STATUTES CITED

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

Government Code

- **26500.**

The district attorney is the public prosecutor, except as otherwise provided by law.

The public prosecutor shall attend the courts, and within his or her discretion shall initiate an conduct on behalf of the people all prosecutions for public offenses.

(Amended by Stats. 1980, Ch. 1094.)

Welfare & Institutions Code

- **214.**

In each instance in which a provision of this chapter authorizes the execution by any person of a written promise to appear or to have any other person appear before the probation officer or before the juvenile court, any willful failure of such promissor to perform as promised constitutes a misdemeanor and is punishable as such if at the time of the execution of such written promise the promissor is given a copy of such written promise upon which it is clearly written that failure to appear or to have any other person appear as promised is punishable as a misdemeanor.

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

- **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

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

(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.)

- **625.3.**

Notwithstanding Section 625, a minor who is 14 years of age or older and who is taken into custody by a peace officer for the personal use of a firearm in the commission or attempted commission of a felony or any offense listed in subdivision (b) of Section 707 shall not be released until that minor is brought before a judicial officer.

(Amended March 7, 2000, by initiative Proposition 21, Sec. 20.)

- **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.)

- **626.5.**

If an officer who takes a minor into temporary custody under the provisions of Section 625 determines that the minor should be brought to the attention of the juvenile court, he or she shall thereafter take one of the following actions:

(a) He or she may prepare in duplicate a written notice to appear before the probation officer of the county in which the minor was taken in 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 his or her parent, guardian, or relative, or both, to sign a written promise that either or both will 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.

(b) He or she may 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 took 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 that statement to the probation officer at the time the minor is delivered to the probation officer. In no case shall he or she 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 he or she has committed a misdemeanor.

In determining which disposition of the minor he or she will 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. 1989, Ch. 878, Sec. 2.)

- **626.6.**

Notwithstanding Section 626.5, any peace officer who takes a minor who is 14 years of age or older into temporary custody under Section 625.3 shall 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 took place or the circumstances exist which are alleged to bring the minor within the provisions of Section 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 that statement to the probation officer at the time the minor is delivered to the probation officer.

(Added by Stats. 1996, Ch. 843, Sec. 2. Effective January 1, 1997.)

- **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.)

- **629.**

(a) As a condition for the release of a minor pursuant to Section 628.1 and subject to Sections 631 and 632, the probation officer shall require the minor to sign, and may also require his or her parent, guardian, or relative to sign, a written promise to appear before the probation officer at the juvenile hall or other suitable place designated by the probation officer at a specified time.

(b) A minor who is 14 years of age or older who is taken into custody by a peace officer for the commission or attempted commission of a felony offense shall not be released until the minor has signed a written promise to appear before the probation officer at the juvenile hall or other suitable place designated by the peace officer, or has been given an order to appear at the juvenile court on a date certain. The peace officer may also require the minor's parent, guardian, or relative to sign a written promise to appear at the same place designated for the minor.

(Amended by Stats. 2000, Ch. 663, Sec. 1. Effective January 1, 2001. Note: This section was amended on March 7, 2000, by initiative Prop. 21.)

- **629.1.**

Notwithstanding Section 628 or 628.1, whenever a minor who is 14 years of age or older is delivered to the custody of the probation officer pursuant to Section 626.6, the probation officer shall retain the minor in custody until such time that the minor can be brought before a judicial officer of the juvenile court pursuant to Section 632.

(Added by Stats. 1996, Ch. 843, Sec. 3. Effective January 1, 1997.)

- **630.**

(a) If the probation officer determines that the minor shall be retained in custody, he or she shall immediately proceed in accordance with Article 16 (commencing with Section 650) to cause the filing of a petition pursuant to Section 656 with the clerk of the juvenile court who shall set the matter for hearing on the detention calendar. Immediately upon filing the petition with the clerk of the juvenile court, if the minor is alleged to be a person described in Section 601 or 602, the probation officer or the prosecuting attorney shall serve the minor with a copy of the petition and notify him or her of the time and place of the detention hearing. The probation officer or the prosecuting attorney shall notify each parent or each guardian of the minor of the time and place of the hearing if the whereabouts of each parent or guardian can be ascertained by due diligence. Notice pursuant to this subdivision may be given orally and shall not be delivered electronically.

(b) In a hearing conducted pursuant to this section, the minor has a privilege against self-incrimination and has a right to confrontation by, and cross-examination of, any person examined by the court as provided in Section 635.

