

# **SELECTED CALIFORNIA WELFARE AND INSTITUTIONS CODE PROVISIONS**

## **SELECTED CALIFORNIA WELFARE AND INSTITUTIONS CODE PROVISIONS Welfare and Institutions Code**

### **CALIFORNIA WELFARE AND INSTITUTIONS CODE**

#### **SYNOPSIS**

#### **CALIFORNIA WELFARE & INSTITUTIONS CODE**

#### **GENERAL PROVISIONS**

##### **§ 1. Title of Act.**

This act shall be known as the Welfare and Institutions Code.

**Leg.H.**

1937 ch. 369.

##### **§ 2. Construction.**

The provisions of this code, in so far as they are substantially the same as existing statutory provisions relating to the same subject matter, shall be construed as restatements and continuations thereof, and not as new enactments.

**Leg.H.**

1937 ch. 369.

##### **§ 3. Tenure of Existing Officers.**

All persons who, at the time this code goes into effect, hold office under any of the acts repealed by this code, which offices are continued by this code, continue to hold the same according to the former tenure thereof.

**Leg.H.**

1937 ch. 369.

##### **§ 4. Savings Clause.**

No action or proceeding commenced before this code takes effect, and no right accrued, is affected by the provisions of this code, but all procedure thereafter taken therein shall conform to the provisions of this code so

far as possible.

**Leg.H.**

1937 ch. 369.

## **§ 5. Construction of Code—General Provisions.**

Unless the context otherwise requires, the general provisions hereinafter set forth shall govern the construction of this code.

**Leg.H.**

1937 ch. 369.

## **§ 6. Headings Not Affecting Construction.**

Division, part, chapter, article, and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any division, part, chapter, article, or section hereof.

**Leg.H.**

1937 ch. 369.

## **§ 7. Delegation of Powers and Duties.**

Whenever, by the provisions of this code, a power is granted to a public officer or a duty imposed upon such an officer, the power may be exercised or the duty performed by a deputy of the officer or by a person authorized pursuant to law by the officer, unless it is expressly otherwise provided.

**Leg.H.**

1937 ch. 369.

## **§ 8. Writing Defined; English Requirement.**

Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement, or record is required or authorized by this code, it shall be made in writing in the English language.

**Leg.H.**

1937 ch. 369.

## **§ 9. Reference to This Code or Other Statutes.**

Whenever any reference is made to any portion of this code or of any other law of this State, such reference shall apply to all amendments and additions thereto now or hereafter made.

**Leg.H.**

1937 ch. 369.

## § 10. “Section” Defined.

“Section” means a section of this code unless some other statute is specifically mentioned, and “subdivision” means a subdivision of the section in which that term appears unless some other section is expressly mentioned.

Leg.H.

1937 ch. 369.

## § 11. Tense.

The present tense includes the past and future tenses, and the future tense includes the present.

Leg.H.

1937 ch. 369.

## § 12. Gender.

The masculine gender includes the feminine and neuter.

Leg.H.

1937 ch. 369.

## § 13. Singular and Plural.

The singular number includes the plural, and the plural number includes the singular.

Leg.H.

1937 ch. 369.

## § 14. “County” Defined.

“County” includes “city and county.”

Leg.H.

1937 ch. 369.

## § 15. Use of “Shall” and “May.”

“Shall” is mandatory and “may” is permissive.

Leg.H.

1937 ch. 369.

## § 16. “Oath” Defined.

“Oath” includes affirmation.

**Leg.H.**

1937 ch. 369.

## § 17. “Signature” and “Subscription” Defined.

“Signature” or “subscription” includes mark when the signer or subscriber can not write, such signer’s or subscriber’s name being written near the mark by a witness who writes his own name near the signer’s or subscriber’s name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto.

**Leg.H.**

1937 ch. 369.

