



Part 6 NON-CUSTODIAL RESIDENTIAL OPTIONS FOR YOUTH 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 6: A Legal Map of Non-Custodial Residential Options for Youth in California.¹ For all maps in the series, visit our website: www.ylc.org/navigate-juvenile-justice-law.

Education Code

- **56345.**

(a) The individualized education program is a written statement for each individual with exceptional needs that is developed, reviewed, and revised in accordance with this section, as required by Section 1414(d) of Title 20 of the United States Code, and that includes the following:

(1) A statement of the individual's present levels of academic achievement and functional performance, including the following:

(A) The manner in which the disability of the individual affects his or her involvement and progress in the general education curriculum.

(B) For preschool children, as appropriate, the manner in which the disability affects his or her participation in appropriate activities.

(C) For individuals with exceptional needs who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives.

(2) A statement of measurable annual goals, including academic and functional goals, designed to do the following:

(A) Meet the needs of the individual that result from the disability of the individual to enable the pupil to be involved in and make progress in the general education curriculum.

(B) Meet each of the other educational needs of the pupil that result from the disability of the individual.

(3) A description of the manner in which the progress of the pupil toward meeting the annual goals described in paragraph (2) will be measured and when periodic reports on the progress the pupil is making toward meeting the annual goals, such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards, will be provided.

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

(4) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the pupil, or on behalf of the pupil, and a statement of the program modifications or supports for school personnel that will be provided to enable the pupil to do the following:

(A) To advance appropriately toward attaining the annual goals.

(B) To be involved in and make progress in the general education curriculum in accordance with paragraph (1) and to participate in extracurricular and other nonacademic activities.

(C) To be educated and participate with other individuals with exceptional needs and nondisabled pupils in the activities described in this subdivision.

(5) An explanation of the extent, if any, to which the pupil will not participate with nondisabled pupils in the regular class and in the activities described in subparagraph (C) of paragraph (4).

(6) (A) A statement of individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the pupil on state and districtwide assessments consistent with Section 1412(a)(16)(A) of Title 20 of the United States Code.

(B) If the individualized education program team determines that the pupil shall take an alternate assessment instead of a particular state or districtwide assessment of pupil achievement, a statement of the following:

(i) The reason why the pupil cannot participate in the regular assessment.

(ii) The reason why the particular alternate assessment selected is appropriate for the pupil.

(7) The projected date for the beginning of the services and modifications described in paragraph (4), and the anticipated frequency, location, and duration of those services and modifications.

(8) Beginning not later than the first individualized education program to be in effect when the pupil is 16 years of age, or younger if determined appropriate by the individualized education program team, and updated annually thereafter, the following shall be included:

(A) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills.

(B) The transition services, as defined in Section 56345.1, including courses of study, needed to assist the pupil in reaching those goals.

(b) If appropriate, the individualized education program shall also include, but not be limited to, all of the following:

(1) For pupils in grades 7 to 12, inclusive, any alternative means and modes necessary for the pupil to complete the prescribed course of study of the district and to meet or exceed proficiency standards for graduation.

(2) For individuals whose native language is other than English, linguistically appropriate goals, objectives, programs, and services.

(3) Pursuant to Section 300.106 of Title 34 of the Code of Federal Regulations, extended school year services shall be included in the individualized education program and provided to the pupil if the individualized education program team of the pupil determines, on an individual basis, that the services are necessary for the provision of a free appropriate public education to the pupil.

(4) Provision for the transition into the regular class program if the pupil is to be transferred from a special class or nonpublic, nonsectarian school into a regular class in a public school for any part of the schoolday, including the following:

(A) A description of activities provided to integrate the pupil into the regular education program. The description shall indicate the nature of each activity, and the time spent on the activity each day or week.

(B) A description of the activities provided to support the transition of pupils from the special education program into the regular education program.

(5) For pupils with low-incidence disabilities, specialized services, materials, and equipment, consistent with guidelines established pursuant to Section 56136.

(c) It is the intent of the Legislature in requiring individualized education programs, that the local educational agency is responsible for providing the services delineated in the individualized education program. However, the Legislature recognizes that some pupils may not meet or exceed the growth projected in the annual goals and objectives of the individualized education program of the pupil.

(d) Consistent with Section 56000.5 and Section 1414(d)(3)(B)(iv) of Title 20 of the United States Code, it is the intent of the Legislature that, in making a determination of the services that constitute an appropriate education to meet the unique needs of a deaf or hard-of-hearing pupil in the least restrictive environment, the individualized education program team shall consider the related services and program options that provide the pupil with an equal opportunity for communication access. The individualized education program team shall specifically discuss the communication needs of the pupil, consistent with “Deaf Students Education Services Policy Guidance” (57 Fed. Reg. 49274 (October 1992)), including all of the following:

(1) The pupil’s primary language mode and language, which may include the use of spoken language with or without visual cues, or the use of sign language, or a combination of both.

(2) The availability of a sufficient number of age, cognitive, and language peers of similar abilities, which may be met by consolidating services into a local plan areawide program or providing placement pursuant to Section 56361.

(3) Appropriate, direct, and ongoing language access to special education teachers and other specialists who are proficient in the pupil’s primary language mode and language consistent with existing law regarding teacher training requirements.

(4) Services necessary to ensure communication-accessible academic instructions, school services, and extracurricular activities consistent with the federal Vocational Rehabilitation Act of 1973 (29 U.S.C. Sec. 794 et seq.) and the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.).

(5) In accordance with Section 300.113 of Title 34 of the Code of Federal Regulations, each public agency shall ensure that hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly.

(6) Subject to paragraph (7), each public agency, pursuant to Section 300.113(b) of Title 34 of the Code of Federal Regulations, shall ensure that external components of surgically implanted medical devices are functioning properly.

(7) For a child with a surgically implanted medical device who is receiving special education and a service under Section 56363, a public agency is not responsible for the postsurgical maintenance,

programming, or replacement of the medical device that has been surgically implanted, or of an external component of the surgically implanted medical device.

(e) State moneys appropriated to districts or local educational agencies may not be used for any additional responsibilities and services associated with paragraphs (1) and (2) of subdivision (d), including the training of special education teachers and other specialists, even if those additional responsibilities or services are required pursuant to a judicial or state agency determination. Those responsibilities and services shall only be funded by a local educational agency as follows:

- (1) The costs of those activities shall be funded from existing programs and funding sources.
- (2) Those activities shall be supported by the resources otherwise made available to those programs.
- (3) Those activities shall be consistent with Sections 56240 to 56243, inclusive.

(f) It is the intent of the Legislature that the communication skills of teachers who work with hard-of-hearing and deaf children be improved. This section does not remove the discretionary authority of the local educational agency in regard to in-service activities.

(g) Beginning not later than one year before the pupil reaches the age of 18 years, a statement that the pupil has been informed of the pupil's rights under this part, if any, that will transfer to the pupil upon reaching the age of 18 years pursuant to Section 56041.5.

(h) The individualized education program team is not required to include information under one component of a pupil's individualized education program that is already contained under another component of the individualized education program.

(i) This section does not require that additional information, beyond that explicitly required by Section 1414 of Title 20 of the United States Code and this part, be included in the individualized education program of a pupil.

(Amended by Stats. 2007, Ch. 454, Sec. 20. Effective October 10, 2007.)

Health & Safety Code

- **1502.**

As used in this chapter:

(a) "Community care facility" means any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult daycare, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the department, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Adult day program" means any community-based facility or program that provides care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of these individuals on less than a 24-hour basis.

(3) “Therapeutic day services facility” means any facility that provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with therapeutic day services and foster care providers.

(4) “Foster family agency” means any public agency or private organization, organized and operated on a nonprofit basis, engaged in any of the following:

(A) Recruiting, certifying, approving, and training of, and providing professional support to, foster parents and resource families.

(B) Coordinating with county placing agencies to find homes for foster children in need of care.

(C) Providing services and supports to licensed or certified foster parents, county-approved resource families, and children to the extent authorized by state and federal law.

(5) “Foster family home” means any residential facility providing 24-hour care for six or fewer foster children that is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian. It also means a foster family home described in Section 1505.2.

(6) “Small family home” means any residential facility, in the licensee’s family residence, that provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities. A small family home may accept children with special health care needs, pursuant to subdivision (a) of Section 17710 of the Welfare and Institutions Code. In addition to placing children with special health care needs, the department may approve placement of children without special health care needs, up to the licensed capacity.

(7) “Social rehabilitation facility” means any residential facility that provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Article 1 (commencing with Section 5670) of Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code.

(8) “Community treatment facility” means any residential facility that provides mental health treatment services to children in a group setting and that has the capacity to provide secure containment. Program components shall be subject to program standards developed and enforced by the State Department of Health Care Services pursuant to Section 4094 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(9) (A) “Full-service adoption agency” means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(i) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

(ii) Assesses the birth parents, prospective adoptive parents, or child.

(iii) Places children for adoption.

(iv) Supervises adoptive placements.

(B) Private full-service adoption agencies shall be organized and operated on a nonprofit basis. As a condition of licensure to provide intercountry adoption services, a full-service adoption agency shall be accredited and in good standing according to Part 96 (commencing with Section 96.1) of Title 22 of the Code of Federal Regulations, or supervised by an accredited primary provider, or acting as an exempted provider, in compliance with Subpart F (commencing with Section 96.29) of Part 96 of Title 22 of the Code of Federal Regulations.

(10) (A) “Noncustodial adoption agency” means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(i) Assesses the prospective adoptive parents.

(ii) Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved adoptive applicants.

(iii) Cooperatively supervises adoption placements with a full-service adoptive agency, but does not disrupt a placement or remove a child from a placement.

(B) Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis. As a condition of licensure to provide intercountry adoption services, a noncustodial adoption agency shall be accredited and in good standing according to Part 96 (commencing with Section 96.1) of Title 22 of the Code of Federal Regulations, or supervised by an accredited primary provider, or acting as an exempted provider, in compliance with Subpart F (commencing with Section 96.29) of Part 96 of Title 22 of the Code of Federal Regulations.

(11) “Transitional shelter care facility” means any group care facility that provides for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual. Program components shall be subject to program standards developed by the State Department of Social Services pursuant to Section 1502.3.

(12) “Transitional housing placement provider” means an organization licensed by the department pursuant to Section 1559.110 to provide transitional housing to foster children who are at least 16 years of age to promote their transition to adulthood. A transitional housing placement provider shall be privately operated and organized on a nonprofit basis.

(13) “Group home” means a residential facility that provides 24-hour care and supervision to children, delivered at least in part by staff employed by the licensee in a structured environment. The care and supervision provided by a group home shall be nonmedical, except as otherwise permitted by law.

(14) “Youth homelessness prevention center” means a group home licensed by the department to operate a program pursuant to Section 1502.35 to provide voluntary, short-term, shelter and personal services to homeless youth, youth who are at risk of homelessness, youth who are exhibiting status offender behavior, or runaway youth, as defined in paragraph (2) of subdivision (a) of Section 1502.35.

(15) “Enhanced behavioral supports home” means a facility certified by the State Department of Developmental Services pursuant to Article 3.6 (commencing with Section 4684.80) of Chapter 6 of Division 4.5 of the Welfare and Institutions Code, and licensed by the State Department of Social Services as an adult residential facility or a group home that provides 24-hour nonmedical care to individuals with developmental disabilities who require enhanced behavioral supports, staffing, and

supervision in a homelike setting. An enhanced behavioral supports home shall have a maximum capacity of four consumers, shall conform to Section 441.530(a)(1) of Title 42 of the Code of Federal Regulations, and shall be eligible for federal Medicaid home- and community-based services funding.

(16) “Community crisis home” means a facility certified by the State Department of Developmental Services pursuant to Article 8 (commencing with Section 4698) of Chapter 6 of Division 4.5 of the Welfare and Institutions Code, and licensed by the State Department of Social Services pursuant to Article 9.7 (commencing with Section 1567.80), as an adult residential facility, providing 24-hour nonmedical care to individuals with developmental disabilities receiving regional center service, in need of crisis intervention services, and who would otherwise be at risk of admission to the acute crisis center at Fairview Developmental Center, Sonoma Developmental Center, an acute general hospital, acute psychiatric hospital, an institution for mental disease, as described in Part 5 (commencing with Section 5900) of Division 5 of the Welfare and Institutions Code, or an out-of-state placement. A community crisis home shall have a maximum capacity of eight consumers, as defined in subdivision (a) of Section 1567.80, shall conform to Section 441.530(a)(1) of Title 42 of the Code of Federal Regulations, and shall be eligible for federal Medicaid home- and community-based services funding.

(17) “Crisis nursery” means a facility licensed by the department to operate a program pursuant to Section 1516 to provide short-term care and supervision for children under six years of age who are voluntarily placed for temporary care by a parent or legal guardian due to a family crisis or stressful situation.

(18) “Short-term residential therapeutic program” means a residential facility operated by a public agency or private organization and licensed by the department pursuant to Section 1562.01 that provides an integrated program of specialized and intensive care and supervision, services and supports, treatment, and short-term, 24-hour care and supervision to children. The care and supervision provided by a short-term residential therapeutic program shall be nonmedical, except as otherwise permitted by law. Private short-term residential therapeutic programs shall be organized and operated on a nonprofit basis. A short-term residential therapeutic program may be operated as a children’s crisis residential program.

(19) “Private alternative boarding school” means a group home licensed by the department to operate a program pursuant to Section 1502.2 to provide youth with 24-hour residential care and supervision, which, in addition to providing educational services to youth, provides, or holds itself out as providing, behavioral-based services to youth with social, emotional, or behavioral issues. The care and supervision provided by a private alternative boarding school shall be nonmedical, except as otherwise permitted by law.

(20) “Private alternative outdoor program” means a group home licensed by the department to operate a program pursuant to Section 1502.21 to provide youth with 24-hour residential care and supervision, which provides, or holds itself out as providing, behavioral-based services in an outdoor living setting to youth with social, emotional, or behavioral issues. The care and supervision provided by a private alternative outdoor program shall be nonmedical, except as otherwise permitted by law.

(21) “Children’s crisis residential program” means a facility licensed by the department as a short-term residential therapeutic program pursuant to Section 1562.02 and approved by the State Department of Health Care Services, or a county mental health plan to which the State Department of Health Care Services has delegated approval authority, to operate a children’s crisis residential mental health program approval pursuant to Section 11462.011 of the Welfare and Institutions Code, to serve children experiencing mental health crises as an alternative to psychiatric hospitalization.

(b) “Department” or “state department” means the State Department of Social Services.

(c) “Director” means the Director of Social Services.

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

• **1502.35.**

(a) The department shall license a youth homelessness prevention center as a group home pursuant to this section. A youth homelessness prevention center shall meet all of the following requirements:

(1) The center shall offer short-term, 24-hour, nonmedical care and supervision and personal services to youth who voluntarily enter the center. As used in this paragraph, “short-term” means no more than 90 consecutive days from the date of admission.

(2) The center shall serve homeless youth, youth at risk of homelessness, youth exhibiting status offender behavior, and runaway youth.

(A) “Homeless youth” means a youth 12 to 17 years of age, inclusive, or 18 years of age if the youth is completing high school or its equivalent, who is in need of services and without a place of center.

(B) “Runaway youth” means a youth 12 to 17 years of age, inclusive, or 18 years of age if the youth is completing high school or its equivalent, who absents themselves from home or place of legal residence without the permission of their family, legal guardian, or foster parent.

(C) “Youth at risk of homelessness” means a youth 12 to 17 years of age, inclusive, or 18 years of age if the youth is completing high school or its equivalent, to whom one or more of the following circumstances apply:

(i) Identification as lesbian, gay, bisexual, transgender, queer, or questioning (LGBTQ).

(ii) Financial stress, including, but not limited to, stress due to their own or family loss of income, low income, gambling, or change of family circumstances.

(iii) Housing affordability stress or housing crisis, including, but not limited to, pending evictions or foreclosures of the current home, or rental or mortgage arrears.

(iv) Inadequate or inappropriate dwelling conditions, including, but not limited to, accommodations that are unsafe, unsuitable, or overcrowded.

(v) Loss of previous housing accommodation.

(vi) Relationship or family breakdown.

(vii) Child abuse, neglect, or living in an environment where children are at risk of child abuse or neglect.

(viii) Sexual abuse.

(ix) Domestic or family violence.

(x) Nonfamily violence.

(xi) Mental health issues or other health problems.

(xii) Problematic alcohol, drug, or substance use.

(xiii) Employment difficulties or unemployment.

(xiv) Problematic gambling.

(xv) Transitions from custodial and care arrangements, including, but not limited to, out-of-home care, independent living arrangements for children under 18 years of age, or health and mental health care facilities or programs.

(xvi) Discrimination, including, but not limited to, racial discrimination.

(xvii) Disengagement with school or other education and training.

(xviii) Involvement in, or exposure to, criminal activities.

(xix) Antisocial behavior.

(xx) Lack of family or community support.

(xxi) Staying in boarding housing for 12 weeks or more without security of tenure.

(D) “Youth exhibiting status offender behavior” means a youth 12 to 17 years of age, inclusive, or 18 years of age if the youth is completing high school or its equivalent, who persistently or habitually refuses to obey the reasonable and proper orders or directions of their parents, guardian, or custodian, or who is beyond the control of that person, or who violates an ordinance of a city or county establishing a curfew based solely on age.

(3) The center shall have a maximum capacity of 25 youths.

(4) The center shall have a ratio of one staff person to every eight youths. For purposes of this paragraph, a volunteer may be counted in the staff-to-youth ratio if the volunteer has satisfied the same training requirements as a paid center staff member and other requirements set forth in regulations, and a paid center staff member is present during the time the volunteer is on duty.

(5) Bunk beds may be permitted in the center, but shall not consist of more than two tiers.

(6) The center shall be owned and operated on a nonprofit basis by a private nonprofit corporation, a nonprofit organization, or a public agency.

(b) Center staff shall, prior to admission into the center, determine if a youth poses a threat to self or others in the center. A youth may not be admitted into the center if it is determined that the youth poses such a threat.

(c) An assessment shall not be required for admission, but center staff shall assess youth served within 72 hours of admission to the center.

(d) Center staff shall assist youth served in obtaining emergency health-related services.

(e) The center shall establish procedures to assist youth in securing long-term stability that includes all of the following:

(1) Reconnecting the youth with their family, legal guardian, or nonrelative extended family members when possible to do so.

(2) Coordinating with appropriate individuals, local government agencies, or organizations to help foster youth secure a suitable foster care placement.

(f) The center shall ensure all youth at the center have fair and equal access to services, care, and treatment provided by the center, and are not subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

(g) Prior to employment or interaction with youth at a homeless youth prevention center, all persons specified in subdivision (b) of Section 1522 shall complete a criminal record review pursuant to Section 1522 and a Child Abuse Central Index check pursuant to Section 1522.1.

(h) A youth homelessness prevention center shall collect and maintain all of the following information in a monthly report, in a format specified by the department, and make the report available to the department upon request:

(1) Total number of youth served per month.

(2) Age of each youth served.

(3) Length of stay of each youth served.

(4) Number of times a youth accesses the center and services at the center.

(i) Notwithstanding Section 1522.43, the department shall not require a youth homelessness prevention center to maintain a needs and services plan, as defined in Section 84001 of Title 22 of the California Code of Regulations, for a youth served. Nothing in this subdivision precludes the department from requiring a youth homelessness prevention center to maintain an assessment, as defined by the department, for youths served.