(Amended by Stats. 2017, Ch. 319, Sec. 137. (AB 976) Effective January 1, 2018.)

- **650.**

(a) Juvenile court proceedings to declare a minor a ward of the court pursuant to Section 601 are
(b) commenced by the filing of a petition by the probation officer except as specified in subdivision (b).

(b) Juvenile court proceedings to declare a minor a ward of the court pursuant to subdivision (e) of Section 601.3 may be commenced by the filing of a petition by the probation officer or the district attorney after consultation with the probation officer.

(c) Juvenile court proceedings to declare a minor a ward of the court pursuant to Section 602 are commenced by the filing of a petition by the prosecuting attorney.

(Amended by Stats. 1991, Ch. 1202, Sec. 15.)

- **651.**

Proceedings under this chapter may be commenced either in the juvenile court for the county in which a minor resides, or in which a minor is found, or in which the circumstances exist or acts take place to bring a minor within the provisions of Section 601 or Section 602.

(Amended (as added by Stats. 1982, Ch. 1088, Sec. 9) by Stats. 1984, Ch. 1412, Sec. 5.)

- **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.)

- **652.5.**

(a) Whenever an officer refers or delivers a minor pursuant to subdivision (b) of Section 626, the agency to which the minor is referred or delivered shall immediately make such investigation as that agency deems necessary to determine what disposition of the minor that agency shall make and shall initiate a service program for the minor when appropriate.

(b) The service program for any minor referred or delivered to the agency for any act described in Section 602 shall include constructive assignments that will help the minor learn to be responsible for his or her actions. The assignments may include, but not be limited to, requiring the minor to repair damaged property or to make other appropriate restitution, or requiring the minor to participate in an educational or counseling program.

(c) If the referral agency does not initiate a service program on behalf of a minor referred to the agency within 20 calendar days, or initiate a service program on behalf of a minor delivered to the

agency within 10 days, that agency shall immediately notify the referring officer of that decision in writing. The referral agency shall retain a copy of that written notification for 30 days.

(Amended by Stats. 2017, Ch. 678, Sec. 8. (SB 190) Effective January 1, 2018.)

- **653.1.**

Notwithstanding Section 653, in the case of an affidavit alleging that the minor is a person described in Section 602, the probation officer shall cause the affidavit to be immediately taken to the prosecuting attorney if it appears to the probation officer that the minor has been referred to the probation officer for any violation of an offense listed in subdivision (b) of Section 707 and that offense was allegedly committed when the minor was 14 years of age or older. If the prosecuting attorney decides not to file a petition, he or she may return the affidavit to the probation officer for any other appropriate action.

(Amended by Stats. 2018, Ch. 423, Sec. 124. (SB 1494) Effective January 1, 2019.)

- **653.5.**

(a) Whenever any person applies to the probation officer to commence proceedings in the juvenile court, the application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor within the provisions of Section 602, or that a minor committed an offense described in Section 602 within the county, and setting forth facts in support thereof. The probation officer shall immediately make any investigation he or she deems necessary to determine whether proceedings in the juvenile court shall be commenced. If the probation officer determines that it is appropriate to offer services to the family to prevent or eliminate the need for removal of the minor from his or her home, the probation officer shall make a referral to those services.

(b) Except as provided in subdivision (c), if the probation officer determines that proceedings pursuant to Section 650 should be commenced to declare a person to be a ward of the juvenile court on the basis that he or she is a person described in Section 602, the probation officer shall cause the affidavit to be taken to the prosecuting attorney.

(c) Notwithstanding subdivision (b), the probation officer shall cause the affidavit to be taken within 48 hours to the prosecuting attorney in all of the following cases:

(1) If it appears to the probation officer that the minor has been referred to the probation officer for any violation of an offense listed in subdivision (b), paragraph (2) of subdivision (d), or subdivision (e) of Section 707.

(2) If it appears to the probation officer that the minor is under 14 years of age at the date of the offense and that the offense constitutes a second felony referral to the probation officer.

(3) If it appears to the probation officer that the minor was 14 years of age or older at the date of the offense and that the offense constitutes a felony referral to the probation officer.

(4) If it appears to the probation officer that the minor has been referred to the probation officer for the sale or possession for sale of a controlled substance as defined in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(5) If it appears to the probation officer that the minor has been referred to the probation officer for a violation of Section 11350 or 11377 of the Health and Safety Code where the violation takes place at

a public or private elementary, vocational, junior high school, or high school, or a violation of Section 245.5, 626.9, or 626.10 of the Penal Code.

