(C) The child welfare services department's inability to provide a placement for the minor.

(3) The probation officer shall immediately release a minor described in paragraph (2) to the custody of the child welfare services department or his or her current foster parent or other caregiver unless the probation officer determines that one or more of the conditions in paragraph (1) exist.

(4) This section does not limit a probation officer's authority to refer a minor to child welfare services.

(b) If the probation officer has reason to believe that the minor is at risk of entering foster care placement as defined in paragraphs (1) and (2) of subdivision (d) of Section 727.4, the probation officer shall, as part of the investigation undertaken pursuant to subdivision (a), make reasonable efforts, as described in paragraph (5) of subdivision (d) of Section 727.4, to prevent or eliminate the need for removal of the minor from his or her home.

(c) In any case in which there is reasonable cause for believing that a minor who is under the care of a physician or surgeon or a hospital, clinic, or other medical facility and cannot be immediately moved is a person described in subdivision (d) of Section 300, the minor shall be deemed to have been taken into temporary custody and delivered to the probation officer for the purposes of this chapter while he or she is at the office of the physician or surgeon or that medical facility.

(d)

(1) It is the intent of the Legislature that this subdivision shall comply with paragraph (29) of subsection (a) of Section 671 of Title 42 of the United States Code as added by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351). It is further the intent of the Legislature that the identification and notification of relatives shall be made as early as possible after the removal of a youth who is at risk of entering foster care placement.

(2) If the minor is detained and the probation officer has reason to believe that the minor is at risk of entering foster care placement, as defined in paragraphs (1) and (2) of subdivision (d) of Section 727.4, then the probation officer shall conduct, within 30 days, an investigation in order to identify and locate all grandparents, adult siblings, and other relatives of the child, as defined in paragraph (2) of subdivision (f) of Section 319, including any other adult relatives suggested by the parents. The probation officer shall provide to all adult relatives who are located, except when that relative's history of family or domestic violence makes notification inappropriate, within 30 days of the date on which the child is detained, written notification and shall also, whenever appropriate, provide oral notification, in person or by telephone, of all the following information:

(A) The child has been removed from the custody of his or her parent or parents, or his or her guardians.

(B) An explanation of the various options to participate in the care and placement of the child and support for the child's family, including any options that may be lost by failing to respond. The notice shall provide information about providing care for the child, how to become a foster family home, approved relative or nonrelative extended family member as defined in Section 362.7, or resource family home, and additional services and support that are available in out-of-home placements. The notice shall also include information regarding the Kin-GAP Program (Article 4.5 (commencing with Section 11360) of Chapter 2 of Part 3 of Division 9), the CalWORKs program for approved relative caregivers (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9), adoption and adoption assistance (Chapter 2.1 (commencing with Section 16115) of Part 4 of Division 9), as well as other options for contact with the child, including, but not limited to, visitation. When oral notification is provided, the probation officer is not required to provide detailed information about the various options to help with the care and placement of the child.

(3) The probation officer shall use due diligence in investigating the names and locations of the relatives pursuant to paragraph (2), including, but not limited to, asking the child in an age-appropriate manner about relatives important to the child, consistent with the child's best interest, and obtaining information regarding the location of the child's adult relatives.

(4) To the extent allowed by federal law as a condition of receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.), if the probation officer did not conduct the identification and notification of relatives, as required in paragraph (2), but the court orders foster care placement, the probation officer shall conduct the investigation to find and notify relatives within 30 days of the placement order. Nothing in this section shall be construed to delay foster care placement for an individual child.

(Amended by Stats. 2017, Ch. 732, Sec. 53. (AB 404) Effective January 1, 2018.)

- **628.1.**

If the minor meets one or more of the criteria for detention under Section 628, but the probation officer believes that 24-hour secure detention is not necessary in order to protect the minor or the person or property of another, or to ensure that the minor does not flee the jurisdiction of the court, the probation officer shall proceed according to this section.

Unless one of the conditions described in paragraph (1), (2), or (3) of subdivision (a) of Section 628 exists, the probation officer shall release such minor to his or her parent, guardian, or responsible relative on home supervision. As a condition for such release, the probation officer shall require the minor to sign a written promise that he or she understands and will observe the specific conditions of home supervision release. As an additional condition for release, the probation officer also shall require the minor's parent, guardian, or responsible relative to sign a written promise, translated into a language the parent understands, if necessary, that he or she understands the specific conditions of home supervision release. These conditions may include curfew and school attendance requirements related to the protection of the minor or the person or property of another, or to the minor's appearances at court hearings. A minor who violates a specific condition of home supervision release which he or she has promised in writing to obey may be taken into custody and placed in secure detention, subject to court review at a detention hearing.

A minor on home supervision shall be entitled to the same legal protections as a minor in secure detention, including a detention hearing.

(Amended by Stats. 1999, Ch. 996, Sec. 16. Effective January 1, 2000.)

• **631.**

(a) Except as provided in subdivision (b), whenever a minor is taken into custody by a peace officer or probation officer, except when the minor willfully misrepresents himself or herself as 18 or more years of age, the minor shall be released within 48 hours after having been taken into custody, excluding nonjudicial days, unless within that period of time a petition to declare the minor a ward has been filed pursuant to this chapter or a criminal complaint against the minor has been filed in a court of competent jurisdiction.

(b) Except when the minor represents himself or herself as 18 or more years of age, whenever a minor is taken into custody by a peace officer or probation officer without a warrant on the belief that the minor has committed a misdemeanor that does not involve violence, the threat of violence, or possession or use of a weapon, and if the minor is not currently on probation or parole, the minor shall be released within 48 hours after having been taken into custody, excluding nonjudicial days, unless a petition has been filed to declare the minor to be a ward of the court and the minor has been ordered detained by a judge or referee of the juvenile court pursuant to Section 635. In all cases involving the detention of a minor pursuant to this subdivision, any decision to detain the minor more than 24 hours shall be subject to written review and approval by a probation officer who is a supervisor as soon as possible after it is known that the minor will be detained more than 24 hours. However, if the initial decision to detain the minor more than 24 hours is made by a probation officer who is a supervisor, the decision shall not be subject to review and approval.

(c) Whenever a minor who has been held in custody for more than 24 hours by the probation officer is subsequently released and no petition is filed, the probation officer shall prepare a written explanation of why the minor was held in custody for more than 24 hours. The written explanation shall be prepared within 72 hours after the minor is released from custody and filed in the record of the case. A copy of the written explanation shall be sent to the parents, guardian, or other person having care or custody of the minor.

(Amended by Stats. 1989, Ch. 686, Sec. 1.)

• **632.**

(a) Except as provided in subdivision (b), unless sooner released, a minor taken into custody under the provisions of this article shall, as soon as possible but in any event before the expiration of the next judicial day after a petition to declare the minor a ward or dependent child has been filed, be brought before a judge or referee of the juvenile court for a hearing to determine whether the minor shall be further detained. Such a hearing shall be referred to as a “detention hearing.”

(b) Whenever a minor is taken into custody without a warrant on the belief that he or she has committed a misdemeanor not involving violence, a threat of violence, or possession or use of weapons, if the minor is not currently on probation or parole, he or she shall be brought before a judge or referee of the juvenile court for a detention hearing as soon as possible, but no later than 48 hours after having been taken into custody, excluding nonjudicial days, after a petition to declare the minor a ward has been filed. In all cases involving the detention of a minor pursuant to this subdivision where the minor will not be brought before the judge or referee of the juvenile court

within 24 hours, the decision not to bring the minor before the judge or referee within 24 hours shall be subject to written review and approval by a probation officer who is a supervisor as soon as possible after it is known that the minor will not be brought before the judge or referee within 24 hours. However, if the decision not to bring the minor before the judge or referee within 24 hours is made by a probation officer who is a supervisor, the decision shall not be subject to review and approval.