(j) The department may license a center pursuant to this section if the center is operating in two physical locations on or before January 1, 2013, with only one physical location providing overnight residential care, and the center meets the requirements of this section. If a center described in this subdivision is licensed pursuant to this section, the department shall permit the center to retain its two physical locations and issue a license for each physical location.

(k) A youth homelessness prevention center is not an eligible placement option pursuant to Sections 319, 361.2, 450, and 727 of the Welfare and Institutions Code.

(l) A youth homelessness prevention center's program shall not be eligible for a rate pursuant to Section 11462 of the Welfare and Institutions Code. This does not preclude a center from receiving reimbursement for providing services to a foster youth, as may be provided at the discretion of a county.

(m) The department shall adopt regulations to implement this section, in consultation with interested parties, including representatives of provider organizations that serve homeless or runaway youth. The regulations developed pursuant to this subdivision shall be contained in the regulations for group homes found in Chapter 5 (commencing with Section 84000) of Division 6 of Title 22 of the California Code of Regulations.

(n) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement the applicable provisions of this section by publishing information releases or similar instructions from the director until the regulations adopted by the department pursuant to subdivision (m) become effective.

(Amended by Stats. 2019, Ch. 341, Sec. 2. (AB 1235) Effective January 1, 2020.)

Welfare & Institutions Code

- **281.5.**

If a probation officer determines to recommend to the court that a minor alleged to come within Section 300, 601, or 602, or adjudged to come within Section 300, 601, or 602 should be removed from the physical custody of his parent or guardian, the probation officer shall give primary consideration to recommending to the court that the minor be placed with a relative of the minor, if such placement is in the best interests of the minor and will be conducive to reunification of the family.

(Added by Stats. 1977, Ch. 236.)

- **307.5.**

Notwithstanding the provisions of Section 307, an officer who takes a minor suspected of being a person described in Section 300 into temporary custody pursuant to subdivision (a) of Section 305 may, in a case where he or she deems that it is in the best interest of the minor and the public, take the minor to a community service program for abused or neglected children. Organizations or programs receiving referrals pursuant to this section shall have a contract or an agreement with the county to provide shelter care or counseling. Employees of a program receiving referrals pursuant to this section are “child care custodians” for the purpose of the requirements of Section 11165.7 of the Penal Code. The receiving organization shall take immediate steps to notify the minor’s parent, guardian, or a responsible relative of the place to which the minor was taken.

(Amended by Stats. 1989, Ch. 913, Sec. 5.)

- **450.**

(a) A minor or nonminor who satisfies all of the following criteria is within the transition jurisdiction of the juvenile court:

(1) (A) The minor is a ward who is older than 17 years and 5 months of age and younger than 18 years of age and in foster care placement, or the nonminor is a ward in foster care placement who was a ward subject to an order for foster care placement on the day the nonminor attained 18 years of age and has not attained 21 years of age.

(B) The minor or nonminor met or would meet the criteria in subparagraph (A), but for the fact that the underlying adjudication was vacated pursuant to Section 236.14 of the Penal Code, and the minor or nonminor has not attained 21 years of age.

(2) The ward meets any of the following conditions:

(A) The ward was removed from the physical custody of the ward’s parents or legal guardian, adjudged to be a ward of the juvenile court under Section 725, and ordered into foster care placement as a ward.

(B) The ward was removed from the custody of the ward’s parents or legal guardian as a dependent of the court with an order for foster care placement as a dependent in effect at the time the court adjudged them to be a ward of the juvenile court under Section 725.

(C) The minor or nonminor met or would meet the conditions described in subparagraph (A) or (B), but for the fact that the underlying adjudication was vacated pursuant to Section 236.14 of the Penal Code, and the minor or nonminor has not attained 21 years of age.

(3) The rehabilitative goals of the minor or nonminor, as set forth in the case plan, have been met, and juvenile court jurisdiction over the minor or nonminor as a ward is no longer required, or the underlying adjudication was vacated pursuant to Section 236.14 of the Penal Code.

(4) (A) If the ward is a minor, reunification services have been terminated; the matter has not been set for a hearing for termination of parental rights pursuant to Section 727.3 or for the establishment of guardianship pursuant to Section 728; the return of the child to the physical custody of the parents or legal guardian would create a substantial risk of detriment to the child's safety, protection, or physical or emotional well-being; and the minor has indicated an intent to sign a mutual agreement, as described in subdivision (u) of Section 11400, with the responsible agency for placement in a supervised setting as a nonminor dependent.

(B) If the ward is a nonminor, the ward has signed a mutual agreement, as described in subdivision (u) of Section 11400, with the responsible agency for placement in a supervised setting as a nonminor dependent or has signed a voluntary reentry agreement, as described in subdivision (z) of Section 11400, for placement in a supervised setting as a nonminor dependent. A youth homelessness prevention center licensed by the State Department of Social Services pursuant to Section 1502.35 of the Health and Safety Code shall not be a placement option pursuant to this section.

(b) A minor who is subject to the court's transition jurisdiction shall be referred to as a transition dependent.

(c) A youth subject to the court's transition jurisdiction who is 18 years of age or older shall be referred to as a nonminor dependent.

(Amended by Stats. 2019, Ch. 341, Sec. 14. (AB 1235) Effective January 1, 2020.)

- **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.)

• **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) 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.)

- **636.1.**

(a) When a minor is detained pursuant to Section 636 following a finding by the court that continuance in the home is contrary to the minor's welfare and the minor is at risk of entering foster care, the probation officer shall, within 60 calendar days of initial removal, or by the date of the disposition hearing, whichever occurs first, complete a case plan.

(b) If the probation officer believes that reasonable efforts by the minor, his or her parent or legal guardian, and the probation officer will enable the minor to safely return home, the case plan shall focus on those issues and activities associated with those efforts, including a description of the strengths and needs of the minor and his or her family and identification of the services that will be provided to the minor and his or her family in order to reduce or eliminate the need for the minor to be placed in foster care and make it possible for the minor to safely return to his or her home.

(c) If, based on the information available to the probation officer, the probation officer believes that foster care placement is the most appropriate disposition, the case plan shall include all the information required by Section 706.6.

(Amended by Stats. 2004, Ch. 332, Sec. 2. Effective January 1, 2005.)

- **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.)

- **652.**

Whenever the probation officer has cause to believe that there was or is within the county, or residing therein, a person within the provisions of Section 601 or 602, the probation officer shall immediately make an investigation he or she deems necessary to determine whether proceedings in the juvenile court should be commenced, including whether reasonable efforts, as described in paragraph (5) of subdivision (d) of Section 727.4, have been made to prevent or eliminate the need for removal of the minor from his or her home. However, this section does not require an investigation by the probation officer with respect to a minor delivered or referred to an agency pursuant to subdivision (b) of Section 626.

(Amended by Stats. 1999, Ch. 997, Sec. 8. Effective January 1, 2000.)

- **706.5.**

(a) If placement in foster care is recommended by the probation officer, or where the minor is already in foster care placement or pending placement pursuant to an earlier order, the social study prepared by the probation officer that is received into evidence at disposition pursuant to Section 706 shall include a case plan, as described in Section 706.6. If the court elects to hold the first status review at the disposition hearing, the social study shall also include, but not be limited to, the factual material described in subdivision (c).

(b) If placement in foster care is not recommended by the probation officer prior to disposition, but the court orders foster care placement, the court shall order the probation officer to prepare a case plan, as described in Section 706.6, within 30 days of the placement order. The case plan shall be filed with the court.

(c) At each status review hearing, the social study shall include, but not be limited to, an updated case plan as described in Section 706.6 and the following information:

(1) The continuing necessity for and appropriateness of the placement.

- (2) The extent of the probation department's compliance with the case plan in making reasonable efforts to safely return the minor to the minor's home or to complete whatever steps are necessary to finalize the permanent placement of the minor.
- (3) The extent of progress that has been made by the minor and parent or guardian toward alleviating or mitigating the causes necessitating placement in foster care.
- (4) If the first permanency planning hearing has not yet occurred, the social study shall include the likely date by which the minor may be returned to and safely maintained in the home or placed for adoption, appointed a legal guardian, permanently placed with a fit and willing relative, or referred to another planned permanent living arrangement.
- (5) Whether the minor has been or will be referred to educational services and what services the minor is receiving, including special education and related services if the minor has exceptional needs as described in Part 30 (commencing with Section 56000) of Division 4 of Title 2 of the Education Code or accommodations if the child has disabilities as described in Chapter 16 (commencing with Section 701) of Title 29 of the United States Code Annotated. The probation officer or child advocate shall solicit comments from the appropriate local education agency prior to completion of the social study.
- (6) If the parent or guardian is unwilling or unable to participate in making an educational or developmental services decision for his or her child, or if other circumstances exist that compromise the ability of the parent or guardian to make educational or developmental services decisions for the child, the probation department shall consider whether the right of the parent or guardian to make educational or developmental services decisions for the minor should be limited. If the study makes that recommendation, it shall identify whether there is a responsible adult available to make educational or developmental services decisions for the minor pursuant to Section 726.
- (7) When the minor is 16 years of age or older and in another planned permanent living arrangement, the social study shall include a description of all of the following:
- (A) The intensive and ongoing efforts to return the minor to the home of the parent, place the minor for adoption, or establish a legal guardianship, as appropriate.
- (B) The steps taken to do both of the following:
- (i) Ensure that the minor's care provider is following the reasonable and prudent parent standard.
- (ii) Determine whether the minor has regular, ongoing opportunities to engage in age or developmentally appropriate activities, including consulting with the minor about opportunities for the minor to participate in the activities.
- (8) When the minor is under 16 years of age and has a permanent plan of return home, adoption, legal guardianship, or placement with a fit and willing relative, the social study shall include a description of any barriers to achieving the permanent plan and the efforts made by the agency to address those barriers.
- (d) At each permanency planning hearing, the social study shall include, but not be limited to, an updated case plan as described in Section 706.6, the factual material described in subdivision (c) of this section, and a recommended permanent plan for the minor.

(Amended by Stats. 2015, Ch. 425, Sec. 16. (SB 794) Effective January 1, 2016.)

• **706.6.**

(a) Services to minors are best provided in a framework that integrates service planning and delivery among multiple service systems, including the mental health system, using a team-based approach, such as a child and family team. A child and family team brings together individuals that engage with the child or youth and family in assessing, planning, and delivering services. Use of a team approach increases efficiency, and thus reduces cost, by increasing coordination of formal services and integrating the natural and informal supports available to the child or youth and family.

(b) (1) For the purposes of this section, “child and family team” has the same meaning as in paragraph (4) of subdivision (a) of Section 16501.

(2) In its development of the case plan, the probation agency shall consider any recommendations of the child and family team, as defined in paragraph (4) of subdivision (a) of Section 16501. The agency shall document the rationale for any inconsistencies between the case plan and the child and family team recommendations.

(c) A case plan prepared as required by Section 706.5 shall be submitted to the court. It shall either be attached to the social study or incorporated as a separate section within the social study. The case plan shall include, but not be limited to, the following information:

(1) A description of the circumstances that resulted in the minor being placed under the supervision of the probation department and in foster care.

(2) Documentation of the preplacement assessment of the minor’s and family’s strengths and service needs showing that preventive services have been provided, and that reasonable efforts to prevent out-of-home placement have been made. The assessment shall include the type of placement best equipped to meet those needs.

(3) (A) A description of the type of home or institution in which the minor is to be placed, and the reasons for that placement decision, including a discussion of the safety and appropriateness of the placement, including the recommendations of the child and family team, if available.

(B) An appropriate placement is a placement in the least restrictive, most family-like environment that promotes normal childhood experiences, in closest proximity to the minor’s home, that meets the minor’s best interests and special needs.

(d) The following shall apply:

(1) The agency selecting a placement shall consider, in order of priority:

(A) Placement with relatives, nonrelated extended family members, and tribal members.

(B) Foster family homes and certified homes or resource families of foster family agencies.

(C) Treatment and intensive treatment certified homes or resource families of foster family agencies, or multidimensional treatment foster homes or therapeutic foster care homes.

(D) Group care placements in the following order:

(i) Short-term residential therapeutic programs.

(ii) Group homes.

(iii) Community treatment facilities.

(iv) Out-of-state residential treatment pursuant to Part 5 (commencing with Section 7900) of Division 12 of the Family Code.

(2) Although the placement options shall be considered in the preferential order specified in paragraph (1), the placement of a child may be with any of these placement settings in order to

ensure the selection of a safe placement setting that is in the child's best interests and meets the child's special needs.

(3) A minor may be placed into a community care facility licensed as a short-term residential therapeutic program, as defined in subdivision (ad) of Section 11400, provided the case plan indicates that the placement is for the purposes of providing short-term, specialized, and intensive treatment for the minor, the case plan specifies the need for, nature of, and anticipated duration of this treatment, and the case plan includes transitioning the minor to a less restrictive environment and the projected timeline by which the minor will be transitioned to a less restrictive environment.

(e) Effective January 1, 2010, a case plan shall ensure the educational stability of the child while in foster care and shall include both of the following:

(1) Assurances that the placement takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

(2) An assurance that the placement agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement, or, if remaining in that school is not in the best interests of the child, assurances by the placement agency and the local educational agency to provide immediate and appropriate enrollment in a new school and to provide all of the child's educational records to the new school.

(f) Specific time-limited goals and related activities designed to enable the safe return of the minor to his or her home, or in the event that return to his or her home is not possible, activities designed to result in permanent placement or emancipation. Specific responsibility for carrying out the planned activities shall be assigned to one or more of the following:

(1) The probation department.

(2) The minor's parent or parents or legal guardian or guardians, as applicable.

(3) The minor.

(4) The foster parents or licensed agency providing foster care.

(g) The projected date of completion of the case plan objectives and the date services will be terminated.

(h) (1) Scheduled visits between the minor and his or her family and an explanation if no visits are made.

(2) Whether the child has other siblings, and, if any siblings exist, all of the following:

(A) The nature of the relationship between the child and his or her siblings.

(B) The appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002.

(C) If the siblings are not placed together in the same home, why the siblings are not placed together and what efforts are being made to place the siblings together, or why those efforts are not appropriate.

(D) If the siblings are not placed together, all of the following:

(i) The frequency and nature of the visits between the siblings.

(ii) If there are visits between the siblings, whether the visits are supervised or unsupervised. If the visits are supervised, a discussion of the reasons why the visits are supervised, and what needs to be accomplished in order for the visits to be unsupervised.

(iii) If there are visits between the siblings, a description of the location and length of the visits.

(iv) Any plan to increase visitation between the siblings.

(E) The impact of the sibling relationships on the child's placement and planning for legal permanence.

(F) The continuing need to suspend sibling interaction, if applicable, pursuant to subdivision (c) of Section 16002.

(3) The factors the court may consider in making a determination regarding the nature of the child's sibling relationships may include, but are not limited to, whether the siblings were raised together in the same home, whether the siblings have shared significant common experiences or have existing close and strong bonds, whether either sibling expresses a desire to visit or live with his or her sibling, as applicable, and whether ongoing contact is in the child's best emotional interests.

(i) (1) When placement is made in a foster family home, group home, or other child care institution that is either a substantial distance from the home of the minor's parent or legal guardian or out of state, the case plan shall specify the reasons why the placement is the most appropriate and is in the best interest of the minor.

(2) When an out-of-state group home placement is recommended or made, the case plan shall comply with Section 727.1 of this code and Section 7911.1 of the Family Code. In addition, documentation of the recommendation of the multidisciplinary team and the rationale for this particular placement shall be included. The case plan shall also address what in-state services or facilities were used or considered and why they were not recommended.

(j) If applicable, efforts to make it possible to place siblings together, unless it has been determined that placement together is not in the best interest of one or more siblings.

(k) A schedule of visits between the minor and the probation officer, including a monthly visitation schedule for those children placed in group homes.

(l) Health and education information about the minor, school records, immunizations, known medical problems, and any known medications the minor may be taking, names and addresses of the minor's health and educational providers; the minor's grade level performance; assurances that the minor's placement in foster care takes into account proximity to the school in which the minor was enrolled at the time of placement; and other relevant health and educational information.

(m) When out-of-home services are used and the goal is reunification, the case plan shall describe the services that were provided to prevent removal of the minor from the home, those services to be provided to assist in reunification and the services to be provided concurrently to achieve legal permanency if efforts to reunify fail.

(n) (1) The updated case plan prepared for a permanency planning hearing shall include a recommendation for a permanent plan for the minor. The identified permanent plan for a minor under 16 years of age shall be return home, adoption, legal guardianship, or placement with a fit and willing relative. The case plan shall identify any barriers to achieving legal permanence and the steps the agency will take to address those barriers.

(2) If, after considering reunification, adoptive placement, legal guardianship, or permanent placement with a fit and willing relative the probation officer recommends placement in a planned permanent living arrangement for a minor 16 years of age or older, the case plan shall include documentation of a compelling reason or reasons why termination of parental rights is not in the minor's best interest. For purposes of this subdivision, a "compelling reason" shall have the same meaning as in subdivision (c) of Section 727.3. The case plan shall also identify the intensive and

ongoing efforts to return the minor to the home of the parent, place the minor for adoption, establish a legal guardianship, or place the minor with a fit and willing relative, as appropriate. Efforts shall include the use of technology, including social media, to find biological family members of the minor.

(o) Each updated case plan shall include a description of the services that have been provided to the minor under the plan and an evaluation of the appropriateness and effectiveness of those services.

(p) A statement that the parent or legal guardian, and the minor have had an opportunity to participate in the development of the case plan, to review the case plan, to sign the case plan, and to receive a copy of the plan, or an explanation about why the parent, legal guardian, or minor was not able to participate or sign the case plan.

(q) For a minor in out-of-home care who is 16 years of age or older, a written description of the programs and services, which will help the minor prepare for the transition from foster care to successful adulthood.

(Amended by Stats. 2016, Ch. 612, Sec. 76. (AB 1997) Effective January 1, 2017.)

• **709.**

(a) (1) If the court has a doubt that a minor who is subject to any juvenile proceedings is competent, the court shall suspend all proceedings and proceed pursuant to this section.

(2) A minor is incompetent for purposes of this section if the minor lacks sufficient present ability to consult with counsel and assist in preparing the minor's defense with a reasonable degree of rational understanding, or lacks a rational as well as factual understanding of the nature of the charges or proceedings against them. Incompetency may result from the presence of any condition or conditions, including, but not limited to, mental illness, mental disorder, developmental disability, or developmental immaturity. Except as specifically provided otherwise, this section applies to a minor who is alleged to come within the jurisdiction of the court pursuant to Section 601 or 602.

(3) Notwithstanding paragraph (1), during the pendency of any juvenile proceeding, the court may receive information from any source regarding the minor's ability to understand the proceedings. The minor's counsel or the court may express a doubt as to the minor's competency. If the court finds substantial evidence that raises a doubt as to the minor's competency, the proceedings shall be suspended.

(b) (1) Unless the parties stipulate to a finding that the minor lacks competency, or the parties are willing to submit on the issue of the minor's lack of competency, the court shall appoint an expert to evaluate the minor and determine whether the minor suffers from a mental illness, mental disorder, developmental disability, developmental immaturity, or other condition affecting competency and, if so, whether the minor is incompetent as defined in paragraph (2) of subdivision (a).

(2) The expert shall have expertise in child and adolescent development and forensic evaluation of juveniles for purposes of adjudicating competency, shall be familiar with competency standards and accepted criteria used in evaluating juvenile competency, shall have received training in conducting juvenile competency evaluations, and shall be familiar with competency remediation for the condition or conditions affecting competence in the particular case.