(6) If it appears to the probation officer that the minor has been referred to the probation officer for a violation of Section 186.22 of the Penal Code.

(7) If it appears to the probation officer that the minor has previously been placed in a program of informal probation pursuant to Section 654.

(8) If it appears to the probation officer that the minor has committed an offense in which the restitution owed to the victim exceeds one thousand dollars ($1,000). For purposes of this paragraph, the definition of "victim" in paragraph (1) of subdivision (a) of Section 730.6 and "restitution" in subdivision (h) of Section 730.6 shall apply.

Except for offenses listed in paragraph (5), the provisions of subdivision (c) shall not apply to a narcotics and drug offense set forth in Section 1000 of the Penal Code.

The prosecuting attorney shall within his or her discretionary power institute proceedings in accordance with his or her role as public prosecutor pursuant to subdivision (b) of Section 650 and Section 26500 of the Government Code. However, if it appears to the prosecuting attorney that the affidavit was not properly referred, that the offense for which the minor was referred should be charged as a misdemeanor, or that the minor may benefit from a program of informal supervision, he or she shall refer the matter to the probation officer for whatever action the probation officer may deem appropriate.

(d) In all matters where the minor is not in custody and is already a ward of the court or a probationer under Section 602, the prosecuting attorney, within five judicial days of receipt of the affidavit from the probation officer, shall institute proceedings in accordance with his or her role as public prosecutor pursuant to subdivision (b) of Section 650 of this code and Section 26500 of the Government Code, unless it appears to the prosecuting attorney that the affidavit was not properly referred or that the offense for which the minor was referred requires additional substantiating information, in which case he or she shall immediately notify the probation officer of what further action he or she is taking.

(e) This section shall become operative on January 1, 1997.

(Amended by Stats. 1999, Ch. 997, Sec. 9. Effective January 1, 2000.)

- **653.7.**

If the probation officer does not take action under Section 654 and does not file a petition in juvenile court within 21 court days after the application, or in the case of an affidavit alleging that a minor committed an offense described in Section 602 or alleging that a minor is within Section 602, does not cause the affidavit to be taken to the prosecuting attorney within 21 court days after the application, he or she shall endorse upon the affidavit of the applicant the decision not to proceed further and the reasons therefor and shall immediately notify the applicant of the action taken or the decision rendered by him or her under this section. The probation officer shall retain the affidavit and the endorsement thereon for a period of 30 court days after the notice to the applicant.

(Amended by Stats. 1984, Ch. 1412, Sec. 10.)

- **654.**

In any case in which a probation officer, after investigation of an application for a petition or any other investigation he or she is authorized to make, concludes that a minor is within the jurisdiction of the juvenile court or will probably soon be within that jurisdiction, the probation officer may, in lieu of filing a petition to declare a minor a dependent child of the court or a minor or a ward of the court under Section 601 or requesting that a petition be filed by the prosecuting attorney to declare a minor a ward of the court under subdivision (e) of Section 601.3 or Section 602 and with consent of the minor and the minor's parent or guardian, delineate specific programs of supervision for the minor, for not to exceed six months, and attempt thereby to adjust the situation that brings the minor within the jurisdiction of the court or creates the probability that the minor will soon be within that jurisdiction. This section does not prevent the probation officer from filing a petition or requesting the prosecuting attorney to file a petition at any time within the six-month period or a 90-day period thereafter. If the probation officer determines that the minor has not involved himself or herself in the specific programs within 60 days, the probation officer shall immediately file a petition or request that a petition be filed by the prosecuting attorney. However, when in the judgment of the probation officer the interest of the minor and the community can be protected, the probation officer shall make a diligent effort to proceed under this section.

The program of supervision of the minor undertaken pursuant to this section may call for the minor to obtain care and treatment for the misuse of, or addiction to, controlled substances from a county mental health service or other appropriate community agency.

The program of supervision shall require the parents or guardians of the minor to participate with the minor in counseling or education programs, including, but not limited to, parent education and parenting programs operated by community colleges, school districts, or other appropriate agencies designated by the court if the program of supervision is pursuant to the procedure prescribed in Section 654.2.