(c) If the minor is not brought before a judge or referee of the juvenile court within the period prescribed by this section, he or she shall be released from custody.

(Amended by Stats. 1989, Ch. 686, Sec. 2.)

- **635.**

(a) The court will examine the minor, his or her parent, legal guardian, or other person having relevant knowledge, hear relevant evidence the minor, his or her parent, legal guardian, or counsel desires to present, and, unless it appears that the minor has violated an order of the juvenile court or has escaped from the commitment of the juvenile court or that it is a matter of immediate and urgent necessity for the protection of the minor or reasonably necessary for the protection of the person or property of another that he or she be detained or that the minor is likely to flee to avoid the jurisdiction of the court, the court shall make its order releasing the minor from custody.

(b)

(1) The circumstances and gravity of the alleged offense may be considered, in conjunction with other factors, to determine whether it is a matter of immediate and urgent necessity for the protection of the minor or reasonably necessary for the protection of the person or property of another that the minor be detained.

(2) If a minor is a dependent of the court pursuant to Section 300, the court's decision to detain shall not be based on the minor's status as a dependent of the court or the child welfare services department's inability to provide a placement for the minor.

(c)

(1) The court shall order release of the minor from custody unless a prima facie showing has been made that the minor is a person described in Section 601 or 602.

(2) If the court orders release of a minor who is a dependent of the court pursuant to Section 300, the court shall order the child welfare services department either to ensure that the minor's current foster parent or other caregiver takes physical custody of the minor or to take physical custody of the minor and place the minor in a licensed or approved placement.

(d) If the probation officer has reason to believe that the minor is at risk of entering foster care placement as described in Section 11402, then the probation officer shall submit a written report to the court containing all of the following:

(1) The reasons why the minor has been removed from the parent's custody.

(2) Any prior referrals for abuse or neglect of the minor or any prior filings regarding the minor pursuant to Section 300.

(3) The need, if any, for continued detention.

(4) The available services that could facilitate the return of the minor to the custody of the minor's parents or guardians.

(5) Whether there are any relatives who are able and willing to provide effective care and control over the minor.

(Amended by Stats. 2014, Ch. 760, Sec. 5. (AB 388) Effective January 1, 2015.)

• **636.**

(a) If it appears upon the hearing that the minor has violated an order of the juvenile court or has escaped from a commitment of the juvenile court or that it is a matter of immediate and urgent necessity for the protection of the minor or reasonably necessary for the protection of the person or property of another that he or she be detained or that the minor is likely to flee to avoid the jurisdiction of the court, and that continuance in the home is contrary to the minor's welfare, the court may make its order that the minor be detained in the juvenile hall or other suitable place designated by the juvenile court for a period not to exceed 15 judicial days and shall enter the order together with its findings of fact in support thereof in the records of the court. The circumstances and gravity of the alleged offense may be considered, in conjunction with other factors, to determine whether it is a matter of immediate and urgent necessity for the protection of the minor or the person or property of another that the minor be detained. If a minor is a dependent of the court pursuant to Section 300, the court's decision to detain shall not be based on the minor's status as a dependent of the court or the child welfare services department's inability to provide a placement for the minor.

(b) If the court finds that the criteria of Section 628.1 are applicable, the court shall place the minor on home supervision for a period not to exceed 15 judicial days, and shall enter the order together with its findings of fact in support thereof in the records of the court. If the court releases the minor on home supervision, the court may continue, modify, or augment any conditions of release previously imposed by the probation officer, or may impose new conditions on a minor released for the first time. If there are new or modified conditions, the minor shall be required to sign a written promise to obey those conditions pursuant to Section 628.1.

(c) If the probation officer is recommending that the minor be detained, the probation officer shall submit to the court documentation, as follows:

(1) Documentation that continuance in the home is contrary to the minor's welfare shall be submitted to the court as part of the detention report prepared pursuant to Section 635.

(2) Documentation that reasonable efforts were made to prevent or eliminate the need for removal of the minor from the home and documentation of the nature and results of the services provided shall be submitted to the court either as part of the detention report prepared pursuant to Section 635, or as part of a case plan prepared pursuant to Section 636.1, but in no case later than 60 days from the date of detention.

(d) Except as provided in subdivision (e), before detaining the minor, the court shall determine whether continuance in the home is contrary to the minor's welfare and whether there are available services that would prevent the need for further detention. The court shall make that determination on a case-by-case basis and shall make reference to the documentation provided by the probation officer or other evidence relied upon in reaching its decision.

(1) If the minor can be returned to the custody of his or her parent or legal guardian at the detention hearing, through the provision of services to prevent removal, the court shall release the minor to the physical custody of his or her parent or legal guardian and order that those services be provided.

(2) If the minor cannot be returned to the custody of his or her parent or legal guardian at the detention hearing, the court shall state the facts upon which the detention is based. The court shall make the following findings on the record and reference the probation officer's report or other evidence relied upon to make its determinations:

(A) Whether continuance in the home of the parent or legal guardian is contrary to the minor's welfare.

(B) Whether reasonable efforts have been made to safely maintain the minor in the home of his or her parent or legal guardian and to prevent or eliminate the need for removal of the minor from his or her home. This finding shall be made at the detention hearing if possible, but in no case later than 60 days following the minor's removal from the home.

(3) If the minor cannot be returned to the custody of his or her parent or legal guardian at the detention hearing, the court shall make the following orders:

(A) The probation officer shall provide services as soon as possible to enable the minor's parent or legal guardian to obtain any assistance as may be needed to enable the parent or guardian to effectively provide the care and control necessary for the minor to return to the home.

(B) The minor's placement and care shall be the responsibility of the probation department pending disposition or further order of the court.

(4) If the matter is set for rehearing pursuant to Section 637, or continued pursuant to Section 638, or continued for any other reason, the court shall find that the continuance of the minor in the parent's or guardian's home is contrary to the minor's welfare at the initial petition hearing or order the release of the minor from custody.

(e) For a minor who is a dependent of the court pursuant to Section 300, the court's decision to detain the minor shall not be based on a finding that continuance in the minor's current placement is contrary to the minor's welfare. If the court determines that continuance in the minor's current placement is contrary to the minor's welfare, the court shall order the child welfare services department to place the minor in another licensed or approved placement.

(f) Whether the minor is returned home or detained, the court shall order the minor's parent or guardian to cooperate with the probation officer in obtaining those services described in paragraph (1) of, or in subparagraph (A) of paragraph (3) of, subdivision (d).

(Amended by Stats. 2014, Ch. 760, Sec. 6. (AB 388) Effective January 1, 2015.)

- **636.2.**

The probation officer may operate and maintain nonsecure detention facilities, or may contract with public or private agencies offering such services, for those minors who are not considered escape risks and are not considered a danger to themselves or to the person or property of another. Criteria to be considered for detention in such facilities shall include, but not be limited to: (a) the nature of the offense, (b) the minor's previous record including escapes from secure detention facilities, (c) lack of criminal sophistication, and (d) the age of the minor. A minor detained in such facilities who leaves the same without permission may be housed in a secure facility following his apprehension, pending a detention hearing pursuant to Section 632.

(Amended by Stats. 1977, Ch. 1241.)

- **657.**

(a) Upon the filing of the petition, the clerk of the juvenile court shall set the same for hearing within 30 days, except as follows:

(1) In the case of a minor detained in custody at the time of the filing of the petition, the petition must be set for hearing within 15 judicial days from the date of the order of the court directing such detention.