(3) The expert shall personally interview the minor and review all of the available records provided, including, but not limited to, medical, education, special education, probation, child welfare, mental health, regional center, and court records, and any other relevant information that is available. The expert shall consult with the minor's counsel and any other person who has provided information to the court regarding the minor's lack of competency. The expert shall gather a developmental history

of the minor. If any information is unavailable to the expert, the expert shall note in the report the efforts to obtain that information. The expert shall administer age-appropriate testing specific to the issue of competency unless the facts of the particular case render testing unnecessary or inappropriate. The expert shall be proficient in the language preferred by the minor, or, if that is not feasible, the expert shall employ the services of a certified interpreter and use assessment tools that are linguistically and culturally appropriate for the minor. In a written report, the expert shall opine whether the minor has the sufficient present ability to consult with the minor's counsel with a reasonable degree of rational understanding and whether the minor has a rational and factual understanding of the proceedings against them. The expert shall also state the basis for these conclusions. If the expert concludes that the minor lacks competency, the expert shall give their opinion on whether the minor is likely to attain competency in the foreseeable future, and, if so, make recommendations regarding the type of remediation services that would be effective in assisting the minor in attaining competency.

(4) The Judicial Council, in conjunction with groups or individuals representing judges, defense counsel, district attorneys, chief probation officers, counties, advocates for people with developmental and mental disabilities, experts in special education testing, psychologists and psychiatrists specializing in adolescents, professional associations and accredited bodies for psychologists and psychiatrists, and other interested stakeholders, shall adopt a rule of court identifying the training and experience needed for an expert to be competent in forensic evaluations of juveniles. The Judicial Council shall develop and adopt rules for the implementation of the other requirements in this subdivision.

(5) Statements made to the appointed expert during the minor's competency evaluation and statements made by the minor to mental health professionals during the remediation proceedings, and any fruits of these statements, shall not be used in any other hearing against the minor in either juvenile or adult court.

(6) The district attorney or minor's counsel may retain or seek the appointment of additional qualified experts who may testify during the competency hearing. The expert's report and qualifications shall be disclosed to the opposing party within a reasonable time before, but no later than five court days before, the hearing. If disclosure is not made in accordance with this paragraph, the court may make any order necessary to enforce the provisions of this paragraph, including, but not limited to, immediate disclosure, contempt proceedings, delaying or prohibiting the testimony of the expert or consideration of the expert's report upon a showing of good cause, or any other lawful order. If, after disclosure of the report, the opposing party requests a continuance in order to further prepare for the hearing and shows good cause for the continuance, the court shall grant a continuance for a reasonable period of time. This paragraph does not allow a qualified expert retained or appointed by the district attorney to perform a competency evaluation on a minor without an order from the juvenile court after petitioning the court for an order pursuant to the Civil Discovery Act (Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure).

(7) If the expert believes the minor is developmentally disabled, the court shall appoint the director of a regional center for developmentally disabled individuals described in Article 1 (commencing with Section 4620) of Chapter 5 of Division 4.5, or the director's designee, to evaluate the minor. The director of the regional center, or the director's designee, shall determine whether the minor is eligible for services under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)), and shall provide the court with a written report informing the court of his or her determination. The court's appointment of the director of the regional center for determination of eligibility for services shall not delay the court's proceedings for determination of competency.

(8) An expert's opinion that a minor is developmentally disabled does not supersede an independent determination by the regional center whether the minor is eligible for services under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)).

(9) This section does not authorize or require determinations regarding the competency of a minor by the director of the regional center or the director's designee.

(c) The question of the minor's competency shall be determined at an evidentiary hearing unless there is a stipulation or submission by the parties on the findings of the expert that the minor is incompetent. It shall be presumed that the minor is mentally competent, unless it is proven by a preponderance of the evidence that the minor is mentally incompetent. With respect to a minor under 14 years of age at the time of the commission of the alleged offense, the court shall make a determination as to the minor's capacity pursuant to Section 26 of the Penal Code prior to deciding the issue of competency.

(d) If the court finds the minor to be competent, the court shall reinstate proceedings and proceed commensurate with the court's jurisdiction.

(e) If the court finds, by a preponderance of evidence, that the minor is incompetent, all proceedings shall remain suspended for a period of time that is no longer than reasonably necessary to determine whether there is a substantial probability that the minor will attain competency in the foreseeable future, or the court no longer retains jurisdiction and the case must be dismissed. Prior to a dismissal, the court may make orders that it deems appropriate for services. Further, the court may rule on motions that do not require the participation of the minor in the preparation of the motions. These motions include, but are not limited to, all of the following:

(1) Motions to dismiss.

(2) Motions regarding a change in the placement of the minor.

(3) Detention hearings.

(4) Demurrers.

(f) If the minor is found to be incompetent and the petition contains only misdemeanor offenses, the petition shall be dismissed.

(g) (1) Upon a finding of incompetency, the court shall refer the minor to services designed to help the minor attain competency, unless the court finds that competency cannot be achieved within the foreseeable future. The court may also refer the minor to treatment services to assist in remediation that may include, but are not limited to, mental health services, treatment for trauma, medically supervised medication, behavioral counseling, curriculum-based legal education, or training in socialization skills, consistent with any laws requiring consent. Service providers and evaluators shall adhere to the standards stated in this section and the California Rules of Court. Services shall be provided in the least restrictive environment consistent with public safety, as determined by the court. A finding of incompetency alone shall not be the basis for secure confinement. The minor shall be returned to court at the earliest possible date. The court shall review remediation services at least every 30 calendar days for minors in custody and every 45 calendar days for minors out of custody prior to the expiration of the total remediation period specified in paragraph (3) of subdivision (h). If the minor is in custody, the county mental health department shall provide the court with suitable alternatives for the continued delivery of remediation services upon release from custody as part of the court's review of remediation services. The court shall consider appropriate alternatives to juvenile hall confinement, including, but not limited to, all of the following:

(A) Placement through regional centers.

(B) Short-term residential therapeutic programs.

(C) Crisis residential programs.

(D) Civil commitment.

(E) Foster care, relative placement, or other nonsecure placement.

(F) Other residential treatment programs.

(2) The court may make any orders necessary to assist with the delivery of remediation services in an alternative setting to secure confinement.

(h) (1) Within six months of the initial receipt of a recommendation by the designated person or entity, the court shall hold an evidentiary hearing on whether the minor is remediated or is able to be remediated unless the parties stipulate to, or agree to the recommendation of, the remediation program. If the recommendation is that the minor has attained competency, and if the minor disputes that recommendation, the burden is on the minor to prove by a preponderance of evidence that he or she remains incompetent. If the recommendation is that the minor is unable to be remediated and if the prosecutor disputes that recommendation, the burden is on the prosecutor to prove by a preponderance of evidence that the minor is remediable. If the prosecution contests the evaluation of continued incompetence, the minor shall be presumed incompetent and the prosecution shall have the burden to prove by a preponderance of evidence that the minor is competent. The provisions of subdivision (c) shall apply at this stage of the proceedings.

(2) If the court finds that the minor has been remediated, the court shall reinstate the proceedings.

(3) If the court finds that the minor has not yet been remediated, but is likely to be remediated within six months, the court shall order the minor to return to the remediation program. However, the total remediation period shall not exceed one year from the finding of incompetency and secure confinement shall not exceed the limit specified in subparagraph (A) of paragraph (5).

(4) If the court finds that the minor will not achieve competency within six months, the court shall dismiss the petition. The court may invite persons and agencies with information about the minor, including, but not limited to, the minor and the minor's attorney, the probation department, parents, guardians, or relative caregivers, mental health treatment professionals, the public guardian, educational rights holders, education providers, and social services agencies, to the dismissal hearing to discuss any services that may be available to the minor after jurisdiction is terminated. If appropriate, the court shall refer the minor for evaluation pursuant to Article 6 (commencing with Section 5300) of Chapter 2 of Part 1 of Division 5 or Article 3 (commencing with Section 6550) of Chapter 2 of Part 2 of Division 6.

(5) (A) Secure confinement shall not extend beyond six months from the finding of incompetence, except as provided in this section. In making that determination, the court shall consider all of the following:

(i) Where the minor will have the best chance of obtaining competence.

(ii) Whether the placement is the least restrictive setting appropriate for the minor.

(iii) Whether alternatives to secure confinement have been identified and pursued and why alternatives are not available or appropriate.

(iv) Whether the placement is necessary for the safety of the minor or others.

(B) If the court determines, upon consideration of these factors, that it is in the best interests of the minor and the public's safety for the minor to remain in secure confinement, the court shall state the reasons on the record.

(C) Only in cases where the petition involves an offense listed in subdivision (b) of Section 707 may the court consider whether it is necessary and in the best interests of the minor and the public's safety to order secure confinement of a minor for up to an additional year, not to exceed 18 months from the finding of incompetence.

(i) The presiding judge of the juvenile court, the probation department, the county mental health department, the public defender and any other entity that provides representation for minors, the district attorney, the regional center, if appropriate, and any other participants that the presiding judge shall designate, shall develop a written protocol describing the competency process and a program to ensure that minors who are found incompetent receive appropriate remediation services.

(Amended by Stats. 2019, Ch. 161, Sec. 1. (AB 439) Effective July 31, 2019.)

• **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.)

- **727.05.**

(a) Notwithstanding paragraph (4) of subdivision (a) of Section 727, the probation agency may make an emergency placement of a minor ordered into its care, custody, and control with a relative or nonrelative extended family member.

- (b) Prior to making the emergency placement, the probation agency shall do all of the following:
- (1) Conduct an in-home inspection to assess the safety of the home and the ability of the relative or nonrelative extended family member to care for the minor's needs.
 - (2) Ensure that a state-level criminal records check is conducted by an appropriate government agency through the California Law Enforcement Telecommunications System (CLETS) pursuant to Section 16504.5 for all of the following:
 - (A) Any person over 18 years of age living in the home of the relative or nonrelative extended family member who seeks emergency placement of the minor, excluding any person who is a nonminor dependent, as defined in subdivision (v) of Section 11400.
 - (B) At the discretion of the probation agency, any person over 18 years of age known to the agency to be regularly present in the home, other than any professional providing professional services to the minor.
 - (C) At the discretion of the agency, any person over 14 years of age living in the home who the agency believes may have a criminal record, excluding any child who is under the jurisdiction of the juvenile court.
 - (3) Conduct a check of allegations of prior child abuse or neglect concerning the relative or nonrelative extended family member and other adults in the home.
- (c) (1) If the CLETS information that is obtained pursuant to paragraph (2) of subdivision (b) indicates that a person has no criminal record, the probation agency may place the minor in the home on an emergency basis.
- (2) If the CLETS information obtained pursuant to paragraph (2) of subdivision (b) indicates that a person has been convicted of an offense described in subparagraph (B) or (D) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, the minor shall not be placed in the home unless a criminal records exemption has been granted using the exemption criteria specified in paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code.
- (3) Notwithstanding paragraph (2), a minor may be placed on an emergency basis if the CLETS information obtained pursuant to paragraph (2) of subdivision (b) indicates that the person has been convicted of an offense not described in subclause (II) of clause (i) of subparagraph (B) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, pending a criminal records exemption decision based on live scan fingerprint results if all of the following conditions are met:
- (A) The conviction does not involve an offense against a child.
 - (B) The chief probation officer, or their designee, determines that the placement is in the best interests of the minor.
 - (C) No party to the case objects to the placement.
- (4) If the CLETS information obtained pursuant to paragraph (2) of subdivision (b) indicates that the person has been arrested for any offense described in paragraph (2) of subdivision (e) of Section 1522 of the Health and Safety Code, the minor shall not be placed on an emergency basis in the home until the investigation required by paragraph (1) of subdivision (e) of Section 1522 of the Health and Safety Code has been completed and the chief probation officer, or their designee, and the court have considered the investigation results when determining whether the placement is in the best interests of the child.
- (5) If the CLETS information obtained pursuant to paragraph (2) of subdivision (b) indicates that the person has been convicted of an offense described in subparagraph (A) of paragraph (2) of

subdivision (g) of Section 1522 of the Health and Safety Code, the minor shall not be placed in the home on an emergency basis.

(d) If the relative or nonrelative extended family member has not submitted an application for approval as a resource family at the time of the emergency placement, the probation agency shall require the relative or nonrelative extended family member to submit the application and initiate the home environment assessment no later than five business days after the emergency placement.

(e) Unless the fingerprint clearance check has already been initiated, the probation agency shall ensure that, within five days of the emergency placement, a fingerprint clearance check of the relative or nonrelative extended family member and any other person whose criminal record was obtained pursuant to this section is initiated through the Department of Justice to ensure the accuracy of the criminal records check conducted through the CLETS and to ensure criminal record clearance of the relative or nonrelative extended family member and all adults in the home pursuant to subparagraph (A) of paragraph (2) of subdivision (d) of Section 16519.5 and any associated written directives or regulations.

(f) An identification card from a foreign consulate or foreign passport shall be considered a valid form of identification for conducting a criminal records check pursuant to this section.

(Added by Stats. 2019, Ch. 777, Sec. 19. (AB 819) Effective January 1, 2020.)

- **727.2.**

The purpose of this section is to provide a means to monitor the safety and well-being of every minor in foster care who has been declared a ward of the juvenile court pursuant to Section 601 or 602 and to ensure that everything reasonably possible is done to facilitate the safe and early return of the minor to his or her home or to establish an alternative permanent plan for the minor.

(a) If the court orders the care, custody, and control of the minor to be under the supervision of the probation officer for placement pursuant to subdivision (a) of Section 727, the juvenile court shall order the probation department to ensure the provision of reunification services to facilitate the safe return of the minor to his or her home or the permanent placement of the minor, and to address the needs of the minor while in foster care, except as provided in subdivision (b).

(b) Reunification services need not be provided to a parent or legal guardian if the court finds by clear and convincing evidence that one or more of the following is true:

(1) Reunification services were previously terminated for that parent or guardian, pursuant to Section 366.21, 366.22, or 366.25, or not offered, pursuant to subdivision (b) of Section 361.5, in reference to the same minor.

(2) The parent has been convicted of any of the following:

(A) Murder of another child of the parent.

(B) Voluntary manslaughter of another child of the parent.

(C) Aiding or abetting, attempting, conspiring, or soliciting to commit that murder or manslaughter described in subparagraph (A) or (B).

(D) A felony assault that results in serious bodily injury to the minor or another child of the parent.

(3) The parental rights of the parent with respect to a sibling have been terminated involuntarily, and it is not in the best interest of the minor to reunify with his or her parent or legal guardian.

If no reunification services are offered to the parent or guardian, the permanency planning hearing, as described in Section 727.3, shall occur within 30 days of the date of the hearing at which the decision is made not to offer services.

(c) The status of every minor declared a ward and ordered to be placed in foster care shall be reviewed by the court no less frequently than once every six months. The six-month time periods shall be calculated from the date the minor entered foster care, as defined in paragraph (4) of subdivision (d) of Section 727.4. If the court so elects, the court may declare the hearing at which the court orders the care, custody, and control of the minor to be under the supervision of the probation officer for foster care placement pursuant to subdivision (a) of Section 727 at the first status review hearing. It shall be the duty of the probation officer to prepare a written social study report including an updated case plan, pursuant to subdivision (b) of Section 706.5, and submit the report to the court prior to each status review hearing, pursuant to subdivision (b) of Section 727.4. The social study report shall include all reports the probation officer relied upon in making his or her recommendations.

(d) Prior to any status review hearing involving a minor in the physical custody of a community care facility or foster family agency, the facility or agency may provide the probation officer with a report containing its recommendations. Prior to any status review hearing involving the physical custody of a foster parent, relative caregiver, preadoptive parent, or legal guardian, that person may present to the court a report containing his or her recommendations. The court shall consider all reports and recommendations filed pursuant to subdivision (c) and pursuant to this subdivision.

(e) At any status review hearing prior to the first permanency planning hearing, the court shall consider the safety of the minor and make findings and orders which determine the following:

(1) The continuing necessity for and appropriateness of the placement.

(2) The extent of the probation department's compliance with the case plan in making reasonable efforts, or in the case of a child 16 years of age or older with another planned permanent living arrangement, the ongoing and intensive efforts to safely return the minor to the minor's home or to complete whatever steps are necessary to finalize the permanent placement of the minor.

(3) Whether there should be any limitation on the right of the parent or guardian to make educational decisions for the minor. That limitation shall be specifically addressed in the court order and may not exceed what is necessary to protect the minor. If the court specifically limits the right of the parent or guardian to make educational decisions for the minor, the court shall at the same time appoint a responsible adult to make educational decisions for the minor pursuant to Section 726.

(4) The extent of progress that has been made by the minor and parent or guardian toward alleviating or mitigating the causes necessitating placement in foster care.

(5) The likely date by which the minor may be returned to and safely maintained in the home or placed for adoption, appointed a legal guardian, permanently placed with a fit and willing relative, or, if the minor is 16 years of age or older, referred to another planned permanent living arrangement.

(6) In the case of a minor who has reached 16 years of age, the court shall, in addition, determine the services needed to assist the minor to make the transition from foster care to successful adulthood.

The court shall make these determinations on a case-by-case basis and reference in its written findings the probation officer's report and any other evidence relied upon in reaching its decision.

(f) At any status review hearing prior to the first permanency hearing, after considering the admissible and relevant evidence, the court shall order return of the minor to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of evidence, that the return of the minor to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the minor. The probation department shall have the burden of establishing that detriment. In making its determination, the court shall review and consider the social study report, recommendations, and the case plan pursuant to subdivision (b) of Section 706.5, the report and recommendations of any child advocate appointed for the minor in the case, and any other reports submitted to the court pursuant to subdivision (d), and shall consider the efforts or progress, or both, demonstrated by the minor and family and the extent to which the minor availed himself or herself of the services provided.

(g) At all status review hearings subsequent to the first permanency planning hearing, the court shall consider the safety of the minor and make the findings and orders as described in paragraphs (1) to (4), inclusive, and (6) of subdivision (e). The court shall either make a finding that the previously ordered permanent plan continues to be appropriate or shall order that a new permanent plan be adopted pursuant to subdivision (b) of Section 727.3. However, the court shall not order a permanent plan of “return to the physical custody of the parent or legal guardian after further reunification services are offered,” as described in paragraph (2) of subdivision (b) of Section 727.3.

(h) The status review hearings required by subdivision (c) may be heard by an administrative review panel, provided that the administrative panel meets all of the requirements listed in subparagraph (B) of paragraph (7) of subdivision (d) of Section 727.4.

(i) (1) On and after January 1, 2012, at any status review hearing at which a recommendation to terminate delinquency jurisdiction is being considered, or at the status review hearing held closest to the ward attaining 18 years of age, but no fewer than 90 days before the ward’s 18th birthday, the court shall consider whether to modify its jurisdiction pursuant to Section 601 or 602 and assume transition jurisdiction over the minor pursuant to Section 450. The probation department shall address this issue in its report to the court and make a recommendation as to whether transition jurisdiction is appropriate for the minor.

(2) The court shall order the probation department or the minor’s attorney to submit an application to the child welfare services department pursuant to Section 329 to declare the minor a dependent of the court and modify its jurisdiction from delinquency to dependency jurisdiction if it finds both of the following:

(A) The ward does not come within the description set forth in Section 450, but jurisdiction as a ward may no longer be required.

(B) The ward appears to come within the description of Section 300 and cannot be returned home safely.