Further, this section shall authorize the probation officer with consent of the minor and the minor's parent or guardian to provide the following services in lieu of filing a petition:

(a) Maintain and operate sheltered-care facilities, or contract with private or public agencies to provide these services. The placement shall be limited to a maximum of 90 days. Counseling services shall be extended to the sheltered minor and his or her family during this period of diversion services. The minor's parents may be required to make full or partial reimbursement for the services rendered to the minor's family, but not for the services rendered to the minor, during the diversion process. Referrals for sheltered-care diversion may be made by the minor, his or her family, schools, any law enforcement agency, or any other private or public social service agency.

(b) Maintain and operate crisis resolution homes, or contract with private or public agencies offering these services. Residence at these facilities shall be limited to 20 days during which period individual and family counseling shall be extended to the minor and his or her family. Failure to resolve the crisis within the 20-day period may result in the minor's referral to a sheltered-care facility for a period not to exceed 90 days. Referrals shall be accepted from the minor, his or her family, schools, law enforcement or any other private or public social service agency. The minor's parents may be required to reimburse the county for the cost of services rendered to the minor's family, but not for the cost of services rendered to the minor, at a rate to be determined by the county board of supervisors.

(c) Maintain and operate counseling and educational centers, or contract with private and public agencies, societies, or corporations whose purpose is to provide vocational training or skills. The centers may be operated separately or in conjunction with crisis resolution homes to be operated by the probation officer. The probation officer shall be authorized to make referrals to the appropriate existing private or public agencies offering similar services when available.

At the conclusion of the program of supervision undertaken pursuant to this section, the probation officer shall prepare and maintain a followup report of the actual program measures taken.

(Amended by Stats. 2017, Ch. 678, Sec. 9. (SB 190) Effective January 1, 2018.)

- **654.2.**

(a) If a petition has been filed by the prosecuting attorney to declare a minor a ward of the court under Section 602, the court may, without adjudging the minor a ward of the court and with the consent of the minor and the minor's parents or guardian, continue any hearing on a petition for six months and order the minor to participate in a program of supervision as set forth in Section 654. If the probation officer recommends additional time to enable the minor to complete the program, the court at its discretion may order an extension. Fifteen days prior to the final conclusion of the program of supervision undertaken pursuant to this section, the probation officer shall submit to the court a followup report of the minor's participation in the program. The minor and the minor's parents or guardian shall be ordered to appear at the conclusion of the six-month period and at the conclusion of each additional three-month period. If the minor successfully completes the program of supervision, the court shall order the petition be dismissed. If the minor has not successfully completed the program of supervision, proceedings on the petition shall proceed no later than 12 months from the date the petition was filed.

(b) If the minor is eligible for Section 654 supervision, and the probation officer believes the minor would benefit from a program of supervision pursuant to this section, the probation officer may, in referring the affidavit described in Section 653.5 to the prosecuting attorney, recommend informal supervision as provided in this section.

(Amended by Stats. 1994, Ch. 213, Sec. 1. Effective January 1, 1995.)

- **654.3.**

No minor shall be eligible for the program of supervision set forth in Section 654 or 654.2 in the following cases, except in an unusual case where the interests of justice would best be served and the court specifies on the record the reasons for its decision:

(a) A petition alleges that the minor has violated an offense listed in subdivision (b) of Section 707.

(b) A petition alleges that the minor has sold or possessed for sale a controlled substance as defined in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(c) A petition alleges that the minor has violated Section 11350 or 11377 of the Health and Safety Code where the violation takes place at a public or private elementary, vocational, junior high school, or high school, or a violation of Section 245.5, 626.9, or 626.10 of the Penal Code.

(d) A petition alleges that the minor has violated Section 186.22 of the Penal Code.

(e) The minor has previously participated in a program of supervision pursuant to Section 654.

(f) The minor has previously been adjudged a ward of the court pursuant to Section 602.

(g) A petition alleges that the minor has violated an offense in which the restitution owed to the victim exceeds one thousand dollars ($1,000). For purposes of this subdivision, the definition of "victim" in paragraph (1) of subdivision (a) of Section 730.6 and "restitution" in subdivision (h) of Section 730.6 shall apply.

(h) The minor is alleged to have committed a felony offense when the minor was at least 14 years of age. Except in unusual cases where the court determines the interest of justice would best be served by a proceeding pursuant to Section 654 or 654.2, a petition alleging that a minor who is 14 years of age or over has committed a felony offense shall proceed under Article 20.5 (commencing with Section 790) or Article 17 (commencing with Section 675).