(2) In the case of a minor not before the juvenile court at the time of the filing of the petition and for whom a warrant of arrest has been issued pursuant to Section 663, the hearing on the petition shall be stayed until the minor is brought before the juvenile court on the warrant of arrest. The clerk of the juvenile court shall set the petition for hearing within 30 days of the minor's initial appearance in juvenile court on the petition, except that in the case of a minor detained in custody, the petition shall be set for hearing within 15 judicial days from the date of the order of the court directing such detention.

(b) At the detention hearing, or any time thereafter, a minor who is alleged to come within the provisions of Section 601 or 602, may, with the consent of counsel, admit in court the allegations of the petition and waive the jurisdictional hearing.

(Amended by Stats. 1984, Ch. 158, Sec. 1.)

- **701.**

At the hearing, the court shall first consider only the question whether the minor is a person described by Section 300, 601, or 602. The admission and exclusion of evidence shall be pursuant to the rules of evidence established by the Evidence Code and by judicial decision. Proof beyond a reasonable doubt supported by evidence, legally admissible in the trial of criminal cases, must be adduced to support a finding that the minor is a person described by Section 602, and a preponderance of evidence, legally admissible in the trial of civil cases must be adduced to support a finding that the minor is a person described by Section 300 or 601. When it appears that the minor has made an extrajudicial admission or confession and denies the same at the hearing, the court may continue the hearing for not to exceed seven days to enable the prosecuting attorney to subpoena witnesses to attend the hearing to prove the allegations of the petition. If the minor is not represented by counsel at the hearing, it shall be deemed that objections that could have been made to the evidence were made.

(Amended by Stats. 1977, Ch. 579.)

- **702.**

After hearing the evidence, the court shall make a finding, noted in the minutes of the court, whether or not the minor is a person described by Section 300, 601, or 602. If it finds that the minor is not such a person, it shall order that the petition be dismissed and the minor be discharged from any detention or restriction theretofore ordered. If the court finds that the minor is such a person, it shall make and enter its findings and order accordingly, and shall then proceed to hear evidence on the question of the proper disposition to be made of the minor. Prior to doing so, it may continue the hearing, if necessary, to receive the social study of the probation officer, to refer the minor to a juvenile justice community resource program as defined in Article 5.2 (commencing with Section

1784) of Chapter 1 of Division 2.5, or to receive other evidence on its own motion or the motion of a parent or guardian for not to exceed 10 judicial days if the minor is detained during the continuance. If the minor is not detained, it may continue the hearing to a date not later than 30 days after the date of filing of the petition. The court may, for good cause shown continue the hearing for an additional 15 days, if the minor is not detained. The court may make such order for detention of the minor or his or her release from detention, during the period of the continuance, as is appropriate.

If the minor is found to have committed an offense which would in the case of an adult be punishable alternatively as a felony or a misdemeanor, the court shall declare the offense to be a misdemeanor or felony.

(Amended by Stats. 1984, Ch. 1752, Sec. 1.)

- **706.**

After finding that a minor is a person described in Section 601 or 602, the court shall hear evidence on the question of the proper disposition to be made of the minor. The court shall receive in evidence the social study of the minor made by the probation officer and any other relevant and material evidence that may be offered, including any written or oral statement offered by the victim, the parent or guardian of the victim if the victim is a minor, or if the victim has died or is incapacitated, the victim's next of kin, as authorized by subdivision (b) of Section 656.2. In addition, if the probation officer has recommended that the minor be transferred to the Department of Corrections and Rehabilitation, Division of Juvenile Justice pursuant to an adjudication for an offense requiring him or her to register as a sex offender pursuant to Section 290.008 of the Penal Code, the SARATSO selected pursuant to subdivision (d) of Section 290.04 of the Penal Code shall be used to assess the minor, and the court shall receive that risk assessment score into evidence. In any judgment and order of disposition, the court shall state that the social study made by the probation officer has been read and that the social study and any statement has been considered by the court.

(Amended by Stats. 2009, Ch. 582, Sec. 6. (SB 325) Effective January 1, 2010.)

- **725.**

After receiving and considering the evidence on the proper disposition of the case, the court may enter judgment as follows:

(a) If the court has found that the minor is a person described by Section 601 or 602, by reason of the commission of an offense other than any of the offenses set forth in Section 654.3, it may, without adjudging the minor a ward of the court, place the minor on probation, under the supervision of the probation officer, for a period not to exceed six months. The minor's probation shall include the conditions required in Section 729.2 except in any case in which the court makes a finding and states on the record its reasons that any of those conditions would be inappropriate. If the offense involved the unlawful possession, use, or furnishing of a controlled substance, as defined in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, a violation of subdivision (f) of Section 647 of the Penal Code, or a violation of Section 25662 of the Business and Professions Code, the minor's probation shall include the conditions required by Section 729.10. If the minor fails to comply with the conditions of probation imposed, the court may order and adjudge the minor to be a ward of the court.

(b) If the court has found that the minor is a person described by Section 601 or 602, it may order and adjudge the minor to be a ward of the court.

(Amended by Stats. 1989, Ch. 1117, Sec. 14.)

• **726.**

(a) In all cases in which a minor is adjudged a ward or dependent child of the court, the court may limit the control to be exercised over the ward or dependent child by any parent or guardian and shall, in its order, clearly and specifically set forth all those limitations, but no ward or dependent child shall be taken from the physical custody of a parent or guardian, unless upon the hearing the court finds one of the following facts:

- (1) That the parent or guardian is incapable of providing or has failed or neglected to provide proper maintenance, training, and education for the minor.
- (2) That the minor has been tried on probation while in custody and has failed to reform.
- (3) That the welfare of the minor requires that custody be taken from the minor's parent or guardian.

(b) Whenever the court specifically limits the right of the parent or guardian to make educational or developmental services decisions for the minor, the court shall at the same time appoint a responsible adult to make educational or developmental services decisions for the child until one of the following occurs:

- (1) The minor reaches 18 years of age, unless the child chooses not to make educational or developmental services decisions for himself or herself, or is deemed by the court to be incompetent.
- (2) Another responsible adult is appointed to make educational or developmental services decisions for the minor pursuant to this section.
- (3) The right of the parent or guardian to make educational or developmental services decisions for the minor is fully restored.
- (4) A successor guardian or conservator is appointed.
- (5) The child is placed into a planned permanent living arrangement pursuant to paragraph (5) or (6) of subdivision (b) of Section 727.3, at which time, for educational decisionmaking, the foster parent, relative caretaker, or nonrelative extended family member, as defined in Section 362.7, has the right to represent the child in educational matters pursuant to Section 56055 of the Education Code, and for decisions relating to developmental services, unless the court specifies otherwise, the foster parent, relative caregiver, or nonrelative extended family member of the planned permanent living arrangement has the right to represent the child in matters related to developmental services.

(c) An individual who would have a conflict of interest in representing the child, as specified under federal regulations, may not be appointed to make educational decisions. The limitations applicable to conflicts of interest for educational rights holders shall also apply to authorized representatives for developmental services decisions pursuant to subdivision (b) of Section 4701.6. For purposes of this section, "an individual who would have a conflict of interest" means a person having any interests that might restrict or bias his or her ability to make educational or developmental services decisions, including, but not limited to, those conflicts of interest prohibited by Section 1126 of the Government Code, and the receipt of compensation or attorneys' fees for the provision of services pursuant to

this section. A foster parent may not be deemed to have a conflict of interest solely because he or she receives compensation for the provision of services pursuant to this section.

(1) If the court limits the parent’s educational rights pursuant to subdivision (a), the court shall determine whether there is a responsible adult who is a relative, nonrelative extended family member, or other adult known to the child and who is available and willing to serve as the child’s educational representative before appointing an educational representative or surrogate who is not known to the child.