(3) The court shall set a hearing within 20 judicial days of the date of its order issued pursuant to paragraph (2) to review the decision of the child welfare services department and may either affirm the decision not to file a petition pursuant to Section 300 or order the child welfare services department to file a petition pursuant to Section 300.

(j) On and after January 1, 2012, if a review hearing pursuant to this section is the last review hearing to be held before the minor attains 18 years of age, the court shall ensure that the minor’s transitional independent living case plan includes a plan for the minor to meet one or more of the criteria in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403, so that the minor can become a nonminor dependent, and that the minor has been informed of his or her right to decline

to become a nonminor dependent and to seek termination of the court's jurisdiction pursuant to Section 607.2.

(Amended by Stats. 2015, Ch. 425, Sec. 18. (SB 794) Effective January 1, 2016.)

• **727.3.**

The purpose of this section is to provide a means to monitor the safety and well-being of every minor in foster care who has been declared a ward of the juvenile court pursuant to Section 601 or 602 and to ensure that everything reasonably possible is done to facilitate the safe and early return of the minor to his or her own home or to establish an alternative permanent plan for the minor.

(a) (1) For every minor declared a ward and ordered to be placed in foster care, a permanency planning hearing shall be conducted within 12 months of the date the minor entered foster care, as defined in paragraph (4) of subdivision (d) of Section 727.4. Subsequent permanency planning hearings shall be conducted periodically, but no less frequently than once every 12 months thereafter during the period of placement. It shall be the duty of the probation officer to prepare a written social study report including an updated case plan and a recommendation for a permanent plan, pursuant to subdivision (c) of Section 706.5, and submit the report to the court prior to each permanency planning hearing, pursuant to subdivision (b) of Section 727.4.

(2) Prior to any permanency planning hearing involving a minor in the physical custody of a community care facility or foster family agency, the facility or agency may file with the court a report containing its recommendations, in addition to the probation officer's social study. Prior to any permanency planning hearing involving the physical custody of a foster parent, relative caregiver, preadoptive parent, or legal guardian, that person may present to the court a report containing his or her recommendations. The court shall consider all reports and recommendations filed pursuant to this subdivision.

(3) If the minor has a continuing involvement with his or her parents or legal guardians, the parents or legal guardians shall be involved in the planning for a permanent placement. The court order placing the minor in a permanent placement shall include a specification of the nature and frequency of visiting arrangements with the parents or legal guardians and, if any, the siblings.

(4) At each permanency planning hearing, the court shall order a permanent plan for the minor, as described in subdivision (b). The court shall also make findings, as described in subdivision (e) of Section 727.2. In the case of a minor who has reached 16 years of age or older, the court shall, in addition, determine the services needed to assist the minor to make the transition from foster care to successful adulthood. The court shall make all of these determinations on a case-by-case basis and make reference to the probation officer's report, the case plan, or other evidence relied upon in making its decisions.

(5) When the minor is 16 years of age or older, and is in another planned permanent living arrangement, the court, at each permanency planning hearing, shall do all of the following:

(A) Ask the minor about his or her desired permanency outcome.

(B) Make a judicial determination explaining why, as of the hearing date, another planned permanent living arrangement is the best permanency plan for the minor.

(C) State for the record the compelling reason or reasons why it continues not to be in the best interest of the minor to return home, be placed for adoption, be placed with a legal guardian, or be placed with a fit and willing relative.

(b) At all permanency planning hearings, the court shall determine the permanent plan for the minor. The court shall order one of the following permanent plans, in order of priority:

(1) Return of the minor to the physical custody of the parent or legal guardian. After considering the admissible and relevant evidence, the court shall order the return of the minor to the physical custody of his or her parent or legal guardian unless:

(A) Reunification services were not offered, pursuant to subdivision (b) of Section 727.2.

(B) The court finds, by a preponderance of the evidence, that the return of the minor to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the minor. The probation department shall have the burden of establishing that detriment. In making its determination, the court shall review and consider the social study report and recommendations pursuant to Section 706.5, the report and recommendations of any child advocate appointed for the minor in the case, and any other reports submitted pursuant to paragraph (2) of subdivision (a), and shall consider the efforts or progress, or both, demonstrated by the minor and family and the extent to which the minor availed himself or herself of the services provided.

(2) Order that the permanent plan for the minor will be to return the minor to the physical custody of the parent or legal guardian, order further reunification services to be provided to the minor and his or her parent or legal guardian for a period not to exceed six months and continue the case for up to six months for a subsequent permanency planning hearing, provided that the subsequent hearing shall occur within 18 months of the date the minor was originally taken from the physical custody of his or her parent or legal guardian. The court shall continue the case only if it finds that there is a substantial probability that the minor will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent or guardian. For purposes of this section, in order to find that there is a substantial probability that the minor will be returned to the physical custody of his or her parent or legal guardian, the court shall be required to find that the minor and his or her parent or legal guardian have demonstrated the capacity and ability to complete the objectives of the case plan.

The court shall inform the parent or legal guardian that if the minor cannot be returned home by the next permanency planning hearing, a proceeding pursuant to Section 727.31 may be initiated.

The court shall not continue the case for further reunification services if it has been 18 months or more since the date the minor was originally taken from the physical custody of his or her parent or legal guardian.

(3) Identify adoption as the permanent plan and order that a hearing be held within 120 days, pursuant to the procedures described in Section 727.31. The court shall only set a hearing pursuant to Section 727.31 if there is clear and convincing evidence that reasonable services have been provided or offered to the parents. When the court sets a hearing pursuant to Section 727.31, it shall order that an adoption assessment report be prepared, pursuant to subdivision (b) of Section 727.31.

(4) Order a legal guardianship, pursuant to procedures described in subdivisions (c) to (f), inclusive, of Section 728.

(5) Place the minor with a fit and willing relative. “Placement with a fit and willing relative” means placing the minor with an appropriate approved relative who is willing to provide a permanent and stable home for the minor, but is unable or unwilling to become the legal guardian. When a minor is placed with a fit and willing relative, the court may authorize the relative to provide the same legal

consent for the minor’s medical, surgical, and dental care, and education as the custodial parent of the minor.

(6) (A) If he or she is 16 years of age or older, place the minor in another planned permanent living arrangement. For purposes of this section, “planned permanent living arrangement” means any permanent living arrangement described in Section 11402 that is ordered by the court for a minor 16 years of age or older when there is a compelling reason or reasons to determine that it is not in the best interest of the minor to have any permanent plan listed in paragraphs (1) to (5), inclusive. These plans include, but are not limited to, placement in a specific, identified foster home, program, or facility on a permanent basis, or placement with a transitional housing placement provider. When the court places a minor in a planned permanent living arrangement, the court shall specify the goal of the placement, which may include, but shall not be limited to, return home, emancipation, guardianship, or permanent placement with a relative.

The court shall only order that the minor remain in a planned permanent living arrangement if the court finds by clear and convincing evidence, based upon the evidence already presented to it, that there is a compelling reason, as defined in subdivision (c), for determining that a plan of termination of parental rights and adoption is not in the best interest of the minor.

(B) If the minor is under 16 years of age and the court finds by clear and convincing evidence, based upon the evidence already presented to it, that there is a compelling reason, as defined in subdivision (c), for determining that a plan of termination of parental rights and adoption is not in the best interest of the minor as of the hearing date, the court shall order the minor to remain in a foster care placement with a permanent plan of return home, adoption, legal guardianship, or placement with a fit and willing relative, as appropriate. The court shall make factual findings identifying any barriers to achieving the permanent plan as of the hearing date.

(c) A compelling reason for determining that a plan of termination of parental rights and adoption is not in the best interest of the minor is any of the following:

(1) Documentation by the probation department that adoption is not in the best interest of the minor and is not an appropriate permanency goal. That documentation may include, but is not limited to, documentation that:

(A) The minor is 12 years of age or older and objects to termination of parental rights.

(B) The minor is 17 years of age or older and specifically requests that transition to independent living with the identification of a caring adult to serve as a lifelong connection be established as his or her permanent plan. On and after January 1, 2012, this includes a minor who requests that his or her transitional independent living case plan include modification of his or her jurisdiction to that of dependency jurisdiction pursuant to subdivision (b) of Section 607.2 or subdivision (i) of Section 727.2, or to that of transition jurisdiction pursuant to Section 450, in order to be eligible as a nonminor dependent for the extended benefits pursuant to Section 11403.

(C) The parent or guardian and the minor have a significant bond, but the parent or guardian is unable to care for the minor because of an emotional or physical disability, and the minor’s caregiver has committed to raising the minor to the age of majority and facilitating visitation with the disabled parent or guardian.

(D) The minor agrees to continued placement in a residential treatment facility that provides services specifically designed to address the minor’s treatment needs, and the minor’s needs could not be served by a less restrictive placement.

The probation department's recommendation that adoption is not in the best interest of the minor shall be based on the present family circumstances of the minor and shall not preclude a different recommendation at a later date if the minor's family circumstances change.

(2) Documentation by the probation department that no grounds exist to file for termination of parental rights.

(3) Documentation by the probation department that the minor is an unaccompanied refugee minor, or there are international legal obligations or foreign policy reasons that would preclude terminating parental rights.

(4) A finding by the court that the probation department was required to make reasonable efforts to reunify the minor with the family pursuant to subdivision (a) of Section 727.2, and did not make those efforts.

(5) Documentation by the probation department that the minor is living with a relative who is unable or unwilling to adopt the minor because of exceptional circumstances that do not include an unwillingness to accept legal or financial responsibility for the minor, but who is willing to provide, and capable of providing, the minor with a stable and permanent home environment, and the removal of the minor from the physical custody of his or her relative would be detrimental to the minor's emotional well-being.

(d) Nothing in this section shall be construed to limit the ability of a parent to voluntarily relinquish his or her child to the State Department of Social Services when it is acting as an adoption agency or to a county adoption agency at any time while the minor is a ward of the juvenile court if the department or county adoption agency is willing to accept the relinquishment.

(e) Any change in the permanent plan of a minor placed with a fit and willing relative or in a planned permanent living arrangement shall be made only by order of the court pursuant to a petition filed in accordance with Section 778 or at a regularly scheduled and noticed status review hearing or permanency planning hearing. Any change in the permanent plan of a minor placed in a guardianship shall be made only by order of the court pursuant to a motion filed in accordance with Section 728.

(Amended by Stats. 2017, Ch. 731, Sec. 6. (SB 612) Effective January 1, 2018.)

- **727.4.**

(a) (1) Notice of any hearing pursuant to Section 727, 727.2, or 727.3 shall be served by the probation officer to the minor, the minor's parent or guardian, any adult provider of care to the minor including, but not limited to, foster parents, relative caregivers, preadoptive parents, resource family, community care facility, or foster family agency, and to the counsel of record if the counsel of record was not present at the time that the hearing was set by the court, by first-class mail addressed to the last known address of the person to be notified, by personal service on those persons, or by electronic service pursuant to Section 212.5, not earlier than 30 days nor later than 15 days preceding the date of the hearing. The notice shall contain a statement regarding the nature of the status review or permanency planning hearing and any change in the custody or status of the minor being recommended by the probation department. The notice shall also include a statement informing the foster parents, relative caregivers, or preadoptive parents that he or she may attend all hearings or may submit any information he or she deems relevant to the court in writing. The foster parents, relative caregiver, and preadoptive parents are entitled to notice and opportunity to be heard but need not be made parties to the proceedings. Proof of notice shall be filed with the court.

(2) If the court or probation officer knows or has reason to know that the minor is or may be an Indian child, any notice sent under this section shall comply with the requirements of Section 224.2.

(b) At least 10 calendar days before each status review and permanency planning hearing, after the hearing during which the court orders that the care, custody, and control of the minor to be under the supervision of the probation officer for placement pursuant to subdivision (a) of Section 727, the probation officer shall file a social study report with the court, pursuant to the requirements listed in Section 706.5.

(c) The probation department shall inform the minor, the minor's parent or guardian, and all counsel of record that a copy of the social study prepared for the hearing will be available 10 days before the hearing and may be obtained from the probation officer.

(d) As used in Article 15 (commencing with Section 625) to Article 18 (commencing with Section 725), inclusive:

(1) "Foster care" means residential care provided in any of the settings described in Section 11402 or 11402.01.

(2) "At risk of entering foster care" means that conditions within a minor's family may necessitate his or her entry into foster care unless those conditions are resolved.

(3) "Preadoptive parent" means a licensed foster parent who has been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a licensed adoption agency.

(4) "Date of entry into foster care" means the date that is 60 days after the date on which the minor was removed from his or her home, unless one of the exceptions below applies:

(A) If the minor is detained pending foster care placement, and remains detained for more than 60 days, then the date of entry into foster care means the date the court adjudges the minor a ward and orders the minor placed in foster care under the supervision of the probation officer.

(B) If, before the minor is placed in foster care, the minor is committed to a ranch, camp, school, or other institution pending placement, and remains in that facility for more than 60 days, then the "date of entry into foster care" is the date the minor is physically placed in foster care.

(C) If at the time the wardship petition was filed, the minor was a dependent of the juvenile court and in out-of-home placement, then the "date of entry into foster care" is the earlier of the date the juvenile court made a finding of abuse or neglect, or 60 days after the date on which the child was removed from his or her home.

(5) "Reasonable efforts" means:

(A) Efforts made to prevent or eliminate the need for removing the minor from the minor's home.

(B) Efforts to make it possible for the minor to return home, including, but not limited to, case management, counseling, parenting training, mentoring programs, vocational training, educational services, substance abuse treatment, transportation, and therapeutic day services.

(C) Efforts to complete whatever steps are necessary to finalize a permanent plan for the minor.

(D) In child custody proceedings involving an Indian child, "reasonable efforts" shall also include "active efforts" as defined in Section 361.7.

(6) "Relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," "grand," or the spouse of any of these persons even if the

marriage was terminated by death or dissolution. “Relative” shall also include an “extended family member” as defined in the federal Indian Child Welfare Act (25 U.S.C. Sec. 1903(2)).

(7) “Hearing” means a noticed proceeding with findings and orders that are made on a case-by-case basis, heard by either of the following:

(A) A judicial officer, in a courtroom, recorded by a court reporter.

(B) An administrative panel, provided that the hearing is a status review hearing and that the administrative panel meets the following conditions:

(i) The administrative review shall be open to participation by the minor and parents or legal guardians and all those persons entitled to notice under subdivision (a).

(ii) The minor and his or her parents or legal guardians receive proper notice as required in subdivision (a).

(iii) The administrative review panel is composed of persons appointed by the presiding judge of the juvenile court, the membership of which shall include at least one person who is not responsible for the case management of, or delivery of services to, the minor or the parents who are the subjects of the review.

(iv) The findings of the administrative review panel shall be submitted to the juvenile court for the court’s approval and shall become part of the official court record.

(Amended by Stats. 2017, Ch. 319, Sec. 141. (AB 976) Effective January 1, 2018.)

• **737.**

(a) Whenever a person has been adjudged a ward of the juvenile court and has been committed or otherwise disposed of as provided in this chapter for the care of wards of the juvenile court, the court may order that the ward be detained until the execution of the order of commitment or of other disposition.

(b) In any case in which a minor or nonminor is detained for more than 15 days pending the execution of the order of commitment or of any other disposition, the court shall periodically review the case to determine whether the delay is reasonable. These periodic reviews shall occur at a hearing held at least every 15 days, commencing from the time the minor or nonminor was initially detained pending the execution of the order of commitment or of any other disposition. Prior to the hearing, the probation officer shall contact appropriate placements in order to identify specific, appropriate, and available placements for the minor or nonminor. During the course of each review, the court shall inquire regarding the action taken by the probation department to carry out its order, the reasons for the delay, and the effect of the delay upon the minor or nonminor. The probation department shall explain to the court what steps have been taken to identify an appropriate placement for the minor or nonminor.

(c) (1) A court shall not consider any of the following to be a reasonable delay:

(A) The probation officer’s inability to identify a specific, appropriate, and available placement for the minor or nonminor when the court finds that the probation officer has not made reasonable efforts to identify a specific, appropriate, and available placement for the minor or nonminor.

(B) A delay caused by administrative processes, including, but not limited to, the workload of county personnel, transfer or reassignment of a case, or the availability of reports or records.

(C) A delay in convening any meetings between agencies. For purposes of this paragraph, “agency” has the same meaning as defined in Section 727.

(2) This subdivision does not preclude the court from determining that any other delay is not reasonable, including, but not limited to, in the case of a minor or nonminor who was previously adjudged to be a dependent child of the court and was in foster care at the time the petition was filed pursuant to Section 601 or 602, if the probation officer does not identify a specific, appropriate, and available placement for the minor or nonminor in the case plan described in Section 706.6 upon the court issuing its orders pursuant to paragraph (3) of subdivision (a) of Section 727, unless the probation officer provides documentation that his or her efforts to find an appropriate placement were reasonable.

(d) (1) If the court finds the delay to be unreasonable, the court shall order the probation officer to assess the availability of any suitable temporary placements or other alternatives to continued detention of the minor or nonminor in a secure setting. The court may order that the minor or nonminor be placed in a suitable and available temporary nonsecure placement or alternative to continued detention after consultation with all interested parties present at the hearing, including the probation officer, the minor or nonminor, the family of the minor or nonminor, and other providers of services. In addition to the orders authorized by this subdivision, the court may issue any other orders or relief pursuant to its authority under paragraph (1) of subdivision (a) of Section 727.

(2) The court shall continue to periodically review the case, pursuant to subdivision (b), until the execution of the order of commitment or of other disposition.

(e) It is the intent of the Legislature, in amending this section in the 2013–14 Regular Session, that minors and nonminors are to be released to their court-ordered dispositions expeditiously, and that any unreasonable periods of detention must be eliminated because they are not in the best interests of the minor or nonminor.

(Amended by Stats. 2014, Ch. 615, Sec. 2. (AB 2607) Effective January 1, 2015.)

• **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.)

• **778.**

(a) (1) Any parent or other person having an interest in a child who is a ward of the juvenile court or the child himself or herself through a properly appointed guardian may, upon grounds of change of circumstance or new evidence, petition the court in the same action in which the child was found to be a ward of the juvenile court for a hearing to change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court. The petition shall be verified and, if made by a person other than the child, shall state the petitioner's relationship to or interest in the child and shall set forth in concise language any change of circumstance or new evidence which are alleged to require such change of order or termination of jurisdiction.

(2) If it appears that the best interests of the child may be promoted by the proposed change of order or termination of jurisdiction, the court shall order that a hearing be held and shall give prior notice, or cause prior notice to be given, to such persons and by such means as prescribed by Sections 776 and 779, by electronic service pursuant to Section 212.5, and, in such instances as the means of giving notice is not prescribed by such sections, then by such means as the court prescribes.

(b) (1) Any person, including a ward, a transition dependent, or a nonminor dependent of the juvenile court, may petition the court to assert a relationship as a sibling related by blood, adoption, or affinity through a common legal or biological parent to a child who is, or is the subject of a petition for adjudication as, a ward of the juvenile court, and may request visitation with the ward, placement with or near the ward, or consideration when determining or implementing a case plan or permanent plan for the ward.

(2) A ward, transition dependent, or nonminor dependent of the juvenile court may petition the court to assert a relationship as a sibling related by blood, adoption, or affinity through a common legal or biological parent to a child who is in the physical custody of a common legal or biological parent, and may request visitation with the nondependent sibling in parental custody.

(3) Pursuant to subdivision (b) of Section 16002, a request for sibling visitation may be granted unless it is determined by the court that sibling visitation is contrary to the safety and well-being of any of the siblings.

