

NON-CUSTODIAL RESIDENTIAL OPTIONS FOR YOUTH

KEY GUIDEPOSTS FOR REFORM:

- ✦ Both law enforcement and Probation have authority to divert young people to community-based programs in lieu of referral to the juvenile delinquency system.
- ✦ If a youth is referred to the Probation Department, as part of its initial investigation Probation must determine whether there is “reason to believe” that a young person is “at risk of foster care placement” because it is contrary to the youth’s welfare to return home. If so, Probation must make “reasonable efforts” to facilitate the youth’s safe return home, and can release a youth home with services in lieu of continued custody or detention.
- ✦ It is a common misconception that a youth must wait until the dispositional stage of his or her case before release to a foster care placement. In fact, starting from detention, a youth can be released from secure confinement to a suitable placement pursuant to court order. Moreover, the law requires Probation to provide certain child welfare services, including case planning, from the moment that a youth is brought into a juvenile detention facility.
- ✦ Every time that a youth is brought into juvenile hall detention by the Probation Department, the law imposes certain requirements related to continued removal from home and risk of foster care placement:
 - Probation must document the reasons why the young person is at risk of foster care placement and all reasonable efforts it has made to prevent removal from the home. Probation must develop a comprehensive “case plan” and consult the youth’s “child and family team” to identify potential placements, resources, and services for the youth and family.
 - At the court detention hearing, Probation can recommend detention in a temporary foster care setting while the youth’s case is pending. Whether or not Probation recommends this type of setting, the juvenile court can authorize detention in a foster care setting, if it finds that the statutory requirements for detention and foster care placement have been met. Once authorized by the court, Probation must act immediately to move the youth to a suitable placement, rather than keeping the youth in detention while the juvenile delinquency case goes forward in court.

✦ An appropriate placement for a youth who cannot immediately return home is a place for the youth to reside that is “the least restrictive, most family-like environment that promotes normal childhood experiences, in close proximity to the minor’s home, that meets the minor’s best interest and special needs.” By law, Probation must consider placements in this order of priority:

- Placement with relatives and extended family,
- Foster family homes,
- Treatment foster homes,
- Group care placements, and
- Out-of-state residential treatment.

✦ Probation and counties must develop a range of placement options that include:

- **Resource family placement with relatives and non-relative extended family members:** Probation and the juvenile court are legally obligated to consider these placements first. Probation must diligently search for these family resources and can place the youth in the family’s home while the family member completes resource family approval.
- **Resource family placement through a foster family agency:** Probation and the county can contract with a foster family agency (FFA) for resource family homes and for specialized recruitment, training, and support activities. These homes provide high levels of support in a family setting.
- **Transitional housing and independent living settings:** Probation must develop a transitional independent living plan (TILP) for every youth age 16 or older in foster care placement. As part of the TILP, Probation is responsible for securing an appropriate independent living option, such as transitional housing for minors and nonminors or “supervised independent living placements,” for each youth in its care. The young person is eligible for these placements while still on probation.
- **Short-term residential therapeutic programs:** Probation and the juvenile court must follow the strict requirements regarding placement in a short-term residential therapeutic program (STRTP). STRTPs are a more treatment-intensive category of foster care placement created to replace group homes. If Probation is considering STRTP placement for a youth, that youth must meet eligibility criteria, and Probation must document both the specific need for STRTP placement and that the STRTP placement can meet the young person’s documented needs. Probation cannot place a youth in an STRTP without a plan for transitioning the youth to a less restrictive setting.

✦ Probation and counties may also utilize an array of specialized residential options that are available for any youth, as long as they are otherwise eligible:

- **Therapeutic foster care (TFC) homes** provide intensive mental health services in a family setting. TFC is a specialty mental health service run through the county mental health plan for youth who are eligible for Medi-Cal. Despite its name, TFC is available to all youth who qualify, whether or not they are in foster care.
- **Residential treatment centers** may be appropriate for youth with special education needs who have an individualized education program (IEP) through the school district or county office of education. Probation must coordinate with the school district to ensure educational stability in any placement setting.
- **Residential settings contracted with Regional Centers** are designed for individuals with developmental disabilities. If a youth has an individualized program plan (IPP) through the Regional Center, then Probation must include the Regional Center in the child and family team to coordinate placement and service options.

✦ California law safeguards young people from placement delay or disruption. Juvenile courts must monitor any unnecessary delays in placement and make alternative orders if Probation fails to secure a placement. Probation must initiate a placement preservation strategy before changing a young person's placement except under specific circumstances.

✦ Counties should develop detention and dispositional alternatives that effectively utilize a variety of funding streams, including reimbursement through federal programs like Title IV-E (for placement maintenance, administrative, and training costs) and Medicaid (for service and administrative costs).

✦ At the detention stage, specific legal provisions apply for any young person who is already in foster care as a juvenile court dependent. These youths have non-custodial foster care placement options through the Child Welfare Agency and should not be detained in juvenile hall because of their status as a dependent, a finding that a return to their current placement is contrary to their welfare, or child welfare's inability to provide a placement.

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