If the court cannot identify a responsible adult who is known to the child and available to make educational decisions for the child and paragraphs (1) to (5), inclusive, of subdivision (b) do not apply, and the child has either been referred to the local educational agency for special education and related services or has a valid individualized education program, the court shall refer the child to the local educational agency for appointment of a surrogate parent pursuant to Section 7579.5 of the Government Code.

(2) All educational and school placement decisions shall seek to ensure that the child is in the least restrictive educational programs and has access to the academic resources, services, and extracurricular and enrichment activities that are available to all pupils. In all instances, educational and school placement decisions shall be based on the best interests of the child. If an educational representative or surrogate is appointed for the child, the representative or surrogate shall meet with the child, shall investigate the child’s educational needs and whether those needs are being met, and shall, before each review hearing held under Article 10 (commencing with Section 360), provide information and recommendations concerning the child’s educational needs to the child’s social worker, make written recommendations to the court, or attend the hearing and participate in those portions of the hearing that concern the child’s education.

(3) Nothing in this section in any way removes the obligation to appoint surrogate parents for students with disabilities who are without parental representation in special education procedures as required by state and federal law, including Section 1415(b)(2) of Title 20 of the United States Code, Section 56050 of the Education Code, Section 7579.5 of the Government Code, and Rule 5.650 of the California Rules of Court.

If the court appoints a developmental services decisionmaker pursuant to this section, he or she shall have the authority to access the child’s information and records pursuant to subdivision (u) of Section 4514 and subdivision (y) of Section 5328, and to act on the child’s behalf for the purposes of the individual program plan process pursuant to Sections 4646, 4646.5, and 4648 and the fair hearing process pursuant to Chapter 7 (commencing with Section 4700) of Division 4.5, and as set forth in the court order.

(d)

(1) If the minor is removed from the physical custody of his or her parent or guardian as the result of an order of wardship made pursuant to Section 602, the order shall specify that the minor may not be held in physical confinement for a period in excess of the maximum term of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court.

(2) As used in this section and in Section 731, “maximum term of imprisonment” means the longest of the three time periods set forth in paragraph (3) of subdivision (a) of Section 1170 of the Penal Code, but without the need to follow the provisions of subdivision (b) of Section 1170 of the Penal Code or to consider time for good behavior or participation pursuant to

Sections 2930, 2931, and 2932 of the Penal Code, plus enhancements which must be proven if pled.

(3) If the court elects to aggregate the period of physical confinement on multiple counts or multiple petitions, including previously sustained petitions adjudging the minor a ward within Section 602, the “maximum term of imprisonment” shall be the aggregate term of imprisonment specified in subdivision (a) of Section 1170.1 of the Penal Code, which includes any additional term imposed pursuant to Section 667, 667.5, 667.6, or 12022.1 of the Penal Code, and Section 11370.2 of the Health and Safety Code.

(4) If the charged offense is a misdemeanor or a felony not included within the scope of Section 1170 of the Penal Code, the “maximum term of imprisonment” is the longest term of imprisonment prescribed by law.

(5) “Physical confinement” means placement in a juvenile hall, ranch, camp, forestry camp or secure juvenile home pursuant to Section 730, or in any institution operated by the Department of Corrections and Rehabilitation, Division of Juvenile Justice.

(6) This section does not limit the power of the court to retain jurisdiction over a minor and to make appropriate orders pursuant to Section 727 for the period permitted by Section 607.

(Amended by Stats. 2014, Ch. 71, Sec. 183. (SB 1304) Effective January 1, 2015.)

- **727.**

(a)

(1) If a minor or nonminor is adjudged a ward of the court on the ground that the minor or nonminor is a person described by Section 601 or 602, the court may make any reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the minor or nonminor, including medical treatment, subject to further order of the court.

(2) In the discretion of the court, a ward may be ordered to be on probation without supervision of the probation officer. The court, in so ordering, may impose on the ward any and all reasonable conditions of behavior as may be appropriate under this disposition. A minor or nonminor who has been adjudged a ward of the court on the basis of the commission of any of the offenses described in subdivision (b) or paragraph (2) of subdivision (d) of Section 707, Section 459 of the Penal Code, or subdivision (a) of Section 11350 of the Health and Safety Code, shall not be eligible for probation without supervision of the probation officer. A minor or nonminor who has been adjudged a ward of the court on the basis of the commission of any offense involving the sale or possession for sale of a controlled substance, except misdemeanor offenses involving marijuana, as specified in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, or of an offense in violation of Section 32625 of the Penal Code, shall be eligible for probation without supervision of the probation officer only when the court determines that the interests of justice would best be served and states reasons on the record for that determination.

(3) In all other cases, the court shall order the care, custody, and control of the minor or nonminor to be under the supervision of the probation officer.

(4) It is the responsibility, pursuant to Section 672(a)(2)(B) of Title 42 of the United States Code, of the probation agency to determine the appropriate placement for the ward once the court issues a placement order. In determination of the appropriate placement for the ward,

the probation officer shall consider any recommendations of the child and family. The probation agency may place the minor or nonminor in any of the following:

- (A) The approved home of a relative or the approved home of a nonrelative, extended family member, as defined in Section 362.7. If a decision has been made to place the minor in the home of a relative, the court may authorize the relative to give legal consent for the minor's medical, surgical, and dental care and education as if the relative caregiver were the custodial parent of the minor.
- (B) A foster home, the approved home of a resource family, as defined in Section 16519.5, or a home or facility in accordance with the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).
- (C) A suitable licensed community care facility, as identified by the probation officer, except a youth homelessness prevention center licensed by the State Department of Social Services pursuant to Section 1502.35 of the Health and Safety Code.
- (D) A foster family agency, as defined in subdivision (g) of Section 11400 and paragraph (4) of subdivision (a) of Section 1502 of the Health and Safety Code, in a suitable certified family home or with a resource family.
- (E) A minor or nonminor dependent may be placed in a group home or short-term residential therapeutic program, as defined in subdivision (ad) of Section 11400 and paragraph (18) of subdivision (a) of Section 1502 of the Health and Safety Code. The placing agency shall also comply with requirements set forth in paragraph (9) of subdivision (e) of Section 361.2, which includes, but is not limited to, authorization, limitation on length of stay, extensions, and additional requirements related to minors. For youth 13 years of age and older, the chief probation officer of the county probation department, or their designee, shall approve the placement if it is longer than 12 months, and no less frequently than every 12 months thereafter.
- (F) (i) A minor adjudged a ward of the juvenile court shall be entitled to participate in age-appropriate extracurricular, enrichment, and social activities. A state or local regulation or policy shall not prevent, or create barriers to, participation in those activities. Each state and local entity shall ensure that private agencies that provide foster care services to wards have policies consistent with this section and that those agencies promote and protect the ability of wards to participate in age-appropriate extracurricular, enrichment, and social activities. A short-term residential therapeutic program or a group home administrator, a facility manager, or their responsible designee, and a caregiver, as defined in paragraph (1) of subdivision (a) of Section 362.04, shall use a reasonable and prudent parent standard, as defined in paragraph (2) of subdivision (a) of Section 362.04, in determining whether to give permission for a minor residing in foster care to participate in extracurricular, enrichment, and social activities. A short-term residential therapeutic program or a group home administrator, a facility manager, or their responsible designee, and a caregiver shall take reasonable steps to determine the appropriateness of the activity taking into consideration the minor's age, maturity, and developmental level. For every minor placed in a setting described in subparagraphs (A) through (E), inclusive, age-appropriate extracurricular, enrichment, and social activities shall include access to computer technology and the internet.
- (ii) A short-term residential therapeutic program or a group home administrator, facility manager, or their responsible designee, is encouraged to consult with social work or

treatment staff members who are most familiar with the minor at the group home in applying and using the reasonable and prudent parent standard.

