



Part 2 YOUTH DETENTION 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 2: A Legal Map of Youth Detention in California.¹ For all maps in the series, visit our website: www.ylc.org/navigate-juvenile-justice-law.

Welfare & Institutions Code

- **248.5.**

All written findings and orders of the court shall be served by the clerk of the court personally, by first-class mail, or by electronic service pursuant to Section 212.5, within three judicial days of their issuance on the petitioner, the minor or the minor's counsel, the parent or the parent's counsel, and the guardian or the guardian's counsel.

(Amended by Stats. 2017, Ch. 319, Sec. 110. (AB 976) Effective January 1, 2018.)

- **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.

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

(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.)

- **626.6.**

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.)

- **628.1.**

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

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

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

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

- **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.)

- **631.**

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

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

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

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

- **632.**

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

(b) Whenever a minor is taken into custody without a warrant on the belief that he or she has committed a misdemeanor not involving violence, a threat of violence, or possession or use of weapons, if the minor is not currently on probation or parole, he or she shall be brought before a judge or referee of the juvenile court for a detention hearing as soon as possible, but no later than 48 hours after having been taken into custody, excluding nonjudicial days, after a petition to declare the minor a ward has been filed. In all cases involving the detention of a minor pursuant to this subdivision where the minor will not be brought before the judge or referee of the juvenile court within 24 hours, the decision not to bring the minor before the judge or referee within 24 hours shall be subject to written review and approval by a probation officer who is a supervisor as soon as possible after it is known that the minor will not be brought before the judge or referee within 24 hours. However, if the decision not to bring the minor before the judge or referee within 24 hours is made by a probation officer who is a supervisor, the decision shall not be subject to review and approval.

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

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

- **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.)

- **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.)*

- **840.**

There shall be in each county probation department a program of home supervision to which minors described by Section 628.1 shall be referred. Home supervision is a program in which persons who would otherwise be detained in the juvenile hall are permitted to remain in their homes pending court disposition of their cases, under the supervision of a deputy probation officer, probation aide, or probation volunteer.

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

- **841.**

The duties of a deputy probation officer, or a probation aide, a community worker or a volunteer under the supervision of a deputy probation officer, assigned to home supervision are to assure the minor's appearance at probation officer interviews and court hearings and to assure that the minor obeys the conditions of his or her release and commits no public offenses pending final disposition of his or her case. A deputy probation officer, probation aide, or community worker assigned to home supervision shall have a caseload of no more than 10 minors. However, if the county probation department employs a method of home supervision which includes electronic surveillance, the caseload shall be no more than 15 minors. Whenever possible, a minor shall be assigned to a

deputy probation officer, probation aide, community worker, or volunteer who resides in the same community as the minor.

(Amended by Stats. 1991, Ch. 155, Sec. 1.)

- **842.**

A probation volunteer is a person who donates personal services to the probation department and probationers without compensation. A probation aide or a community worker may receive compensation for such services. Probation aides, community workers, and volunteers shall not qualify for peace officer status pursuant to Section 830.5 of the Penal Code.

(Amended by Stats. 1979, Ch. 291.)

Rules of Court

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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