## § 17.1. Determination of Minor’s or Nonminor Dependent’s Residence.

Unless otherwise provided under the provisions of this code, to the extent not in conflict with federal law, the residence of a minor person, or a nonminor dependent, as described in subdivision (v) of Section 11400, shall be determined by the following rules:

(a) The residence of the parent with whom a child maintains his or her place of abode or the residence of any individual who has been appointed legal guardian or the individual who has been given the care or custody by a court of competent jurisdiction, determines the residence of the child.

(b) Wherever in this section it is provided that the residence of a child is determined by the residence of the person who has custody, “custody” means the legal right to custody of the child unless that right is held jointly by two or more persons, in which case “custody” means the physical custody of the child by one of the persons sharing the right to custody.

(c) The residence of a foundling shall be deemed to be that of the county in which the child is found.

(d) If the residence of the child is not determined under subdivision (a), (b), (c), or (e), the county in which the child is living shall be deemed the county of residence, if and when the child has had a physical presence in the county for one year.

(e) If the child has been declared permanently free from the custody and control of his or her parents, his or her residence is the county in which the court issuing the order is situated.

(f) If a nonminor dependent under the dependency jurisdiction or transition jurisdiction of the juvenile court is placed in a planned permanent living arrangement, as described in subdivision (i) of Section 366.3, the county in which the nonminor dependent is living may be deemed the county of residence, if and when the nonminor dependent has had a continuous physical presence in the county for one year as a nonminor dependent and the nonminor dependent expressed his or her intent to remain in that county.

(g) If a nonminor dependent’s dependency jurisdiction has been resumed, or transition jurisdiction assumed or resumed by the juvenile court that retained general jurisdiction pursuant to subdivision (b) of Section 303, as a result of the filing of a petition pursuant to subdivision (e) of Section 388, following the granting of the petition, the county in which the nonminor dependent is living at the time the petition was filed may be deemed the county of residence, if and when the nonminor dependent establishes that he or she has had a continuous physical presence in the county for one year and has expressed his or her intent to remain in that county. The period of continuous physical presence in the county shall include any period of continuous residence in the county immediately prior to the filing of the petition.

**Leg.H.**

Added Stats 1943 ch 713 § 1. Amended Stats 1953 ch 1233 § 1; Stats 1975 ch 1129 § 1; Stats 2012 ch 846 § 7 (AB 1712), effective January 1, 2013.

## **§ 18. Invalidity of Provisions or Clauses; Severability.**

If any provision of this code, or the application thereof to any person or circumstance, is held invalid, the remainder of the code, or the application of such provision to other persons or circumstances, shall not be affected thereby.

**Leg.H.**

1937 ch. 369.

## **§ 19. Purpose of Code.**

It is the purpose of this code, in establishing programs and services which are designed to provide protection, support or care of children, to provide protective services to the fullest extent deemed necessary by the juvenile court, probation department or other public agencies designated by the board of supervisors to perform the duties prescribed by this code to insure that the rights or physical, mental or moral welfare of children are not violated or threatened by their present circumstances or environment. Such essential services may be provided irrespective of whether the child or the family of the child is otherwise known to the responsible local agency.

**Leg.H.**

Amended 1967 ch. 90.

## **§ 19.1. Purpose of Public Social Services That Receive Grants-in-Aid.**

The purpose of the public social services for which state grants-in-aid are made to counties are:

- (a) To provide on behalf of the general public, and within the limits of public resources, reasonable support and maintenance for needy and dependent families and persons.
- (b) To provide timely and appropriate services to assist individuals develop or use whatever capacity they can maintain or achieve for self-care or self-support.
- (c) To provide protective services to handicapped or deprived persons subject to social or legal disability, and to children and others subject to exploitation jeopardizing their present or future health, opportunity for normal development or capacity for independence.

**Leg.H.**

1963 ch. 363.

## **§ 21. Construction of References to Specified Departments and Officers.**

- (a) Whenever any reference is made in any provision of this code to the "State Department of Benefit Payments" or the "Department of Benefit Payments" with respect to aid, it means the State Department of Social Services.