(G) For nonminors, an approved supervised independent living setting, as defined in Section 11400, including a residential housing unit certified by a licensed transitional housing placement provider.

(5) The minor or nonminor shall be released from juvenile detention upon an order being entered under paragraph (3), unless the court determines that a delay in the release from detention is reasonable pursuant to Section 737.

(b)

(1) To facilitate coordination and cooperation among agencies, the court may, at any time after a petition has been filed, after giving notice and an opportunity to be heard, join in the juvenile court proceedings any agency that the court determines has failed to meet a legal obligation to provide services to a minor, for whom a petition has been filed under Section 601 or 602, to a nonminor, as described in Section 303, or to a nonminor dependent, as defined in subdivision (v) of Section 11400. In any proceeding in which an agency is joined, the court shall not impose duties upon the agency beyond those mandated by law. The purpose of joinder under this section is to ensure the delivery and coordination of legally mandated services to the minor. The joinder shall not be maintained for any other purpose. Nothing in this section shall prohibit agencies that have received notice of the hearing on joinder from meeting prior to the hearing to coordinate services.

(2) The court has no authority to order services unless it has been determined through the administrative process of an agency that has been joined as a party, that the minor, nonminor, or nonminor dependent is eligible for those services. With respect to mental health assessment, treatment, and case management services pursuant to an individualized education program developed pursuant to Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of Division 4 of Title 2 of the Education Code, the court's determination shall be limited to whether the agency has complied with that chapter.

(3) For the purposes of this subdivision, "agency" means any governmental agency or any private service provider or individual that receives federal, state, or local governmental funding or reimbursement for providing services directly to a child, nonminor, or nonminor dependent.

(c) If a minor has been adjudged a ward of the court on the ground that the minor is a person described in Section 601 or 602, and the court finds that notice has been given in accordance with Section 661, and if the court orders that a parent or guardian shall retain custody of that minor either subject to or without the supervision of the probation officer, the parent or guardian may be required to participate with that minor in a counseling or education program, including, but not limited to, parent education and parenting programs operated by community colleges, school districts, or other appropriate agencies designated by the court.

(d)

(1) The juvenile court may direct any reasonable orders to the parents and guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out subdivisions (a), (b), and (c), including orders to appear before a county financial evaluation officer, to ensure the minor's regular school attendance, and to make reasonable efforts to obtain appropriate educational services necessary to meet the needs of the minor.

(2) If counseling or other treatment services are ordered for the minor, the parent, guardian, or foster parent shall be ordered to participate in those services, unless participation by the parent, guardian, or foster parent is deemed by the court to be inappropriate or potentially detrimental to the minor.

(e) The court may, after receipt of relevant testimony and other evidence from the parties, affirm or reject the placement determination. If the court rejects the placement determination, the court may instruct the probation department to determine an alternative placement for the ward, or the court may modify the placement order to an alternative placement recommended by a party to the case after the court has received the probation department's assessment of that recommendation and other relevant evidence from the parties.

(Amended by Stats. 2019, Ch. 341, Sec. 15. (AB 1235) Effective January 1, 2020.)

• **729.2.**

If a minor is found to be a person described in Section 601 or 602 and the court does not remove the minor from the physical custody of the parent or guardian, the court as a condition of probation, except in any case in which the court makes a finding and states on the record its reasons that that condition would be inappropriate, shall:

(a) Require the minor to attend a school program approved by the probation officer without absence.

(b) Require the parents or guardian of the minor to participate with the minor in a counseling or education program, including, but not limited to, parent education and parenting programs operated by community colleges, school districts, or other appropriate agencies designated by the court or the probation department, unless the minor has been declared a dependent child of the court pursuant to Section 300 or a petition to declare the minor a dependent child of the court pursuant to Section 300 is pending.

(c) Require the minor to be at his or her legal residence between the hours of 10:00 p.m. and 6:00 a.m. unless the minor is accompanied by his or her parent or parents, legal guardian or other adult person having the legal care or custody of the minor.

(Added by Stats. 1989, Ch. 1117, Sec. 15.)

• **729.10.**

(a) Whenever, in any county specified in subdivision (b), a judge of a juvenile court or referee of a juvenile court finds a minor to be a person described in Section 602 by reason of the commission of an offense involving the unlawful possession, use, sale, or other furnishing of a controlled substance, as defined in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, or for violating subdivision (f) of Section 647 of the Penal Code, or Section 25662 of the Business and Professions Code, the minor shall be required to participate in, and successfully complete, an alcohol or drug education program, or both of those programs, as designated by the court. Whenever it can be done without substantial additional cost, each county shall require that the program be provided for juveniles at a separate location from, or at a different time of day than, alcohol and drug education programs for adults.

(b) This section applies only in those counties that have one or more alcohol or drug education programs certified by the county alcohol program administrator and approved by the board of supervisors.

(Amended by Stats. 2017, Ch. 678, Sec. 15. (SB 190) Effective January 1, 2018.)

- **730.**

(a) When a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 602, the court may order any of the types of treatment referred to in Section 727, and as an additional alternative, may commit the minor to a juvenile home, ranch, camp, or forestry camp. If there is no county juvenile home, ranch, camp, or forestry camp within the county, the court may commit the minor to the county juvenile hall.

(b) When a ward described in subdivision (a) is placed under the supervision of the probation officer or committed to the care, custody, and control of the probation officer, the court may make any and all reasonable orders for the conduct of the ward including the requirement that the ward go to work and earn money for the support of his or her dependents or to effect reparation and in either case that the ward keep an account of his or her earnings and report the same to the probation officer and apply these earnings as directed by the court. The court may impose and require any and all reasonable conditions that it may determine fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced.

(c) When a ward described in subdivision (a) is placed under the supervision of the probation officer or committed to the care, custody, and control of the probation officer, and is required as a condition of probation to participate in community service or graffiti cleanup, the court may impose a condition that if the minor unreasonably fails to attend or unreasonably leaves prior to completing the assigned daily hours of community service or graffiti cleanup, a law enforcement officer may take the minor into custody for the purpose of returning the minor to the site of the community service or graffiti cleanup.

(d) When a minor is adjudged or continued as a ward of the court on the ground that he or she is a person described by Section 602 by reason of the commission of rape, sodomy, oral copulation, or an act of sexual penetration specified in Section 289 of the Penal Code, the court shall order the minor to complete a sex offender treatment program, if the court determines, in consultation with the county probation officer, that suitable programs are available. In determining what type of treatment is appropriate, the court shall consider all of the following: the seriousness and circumstances of the offense, the vulnerability of the victim, the minor's criminal history and prior attempts at rehabilitation, the sophistication of the minor, the threat to public safety, the minor's likelihood of reoffending, and any other relevant information presented. If ordered by the court to complete a sex offender treatment program, the minor shall pay all or a portion of the reasonable costs of the sex offender treatment program after a determination is made of the ability of the minor to pay.

(Amended by Stats. 2014, Ch. 919, Sec. 3. (SB 838) Effective January 1, 2015.)

- **775.**

Any order made by the court in the case of any person subject to its jurisdiction may at any time be changed, modified, or set aside, as the judge deems meet and proper, subject to such procedural requirements as are imposed by this article.

(Repealed and added by Stats. 1961, Ch. 1616.)

- **777.**

An order changing or modifying a previous order by removing a minor from the physical custody of a parent, guardian, relative, or friend and directing placement in a foster home, or commitment to a private institution or commitment to a county institution, or an order changing or modifying a previous order by directing commitment to the Youth Authority shall be made only after a noticed hearing.