(4) The court may appoint a guardian ad litem to file the petition for a ward asserting a sibling relationship pursuant to this subdivision if the court determines that the appointment is necessary for the best interests of the ward. The petition shall be verified and shall set forth the following:

- (A) Through which parent he or she is related to the sibling.
- (B) Whether he or she is related to the sibling by blood, adoption, or affinity.
- (C) The request or order that the petitioner is seeking.
- (D) Why that request or order is in the best interest of the ward.

(Amended by Stats. 2017, Ch. 319, Sec. 144. (AB 976) Effective January 1, 2018.)

- **4512.**

As used in this division:

(a) “Developmental disability” means a disability that originates before an individual attains 18 years of age; continues, or can be expected to continue, indefinitely; and constitutes a substantial disability for that individual. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include intellectual disability, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability, but shall not include other handicapping conditions that are solely physical in nature.

(b) “Services and supports for persons with developmental disabilities” means specialized services and supports or special adaptations of generic services and supports directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of independent, productive, and normal lives. The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer’s family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option. Services and supports listed in the individual program plan may include, but are not limited to, diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, physical, occupational, and speech therapy, training, education, supported and sheltered employment, mental health services, recreation, counseling of the individual with a developmental disability and of his or her family, protective and other social and sociolegal services, information and referral services, follow-along services, adaptive equipment and supplies, advocacy assistance, including self-advocacy training, facilitation and peer advocates, assessment, assistance in locating a home, child care, behavior training and behavior modification programs, camping, community integration services, community support, daily living skills training, emergency and crisis intervention, facilitating circles of support, habilitation, homemaker services, infant stimulation programs, paid roommates, paid neighbors, respite, short-term out-of-home care, social skills training, specialized medical and dental care, telehealth services and supports, as defined in Section 2290.5 of the Business and Professions Code, supported living arrangements, technical and financial assistance, travel training, training for parents of children with developmental disabilities, training for parents with developmental disabilities, vouchers, and transportation services necessary

to ensure delivery of services to persons with developmental disabilities. Nothing in this subdivision is intended to expand or authorize a new or different service or support for any consumer unless that service or support is contained in his or her individual program plan.

(c) Notwithstanding subdivisions (a) and (b), for any organization or agency receiving federal financial participation under the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, Chapter 144 (commencing with Section 15001) of Title 42 of the United States Code, as amended, “developmental disability” and “services for persons with developmental disabilities” mean the terms as defined in the federal act to the extent required by federal law.

(d) “Consumer” means a person who has a disability that meets the definition of developmental disability set forth in subdivision (a).

(e) “Natural supports” means personal associations and relationships typically developed in the community that enhance the quality and security of life for people, including, but not limited to, family relationships, friendships reflecting the diversity of the neighborhood and the community, associations with fellow students or employees in regular classrooms and workplaces, and associations developed through participation in clubs, organizations, and other civic activities.

(f) “Circle of support” means a committed group of community members, who may include family members, meeting regularly with an individual with developmental disabilities in order to share experiences, promote autonomy and community involvement, and assist the individual in establishing and maintaining natural supports. A circle of support generally includes a plurality of members who neither provide nor receive services or supports for persons with developmental disabilities and who do not receive payment for participation in the circle of support.

(g) “Facilitation” means the use of modified or adapted materials, special instructions, equipment, or personal assistance by an individual, such as assistance with communications, that will enable a consumer to understand and participate to the maximum extent possible in the decisions and choices that affect his or her life.

(h) “Family support services” means services and supports that are provided to a child with developmental disabilities or his or her family and that contribute to the ability of the family to reside together.

(i) “Voucher” means any authorized alternative form of service delivery in which the consumer or family member is provided with a payment, coupon, chit, or other form of authorization that enables the consumer or family member to choose his or her own service provider.

(j) “Planning team” means the individual with developmental disabilities, the parents or legally appointed guardian of a minor consumer or the legally appointed conservator of an adult consumer, the authorized representative, including those appointed pursuant to subdivision (d) of Section 4548 and subdivision (e) of Section 4705, one or more regional center representatives, including the designated regional center service coordinator pursuant to subdivision (b) of Section 4640.7, any individual, including a service provider, invited by the consumer, the parents or legally appointed guardian of a minor consumer or the legally appointed conservator of an adult consumer, or the authorized representative, including those appointed pursuant to subdivision (d) of Section 4548 and subdivision (e) of Section 4705, and including a minor’s, dependent’s, or ward’s court-appointed developmental services decisionmaker appointed pursuant to Section 319, 361, or 726.

(k) “Stakeholder organizations” means statewide organizations representing the interests of consumers, family members, service providers, and statewide advocacy organizations.

(l) (1) “Substantial disability” means the existence of significant functional limitations in three or more of the following areas of major life activity, as determined by a regional center, and as appropriate to the age of the person:

- (A) Self-care.
- (B) Receptive and expressive language.
- (C) Learning.
- (D) Mobility.
- (E) Self-direction.
- (F) Capacity for independent living.
- (G) Economic self-sufficiency.

(2) A reassessment of substantial disability for purposes of continuing eligibility shall utilize the same criteria under which the individual was originally made eligible.

(m) “Native language” means the language normally used or the preferred language identified by the individual and, when appropriate, his or her parent, legal guardian or conservator, or authorized representative.

(Amended by Stats. 2015, Ch. 303, Sec. 574. (AB 731) Effective January 1, 2016.)

• **11400.**

For purposes of this article, and Article 6 (commencing with Section 11450), the following definitions shall apply:

- (a) “Aid to Families with Dependent Children-Foster Care (AFDC-FC)” means the aid provided on behalf of needy children in foster care under the terms of this division.
- (b) “Case plan” means a written document that, at a minimum, specifies the type of home in which the child shall be placed, the safety of that home, and the appropriateness of that home to meet the child’s needs. It shall also include the agency’s plan for ensuring that the child receive proper care and protection in a safe environment, and shall set forth the appropriate services to be provided to the child, the child’s family, and the foster parents, in order to meet the child’s needs while in foster care, and to reunify the child with the child’s family. In addition, the plan shall specify the services that will be provided or steps that will be taken to facilitate an alternate permanent plan if reunification is not possible.
- (c) “Certified family home” means an individual or family certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used exclusively by that foster family agency for placements.
- (d) “Family home” means the family residence of a licensee in which 24-hour care and supervision are provided for children.
- (e) “Small family home” means any residential facility, in the licensee’s family residence, which provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

- (f) “Foster care” means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long-term substitute parenting.
- (g) “Foster family agency” means a licensed community care facility, as defined in paragraph (4) of subdivision (a) of Section 1502 of the Health and Safety Code. Private foster family agencies shall be organized and operated on a nonprofit basis.
- (h) “Group home” means a nondetention privately operated residential home, organized and operated on a nonprofit basis only, of any capacity, or a nondetention licensed residential care home operated by the County of San Mateo with a capacity of up to 25 beds, that accepts children in need of care and supervision in a group home, as defined by paragraph (13) of subdivision (a) of Section 1502 of the Health and Safety Code.
- (i) “Periodic review” means review of a child’s status by the juvenile court or by an administrative review panel, that shall include a consideration of the safety of the child, a determination of the continuing need for placement in foster care, evaluation of the goals for the placement and the progress toward meeting these goals, and development of a target date for the child’s return home or establishment of alternative permanent placement.
- (j) “Permanency planning hearing” means a hearing conducted by the juvenile court in which the child’s future status, including whether the child shall be returned home or another permanent plan shall be developed, is determined.
- (k) “Placement and care” refers to the responsibility for the welfare of a child vested in an agency or organization by virtue of the agency or organization having (1) been delegated care, custody, and control of a child by the juvenile court, (2) taken responsibility, pursuant to a relinquishment or termination of parental rights on a child, (3) taken the responsibility of supervising a child detained by the juvenile court pursuant to Section 319 or 636, or (4) signed a voluntary placement agreement for the child’s placement; or to the responsibility designated to an individual by virtue of their being appointed the child’s legal guardian.
- (l) “Preplacement preventive services” means services that are designed to help children remain with their families by preventing or eliminating the need for removal.
- (m) “Relative” means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words “great,” “great-great,” or “grand” or the spouse of any of these persons even if the marriage was terminated by death or dissolution.
- (n) “Nonrelative extended family member” means an adult caregiver who has an established familial or mentoring relationship with the child, as described in Section 362.7.
- (o) “Voluntary placement” means an out-of-home placement of a child by (1) the county welfare department, probation department, or Indian tribe that has entered into an agreement pursuant to Section 10553.1, after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement, or (2) the county welfare department licensed public or private adoption agency, or the department acting as an adoption agency, after the parents have requested the assistance of either the county welfare department, the licensed public or private adoption agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement.
- (p) “Voluntary placement agreement” means a written agreement between either the county welfare department, probation department, or Indian tribe that has entered into an agreement pursuant to

Section 10553.1, licensed public or private adoption agency, or the department acting as an adoption agency, and the parents or guardians of a child that specifies, at a minimum, the following:

(1) The legal status of the child.

(2) The rights and obligations of the parents or guardians, the child, and the agency in which the child is placed.

(q) “Original placement date” means the most recent date on which the court detained a child and ordered an agency to be responsible for supervising the child or the date on which an agency assumed responsibility for a child due to termination of parental rights, relinquishment, or voluntary placement.

(r) (1) “Transitional housing placement provider” means an organization licensed by the State Department of Social Services pursuant to Section 1559.110 of the Health and Safety Code to provide supervised transitional housing services to foster children who are at least 16 years of age. A transitional housing placement provider shall be privately operated and organized on a nonprofit basis.

(2) Prior to licensure, a provider shall obtain certification from the applicable county, in accordance with Section 16522.1.

(s) “Transitional Housing Program-Plus” means a provider certified by the applicable county, in accordance with subdivision (c) of Section 16522, to provide transitional housing services to former foster youth who have exited the foster care system on or after their 18th birthday.

(t) “Whole family foster home” means a resource family, licensed foster family home, approved relative caregiver or nonrelative extended family member’s home, the home of a nonrelated legal guardian whose guardianship was established pursuant to Section 360 or 366.26, certified family home, or a host family of a transitional housing placement provider, that provides foster care for a minor or nonminor dependent parent and their child, and is specifically recruited and trained to assist the minor or nonminor dependent parent in developing the skills necessary to provide a safe, stable, and permanent home for their child. The child of the minor or nonminor dependent parent need not be the subject of a petition filed pursuant to Section 300 to qualify for placement in a whole family foster home.

(u) “Mutual agreement” means any of the following:

(1) A written voluntary agreement of consent for continued placement and care in a supervised setting between a minor or, on and after January 1, 2012, a nonminor dependent, and the county welfare services or probation department or tribal agency responsible for the foster care placement, that documents the nonminor’s continued willingness to remain in supervised out-of-home placement under the placement and care of the responsible county, tribe, consortium of tribes, or tribal organization that has entered into an agreement with the state pursuant to Section 10553.1, remain under the jurisdiction of the juvenile court as a nonminor dependent, and report any change of circumstances relevant to continued eligibility for foster care payments, and that documents the nonminor’s and social worker’s or probation officer’s agreement to work together to facilitate implementation of the mutually developed supervised placement agreement and transitional independent living case plan.

(2) An agreement, as described in paragraph (1), between a nonminor former dependent or ward in receipt of Kin-GAP payments under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), and the agency responsible for the Kin-GAP benefits, provided that the nonminor former dependent or ward satisfies the conditions described in Section 11403.01,

or one or more of the conditions described in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403. For purposes of this paragraph and paragraph (3), “nonminor former dependent or ward” has the same meaning as described in subdivision (aa).

(3) An agreement, as described in paragraph (1), between a nonminor former dependent or ward in receipt of AFDC-FC payments under subdivision (e) or (f) of Section 11405 and the agency responsible for the AFDC-FC benefits, provided that the nonminor former dependent or ward described in subdivision (e) of Section 11405 satisfies one or more of the conditions described in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403, and the nonminor described in subdivision (f) of Section 11405 satisfies the secondary school or equivalent training or certificate program conditions described in that subdivision.

(v) “Nonminor dependent” means, on and after January 1, 2012, a foster child, as described in Section 675(8)(B) of Title 42 of the United States Code under the federal Social Security Act who is a current dependent child or ward of the juvenile court, or who is a nonminor under the transition jurisdiction of the juvenile court, as described in Section 450, and who satisfies all of the following criteria:

(1) The nonminor dependent has attained 18 years of age while under an order of foster care placement by the juvenile court, and is not more than 19 years of age on or after January 1, 2012, not more than 20 years of age on or after January 1, 2013, or not more than 21 years of age on or after January 1, 2014, and as described in Section 10103.5.

(2) The nonminor dependent is in foster care under the placement and care responsibility of the county welfare department, county probation department, Indian tribe, consortium of tribes, or tribal organization that entered into an agreement pursuant to Section 10553.1.

(3) The nonminor dependent has a transitional independent living case plan pursuant to Section 475(8) of the federal Social Security Act (42 U.S.C. Sec. 675(8)), as contained in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351), as described in Section 11403.

(w) “Supervised independent living placement” means, on and after January 1, 2012, an independent supervised setting, as specified in a nonminor dependent’s transitional independent living case plan, in which the youth is living independently, pursuant to Section 472(c) of the federal Social Security Act (42 U.S.C. Sec. 672(c)).

(x) “Supervised independent living setting,” pursuant to Section 472(c) of the federal Social Security Act (42 U.S.C. Sec. 672(c)), includes both a supervised independent living placement, as defined in subdivision (w), and a residential housing unit certified by the transitional housing placement provider operating a Transitional Housing Placement program for nonminor dependents, as described in paragraph (2) of subdivision (a) of Section 16522.1.

(y) “Transitional independent living case plan” means, on or after January 1, 2012, a child’s case plan submitted for the last review hearing held before the child reaches 18 years of age or the nonminor dependent’s case plan, updated every six months, that describes the goals and objectives of how the nonminor will make progress in the transition to living independently and assume incremental responsibility for adult decisionmaking, the collaborative efforts between the nonminor and the social worker, probation officer, or Indian tribal placing entity and the supportive services as described in the transitional independent living plan (TILP) to ensure active and meaningful participation in one or more of the eligibility criteria described in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403, the nonminor’s appropriate supervised placement setting, and the nonminor’s permanent plan for transition to living independently, which includes maintaining or

obtaining permanent connections to caring and committed adults, as set forth in paragraph (16) of subdivision (f) of Section 16501.1.

(z) “Voluntary reentry agreement” means a written voluntary agreement between a former dependent child or ward or a former nonminor dependent, who has had juvenile court jurisdiction terminated pursuant to Section 391, 452, or 607.2, and the county welfare or probation department or tribal placing entity that documents the nonminor’s desire and willingness to reenter foster care, to be placed in a supervised setting under the placement and care responsibility of the placing agency, the nonminor’s desire, willingness, and ability to immediately participate in one or more of the conditions of paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403, the nonminor’s agreement to work collaboratively with the placing agency to develop their transitional independent living case plan within 60 days of reentry, the nonminor’s agreement to report any changes of circumstances relevant to continued eligibility for foster care payments, and (1) the nonminor’s agreement to participate in the filing of a petition for juvenile court jurisdiction as a nonminor dependent pursuant to subdivision (e) of Section 388 within 15 judicial days of the signing of the agreement and the placing agency’s efforts and supportive services to assist the nonminor in the reentry process, or (2) if the nonminor meets the definition of a nonminor former dependent or ward, as described in subdivision (aa), the nonminor’s agreement to return to the care and support of their former juvenile court-appointed guardian and meet the eligibility criteria for AFDC-FC pursuant to subdivision (e) of Section 11405.

(aa) “Nonminor former dependent or ward” means, on and after January 1, 2012, either of the following:

(1) A nonminor who reached 18 years of age while subject to an order for foster care placement, and for whom dependency, delinquency, or transition jurisdiction has been terminated, and who is still under the general jurisdiction of the court.

(2) A nonminor who is over 18 years of age and, while a minor, was a dependent child or ward of the juvenile court when the guardianship was established pursuant to Section 360 or 366.26, or subdivision (d) of Section 728, and the juvenile court dependency or wardship was dismissed following the establishment of the guardianship.

(ab) “Youth homelessness prevention center” means a type of group home, as defined in paragraph (14) of subdivision (a) of Section 1502 of the Health and Safety Code, that is not an eligible placement option under Sections 319, 361.2, 450, and 727, and that is not eligible for AFDC-FC funding pursuant to subdivision (c) of Section 11402 or Section 11462.

(ac) “Transition dependent” is a minor between 17 years and five months and 18 years of age who is subject to the court’s transition jurisdiction under Section 450.

(ad) “Short-term residential therapeutic program” means a nondetention, licensed community care facility, as defined in paragraph (18) of subdivision (a) of Section 1502 of the Health and Safety Code, that provides an integrated program of specialized and intensive care and supervision, services and supports, and treatment for the child or youth, when the child’s or youth’s case plan specifies the need for, nature of, and anticipated duration of this specialized treatment. Short-term residential therapeutic programs shall be organized and operated on a nonprofit basis.

(ae) “Resource family” means an approved caregiver, as defined in subdivision (c) of Section 16519.5.

(af) “Core Services” mean services, made available to children, youth, and nonminor dependents either directly or secured through agreement with other agencies, which are trauma informed and culturally relevant as specified in Sections 11462 and 11463.

(Amended by Stats. 2019, Ch. 341, Sec. 16. (AB 1235) Effective January 1, 2020.)

• **11401.**

Aid in the form of AFDC-FC shall be provided under this chapter on behalf of any child under 18 years of age, and to any nonminor dependent who meets the conditions of any of the following subdivisions:

(a) The child has been relinquished, for purposes of adoption, to a licensed adoption agency, or the department, or the parental rights of either or both of his or her parents have been terminated after an action under the Family Code has been brought by a licensed adoption agency or the department, provided that the licensed adoption agency or the department, if responsible for placement and care, provides to those children all services as required by the department to children in foster care.

(b) The child has been removed from the physical custody of his or her parent, relative, or guardian as a result of a voluntary placement agreement or a judicial determination that continuance in the home would be contrary to the child's welfare and that, if the child was placed in foster care, reasonable efforts were made, consistent with Chapter 5 (commencing with Section 16500) of Part 4, to prevent or eliminate the need for removal of the child from his or her home and to make it possible for the child to return to his or her home, and any of the following applies:

(1) The child has been adjudged a dependent child of the court on the grounds that he or she is a person described by Section 300.

(2) The child has been adjudged a ward of the court on the grounds that he or she is a person described by Sections 601 and 602, or the child or nonminor is under the transition jurisdiction of the juvenile court pursuant to Section 450.

(3) The child has been detained under a court order, pursuant to Section 319 or 636, that remains in effect.

(4) The child's or nonminor's dependency jurisdiction, or transition jurisdiction pursuant to Section 450, has resumed pursuant to Section 387, or subdivision (a) or (e) of Section 388.

(c) The child has been voluntarily placed by his or her parent or guardian pursuant to Section 11401.1.

(d) The child is living in the home of a nonrelated legal guardian, or the nonminor is living in the home of a former nonrelated legal guardian.

(e) The child is a nonminor dependent who is placed pursuant to a mutual agreement as set forth in subdivision (u) of Section 11400, under the placement and care responsibility of the county child welfare services department, an Indian tribe that entered into an agreement pursuant to Section 10553.1, or the county probation department, or the child is a nonminor dependent reentering foster care placement pursuant to a voluntary agreement, as set forth in subdivision (z) of Section 11400.