Whenever any reference is made to the "State Department of Benefit Payments" or "Department of Benefit Payments" with respect to mental disorders, it means the State Department of Health Care Services. Whenever reference is made to the "State Department of Benefit Payments" or "Department of Benefit Payments" with respect to developmental disabilities, it means the State Department of Developmental Services.

(b) Whenever any reference is made in any provision of this code to the "State Department of Health" or the "Department of Health" with respect to health services, medical assistance, or benefits, it means the State Department of Health Care Services or the State Department of Public Health, as applicable.

Whenever any reference is made to the "State Department of Health" or the "Department of Health" with respect to mental disorders, it means the State Department of Health Care Services. Whenever any reference is made to the "State Department of Health" or "Department of Health" in respect to developmental disabilities, it means the State Department of Developmental Services.

(c) Whenever any reference is made in any provision of this code to the "Director of Benefit Payments" with respect to aid, it means the Director of Social Services.

Whenever any reference is made to the "Director of Benefit Payments" with respect to mental disorders, it means the Director of Health Care Services. Whenever any reference is made to the "Director of Benefit Payments" with respect to developmental disabilities, it means the Director of Developmental Services.

(d) Whenever any reference is made in any provision of this code to the "State Director of Health" or "Director of Health" with respect to health services, medical assistance, or benefits, it means the Director of Health Care Services.

Whenever any reference is made to the "State Director of Health" or "Director of Health" with respect to mental disorders, it means the Director of Health Care Services. Whenever any reference is made to the "State Director of Health" or "Director of Health" with reference to developmental disabilities, it means the Director of Developmental Services.

**Leg.H.**

Added Stats 1977 ch 1252 § 477, operative July 1, 1978. Amended Stats 2012 ch 34 § 39 (SB 1009), effective June 27, 2012.

## **§ 22. References to Health and Community Care Facilities.**

Whenever in any provision of law there is a reference to Chapter 1 (commencing with Section 7000) of Division 7 of the Welfare and Institutions Code or Chapter 2 (commencing with Section 1400) of Division 2 of the Health and Safety Code, if it applies to a health facility, it shall be deemed to mean Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code or if it applies to a community care facility, it shall be deemed to mean Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code.

**Leg.H.**

1976 ch. 504.

## **§ 23. References to Community Care Facilities.**

Whenever in any provision of law there is a reference to Chapter 1 (commencing with Section 7000) of Division 7 of the Welfare and Institutions Code relating to community care facilities as defined by **Section 1502**

of the Health and Safety Code or Chapter 1 (commencing with Section 16000) of Part 4 of Division 9 of the Welfare and Institutions Code or to Chapter 3 (commencing with Section 16200) of Part 4 of Division 9 of the Welfare and Institutions Code, it shall be deemed to mean Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code.

**Leg.H.**

Amended 1978 ch. 380.

## **§ 24. Provisions Not to Conflict with Federal Law.**

The provisions of Chapter 1129 of the Statutes of 1975 amending Sections 17.1, 739, 883, 1050, 1711, 1760.4, 10000, 10617, 11250.5, 11307, 11310, 11325, 17102 and 18907 shall be operational to the extent they are not in conflict with federal law.

**Leg.H.**

1976 ch. 504.

## **§ 26. “Assessed Value” Defined; Adjustments for Comparisons of Different Years; Conversion Factors.**

(a) For purposes of this code, “assessed value” means 25 percent of full value to, and including, the 1980–81 fiscal year, and 100 percent of full value for the 1981–82 fiscal year and fiscal years thereafter; and tax rates shall be expressed in dollars, or fractions thereof, on each one hundred dollars (\$100) of assessed value to and including the 1980–81 fiscal year and as a percentage of full value for the 1981–82 fiscal year and fiscal years thereafter.