(Amended March 7, 2000, by initiative Proposition 21, Sec. 22.)

- **654.6.**

A program of supervision pursuant to Section 654 or 654.2 for any minor described in Section 602 shall include constructive assignments that will help the minor learn to be responsible for his or her actions. The assignments may include, but not be limited to, requiring the minor to perform at least 10 hours of community service, requiring the minor to repair damaged property or to make other appropriate restitution, or requiring the minor to participate in an educational or counseling program.

(Amended by Stats. 2017, Ch. 678, Sec. 10. (SB 190) Effective January 1, 2018.)

- **655.**

(a) When any person has applied to the probation officer, pursuant to Section 653, to request commencement of juvenile court proceedings to declare a minor a ward of the court under Section 602 and the probation officer does not cause the affidavit to be taken to the prosecuting attorney pursuant to Section 653 within 21 court days after such application, the applicant may, within 10 court days after receiving notice of the probation officer's decision not to file a petition, apply to the prosecuting attorney to review the decision of the probation officer, and the prosecuting attorney may either affirm the decision of the probation officer or commence juvenile court proceedings.

(b) When any person has applied to the probation officer or the district attorney, pursuant to Section 653, to commence juvenile court proceedings to declare a minor a dependent child of the court or a ward of the court under Section 601 and the probation officer or district attorney fails to file a petition within 21 court days after making such application, the applicant may, within 10 court days after receiving notice of the probation officer's or district attorney's decision not to file a petition, apply to the juvenile court to review the decision of the probation officer or district attorney, and the court may either affirm the decision of the probation officer or district attorney or order him or her to commence juvenile court proceedings.

(c) Nothing in subdivision (b) shall be construed so as to allow district attorneys to file a petition to make a minor a ward of the court under Section 601, except as specifically allowed by Section 653 in accordance with subdivision (e) of Section 601.3.

(Amended by Stats. 1991, Ch. 1202, Sec. 18.)

- **655.5.**

When an officer has referred or delivered a minor pursuant to subdivision (b) of Section 626, and the referral agency does not initiate a service program for the minor within the time periods required by Section 652.5, the referring agency may within 10 court days following receipt of the notification by the referral agency, apply to the probation officer for a review of that decision.

(Added by Stats. 1984, Ch. 260, Sec. 9.)

- **707.**

(a) (1) In any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any offense listed in subdivision (b) or any other felony criminal statute, the district attorney or other appropriate prosecuting officer may make a motion to transfer the minor from juvenile court to a court of criminal jurisdiction. The motion shall be made prior to the attachment of jeopardy. Upon the motion, the juvenile court shall order the probation officer to submit a report on the behavioral patterns and social history of the minor. The report shall include any written or oral statement offered by the victim pursuant to Section 656.2.

(2) In any case in which an individual is alleged to be a person described in Section 602 by reason of the violation, when he or she was 14 or 15 years of age, of any offense listed in subdivision (b), but was not apprehended prior to the end of juvenile court jurisdiction, the district attorney or other appropriate prosecuting officer may make a motion to transfer the individual from juvenile court to a court of criminal jurisdiction. The motion shall be made prior to the attachment of jeopardy. Upon the motion, the juvenile court shall order the probation officer to submit a report on the behavioral patterns and social history of the individual. The report shall include any written or oral statement offered by the victim pursuant to Section 656.2.

(3) Following submission and consideration of the report, and of any other relevant evidence that the petitioner or the minor may wish to submit, the juvenile court shall decide whether the minor should be transferred to a court of criminal jurisdiction. In making its decision, the court shall consider the criteria specified in subparagraphs (A) to (E), inclusive. If the court orders a transfer of jurisdiction, the court shall recite the basis for its decision in an order entered upon the minutes. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the transfer hearing, and a plea that has been entered already shall not constitute evidence at the hearing.

(A) (i) The degree of criminal sophistication exhibited by the minor.

(ii) When evaluating the criterion specified in clause (i), the juvenile court may give weight to any relevant factor, including, but not limited to, the minor's age, maturity, intellectual capacity, and physical, mental, and emotional health at the time of the alleged offense, the minor's impetuosity or failure to appreciate risks and consequences of criminal behavior, the effect of familial, adult, or peer pressure on the minor's actions, and the effect of the minor's family and community environment and childhood trauma on the minor's criminal sophistication.

(B) (i) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(ii) When evaluating the criterion specified in clause (i), the juvenile court may give weight to any relevant factor, including, but not limited to, the minor's potential to grow and mature.