(f) The child has been placed in foster care under the federal Indian Child Welfare Act. Sections 11402, 11404, and 11405 shall not be construed as limiting payments to Indian children, as defined in the federal Indian Child Welfare Act, placed in accordance with that act.

(g) To be eligible for federal financial participation, the conditions described in paragraph (1), (2), (3), or (4) shall be satisfied:

(1) (A) The child meets the conditions of subdivision (b).

(B) The child has been deprived of parental support or care for any of the reasons set forth in Section 11250.

(C) The child has been removed from the home of a relative as defined in Section 233.90(c)(1) of Title 45 of the Code of Federal Regulations, as amended.

(D) The requirements of Sections 671 and 672 of Title 42 of the United States Code, as amended, have been met.

(2) (A) The child meets the requirements of subdivision (h).

(B) The requirements of Sections 671 and 672 of Title 42 of the United States Code, as amended, have been met.

(C) This paragraph shall be implemented only if federal financial participation is available for the children described in this paragraph.

(3) (A) The child has been removed from the custody of his or her parent, relative, or guardian as a result of a voluntary placement agreement or a judicial determination that continuance in the home would be contrary to the child's welfare and that, if the child was placed in foster care, reasonable efforts were made, consistent with Chapter 5 (commencing with Section 16500) of Part 4, to prevent or eliminate the need for removal of the child from his or her home and to make it possible for the child to return to his or her home, or the child is a nonminor dependent who satisfies the removal criteria in Section 472(a)(2)(A)(i) of the federal Social Security Act (42 U.S.C. Sec. 672 (a)(2)(A)(i)) and agrees to the placement and care responsibility of the placing agency by signing the voluntary reentry agreement, as set forth in subdivision (z) of Section 11400, and any of the following applies:

(i) The child has been adjudged a dependent child of the court on the grounds that he or she is a person described by Section 300.

(ii) The child has been adjudged a ward of the court on the grounds that he or she is a person described by Sections 601 and 602 or the child or nonminor is under the transition jurisdiction of the juvenile court, pursuant to Section 450.

(iii) The child has been detained under a court order, pursuant to Section 319 or 636, that remains in effect.

(iv) The child's or nonminor's dependency jurisdiction, or transition jurisdiction pursuant to Section 450, has resumed pursuant to Section 387, or subdivision (a) or (e) of Section 388.

(B) The child has been placed in an eligible foster care placement, as set forth in Section 11402.

(C) The requirements of Sections 671 and 672 of Title 42 of the United States Code have been satisfied.

(D) This paragraph shall be implemented only if federal financial participation is available for the children described in this paragraph.

(4) With respect to a nonminor dependent, in addition to meeting the conditions specified in paragraph (1), the requirements of Section 675(8)(B) of Title 42 of the United States Code have been satisfied. With respect to a former nonminor dependent who reenters foster care placement by signing the voluntary reentry agreement, as set forth in subdivision (z) of Section 11400, the requirements for AFDC-FC eligibility of Section 672(a)(3)(A) of Title 42 of the United States Code are satisfied based on the nonminor's status as a child-only case, without regard to the parents, legal guardians, or others in the assistance unit in the home from which the nonminor was originally removed.

(h) The child meets all of the following conditions:

(1) The child has been adjudged to be a dependent child or ward of the court on the grounds that he or she is a person described in Section 300, 601, or 602.

(2) The child's parent also has been adjudged to be a dependent child or nonminor dependent of the court on the grounds that he or she is a person described by Section 300, 450, 601, or 602 and is receiving benefits under this chapter.

(3) The child is placed in the same licensed or approved foster care facility in which his or her parent is placed and the child's parent is receiving reunification services with respect to that child.

(Amended by Stats. 2017, Ch. 707, Sec. 5. (AB 604) Effective January 1, 2018.)

- **11402.**

In order to be eligible for AFDC-FC, a child or nonminor dependent shall be placed in one of the following:

(a) Prior to January 1, 2021:

(1) The approved home of a relative, provided the child or youth is otherwise eligible for federal financial participation in the AFDC-FC payment.

(2) The approved home of a nonrelative extended family member, as described in Section 362.7.

(3) The licensed family home of a nonrelative.

(b) The approved home of a resource family, as defined in Section 16519.5, if either of the following is true:

(1) The caregiver is a nonrelative.

(2) The caregiver is a relative, and the child or youth is otherwise eligible for federal financial participation in the AFDC-FC payment.

(c) A small family home, as defined in paragraph (6) of subdivision (a) of Section 1502 of the Health and Safety Code.

(d) A housing unit, as described in Section 1559.110 of the Health and Safety Code, certified by a licensed transitional housing placement provider, as defined in paragraph (12) of subdivision (a) of Section 1502 of the Health and Safety Code and subdivision (r) of Section 11400.

(e) An approved supervised independent living setting for nonminor dependents, as described in subdivision (w) of Section 11400.

(f) A licensed 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, for placement into a certified or approved home used exclusively by the foster family agency.

(g) A 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.

(h) An out-of-state group home that meets the requirements of paragraph (2) of subdivision (c) of Section 11460, provided that the placement worker, in addition to complying with all other statutory requirements for placing a child or youth in an out-of-state group home, documents that the requirements of Section 7911.1 of the Family Code have been met.

(i) A community treatment facility, as defined in paragraph (8) of subdivision (a) of Section 1502 of the Health and Safety Code, and as set forth in Article 5 (commencing with Section 4094) of Chapter 3 of Part 1 of Division 4.

(j) A community care facility licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code and vendored by a regional center pursuant to Section 56004 of Title 17 of the California Code of Regulations.

(k) The home of a nonrelated legal guardian or the home of a former nonrelated legal guardian when the guardianship of a child or youth who is otherwise eligible for AFDC-FC has been dismissed due to the child or youth attaining 18 years of age.

(l) A dormitory or other designated housing of a postsecondary educational institution in which a minor dependent who is enrolled at the postsecondary educational institution is living independently, as described in Section 11402.7.

(Amended by Stats. 2018, Ch. 935, Sec. 3. (SB 1083) Effective January 1, 2019.)

- **16001.**

(a) The State Department of Social Services shall provide technical assistance to encourage and facilitate the county placement agency's evaluation of placement needs and the development of needed placement resources and programs. County placement agencies shall, on a regular basis, conduct an evaluation of the county's placement resources and programs in relation to the needs of children placed in out-of-home care. County placement agencies shall examine the adequacy of existing placement resources and programs and identify the type of additional placement resources and programs needed. The county placement agency shall specifically examine placements which are out of county and shall determine the reason the placement was necessary, and identify the additional placement resources and programs which need to be developed and available to allow a child to remain within the county and as close as possible to his or her home. The department shall also support the development and operation of a consortia of county placement agencies on a regional basis for the purpose of developing specialized programs serving a multicounty area.

(b) It is the intent of the Legislature that the reason for each out-of-county and out-of-state placement be included in the Child Welfare Services Case Management System, and that the State Department of Social Services utilize that data to evaluate out-of-county and out-of-state placements and to assist in the identification of resource and placement needs.

(c) It is the intent of the Legislature that the State Department of Social Services review the out-of-state placement of children to determine the reason for out-of-state placement. The department shall make the information available to the Legislature upon request.

(Added by Stats. 1993, Ch. 1089, Sec. 31. Effective January 1, 1994.)

- **16501.**

(a) (1) As used in this chapter, "child welfare services" means public social services that are directed toward the accomplishment of any or all of the following purposes:

(A) Protecting and promoting the welfare of all children, including disabled, homeless, dependent, or neglected children.

(B) Preventing or remedying, or assisting in the solution of problems that may result in, the neglect, abuse, exploitation, or delinquency of children.

(C) Preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible.

(D) Restoring to their families children who have been removed, by the provision of services to the child and the families.

(E) Identifying children to be placed in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate.

(F) Ensuring adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption.

(2) “Child welfare services” also means services provided on behalf of children alleged to be the victims of child abuse, neglect, or exploitation. The child welfare services provided on behalf of each child represent a continuum of services, including emergency response services, family preservation services, family maintenance services, family reunification services, and permanent placement services, including supportive transition services. The individual child’s case plan is the guiding principle in the provision of these services. The case plan shall be developed within a maximum of 60 days of the initial removal of the child or of the in-person response required under subdivision (f) if the child has not been removed from their home, or by the date of the dispositional hearing pursuant to Section 358, whichever comes first.

(3) “Child welfare services” are best provided in a framework that integrates service planning and delivery among multiple service systems, including the mental health system, using a team-based approach, such as a child and family team. A child and family team brings together individuals that engage with the child or youth and family in assessing, planning, and delivering services consistent with paragraph (1) of subdivision (d) of Section 16501.1. Use of a team approach increases efficiency, and thus reduces cost, by increasing coordination of formal services and integrating the natural and informal supports available to the child or youth and family.

(4) “Child and family team” means a group of individuals who are convened by the placing agency and who are engaged through a variety of team-based processes to identify the strengths and needs of the child or youth and their family, and to help achieve positive outcomes for safety, permanency, and well-being.

(A) The activities of the team shall include, but not be limited to, both of the following:

(i) Providing input into the development of a child and family plan that is strengths-based, needs-driven, and culturally relevant.

(ii) Providing input into the placement decision made by the placing agency and the services to be provided in order to support the child or youth.

(B) (i) The child and family team process shall engage the child or youth, the child’s family, and other people important to the family or to the child or youth in meeting the objectives set forth in subparagraph (A). The child and family team shall also include representatives who provide formal supports to the child or youth and family when appropriate, including, but not limited to, all of the following:

(I) The caregiver.

(II) The placing agency caseworker.

(III) A representative from a foster family agency or short-term residential therapeutic program with which a child or youth is placed.

(IV) A county mental health representative.

(V) A representative from the regional center if the child is eligible for regional center services.

(VI) The child or youth's Court-Appointed Special Advocate, if one has been appointed, unless the child or youth objects.

(VII) A representative of the child or youth's tribe or Indian custodian, as applicable.

(ii) As appropriate, the child and family team also may include other formal supports, such as substance use disorder treatment professionals and educational professionals, providing services to the child or youth and family. For purposes of this definition, the child and family team also may include extended family and informal support persons, such as friends, coaches, faith-based connections, and tribes as identified by the child or youth and family. If placement into a short-term residential therapeutic program or a foster family agency that provides treatment services has occurred or is being considered, the mental health representative is required to be a licensed mental health professional. Any party to the child's case who is represented by an attorney may consult with their attorney regarding this process. The child or youth and their family may request specific persons to be included on the child and family team. Nothing shall preclude another agency serving the child or youth from convening a team in collaboration with the placing agency.

(5) "Child and family team meeting" means a convening of all or some members of the child and family team. A child and family team meeting may be requested by any member of the child and family team.

(A) Upon the scheduling of a child and family team meeting, a notification shall be provided to the child or youth, their parent or guardian, and the caregiver.

(B) The occurrence of the child and family team meeting shall be documented in the court report that is prepared pursuant to Section 358.1 or 366.1.

(C) (i) The child's court-appointed educational rights holder, if someone other than the parent, guardian, or caregiver, shall be invited to the child and family team meeting if either of the following applies:

(I) The child and family team will develop and implement a placement preservation strategy pursuant to Section 16010.7.

(II) The child and family team will discuss a placement change.

(ii) The child and family team shall discuss if remaining in the school of origin is in the child's best interest.

(iii) Pursuant to, and in accordance with, Section 48853.5 of the Education Code, if the child's educational rights holder determines that remaining in, or returning to, the child's school of origin is in the child's best interest, the child and family team, in consultation with the foster care educational liaison, shall determine an appropriate transportation plan for the child to attend their school of origin and any available extracurricular activities.

(6) Child welfare services may include, but are not limited to, a range of service-funded activities, including case management, counseling, emergency shelter care, emergency in-home caretakers, temporary in-home caretakers, respite care, therapeutic day services, teaching and demonstrating homemakers, parenting training, substance abuse testing, transportation, and specialized permanency services. These service-funded activities shall be available to children and their families

in all phases of the child welfare program in accordance with the child’s case plan and departmental regulations. Funding for services is limited to the amount appropriated in the annual Budget Act and other available county funds.

(7) Service-funded activities to be provided may be determined by each county, based upon individual child and family needs as reflected in the service plan.

(8) As used in this chapter, “emergency shelter care” means emergency shelter provided to children who have been removed pursuant to Section 300 from their parent or parents or their guardian or guardians. The department may establish, by regulation, the time periods for which emergency shelter care shall be funded. For the purposes of this paragraph, “emergency shelter care” may include “transitional shelter care facilities” as defined in paragraph (11) of subdivision (a) of Section 1502 of the Health and Safety Code.

(9) As used in this chapter, “specialized permanency services” means services to assist a child or nonminor dependent whose case plan is for permanent placement or supportive transition to adulthood in achieving a permanent family through reunification, adoption, legal guardianship, or other lifelong connection to caring adults, including at least one adult who will provide a permanent, parent-like relationship for the child or nonminor dependent. Specialized permanency services are designed for and with the child to address the child’s history of trauma, separation, and loss. “Specialized permanency services” may include all of the following:

(A) Medically necessary mental health services, if the medical necessity criteria for Medi-Cal specialty mental health services, as described in Section 1830.205 or 1830.210 of Title 9 of the California Code of Regulations, is met, as needed to ameliorate impairments in significant areas of life functioning that may reduce the likelihood of the child or nonminor dependent achieving a permanent family, and may include other services designed to address the child’s or nonminor dependent’s history of trauma, grief, loss, stigma, and rejection that reduce the likelihood of the child or nonminor dependent achieving a permanent family.

(B) Permanency support core services, as appropriate to achieve, stabilize, and sustain the child or nonminor dependent in a permanent family.

(C) Services designed to prepare the identified permanent family to meet the child’s or nonminor dependent’s needs, set appropriate expectations before and after permanency is achieved, and stabilize the placement.

(b) As used in this chapter, “respite care” means temporary care for periods not to exceed 72 hours, and, in order to preserve the placement, may be extended up to 14 days in any one month pending the development of policies and regulations in consultation with county placing agencies and stakeholders. This care may be provided to the child’s parents or guardians. This care shall not be limited by regulation to care over 24 hours. These services shall not be provided for the purpose of routine, ongoing childcare.

(c) The county shall provide child welfare services as needed pursuant to an approved service plan and in accordance with regulations promulgated, in consultation with the counties, by the department. Counties may contract for service-funded activities, as defined in paragraph (1) of subdivision (a). Counties shall not contract for needs assessment, client eligibility determination, or any other activity as specified by regulations of the State Department of Social Services, except as specifically authorized in Section 16100.

(d) This chapter shall not be construed to affect duties that are delegated to probation officers pursuant to Sections 601 and 654.

- (e) A county may utilize volunteer individuals to supplement professional child welfare services by providing ancillary support services in accordance with regulations adopted by the State Department of Social Services.
- (f) As used in this chapter, emergency response services consist of a response system providing in-person response, 24 hours a day, seven days a week, to reports of abuse, neglect, or exploitation, as required by Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code for the purpose of investigation pursuant to Section 11166 of the Penal Code and to determine the necessity for providing initial intake services and crisis intervention to maintain the child safely in their own home or to protect the safety of the child. County welfare departments shall respond to any report of imminent danger to a child immediately and all other reports within 10 calendar days. An in-person response is not required when the county welfare department, based upon an evaluation of risk, determines that an in-person response is not appropriate. This evaluation includes collateral contacts, a review of previous referrals, and other relevant information, as indicated.
- (g) As used in this chapter, family maintenance services are activities designed to provide in-home protective services to prevent or remedy neglect, abuse, or exploitation, for the purposes of preventing separation of children from their families.
- (h) As used in this chapter, family reunification services are activities designed to provide time-limited foster care services to prevent or remedy neglect, abuse, or exploitation, when the child cannot safely remain at home, and needs temporary foster care, while services are provided to reunite the family.
- (i) (1) As used in this chapter, permanent placement services are activities designed to provide an alternate permanent family structure for children who, because of abuse, neglect, or exploitation, cannot safely remain at home and who are unlikely to ever return home. These services shall be provided on behalf of children for whom there has been a judicial determination of a permanent plan for adoption, legal guardianship, placement with a fit and willing relative, or continued foster care placement, and, as needed, shall include supportive transition services to nonminor dependents, as described in subdivision (v) of Section 11400.
- (2) For purposes of this section, “another planned permanent living arrangement” means a permanent plan ordered by the court for a child 16 years of age or older or a nonminor dependent, when there is a compelling reason or reasons to determine that it is not in the best interest of the child or nonminor dependent to return home, be placed for adoption, be placed for tribal customary adoption in the case of an Indian child, or be placed with a fit and willing relative. Placement in a group home, or, on and after January 1, 2017, a short-term residential therapeutic program, shall not be the identified permanent plan for any child or nonminor dependent.
- (j) As used in this chapter, family preservation services include those services specified in Section 16500.5 to avoid or limit out-of-home placement of children, and may include those services specified in that section to place children in the least restrictive environment possible.
- (k) (1) (A) In any county electing to implement this subdivision, all county welfare department employees who have frequent and routine contact with children shall, by February 1, 1997, and all welfare department employees who are expected to have frequent and routine contact with children and who are hired on or after January 1, 1996, and all such employees whose duties change after January 1, 1996, to include frequent and routine contact with children, shall, if the employees provide services to children who are alleged victims of abuse, neglect, or exploitation, sign a declaration under penalty of perjury regarding any prior criminal conviction, and shall provide a set of fingerprints to the county welfare director.

(B) The county welfare director shall secure from the Department of Justice a criminal record to determine whether the employee has ever been convicted of a crime other than a minor traffic violation. The Department of Justice shall deliver the criminal record to the county welfare director.

(C) If it is found that the employee has been convicted of a crime, other than a minor traffic violation, the county welfare director shall determine whether there is substantial and convincing evidence to support a reasonable belief that the employee is of good character so as to justify frequent and routine contact with children.

(D) An exemption shall not be granted pursuant to subparagraph (C) if the person has been convicted of a sex offense against a minor, or has been convicted of an offense specified in Section 220, 243.4, 264.1, 273d, 288, or 289 of the Penal Code, or in paragraph (1) of Section 273a of, or subdivision (a) or (b) of Section 368 of, the Penal Code, or has been convicted of an offense specified in subdivision (c) of Section 667.5 of the Penal Code. The county welfare director shall suspend such a person from any duties involving frequent and routine contact with children.

(E) Notwithstanding subparagraph (D), the county welfare director may grant an exemption if the employee or prospective employee, who was convicted of a crime against an individual specified in paragraph (1) or (7) of subdivision (c) of Section 667.5 of the Penal Code, has been rehabilitated as provided in Section 4852.03 of the Penal Code and has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years and has the recommendation of the district attorney representing the employee's or prospective employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code. In that case, the county welfare director may give the employee or prospective employee an opportunity to explain the conviction and shall consider that explanation in the evaluation of the criminal conviction record.

(F) If criminal record information has not been recorded, the county welfare director shall cause a statement of that fact to be included in that person's personnel file.

(2) For purposes of this subdivision, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. An action that the county welfare director is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw their plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this subdivision, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(Amended by Stats. 2019, Ch. 780, Sec. 4. (AB 1068) Effective January 1, 2020.)