(a) The notice shall be made as follows:

- (1) By the probation officer where a minor has been declared a ward of the court or a probationer under Section 601 in the original matter and shall contain a concise statement of facts sufficient to support the conclusion that the minor has violated an order of the court.
- (2) By the probation officer or the prosecuting attorney if the minor is a court ward or probationer under Section 602 in the original matter and the notice alleges a violation of a condition of probation not amounting to a crime. The notice shall contain a concise statement of facts sufficient to support this conclusion.
- (3) Where the probation officer is the petitioner pursuant to paragraph (2), prior to the attachment of jeopardy at the time of the jurisdictional hearing, the prosecuting attorney may make a motion to dismiss the notice and may request that the matter be referred to the probation officer for whatever action the prosecuting or probation officer may deem appropriate.

(b) Upon the filing of such notice, the clerk of the juvenile court shall immediately set the same for hearing within 30 days, and the probation officer shall cause notice of it to be served upon the persons and in the manner prescribed by Sections 658 and 660. Service under this subdivision may be by electronic service pursuant to Section 212.5.

(c) The facts alleged in the notice shall be established by a preponderance of the evidence at a hearing to change, modify, or set aside a previous order. The court may admit and consider reliable hearsay evidence at the hearing to the same extent that such evidence would be admissible in an adult probation revocation hearing, pursuant to the decision in *People v. Brown*, 215 Cal.App.3d (1989) and any other relevant provision of law.

(d) An order for the detention of the minor pending adjudication of the alleged violation may be made only after a hearing is conducted pursuant to Article 15 (commencing with Section 625) of this chapter. Service under this subdivision may be by electronic service pursuant to Section 212.5, but only in addition to other forms of service required by law.

(Amended by Stats. 2017, Ch. 319, Sec. 143. (AB 976) Effective January 1, 2018. Note: This section was amended on March 7, 2000, by initiative Prop. 21.)

- **782.**

A judge of the juvenile court in which a petition was filed may dismiss the petition, or may set aside the findings and dismiss the petition, if the court finds that the interests of justice and the welfare of the person who is the subject of the petition require that dismissal, or if it finds that he or she is not in need of treatment or rehabilitation. The court has jurisdiction to order dismissal or setting aside of the findings and dismissal regardless of whether the person who is the subject of the petition is, at the time of the order, a ward or dependent child of the court. Nothing in this section shall be interpreted to require the court to maintain jurisdiction over a person who is the subject of a petition

between the time the court's jurisdiction over that person terminates and the point at which his or her petition is dismissed.

(Amended by Stats. 2014, Ch. 249, Sec. 1. (SB 1038) Effective January 1, 2015.)

- **786.**

(a) If a person who has been alleged or found to be a ward of the juvenile court satisfactorily completes (1) an informal program of supervision pursuant to Section 654.2, (2) probation under Section 725, or (3) a term of probation for any offense, the court shall order the petition dismissed. The court shall order sealed all records pertaining to the dismissed petition in the custody of the juvenile court, and in the custody of law enforcement agencies, the probation department, or the Department of Justice. The court shall send a copy of the order to each agency and official named in the order, direct the agency or official to seal its records, and specify a date by which the sealed records shall be destroyed. If a record contains a sustained petition rendering the person ineligible to own or possess a firearm until 30 years of age pursuant to Section 29820 of the Penal Code, then the date the sealed records shall be destroyed is the date upon which the person turns 33 years of age. Each agency and official named in the order shall seal the records in its custody as directed by the order, shall advise the court of its compliance, and, after advising the court, shall seal the copy of the court's order that was received. The court shall also provide notice to the person and the person's counsel that it has ordered the petition dismissed and the records sealed in the case. The notice shall include an advisement of the person's right to nondisclosure of the arrest and proceedings, as specified in subdivision (b).

(b) Upon the court's order of dismissal of the petition, the arrest and other proceedings in the case shall be deemed not to have occurred and the person who was the subject of the petition may reply accordingly to an inquiry by employers, educational institutions, or other persons or entities regarding the arrest and proceedings in the case.

(c)

(1) For purposes of this section, satisfactory completion of an informal program of supervision or another term of probation described in subdivision (a) shall be deemed to have occurred if the person has no new findings of wardship or conviction for a felony offense or a misdemeanor involving moral turpitude during the period of supervision or probation and if the person has not failed to substantially comply with the reasonable orders of supervision or probation that are within their capacity to perform. The period of supervision or probation shall not be extended solely for the purpose of deferring or delaying eligibility for dismissal of the petition and sealing of the records under this section.

(2) An unfulfilled order or condition of restitution, including a restitution fine that can be converted to a civil judgment under Section 730.6 or an unpaid restitution fee shall not be deemed to constitute unsatisfactory completion of supervision or probation under this section.

(d) A court shall not seal a record or dismiss a petition pursuant to this section if the petition was sustained based on the commission of an offense listed in subdivision (b) of Section 707 that was committed when the individual was 14 years of age or older unless the finding on that offense was dismissed or was reduced to a misdemeanor or to a lesser offense that is not listed in subdivision (b) of Section 707.

(e) If a person who has been alleged to be a ward of the juvenile court has their petition dismissed by the court, whether on the motion of the prosecution or on the court's own motion, or if the petition is

not sustained by the court after an adjudication hearing, the court shall order sealed all records pertaining to the dismissed petition in the custody of the juvenile court, and in the custody of law enforcement agencies, the probation department, or the Department of Justice. The court shall send a copy of the order to each agency and official named in the order, direct the agency or official to seal its records, and specify a date by which the sealed records shall be destroyed. Each agency and official named in the order shall seal the records in its custody as directed by the order, shall advise the court of its compliance, and, after advising the court, shall seal the copy of the court's order that was received. The court shall also provide notice to the person and the person's counsel that it has ordered the petition dismissed and the records sealed in the case. The notice shall include an advisement of the person's right to nondisclosure of the arrest and proceedings, as specified in subdivision (b).

(f)

(1) The court may, in making its order to seal the record and dismiss the instant petition pursuant to this section, include an order to seal a record relating to, or to dismiss, any prior petition or petitions that have been filed or sustained against the individual and that appear to the satisfaction of the court to meet the sealing and dismissal criteria otherwise described in this section.

(2) An individual who has a record that is eligible to be sealed under this section may ask the court to order the sealing of a record pertaining to the case that is in the custody of a public agency other than a law enforcement agency, the probation department, or the Department of Justice, and the court may grant the request and order that the public agency record be sealed if the court determines that sealing the additional record will promote the successful reentry and rehabilitation of the individual.

(g)

(1) A record that has been ordered sealed by the court under this section may be accessed, inspected, or utilized only under any of the following circumstances:

(A) By the prosecuting attorney, the probation department, or the court for the limited purpose of determining whether the minor is eligible and suitable for deferred entry of judgment pursuant to Section 790 or is ineligible for a program of supervision as defined in Section 654.3.

(B) By the court for the limited purpose of verifying the prior jurisdictional status of a ward who is petitioning the court to resume its jurisdiction pursuant to subdivision (e) of Section 388.

(C) If a new petition has been filed against the minor for a felony offense, by the probation department for the limited purpose of identifying the minor's previous court-ordered programs or placements, and in that event solely to determine the individual's eligibility or suitability for remedial programs or services. The information obtained pursuant to this subparagraph shall not be disseminated to other agencies or individuals, except as necessary to implement a referral to a remedial program or service, and shall not be used to support the imposition of penalties, detention, or other sanctions upon the minor.

(D) Upon a subsequent adjudication of a minor whose record has been sealed under this section and a finding that the minor is a person described by Section 602 based on the commission of a felony offense, by the probation department, the prosecuting attorney, counsel for the minor, or the court for the limited purpose of determining an

appropriate juvenile court disposition. Access, inspection, or use of a sealed record as provided under this subparagraph shall not be construed as a reversal or modification of the court's order dismissing the petition and sealing the record in the prior case.