(C) (i) The minor's previous delinquent history.

(ii) When evaluating the criterion specified in clause (i), the juvenile court may give weight to any relevant factor, including, but not limited to, the seriousness of the minor's previous delinquent history and the effect of the minor's family and community environment and childhood trauma on the minor's previous delinquent behavior.

(D) (i) Success of previous attempts by the juvenile court to rehabilitate the minor.

(ii) When evaluating the criterion specified in clause (i), the juvenile court may give weight to any relevant factor, including, but not limited to, the adequacy of the services previously provided to address the minor's needs.

(E) (i) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor.

(ii) When evaluating the criterion specified in clause (i), the juvenile court may give weight to any relevant factor, including, but not limited to, the actual behavior of the person, the mental state of the person, the person's degree of involvement in the crime, the level of harm actually caused by the person, and the person's mental and emotional development.

(b) This subdivision is applicable to any case in which a minor is alleged to be a person described in Section 602 by reason of the violation of one of the following offenses:

(1) Murder.

(2) Arson, as provided in subdivision (a) or (b) of Section 451 of the Penal Code.

(3) Robbery.

(4) Rape with force, violence, or threat of great bodily harm.

(5) Sodomy by force, violence, duress, menace, or threat of great bodily harm.

(6) A lewd or lascivious act as provided in subdivision (b) of Section 288 of the Penal Code.

(7) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.

(8) An offense specified in subdivision (a) of Section 289 of the Penal Code.

(9) Kidnapping for ransom.

(10) Kidnapping for purposes of robbery.

(11) Kidnapping with bodily harm.

(12) Attempted murder.

(13) Assault with a firearm or destructive device.

(14) Assault by any means of force likely to produce great bodily injury.

(15) Discharge of a firearm into an inhabited or occupied building.

(16) An offense described in Section 1203.09 of the Penal Code.

(17) An offense described in Section 12022.5 or 12022.53 of the Penal Code.

(18) A felony offense in which the minor personally used a weapon described in any provision listed in Section 16590 of the Penal Code.

(19) A felony offense described in Section 136.1 or 137 of the Penal Code.

(20) Manufacturing, compounding, or selling one-half ounce or more of a salt or solution of a controlled substance specified in subdivision (e) of Section 11055 of the Health and Safety Code.

(21) A violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code, which also would constitute a felony violation of subdivision (b) of Section 186.22 of the Penal Code.

(22) Escape, by the use of force or violence, from a county juvenile hall, home, ranch, camp, or forestry camp in violation of subdivision (b) of Section 871 if great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the commission of the escape.

(23) Torture as described in Sections 206 and 206.1 of the Penal Code.

(24) Aggravated mayhem, as described in Section 205 of the Penal Code.

(25) Carjacking, as described in Section 215 of the Penal Code, while armed with a dangerous or deadly weapon.

(26) Kidnapping for purposes of sexual assault, as punishable in subdivision (b) of Section 209 of the Penal Code.

(27) Kidnapping as punishable in Section 209.5 of the Penal Code.

(28) The offense described in subdivision (c) of Section 26100 of the Penal Code.

(29) The offense described in Section 18745 of the Penal Code.

(30) Voluntary manslaughter, as described in subdivision (a) of Section 192 of the Penal Code.

(Amended by Stats. 2018, Ch. 1012, Sec. 1. (SB 1391) Effective January 1, 2019. Note: This section was amended on March 7, 2000, by initiative Prop. 21.)

- **786.**

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

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

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

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

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

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

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

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

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

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

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

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

(D) Upon a subsequent adjudication of a minor whose record has been sealed under this section and a finding that the minor is a person described by Section 602 based on the commission of a felony offense, by the probation department, the prosecuting attorney, counsel for the minor, or the court for the limited purpose of determining an appropriate juvenile court disposition. Access, inspection, or use of a sealed record as provided under this subparagraph shall not be construed as a reversal or modification of the court's order dismissing the petition and sealing the record in the prior case.