- **16522.1.**

(a) In order to be licensed as a transitional housing placement provider pursuant to Section 1559.110 of the Health and Safety Code and be eligible for payment of AFDC-FC benefits pursuant to Sections 11403.2 and 11403.3, an applicant shall obtain certification from the applicable county specifying whether the facility will serve foster youth at least 16 years of age and not more than 18 years of age, nonminor dependents, as defined in subdivision (v) of Section 11400, or both, as follows:

- (1) A program serving foster children at least 16 years of age and not more than 18 years of age shall obtain a certification entitled “Transitional Housing Placement program for minor foster children.”
- (2) A program serving nonminor dependents at least 18 years of age and not more than 21 years of age shall obtain a certification entitled a “Transitional Housing Placement program for nonminor dependents.”
- (b) The certification for the Transitional Housing Placement program for minor foster children shall confirm that the program provides for all of the following:
 - (1) Admission criteria for participants in the program, including, but not limited to, consideration of the participant’s age, previous placement history, delinquency history, history of drug or alcohol abuse, current strengths, level of education, mental health history, medical history, prospects for successful participation in the program, and work experience. Youth who are wards of the court described in Section 602 and youth receiving psychotropic medications shall be eligible for consideration to participate in the program, and shall not be automatically excluded due to these factors.
 - (2) The department shall review the admission criteria to ensure that the criteria are sufficient to protect participants and that they do not discriminate on the basis of any characteristic listed or defined in Section 11135 of the Government Code.
 - (3) Strict employment criteria that include a consideration of the employee’s age, drug or alcohol history, and experience in working with persons in this age group.
 - (4) A training program designed to educate employees who work directly with participants about the characteristics of persons in this age group placed in long-term care settings, and designed to ensure that these employees are able to adequately supervise and counsel participants and to provide them with training in independent living skills.
 - (5) A detailed plan for monitoring the placement of persons under the licensee’s care.
 - (6) A contract between the participant and the licensee that specifically sets out the requirements for each party, and in which the licensee and the participant agree to the requirements of this article.
 - (7) An allowance to be provided to each participant in the program. In the case of a participant living independently, this allowance shall be sufficient for the participant to purchase food and other necessities.
 - (8) A system for payment for utilities, telephone, and rent.
 - (9) Policies regarding all of the following:
 - (A) Education requirements.
 - (B) Work expectations.
 - (C) Savings requirements.
 - (D) Personal safety.
 - (E) Visitors, including, but not limited to, visitation by the placement auditor pursuant to paragraph (5).
 - (F) Emergencies.
 - (G) Medical problems.
 - (H) Disciplinary measures.

- (I) Child care.
- (J) Pregnancy.
- (K) Curfew.
- (L) Housing unit cleanliness.
- (M) Use of utilities and telephone.
- (N) Budgeting.
- (O) Care of furnishings.
- (P) Decorating of housing units.
- (Q) Cars.
- (R) Lending or borrowing money.
- (S) Unauthorized purchases.
- (T) Dating.
- (U) Grounds for termination that may include, but shall not be limited to, illegal activities or harboring runaways.
- (V) The approval of any nonparticipant roommates.
- (10) Housing unit furnishings, and a policy on disposition of the furnishings when the participant completes the program.
- (11) Evaluation of the participant's progress in the program and reporting to the independent living program and to the department regarding that progress.
- (12) A linkage to the federal Workforce Investment Act of 1998 (29 U.S.C. Sec. 2801 et seq.) program administered in the local area to provide employment training to eligible participants.
- (13) Effective January 1, 2013, a program staffing ratio of case manager to participant not to exceed 1 to 12.
- (c) The certification for the Transitional Housing Placement program for nonminor dependents shall confirm that the program provides for all of the following:
 - (1) That the program is needed by the county.
 - (2) That the transitional housing placement provider is capable of effectively and efficiently operating the program.
 - (3) That the transitional housing placement provider is willing and able to accept the AFDC-FC-eligible nonminor dependents for placement by the placing agency who need the level of care and services that will be provided by the program.
 - (4) That the plan of operation is suitable to meet the needs of the identified population.
 - (5) Maintain a program staffing ratio for nonminor dependents of case manager to participant not to exceed a shared average caseload of 1 to 12, inclusive, with a designated lead case manager assigned to each youth.
 - (6) That the provider has established a process, which includes the county if the county chooses to participate, to evaluate whether a participant may be placed with a nonparticipant.

(d) For purposes of this section, “applicable county” means the county where the administrative office or subadministrative office of a transitional housing placement provider is located or a primary placing county.

(Amended by Stats. 2017, Ch. 731, Sec. 12. (SB 612) Effective January 1, 2018.)

- **18360.**

As used in this chapter, the following terms have the following meanings:

(a) “Client support staff” means professional and paraprofessional staff or contractors who meet the experience and education requirements of paragraphs (2), (3), and (4) of subdivision (c) of Section 18360.10, and are operating within the scope of practice of their license or certification, to provide support and services to the eligible child and other individuals, as approved by the placing agency and informed by the child and family team, as defined in paragraph (4) of subdivision (a) of Section 16501, or the individualized health care plan team, as defined in subdivision (d) of Section 17710.

(b) “Eligible child” means a child or nonminor dependent in foster care who has intensive needs, including, but not limited to, medical, therapeutic, or behavioral needs.

(c) “Intensive services foster care” means a licensed foster family agency model or public delivery model of home-based family care for eligible children whose needs for safety, permanency, and well-being require specially trained resource parents and intensive professional and paraprofessional services and support in order to remain in a home-based setting, or to avoid or exit congregate care in a short-term residential therapeutic program, group home, or out-of-state residential center.

(d) “Intensive services foster care resource family” means a resource family, as defined in Section 16519.5 of this code or Section 1517 of the Health and Safety Code and, until December 31, 2020, a licensed foster family home or a certified family home of a licensed foster family agency, or, before January 1, 2020, the approved home of a relative or nonrelative extended family member, that has met the training requirements in this chapter or is in the process of completing training pursuant to paragraph (5) of subdivision (b) of Section 18360.10.

(e) “Intensive services foster care resource parent” means a foster parent of an intensive services foster care resource family.

(f) “Licensed foster family agency model” means an intensive services foster care program operated by a private nonprofit agency or a county that is licensed as a foster family agency.

(g) “Public delivery model” means an intensive services foster care program directly operated by a county as a governmental program.

(h) “Urgent placement needs” means immediate and extenuating circumstances requiring immediate placement with an intensive services foster care resource parent, as determined by the county placing agency based on the level of care rate protocol.

(Amended by Stats. 2018, Ch. 935, Sec. 8.5. (SB 1083) Effective January 1, 2019.)

Rules of Court

- **Rule 5.502. Definitions and use of terms**

Definitions (§§ 202(e), 303, 319, 361, 361.5(a)(3), 450, 628.1, 636, 726, 727.3(c)(2), 727.4(d), 4512(j), 4701.6(b), 11400(v), 11400(y), 16501(f)(16); 20 U.S.C. § 1415; 25 U.S.C. § 1903(2))

As used in these rules, unless the context or subject matter otherwise requires:

- (1) "Affinity" means the connection existing between one spouse or domestic partner and the blood or adoptive relatives of the other spouse or domestic partner.
- (2) "At risk of entering foster care" means that conditions within a child's family may require that the child be removed from the custody of a parent or guardian and placed in foster care unless or until those conditions are resolved.
- (3) "CASA" means Court Appointed Special Advocate as defined in rule 5.655.
- (4) "Child Abuse Prevention and Treatment Act (CAPTA) guardian ad litem for a child subject to a juvenile dependency petition" is defined in rule 5.662.
- (5) "Child" means a person under the age of 18 years.
- (6) "Clerk" means the clerk of the juvenile court.
- (7) "Court" means the juvenile court and includes any judicial officer of the juvenile court.
- (8) "Court-ordered services" or "court-ordered treatment program" means child welfare services or services provided by an appropriate agency ordered at a dispositional hearing at which the child is declared a dependent child or ward of the court, and any hearing thereafter, for the purpose of maintaining or reunifying a child with a parent or guardian.
- (9) "Date the child entered foster care" means:
 - (A) In dependency, the date on which the court sustained the petition filed under section 300 or 60 days after the "initial removal" of the child as defined below, whichever is earlier; or
 - (B) In delinquency, the date 60 days after the date on which the child was initially removed from the home, unless one of the following exceptions applies:
 - (i) If the child is detained pending foster care placement and remains detained for more than 60 days, then the "date the child entered foster care" means the date the court declares the child a ward and orders the child placed in foster care under the supervision of the probation officer;
 - (ii) If, before the child is placed in foster care, the child is committed to a ranch, camp, school, or other institution pending placement, and remains in that facility for more than 60 days, then the "date the child entered foster care" is the date the child is physically placed in foster care; or
 - (iii) If, at the time the wardship petition was filed, the child was a dependent of the juvenile court and in out-of-home placement, then the "date the child entered foster care" is the date defined in (A).
- (10) "De facto parent" means a person who has been found by the court to have assumed, on a day-to-day basis, the role of parent, fulfilling both the child's physical and psychological needs for care and affection, and who has assumed that role for a substantial period.
- (11) "Detained" means any removal of the child from the person or persons legally entitled to the child's physical custody, or any release of the child on home supervision under section 628.1 or 636. A child released or placed on home supervision is not detained for the purposes of federal foster care funding.

(12) "Domestic partner" means one of two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring as described in Family Code section 297.

(13) "Educational rights holder" means the adult identified or appointed by the court to make educational or developmental-services decisions for a child, nonminor, or nonminor dependent. If the court limits a parent's or guardian's decisionmaking rights and appoints an educational rights holder, the appointed rights holder acts as the child's or youth's parent, spokesperson, decision maker, and "authorized representative" as described in sections 4512(j) and 4701.6(b) in regard to all matters related to educational or developmental-services needs, including those described in sections 319, 361, 726, 4512, 4646-4648, and 4700-4731; Education Code sections 56028(b)(2), 56050, and 56055; Government Code sections 7579.5 and 7579.6; chapter 33 (commencing with section 1400) of title 20 of the United States Code; and part 300 (commencing with section 300.1) of title 34 of the Code of Federal Regulations, unless the court orders otherwise. An appointed educational rights holder is entitled to access to educational and developmental-services records and information to the extent permitted by law, including by sections 4514 and 5328, and to the same extent as a parent, as that term is used in title 20 United States Code section 1232g and defined in title 34 Code of Federal Regulations part 99.3.

(14) "Foster care" means residential care provided in any of the settings described in section 11402.

(15) "Foster parent" includes a relative with whom the child is placed.

(16) "General jurisdiction" means the jurisdiction the juvenile court maintains over a nonminor under section 303(b) at the time of the dismissal of dependency jurisdiction, delinquency jurisdiction, or transition jurisdiction for the purpose of considering a request to resume its dependency jurisdiction or to assume or resume its transition jurisdiction over the person as a nonminor dependent.

(17) "Guardian" means legal guardian of the child.

(18) "Hearing" means a noticed proceeding with findings and orders that are made on a case-by-case basis, heard by either of the following:

(A) A judicial officer, in a courtroom, in which the proceedings are recorded by a court reporter; or

(B) An administrative panel, provided that the hearing meets the conditions described in section 366.3(d) and (e) for dependents and section 727.4(d)(7)(B) for delinquents.

(19) "Indian child" means any unmarried person under 18 years of age who is either (a) a member of an Indian tribe or (b) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe. In a court proceeding defined in section 224.1(d), the term also means a youth who satisfies the conditions in either (a) or (b), above, is 18 years of age but not yet 21 years of age, and remains under the jurisdiction of the juvenile court, unless that youth, directly or through his or her attorney, chooses not to be considered an Indian child for purposes of the proceeding.

(20) "Indian child's tribe" means (a) the Indian tribe of which the Indian child is a member or is eligible for membership, or (b), if an Indian child is a member of, or eligible for membership in, more than one tribe, the Indian tribe with which the Indian child has the more significant contacts, as determined under section 224.1(e).

(21) "Initial removal" means the date on which the child, who is the subject of a petition filed under section 300 or 600, was taken into custody by the social worker or a peace officer, or was deemed to have been taken into custody under section 309(b) or 628(c), if removal results in the filing of the petition before the court.

(22) "Member of the household," for purposes of section 300 proceedings, means any person continually or frequently found in the same household as the child.

(23) "Modification of parental rights" means a modification of parental rights through a tribal customary adoption under Welfare and Institutions Code section 366.24.

(24) "90-day Transition Plan" means the personalized plan developed at the direction of a child currently in a foster care placement during the 90-day period before the child's planned exit from foster care when she or he attains 18 years of age or, if applicable, developed at the direction of a nonminor during the 90-day period prior to his or her anticipated exit from foster care. A 90-day Transition Plan must also be developed for and at the direction of a former foster child who remains eligible for Independent Living Program services during the 90-day period before he or she attains 18 years of age. The plan is as detailed as the child or nonminor chooses and includes information about a power of attorney for health care and specific options regarding housing, health insurance, education, local opportunities for mentors and continuing support services, workforce supports, and employment services. Inclusion of information in the plan relating to sexual health, services, and resources to ensure the child or nonminor is informed and prepared to make healthy decisions about his or her life is encouraged.

(25) "Nonminor" means a youth at least 18 years of age and not yet 21 years of age who remains subject to the court's dependency, delinquency, or general jurisdiction under section 303 but is not a "nonminor dependent."

(26) "Nonminor dependent" means a youth who is a dependent or ward of the court, or a nonminor under the transition jurisdiction of the court, is at least 18 years of age and not yet 21 years of age, and:

(A) Was under an order of foster care placement on his or her 18th birthday;

(B) Is currently in foster care under the placement and care authority of the county welfare department, the county probation department, or an Indian tribe that entered into an agreement under section 10553.1; and

(C) Is participating in a current Transitional Independent Living Case Plan as defined in this rule.

(27) "Notice" means a paper to be filed with the court accompanied by proof of service on each party required to be served in the manner prescribed by these rules. If a notice or other paper is required to be given to or served on a party, the notice or service must be given to or made on the party's attorney of record, if any.

(28) "Notify" means to inform, either orally or in writing.

(29) "Petitioner," in section 300 proceedings, means the county welfare department; "petitioner," in section 601 and 602 proceedings, means the probation officer or prosecuting attorney.

(30) "Preadoptive parent" means a licensed foster parent who has been approved to adopt a child by the California State Department of Social Services, when it is acting as an adoption agency, or by a licensed adoption agency, or, in the case of an Indian child for whom tribal

customary adoption is the permanent plan, the individual designated by the child's identified Indian tribe as the prospective adoptive parent.

(31) "Probation officer," in section 300 proceedings, includes a social worker in the county agency responsible for the administration of child welfare.

(32) "Punishment" means the imposition of sanctions, as defined in section 202(e), on a child declared a ward of the court after a petition under section 602 is sustained. A court order to place a child in foster care must not be used as punishment.

(33) "Reasonable efforts" or "reasonable services" means those efforts made or services offered or provided by the county welfare agency or probation department to prevent or eliminate the need for removing the child, or to resolve the issues that led to the child's removal in order for the child to be returned home, or to finalize the permanent placement of the child.

(34) "Relative" means:

(A) An adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship. This term includes:

(i) A parent, sibling, grandparent, aunt, uncle, nephew, niece, great-grandparent, great-aunt or -uncle (grandparents' sibling), first cousin, great-great-grandparent, great-great-aunt or -uncle (great-grandparents' sibling), first cousin once removed (parents' first cousin), and great-great-great-grandparent;

(ii) A stepparent or stepsibling; and

(iii) The spouse or domestic partner of any of the persons described in subparagraphs (A)(i) and (ii), even if the marriage or partnership was terminated by death or dissolution; or

(B) An extended family member as defined by the law or custom of an Indian child's tribe. (25 U.S.C. § 1903(2).)

(35) "Removal" means a court order that takes away the care, custody, and control of a dependent child or ward from the child's parent or guardian, and places the care, custody, and control of the child with the court, under the supervision of the agency responsible for the administration of child welfare or the county probation department.

(36) "Section" means a section of the Welfare and Institutions Code unless stated otherwise.

(37) "Sibling group" means two or more children related to each other by blood, adoption, or affinity through a common legal or biological parent.

(38) "Social study," in section 300, 601, or 602 proceedings, means any written report provided to the court and all parties and counsel by the social worker or probation officer in any matter involving the custody, status, or welfare of a child in a dependency or wardship proceeding.

(39) "Social worker," in section 300 proceedings, means an employee of the county child welfare agency and includes a probation officer performing the child welfare duties.

(40) "Subdivision" means a subdivision of the rule in which the term appears.

(41) "Transition dependent" means a ward of the court at least 17 years and five months of age but not yet 18 years of age who is subject to the court's transition jurisdiction under section 450.

(42) "Transition jurisdiction" means the juvenile court's jurisdiction over a child or nonminor described in Welfare and Institutions Code section 450.

(43) "Transitional independent living case plan" means a child's case plan submitted for the last review hearing held before he or she turns 18 years of age or a nonminor dependent's case plan, developed with the child or nonminor dependent and individuals identified as important to him or her, signed by the child or nonminor dependent and updated every six months, that describes the goals and objectives of how the child or nonminor will make progress in the transition to living independently and assume incremental responsibility for adult decision making; the collaborative efforts between the child or nonminor dependent and the social worker, probation officer, or Indian tribe and the supportive services as described in the Transitional Independent Living Plan (TILP) to ensure the child's or nonminor dependent's active and meaningful participation in one or more of the eligibility criteria described in subdivision (b) of section 11403; the child or nonminor dependent's appropriate supervised placement setting; the child or nonminor dependent's permanent plan for transition to living independently; and the steps the social worker, probation officer, or Indian tribe is taking to ensure the child or nonminor dependent achieves permanence, including maintaining or obtaining permanent connections to caring and committed adults, as set forth in paragraph (16) of subdivision (f) of section 16501.1.

(44) "Transitional Independent Living Plan" means the written unique, individualized service delivery plan for a child or nonminor mutually agreed upon by the child or nonminor and the social worker or probation officer that identifies the child's or nonminor's current level of functioning, emancipation goals, and the specific skills needed to prepare the child or nonminor to live independently upon leaving foster care.

(45) "Tribal customary adoption" means adoption by and through the tribal custom, traditions, or law of an Indian child's tribe as defined in Welfare and Institutions Code section 366.24 and to which a juvenile court may give full faith and credit under 366.26(e)(2). Termination of parental rights is not required to effect a tribal customary adoption.

Rule 5.502 amended effective January 1, 2016; adopted as rule 1401 effective January 1, 1990; previously amended and renumbered as rule 5.502 effective January 1, 2007; previously amended effective July 1, 1992, July 1, 1997, January 1, 1998, January 1, 1999, January 1, 2001, July 1, 2002, January 1, 2003, January 1, 2008, July 1, 2010, January 1, 2011, January 1, 2012, July 1, 2012, and January 1, 2014.

- **Rule 5.514. Intake; guidelines**

(a) Role of juvenile court

It is the duty of the presiding judge of the juvenile court to initiate meetings and cooperate with the probation department, welfare department, prosecuting attorney, law enforcement, and other persons and agencies performing an intake function. The goal of the intake meetings is to establish and maintain a fair and efficient intake program designed to promote swift and objective evaluation of the circumstances of any referral and to pursue an appropriate course of action.

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

(b) Purpose of intake program

The intake program must be designed to:

- (1) Provide for settlement at intake of:
 - (A) Matters over which the juvenile court has no jurisdiction;
 - (B) Matters in which there is insufficient evidence to support a petition; and
 - (C) Matters that are suitable for referral to a nonjudicial agency or program available in the community;
- (2) Provide for a program of informal supervision of the child under sections 301 and 654; and
- (3) Provide for the commencement of proceedings in the juvenile court only when necessary for the welfare of the child or protection of the public.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 1995.)