(E) Upon the prosecuting attorney's motion, made in accordance with Section 707, to initiate court proceedings to determine whether the case should be transferred to a court of criminal jurisdiction, by the probation department, the prosecuting attorney, counsel for the minor, or the court for the limited purpose of evaluating and determining if such a transfer is appropriate. Access, inspection, or use of a sealed record as provided under this subparagraph shall not be construed as a reversal or modification of the court's order dismissing the petition and sealing the record in the prior case.

(F) By the person whose record has been sealed, upon their request and petition to the court to permit inspection of the records.

(G) By the probation department of any county to access the records for the limited purpose of meeting federal Title IV-B and Title IV-E compliance.

(H) The child welfare agency of a county responsible for the supervision and placement of a minor or nonminor dependent may access a record that has been ordered sealed by the court under this section for the limited purpose of determining an appropriate placement or service that has been ordered for the minor or nonminor dependent by the court. The information contained in the sealed record and accessed by the child welfare worker or agency under this subparagraph may be shared with the court but shall in all other respects remain confidential and shall not be disseminated to any other person or agency. Access to the sealed record under this subparagraph shall not be construed as a modification of the court's order dismissing the petition and sealing the record in the case.

(I) By the prosecuting attorney for the evaluation of charges and prosecution of offenses pursuant to Section 29820 of the Penal Code.

(J) By the Department of Justice for the purpose of determining if the person is suitable to purchase, own, or possess a firearm, consistent with Section 29820 of the Penal Code.

(K) (i) A record that has been sealed pursuant to this section may be accessed, inspected, or utilized by the prosecuting attorney in order to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case in which the prosecuting attorney has reason to believe that access to the record is necessary to meet the disclosure obligation. A request to access information in the sealed record for this purpose, including the prosecutor's rationale for believing that access to the information in the record may be necessary to meet the disclosure obligation and the date by which the records are needed, shall be submitted by the prosecuting attorney to the juvenile court. The juvenile court shall notify the person having the sealed record, including the person's attorney of record, that the court is considering the prosecutor's request to access the record, and the court shall provide that person with the opportunity to respond, in writing or by appearance, to the request prior to making its determination. The juvenile court shall review the case file and records that have been referenced by the prosecutor as necessary to meet the disclosure obligation and any response submitted by the person having the sealed record. The court shall approve the prosecutor's request to the extent that the court

has, upon review of the relevant records, determined that access to a specific sealed record or portion of a sealed record is necessary to enable the prosecuting attorney to comply with the disclosure obligation. If the juvenile court approves the prosecuting attorney's request, the court shall state on the record appropriate limits on the access, inspection, and utilization of the sealed record information in order to protect the confidentiality of the person whose sealed record is accessed pursuant to this subparagraph. A ruling allowing disclosure of information pursuant to this subdivision does not affect whether the information is admissible in a criminal or juvenile proceeding. This subparagraph does not impose any discovery obligations on a prosecuting attorney that do not already exist.

(ii) This subparagraph shall not apply to juvenile case files pertaining to matters within the jurisdiction of the juvenile court pursuant to Section 300.

(2) When a record has been sealed by the court based on a dismissed petition pursuant to subdivision (e), the prosecutor, within six months of the date of dismissal, may petition the court to access, inspect, or utilize the sealed record for the limited purpose of refiling the dismissed petition based on new circumstances, including, but not limited to, new evidence or witness availability. The court shall determine whether the new circumstances alleged by the prosecutor provide sufficient justification for accessing, inspecting, or utilizing the sealed record in order to refile the dismissed petition.

(3) Access to, or inspection of, a sealed record authorized by paragraphs (1) and (2) shall not be deemed an unsealing of the record and shall not require notice to any other agency.

(h)

(1) This section does not prohibit a court from enforcing a civil judgment for an unfulfilled order of restitution ordered pursuant to Section 730.6. A minor is not relieved from the obligation to pay victim restitution, restitution fines, and court-ordered fines and fees because the minor's records are sealed.

(2) A victim or a local collection program may continue to enforce victim restitution orders, restitution fines, and court-ordered fines and fees after a record is sealed. The juvenile court shall have access to records sealed pursuant to this section for the limited purpose of enforcing a civil judgment or restitution order.

(i) This section does not prohibit the State Department of Social Services from meeting its obligations to monitor and conduct periodic evaluations of, and provide reports on, the programs carried under federal Title IV-B and Title IV-E as required by Sections 622, 629 et seq., and 671(a)(7) and (22) of Title 42 of the United States Code, as implemented by federal regulation and state statute.

(j) The Judicial Council shall adopt rules of court, and shall make available appropriate forms, providing for the standardized implementation of this section by the juvenile courts.

(Amended by Stats. 2019, Ch. 50, Sec. 3. (AB 1537) Effective January 1, 2020.)

Government Code

- **11135.**

(a) No person in the State of California shall, on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state. Notwithstanding Section 11000, this section applies to the California State University.

(b) With respect to discrimination on the basis of disability, programs and activities subject to subdivision (a) shall meet the protections and prohibitions contained in Section 202 of the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, except that if the laws of this state prescribe stronger protections and prohibitions, the programs and activities subject to subdivision (a) shall be subject to the stronger protections and prohibitions.

(c) The protected bases referenced in this section have the same meanings as those terms are defined in Section 12926.

(d) The protected bases used in this section include a perception that a person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(Amended by Stats. 2016, Ch. 870, Sec. 4. (SB 1442) Effective January 1, 2017.)

Rules of Court

- **Rule 5.752. Initial hearing; detention hearings; time limit on custody; setting jurisdiction hearing**

(a) Child not detained; filing petition, setting hearing

If the child is not taken into custody and the authorized petitioner (district attorney or probation officer) determines that a petition or notice of probation violation concerning the child should be filed, the petition or notice must be filed with the clerk of the juvenile court as soon as possible. The clerk must set an initial hearing on the petition within 15 court days.

(Subd (a) amended effective January 1, 2007.)

(b) Time limit on custody; filing petition (§§ 604, 631, 631.1)

A child must be released from custody within 48 hours, excluding noncourt days, after first being taken into custody unless a petition or notice of probation violation has been filed either within that time or before the time the child was first taken into custody.

(Subd (b) amended effective January 1, 2007.)

(c) Time limit on custody-willful misrepresentation of age (§ 631.1)

If the child willfully misrepresents the child's age to be 18 years or older, and this misrepresentation causes an unavoidable delay in investigation that prevents the filing of a petition or of a criminal complaint within 48 hours, excluding noncourt days, after the child has been taken into custody, the child must be released unless a petition or complaint has been filed within 48 hours, excluding noncourt days, from the time the true age is determined.

(Subd (c) amended effective January 1, 2007.)

(d) Time limit on custody-certification of child detained in custody (§ 604)

A child must be released from custody within 48 hours, excluding noncourt days, after certification to juvenile court under rules 4.116 and 5.516(d) unless a petition has been filed.

(Subd (d) amended effective January 1, 2007.)

(e) Time limit for detention hearing-warrant or nonward charged with nonviolent misdemeanor (§ 632)

A detention hearing must be set and commenced as soon as possible, but no later than 48 hours, excluding noncourt days, after the child has been taken into custody, if:

- (1) The child has been taken into custody on a warrant or by the authority of the probation officer; or
- (2) The child is not on probation or parole and is alleged to have committed a misdemeanor not involving violence, the threat of violence, or the possession or use of a weapon.

(Subd (e) amended effective January 1, 2007.)

(f) Time limit for detention hearing-felony, violent misdemeanor, or ward (§?? 632)

A detention hearing must be set and commenced as soon as possible, but no later than the expiration of the next court day after the petition or notice of probation violation has been filed, if:

- (1) The child is alleged to have committed a felony;
- (2) The child is alleged to have committed a misdemeanor involving violence, the threat of violence, or the possession or use of a weapon; or
- (3) The child is a ward currently on probation or parole.