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

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

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

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

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

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

(K) (i) A record that has been sealed pursuant to this section may be accessed, inspected, or utilized by the prosecuting attorney in order to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case in which the prosecuting attorney has reason to believe that access to the record is necessary to meet the disclosure obligation. A request to access information in the sealed record for this purpose, including the prosecutor's rationale for believing that access to the information in the record may be necessary to

meet the disclosure obligation and the date by which the records are needed, shall be submitted by the prosecuting attorney to the juvenile court. The juvenile court shall notify the person having the sealed record, including the person's attorney of record, that the court is considering the prosecutor's request to access the record, and the court shall provide that person with the opportunity to respond, in writing or by appearance, to the request prior to making its determination. The juvenile court shall review the case file and records that have been referenced by the prosecutor as necessary to meet the disclosure obligation and any response submitted by the person having the sealed record. The court shall approve the prosecutor's request to the extent that the court has, upon review of the relevant records, determined that access to a specific sealed record or portion of a sealed record is necessary to enable the prosecuting attorney to comply with the disclosure obligation. If the juvenile court approves the prosecuting attorney's request, the court shall state on the record appropriate limits on the access, inspection, and utilization of the sealed record information in order to protect the confidentiality of the person whose sealed record is accessed pursuant to this subparagraph. A ruling allowing disclosure of information pursuant to this subdivision does not affect whether the information is admissible in a criminal or juvenile proceeding. This subparagraph does not impose any discovery obligations on a prosecuting attorney that do not already exist.

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

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

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

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

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

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

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

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

- **786.5.**

(a) Notwithstanding any other law, upon satisfactory completion of a program of diversion or supervision to which a juvenile is referred by the probation officer or the prosecutor in lieu of the filing of a petition to adjudge the juvenile a ward of the juvenile court, including a program of informal supervision pursuant to Section 654, the probation department shall seal the arrest and other records in its custody relating to the juvenile's arrest or referral and participation in the diversion or supervision program. Additionally, the probation department shall notify a public or private agency operating a diversion program to which the juvenile has been referred under these circumstances to seal records in the program operator's custody relating to the arrest or referral and the participation of the juvenile in the diversion or supervision program, and the operator of the program shall then promptly seal the records in its custody relating to the juvenile's arrest or referral and participation in the program. Upon sealing of the records under this section, the arrest or offense giving rise to the person's participation in the program shall be deemed not to have occurred and the individual may respond accordingly to any inquiry, application, or process in which disclosure of this information is requested or sought.

(b) The probation department shall notify the participant in the supervision or diversion program in writing that his or her record has been sealed pursuant to the provisions of this section based on his or her satisfactory completion of the program. If the record is not sealed, the probation department shall notify the participant in writing of the reason or reasons for not sealing the record.

(c) Satisfactory completion of the program of supervision or diversion shall be defined for purposes of this section as substantial compliance by the participant with the reasonable terms of program participation that are within the capacity of the participant to perform. A determination of satisfactory or unsatisfactory completion shall be made by the probation department within 60 days of completion of the program by the juvenile, or if the juvenile does not complete the program, within 60 days of determining that the program has not been completed by the juvenile.

(d) An individual who receives notice from the probation department that he or she has not satisfactorily completed the diversion program and that the record has not been sealed pursuant to this section may petition the juvenile court for review of the decision in a hearing in which the program participant may seek to demonstrate, and the court may determine, that he or she has met the satisfactory completion requirement and is eligible for the sealing of the record by the probation department and by the program operator under the provisions of this section.

(e) Notwithstanding subdivision (a), the probation department of a county responsible for the supervision of a person may access a record sealed by a probation department pursuant to this section for the sole purpose of complying with subdivision (e) of Section 654.3. The information contained in the sealed record and accessed by the probation department under this subdivision shall in all other respects remain confidential and shall not be disseminated to any other person or agency. Access to, or inspection of, a sealed record authorized by this subdivision shall not be deemed an unsealing of the record and shall not require notice to any other agency.

(Added by Stats. 2017, Ch. 685, Sec. 2. (AB 529) Effective January 1, 2018.)

Rules of Court

- **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 5.516. Factors to consider**

(a) Settlement at intake (§ 653.5)

In determining whether a matter not described in rule 5.514(d) should be settled at intake, the social worker or probation officer must consider:

(1) Whether there is sufficient evidence of a condition or conduct to bring the child within the jurisdiction of the court;

(2) If the alleged condition or conduct is not considered serious, whether the child has previously presented significant problems in the home, school, or community;

(3) Whether the matter appears to have arisen from a temporary problem within the family that has been or can be resolved;

(4) Whether any agency or other resource in the community is available to offer services to the child and the child's family to prevent or eliminate the need to remove the child from the child's home;

(5) The attitudes of the child, the parent or guardian, and any affected persons;

(6) The age, maturity, and capabilities of the child;

(7) The dependency or delinquency history, if any, of the child;

(8) The recommendation, if any, of the referring party or agency; and

(9) Any other circumstances that indicate that settling the matter at intake would be consistent with the welfare of the child and the protection of the public.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 2001.)