(c) Investigation at intake (§§ 309, 652.5)

The probation officer or the social worker must conduct an investigation and determine whether:

- (1) The matter should be settled at intake by:
 - (A) Taking no action;
 - (B) Counseling the child and any others involved in the matter; or
 - (C) Referring the child, the child's family, and any others involved to other agencies and programs in the community for the purpose of receiving services to prevent or eliminate the need for removal;
- (2) A program of informal supervision should be undertaken for not more than six months under section 301 or 654; or
- (3) A petition should be filed under section 300 or 601, or the prosecuting attorney should be requested to file a petition under section 602.

(Subd (c) amended effective January 1, 2007; previously amended effective January 1, 1994, January 1, 1995, and January 1, 2001.)

(d) Mandatory referrals to the prosecuting attorney (§ 653.5)

Notwithstanding (c), the probation officer must refer to the prosecuting attorney, within 48 hours, all affidavits requesting that a petition be filed under section 602 if it appears to the probation officer that:

- (1) The child, regardless of age:
 - (A) Is alleged to have committed an offense listed in section 707(b);
 - (B) Has been referred for the sale or possession for sale of a controlled substance under chapter 2 of division 10 of the Health and Safety Code;
 - (C) Has been referred for a violation of Health and Safety Code section 11350 or 11377 at a school, or for a violation of Penal Code sections 245.5, 626.9, or 626.10;
 - (D) Has been referred for a violation of Penal Code section 186.22;
 - (E) Has previously been placed on informal supervision under section 654; or

(F) Has been referred for an alleged offense in which restitution to the victim exceeds \$1,000;

(2) The child was 16 years of age or older on the date of the alleged offense and the referral is for a felony offense; or

(3) The child was under 16 years of age on the date of the alleged offense and the referral is not the first referral for a felony offense.

Except for the offenses listed in (1)(C), the provisions of this subdivision do not apply to narcotics and drug offenses listed in Penal Code section 1000.

(Subd (d) amended effective January 1, 2007; previously amended effective January 1, 1994, and January 1, 1995.)

(e) Informal supervision (§§ 301, 654)

(1) If the child is placed on a program of informal supervision for not more than six months under section 301, the social worker may file a petition at any time during the six-month period. If the objectives of a service plan under section 301 have not been achieved within six months, the social worker may extend the period up to an additional six months, with the consent of the parent or guardian.

(2) If a child is placed on a program of informal supervision for not more than six months under section 654, the probation officer may file a petition under section 601, or request that the prosecuting attorney file a petition under section 602, at any time during the six-month period, or within 90 days thereafter. If a child on informal supervision under section 654 has not participated in the specific programs within 60 days, the probation officer must immediately file a petition under section 601, or request that the prosecuting attorney file one under section 602, unless the probation officer determines that the interests of the child and the community can be adequately protected by continuing under section 654.

(Subd (e) amended effective January 1, 2007; previously amended effective January 1, 1995.)

Rule 5.514 amended and renumbered effective January 1, 2007; adopted as rule 1404 effective January 1, 1991; previously amended effective January 1, 1994, January 1, 1995, and January 1, 2001.

- **Rule 5.760. Detention hearing; report; grounds; determinations; findings; orders; factors to consider for detention; retraining orders**

(a) Conduct of detention hearing (§§ 635, 636)

The court must consider the written report of the probation officer and any other evidence and may examine the child, any parent or guardian, or any other person with relevant knowledge of the child.

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

(b) Written detention report (§§ 635, 636)

If the probation officer has reason to believe that the child is at risk of entering foster care placement, the probation officer must submit a written report to the court that includes the following:

- (1) The reasons the child has been removed;
- (2) Any prior referral for abuse or neglect of the child and any prior filing of a petition regarding the child under section 300;
- (3) The need, if any, for continued detention;
- (4) Available services to facilitate the return of the child;
- (5) Whether there are any relatives able and willing to provide effective care and control over the child;
- (6) Documentation that continuance in the home is contrary to the child's welfare; and
- (7) Documentation that reasonable efforts were made to prevent or eliminate the need for removal of the child from the home and documentation of the nature and results of the services provided.

(Subd (b) amended and relettered effective January 1, 2007; adopted as subd (a) effective January 1, 2001; previously amended effective July 1, 2002.)

(c) Grounds for detention (§§ 625.3, 635, 636)

- (1) The child must be released unless the court finds that continuance in the home of the parent or legal guardian is contrary to the child's welfare, and one or more of the following grounds for detention exist:
 - (A) The child has violated an order of the court;
 - (B) The child has escaped from a commitment of the court;
 - (C) The child is likely to flee the jurisdiction of the court;
 - (D) It is a matter of immediate and urgent necessity for the protection of the child; or
 - (E) It is reasonably necessary for the protection of the person or property of another.
- (2) If the child is a dependent of the court under section 300, the court's decision to detain must not be based on the child's status as a dependent of the court or the child welfare services department's inability to provide a placement for the child.
- (3) The court may order the child placed on home supervision under the conditions stated in sections 628.1 and 636, or detained in juvenile hall or in a suitable place designated by the court.
- (4) If the court orders the release of a child who is a dependent of the court under section 300, the court must order the child welfare services department either to ensure that the child's current caregiver takes physical custody of the child or to take physical custody of the child and place the child in a licensed or approved placement.

(Subd (c) amended effective January 1, 2016; adopted as subd (a); previously amended effective July 1, 2002; previously amended and relettered as subd (b) effective January 1, 2001, and as subd (c) effective January 1, 2007.)

(d) Required determinations before detention

Before detaining the child, the court must determine whether continuance in the home of the parent or legal guardian is contrary to the child's welfare and whether there are available services that would prevent the need for further detention. The court must make these determinations on a case-by-case basis and must state the evidence relied on in reaching its decision.

- (1) If the court determines that the child can be returned to the home of the parent or legal guardian through the provision of services, the court must release the child to the parent or guardian and order that the probation department provide the required services.
- (2) If the child cannot be returned to the home of the parent or legal guardian, the court must state the facts on which the detention is based.

(Subd (d) amended effective January 1, 2016; adopted as subd (c) effective July 1, 2002; previously amended and relettered as subd (d) effective January 1, 2007.)

(e) Required findings to support detention (§ 636)

If the court orders the child detained, the court must make the following findings on the record and in the written order. The court must reference the probation officer's report or other evidence relied on to make its determinations:

- (1) Continuance in the home of the parent or guardian is contrary to the child's welfare;
- (2) Temporary placement and care is the responsibility of the probation officer pending disposition or further order of the court; and
- (3) Reasonable efforts have been made to prevent or eliminate the need for removal of the child, or reasonable efforts were not made.

(Subd (e) amended effective January 1, 2016; adopted as subd (b); previously relettered as subd (c) effective January 1, 2001; previously amended and relettered as subd (d) effective July 1, 2002, and as subd (e) effective January 1, 2007.)

(f) Required orders to support detention (§ 636)

If the court orders the child detained, the court must make the following additional orders:

- (1) As soon as possible, the probation officer must provide services that will enable the child's parent or legal guardian to obtain such assistance as may be needed to effectively provide the care and control necessary for the child to return home; and
- (2) The child's placement and care must be the responsibility of the probation department pending disposition or further order of the court.

(Subd (f) relettered effective January 1, 2007; adopted as subd (e) effective July 1, 2002.)

(g) Factors-violation of court order

Regarding ground for detention (c)(1), the court must consider:

- (1) The specificity of the court order alleged to have been violated;
- (2) The nature and circumstances of the alleged violation;
- (3) The severity and gravity of the alleged violation;
- (4) Whether the alleged violation endangered the child or others;
- (5) The prior history of the child as it relates to any failure to obey orders or directives of the court or probation officer;

- (6) Whether there are means to ensure the child's presence at any scheduled court hearing without detaining the child;
- (7) The underlying conduct or offense that brought the child before the juvenile court; and
- (8) The likelihood that if the petition is sustained, the child will be ordered removed from the custody of the parent or guardian at disposition.

(Subd (g) amended and relettered effective January 1, 2007; adopted as subd (c); previously relettered as subd (d) effective January 1, 2001; previously amended and relettered as subd (f) effective July 1, 2002.)

(h) Factors-escape from commitment

Regarding ground for detention (c)(2), the court must consider whether or not the child:

- (1) Was committed to the California Department of Corrections and Rehabilitation, Division of Juvenile Justice; or a county juvenile home, ranch, camp, forestry camp, or juvenile hall; and
- (2) Escaped from the facility or the lawful custody of any officer or person in which the child was placed during commitment.

(Subd (h) amended and relettered effective January 1, 2007; adopted as subd (d); previously relettered as subd (e) effective January 1, 2001; amended and relettered as subd (g) effective July 1, 2002; previously amended effective January 1, 2006.)

(i) Factors-likely to flee

Regarding ground for detention (c)(3), the court must consider whether or not:

- (1) The child has previously fled the jurisdiction of the court or failed to appear in court as ordered;
- (2) There are means to ensure the child's presence at any scheduled court hearing without detaining the child;
- (3) The child promises to appear at any scheduled court hearing;
- (4) The child has a prior history of failure to obey orders or directions of the court or the probation officer;
- (5) The child is a resident of the county;
- (6) The nature and circumstances of the alleged conduct or offense make it appear likely that the child would flee to avoid the jurisdiction of the court;
- (7) The child's home situation is so unstable as to make it appear likely that the child would flee to avoid the jurisdiction of the court; and
- (8) Absent a danger to the child, the child would be released on modest bail or own recognizance were the child appearing as an adult in adult court.

(Subd (i) amended and relettered effective January 1, 2007; adopted as subd (e); previously relettered as subd (f) effective January 1, 2001; previously amended and relettered as subd (h) effective July 1, 2002.)

(j) Factors-protection of child

Regarding ground for detention (c)(4), the court must consider whether or not:

- (1) There are means to ensure the care and protection of the child until the next scheduled court appearance;
- (2) The child is addicted to or is in imminent danger from the use of a controlled substance or alcohol; and
- (3) There exist other compelling circumstances that make detention reasonably necessary.

(Subd (j) amended and relettered effective January 1, 2007; adopted as subd (f); previously relettered as subd (g) effective January 1, 2001; previously amended and relettered as subd (i) effective July 1, 2002.)

(k) Factors-protection of person or property of another

Regarding ground for detention (c)(5), the court must consider whether or not:

- (1) The alleged offense involved physical harm to the person or property of another;
- (2) The prior history of the child reveals that the child has caused physical harm to the person or property of another or has posed a substantial threat to the person or property of another; and
- (3) There exist other compelling circumstances that make detention reasonably necessary.

(Subd (k) amended and relettered effective January 1, 2007; adopted as subd (g); previously relettered as subd (h) effective January 1, 2001; previously amended and relettered as subd (j) effective July 1, 2002.)

(l) Restraining orders

As a condition of release or home supervision, the court may issue restraining orders as stated in rule 5.630 or orders restraining the child from any or all of the following:

- (1) Molesting, attacking, striking, sexually assaulting, or battering, or from any contact whatsoever with an alleged victim or victim's family;
- (2) Presence near or in a particular area or building; or
- (3) Associating with or contacting in writing, by phone, or in person any adult or child alleged to have been a companion in the alleged offense.

(Subd (l) amended effective January 1, 2016; adopted as subd (i); previously relettered as subd (j) effective January 1, 2001; previously amended and relettered as subd (k) effective July 1, 2002, and as subd (l) effective January 1, 2007.)

Rule 5.760 amended effective January 1, 2016; repealed and adopted as rule 1475 effective January 1, 1998; previously amended effective January 1, 2001, July 1, 2002, and January 1, 2006; previously amended and renumbered as rule 5.760 effective January 1, 2007.

• Rule 5.790. Orders of the court

(a) Findings and orders of the court (§§ 654, 654.1, 654.2, 654.3, 654.4, 725, 725.5, 782)

At the disposition hearing:

(1) If the court has not previously considered whether any offense is a misdemeanor or felony, the court must do so at this time and state its finding on the record. If the offense may be found to be either a felony or a misdemeanor, the court must consider which description applies and must expressly declare on the record that it has made such consideration and must state its finding as to whether the offense is a misdemeanor or a felony.

(2) The court may then:

(A) Dismiss the petition in the interests of justice and the welfare of the child or, if the child does not need treatment or rehabilitation, with the specific reasons stated in the minutes;

(B) Place the child on probation for no more than six months, without declaring the child a ward; or

(C) Declare the child a ward of the court.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 1998, and July 1, 2002.)

(b) Conditions of probation (§§ 725, 726, 727, 729.2, 729.9, 729.10)

If the child is placed on probation, with or without wardship, the court must set reasonable terms and conditions of probation. Unless the court finds and states its reasons on the record that any of the following conditions is inappropriate, the court must:

(1) Require the child to attend school;

(2) Require the parent to participate with the child in a counseling or education program; and

(3) Require the child to be at the child's residence between 10:00 p.m. and 6:00 a.m. unless accompanied by a parent or a guardian or an adult custodian.

(Subd (b) amended effective January 1, 2014; previously amended effective July 1, 2002, and January 1, 2007.)

(c) Custody and visitation (§ 726.5)

(1) At any time when a child is a ward of the juvenile court, the court may issue an order determining the custody of or visitation with the child. An order issued under this subdivision continues in effect until modified or terminated by a later order of the juvenile court.

(2) At the time wardship is terminated, the court may issue an order determining custody of or visitation with the child, as described in rule 5.700.

(Subd (c) amended effective January 1, 2016; adopted effective January 1, 2007.)

(d) Removal of custody-required findings (§ 726)

The court must not order a ward removed from the physical custody of a parent or guardian unless the court finds:

(1) The parent or guardian has failed or neglected to provide, or is incapable of providing, proper maintenance, training, and education for the child;

(2) The child has been on probation in the custody of the parent or guardian and during that time has failed to reform; or

(3) The welfare of the child requires that physical custody be removed from the parent or guardian.

(Subd (d) amended and relettered effective January 1, 2007; adopted as subd (c); previously amended effective July 1, 2002.)

(e) Removal of custody-orders regarding reunification services (§ 727.2)

(1) Whenever the court orders the care, custody, and control of the child to be under the supervision of the probation officer for placement, the court must order the probation department to ensure the provision of reunification services to facilitate the safe return of the child to his or her home or the permanent placement of the child and to address the needs of the child while in foster care.

(2) Reunification services need not be provided to the parent or guardian if the court finds, by clear and convincing evidence, that one or more of the exceptions listed in section 727.2(b) is true.

(Subd (e) amended and relettered effective January 1, 2007; adopted as subd (d) effective July 1, 2002; previously amended effective January 1, 2004.)

(f) Family-finding determination (§ 628(d))

(1) If the child is detained or at risk of entering foster care, the court must consider and determine whether the probation officer has exercised due diligence in conducting the required investigation to identify, locate, and notify the child's relatives. The court may consider the activities listed in (g) as examples of due diligence. The court must document its determination by making a finding on the record.

If the dispositional hearing is continued, the court may set a hearing to be held 30 days from the date of detention or as soon as possible thereafter to consider and determine whether the probation officer has exercised due diligence in conducting the required investigation to identify, locate, and notify the child's relatives.

(2) If the court finds that the probation officer has not exercised due diligence, the court may order the probation officer to exercise due diligence in conducting an investigation to identify, locate, and notify the child's relatives-except for any individual the probation officer identifies who is inappropriate to notify under rule 5.637(b)-and may require a written or oral report to the court.

(Subd (f) amended effective January 1, 2015; adopted effective January 1, 2014.)

(g) Due diligence

When making the determination required in (f), the court may consider, among other examples of due diligence, whether the probation officer has done any of the following:

- (1) Asked the child, in an age-appropriate manner and consistent with the child's best interest, about his or her relatives;
- (2) Obtained information regarding the location of the child's relatives;
- (3) Reviewed the child's case file for any information regarding relatives;
- (4) Telephoned, e-mailed, or visited all identified relatives;
- (5) Asked located relatives for the names and locations of other relatives;
- (6) Used Internet search tools to locate relatives identified as supports; or

(7) Developed tools, including a genogram, family tree, family map, or other diagram of family relationships, to help the child or parents to identify relatives.

(Subd (g) amended effective January 1, 2015; adopted effective January 1, 2014.)

(h) Wardship orders (§§ 726, 727, 727.1, 730, 731)

The court may make any reasonable order for the care, supervision, custody, conduct, maintenance, support, and medical treatment of a child adjudged a ward of the court.

- (1) Subject to the provisions of section 727, the court may order the ward to be on probation without the supervision of the probation officer and may impose on the ward reasonable conditions of behavior.
- (2) The court may order the care, custody, control, and conduct of the ward to be under the supervision of the probation officer in the home of a parent or guardian.
- (3) If the court orders removal of custody under (d), it must authorize the probation officer to place the ward with a person or organization described in section 727. The decision regarding choice of placement must take into account the following factors:
 - (A) That the setting is safe;
 - (B) That the setting is the least restrictive or most family-like environment that is appropriate for the child and available;
 - (C) That the setting is in close proximity to the parent's home; and
 - (D) That the setting is the environment best suited to meet the child's special needs and best interest.

The selection must consider, in order of priority, placement with relatives, tribal members, and foster family, group care, and residential treatment under Family Code section 7950.

- (4) If the child was declared a ward under section 602, the court may order treatment or commitment of the child under section 730 or 731.
- (5) The court may limit the control exercised over the ward by a parent or guardian. Orders must clearly specify all limitations. In particular, the court must consider whether it is necessary to limit the rights of the parent or guardian to make educational or developmental-services decisions for the child. If the court limits those rights, it must follow the procedures in rules 5.649-5.651.

(Subd (h) amended and relettered effective January 1, 2014; adopted as subd (d); previously amended and relettered as subd (e) effective July 1, 2002, and as subd (f) effective January 1, 2007; previously amended effective January 1, 2004, and January 1, 2008.)

(i) California Department of Corrections and Rehabilitation, Division of Juvenile Justice

If, at the time of the disposition hearing, the child is a ward of the California Department of Corrections and Rehabilitation, Division of Juvenile Justice (DJJ) under a prior commitment, the court may either recommit or return the child to the DJJ. If the child is returned to the DJJ, the court may:

- (1) Recommend that the ward's parole status be revoked;
- (2) Recommend that the ward's parole status not be revoked; or
- (3) Make no recommendation regarding revocation of parole.

(Subd (i) relettered effective January 1, 2014; adopted as subd (e); previously amended effective January 1, 2006; previously amended and relettered as subd (f) effective July 1, 2002, and as subd (g) effective January 1, 2007.)

(j) Fifteen-day reviews (§ 737)

If the child or nonminor is detained pending the implementation of a dispositional order, the court must review the case at least every 15 days as long as the child is detained. The review must meet all the requirements in section 737.

(Subd (j) amended effective January 1, 2016; adopted as subd (f); previously amended and relettered as subd (g) effective July 1, 2002, and as subd (h) effective January 1, 2007; previously relettered as subd (j) effective January 1, 2014.)

Rule 5.790 amended effective January 1, 2016; adopted as rule 1493 effective January 1, 1991; previously amended and renumbered as rule 5.790 effective January 1, 2007; previously amended effective January 1, 1998, July 1, 2002, January 1, 2004, January 1, 2006, January 1, 2008, January 1, 2014, and January 1, 2015.