(Subd (f) amended effective January 1, 2007.)

(g) Time limit for hearing-arrival at detention facility (§ 632)

A detention hearing must be set and commenced as soon as possible, but no later than 48 hours, excluding noncourt days, after the child arrives at a detention facility within the county if:

- (1) The child was taken into custody in another county and transported in custody to the requesting county;
- (2) The child was ordered transported in custody when transferred by the juvenile court of another county under rule 5.610; or
- (3) The child is a ward temporarily placed in a secure facility pending a change of placement.

(Subd (g) amended effective January 1, 2007.)

(h) Time limit for hearing-violation of home supervision (§§ 628.1, 636)

A child taken into custody for a violation of a written condition of home supervision, which the child has promised in writing to obey under section 628.1 or 636, must be brought before the court for a detention hearing as soon as possible, but no later than 48 hours, excluding noncourt days, after the child was taken into custody.

(Subd (h) amended effective January 1, 2007.)

(i) Time limits-remedy for not observing (§§ 632, 641)

If the detention hearing is not commenced within the time limits, the child must be released immediately, or, if the child is a ward under section 602 awaiting a change of placement, the child must be placed in a suitable, nonsecure facility.

(Subd (i) amended effective January 1, 2007.)

Rule 5.752 amended and renumbered effective January 1, 2007; repealed and adopted as rule 1471 effective January 1, 1998.

- **Rule 5.778. Commencement of hearing on section 601 or section 602 petition; right to counsel; advisement of trial rights; admission, no contest**

(a) Petition read and explained (§ 700)

At the beginning of the jurisdiction hearing, the petition must be read to those present. On request of the child, or the parent, guardian, or adult relative, the court must explain the meaning and contents of the petition, the nature of the hearing, the procedures of the hearing, and possible consequences.

(Subd (a) amended effective January 1, 2007.)

(b) Rights explained (§ 702.5)

After giving the advisement required by rule 5.534, the court must advise those present of each of the following rights of the child:

- (1) The right to a hearing by the court on the issues raised by the petition;
- (2) The right to assert the privilege against self-incrimination;
- (3) The right to confront and to cross-examine any witness called to testify against the child; and
- (4) The right to use the process of the court to compel the attendance of witnesses on the child's behalf.

(Subd (b) amended effective January 1, 2007.)

(c) Admission of allegations; prerequisites to acceptance

The court must then inquire whether the child intends to admit or deny the allegations of the petition. If the child neither admits nor denies the allegations, the court must state on the record that the child does not admit the allegations. If the child wishes to admit the allegations, the court must first find and state on the record that it is satisfied that the child understands the nature of the allegations and the direct consequences of the admission, and understands and waives the rights in (b).

(Subd (c) amended effective January 1, 2007.)

(d) Consent of counsel-child must admit

Counsel for the child must consent to the admission, which must be made by the child personally.

(Subd (d) amended effective January 1, 2007.)

(e) No contest

The child may enter a plea of no contest to the allegations, subject to the approval of the court.

(f) Findings of the court (§ 702)

On an admission or plea of no contest, the court must make the following findings noted in the minutes of the court:

- (1) Notice has been given as required by law;

- (2) The birthdate and county of residence of the child;
- (3) The child has knowingly and intelligently waived the right to a hearing on the issues by the court, the right to confront and cross-examine adverse witnesses and to use the process of the court to compel the attendance of witnesses on the child's behalf, and the right to assert the privilege against self-incrimination;
- (4) The child understands the nature of the conduct alleged in the petition and the possible consequences of an admission or plea of no contest;
- (5) The admission or plea of no contest is freely and voluntarily made;
- (6) There is a factual basis for the admission or plea of no contest;
- (7) Those allegations of the petition as admitted are true as alleged;
- (8) The child is described by section 601 or 602; and
- (9) In a section 602 matter, the degree of the offense and whether it would be a misdemeanor or felony had the offense been committed by an adult. If any offense may be found to be either a felony or misdemeanor, the court must consider which description applies and expressly declare on the record that it has made such consideration and must state its determination as to whether the offense is a misdemeanor or a felony. These determinations may be deferred until the disposition hearing.

(Subd (f) amended effective January 1, 2007; previously amended effective January 1, 1998.)

(g) Disposition

After accepting an admission or plea of no contest, the court must proceed to disposition hearing under rules 5.782 and 5.785.

(Subd (g) amended effective January 1, 2007.)

Rule 5.778 amended and renumbered effective January 1, 2007; adopted as rule 1487 effective January 1, 199; previously amended effective January 1, 1998.

- **Rule 5.780. Contested hearing on section 601 or section 602 petition**

(a) Contested jurisdiction hearing (§ 701)

If the child denies the allegations of the petition, the court must hold a contested hearing to determine whether the allegations in the petition are true.

(Subd (a) amended effective January 1, 2007.)

(b) Admissibility of evidence-general (§ 701)

In a section 601 matter, the admission and exclusion of evidence must be in accordance with the Evidence Code as it applies in civil cases. In a section 602 matter, the admission and exclusion of evidence must be in accordance with the Evidence Code as it applies in criminal cases.

(Subd (b) amended effective January 1, 2007.)

(c) Probation reports

Except as otherwise provided by law, the court must not read or consider any portion of a probation report relating to the contested petition before or during a contested jurisdiction hearing.

(Subd (c) amended effective January 1, 2007.)

(d) Unrepresented children (§ 701)

If the child is not represented by counsel, objections that could have been made to the evidence must be deemed made.

(Subd (d) amended effective January 1, 2007.)

(e) Findings of court-allegations true (§ 702)

If the court determines by a preponderance of the evidence in a section 601 matter, or by proof beyond a reasonable doubt in a section 602 matter, that the allegations of the petition are true, the court must make findings on each of the following, noted in the order:

- (1) Notice has been given as required by law;
- (2) The birthdate and county of residence of the child;
- (3) The allegations of the petition are true;
- (4) The child is described by section 601 or 602; and
- (5) In a section 602 matter, the degree of the offense and whether it would be a misdemeanor or a felony had the offense been committed by an adult. If any offense may be found to be either a felony or a misdemeanor, the court must consider which description applies and expressly declare on the record that it has made such consideration, and must state its determination as to whether the offense is a misdemeanor or a felony. These determinations may be deferred until the disposition hearing.

(Subd (e) amended effective January 1, 2007; previously amended effective January 1, 1998.)

(f) Disposition

After making the findings in (e), the court must then proceed to disposition hearing under rules 5.782 and 5.785.

(Subd (f) amended effective January 1, 2007.)

(g) Findings of court-allegations not proved (§ 702)

If the court determines that the allegations of the petition have not been proved by a preponderance of the evidence in a 601 matter, or beyond a reasonable doubt in a 602 matter, the court must make findings on each of the following, noted in the order:

- (1) Notice has been given as required by law;
- (2) The birthdate and county of residence of the child; and
- (3) The allegations of the petition have not been proved.

The court must dismiss the petition and terminate detention orders related to this petition.

(Subd (g) amended effective January 1, 2007.)

Rule 5.780 amended and renumbered effective January 1, 2007; adopted as rule 1488 effective January 1, 1991; previously amended effective January 1, 1998.

Federal Statutes

U.S. Code Title 42. THE PUBLIC HEALTH AND WELFARE Chapter 126. EQUAL OPPORTUNITY FOR INDIVIDUALS WITH DISABILITIES Subchapter II. PUBLIC SERVICES Part A. Prohibition Against Discrimination and Other Generally Applicable Provisions Section 12132. Discrimination

(42 U.S.C. § 12132 Discrimination)

Subject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.