(b) Informal supervision

In determining whether to undertake a program of informal supervision of a child not described by rule 5.514(d), the social worker or probation officer must consider:

(1) If the condition or conduct is not considered serious, whether the child has had a problem in the home, school, or community that indicates that some supervision would be desirable;

(2) Whether the child and the parent or guardian seem able to resolve the matter with the assistance of the social worker or probation officer and without formal court action;

(3) Whether further observation or evaluation by the social worker or probation officer is needed before a decision can be reached;

(4) The attitudes of the child and the parent or guardian;

(5) The age, maturity, and capabilities of the child;

(6) The dependency or delinquency history, if any, of the child;

(7) The recommendation, if any, of the referring party or agency;

(8) The attitudes of affected persons; and

(9) Any other circumstances that indicate that a program of informal supervision would be consistent with the welfare of the child and the protection of the public.

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

(c) Filing of petition

In determining whether to file a petition under section 300 or 601 or to request the prosecuting attorney to file a petition under section 602, the social worker or probation officer must consider:

(1) Whether any of the statutory criteria listed in rules 5.770 and 5.772 relating to the fitness of the child are present;

(2) Whether the alleged conduct would be a felony;

(3) Whether the alleged conduct involved physical harm or the threat of physical harm to person or property;

(4) If the alleged condition or conduct is not serious, whether the child has had serious problems in the home, school, or community that indicate that formal court action is desirable;

(5) If the alleged condition or conduct is not serious, whether the child is already a ward or dependent of the court;

(6) Whether the alleged condition or conduct involves a threat to the physical or emotional health of the child;

(7) Whether a chronic, serious family problem exists after other efforts to resolve the problem have been made;

(8) Whether the alleged condition or conduct is in dispute and, if proven, whether court-ordered disposition appears desirable;

(9) The attitudes of the child and the parent or guardian;

(10) The age, maturity, and capabilities of the child;

(11) Whether the child is on probation or parole;

(12) The recommendation, if any, of the referring party or agency;

(13) The attitudes of affected persons;

(14) Whether any other referrals or petitions are pending; and

(15) Any other circumstances that indicate that the filing of a petition is necessary to promote the welfare of the child or to protect the public.

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

(d) Certification to juvenile court

Copies of the certification, the accusatory pleading, any police reports, and the order of a superior court, certifying that the accused person was under the age of 18 on the date of the alleged offense, must immediately be delivered to the clerk of the juvenile court.

(1) On receipt of the documents, the clerk must immediately notify the probation officer, who must immediately investigate the matter to determine whether to commence proceedings in juvenile court.

(2) If the child is under the age of 18 and is in custody, the child must immediately be transported to the juvenile detention facility.

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

Rule 5.516 amended effective January 1, 2007; adopted as rule 1405 effective January 1, 1991; previously amended effective January 1, 2001.

- **Rule 5.520. Filing the petition; application for petition**

(a) Discretion to file (§§ 325, 650)

Except as provided in sections 331, 364, 604, 653.5, 654, and 655, the social worker or probation officer has the sole discretion to determine whether to file a petition under section 300 and 601. The prosecuting attorney has the sole discretion to file a petition under section 602.

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

(b) Filing the petition (§§ 325, 650)

A proceeding in juvenile court to declare a child a dependent or a ward of the court is commenced by the filing of a petition.

(1) In proceedings under section 300, the social worker must file the petition;

(2) In proceedings under section 601, the probation officer must file the petition; and

(3) In proceedings under section 602, the prosecuting attorney must file the petition. The prosecuting attorney may refer the matter back to the probation officer for appropriate action.

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

(c) Application for petition (§§ 329, 331, 653, 653.5, 655)

Any person may apply to the social worker or probation officer to commence proceedings. The application must be in the form of an affidavit alleging facts showing the child is described in sections 300, 601, or 602. The social worker or probation officer must proceed under sections 329, 653, or 653.5. The applicant may seek review of a decision not to file a petition by proceeding under section 331 or 655.

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

Rule 5.520 amended and renumbered effective January 1, 2007; adopted as rule 1406 effective January 1, 1991.