(b) Whenever this code requires comparison of assessed values, tax rates or property tax revenues for different years, the assessment ratios and tax rates shall be adjusted as necessary so that the comparisons are made on the same basis, and the same amount of tax revenues would be produced, or the same relative value of an exemption or subvention will be realized regardless of the method of expressing tax rates or the assessment ratio utilized.

(c) For purposes of expressing tax rates on the same basis, a tax rate based on a 25 percent assessment ratio and expressed in dollars, or fractions thereof, for each one hundred dollars (\$100) of assessed value may be multiplied by a conversion factor of twenty-five hundredths of 1 percent to determine a rate comparable to a rate expressed as a percentage of full value; and, a rate expressed as a percentage of full value may be multiplied by a factor of 400 to determine a rate comparable to a rate expressed in dollars, or fractions thereof, for each one hundred dollars (\$100) of assessed value and based on a 25 percent assessment ratio.

**Leg.H.**

Renumbered from § 22, 1986 ch. 248 § 244.

## **§ 27. Listing Information to Include Rights of Foster Children.**

Each agency and department responsible for listing in regulations the rights of children under this division shall incorporate the rights of foster children, as listed in Section 16001.9 on the list.

**Leg.H.**

2001 ch. 683.

## **DIVISION 1**

# **ADMINISTRATION OF WELFARE AND INSTITUTIONS**

## **CHAPTER 1**

### **COURT-APPOINTED SPECIAL ADVOCATES**

#### **§ 100. Program Guidelines and Funding.**

**(a)** The Judicial Council shall establish a planning and advisory group consisting of appropriate professional and program specialists to recommend on the development of program guidelines and funding procedures consistent with this chapter. At a minimum, the council shall adopt program guidelines consistent with the guidelines established by the National Court Appointed Special Advocate Association, and with California law, but the council may require additional or more stringent standards. State funding shall be contingent on a program adopting and adhering to the program guidelines adopted by the council.

**(b)** The program guidelines adopted by the council shall be adopted and incorporated into local rules of court by each participating superior court as a prerequisite to funding pursuant to this chapter.

**(c)** The council shall adopt program guidelines and criteria for funding that encourage multicounty CASA programs where appropriate, and shall not provide for funding more than one program per county.

**(d)** The council shall establish, in a timely fashion, a request-for-proposal process to establish, maintain, or expand local CASA programs and may require local matching funds or in-kind funds not to exceed the proposal request. The maximum state grant per county program per year shall not exceed seventy thousand dollars (\$70,000) in counties in which the population is less than 700,000 and shall not exceed one hundred thousand dollars (\$100,000) in counties in which the population is 700,000 or more, according to the annual population report provided by the Department of Finance.

**Leg.H.**

Added Stats 1988 ch 723 § 5. Amended Stats 1998 ch 406 § 8 (AB 1590), effective August 26, 1998; Stats 2000 ch 447 § 12 (SB 1533); Stats 2001 ch 824 § 37 (AB 1700); Stats 2020 ch 36 § 45 (AB 3364), effective January 1, 2021.

#### **§ 101. Definitions.**

As used in this chapter, the following definitions shall apply:

**(a)** “Adult” means a person 18 years of age or older.

**(b)** “Child or minor” means a person under the jurisdiction of the juvenile court pursuant to Section 300, 601, or 602.

**(c)** “CASA” means a Court-Appointed Special Advocate. “CASA” also refers to a Court Designated Child Advocate in programs that have utilized that title. A CASA has the duties and responsibilities described in this chapter and shall be trained by and function under the auspices of a Court-Appointed Special Advocate program as set forth in this chapter.

**(d)** “Court” means the superior court, including the juvenile court.

(e) "Dependent" means a person described in Section 300.

(f) "Nonminor dependent" means a person as described in subdivision (v) of Section 11400.

(g) "Ward" means a person described in Section 601 or 602.

**Leg.H.**

Added Stats 1988 ch 723 § 5. Amended Stats 2012 ch 846 § 8 (AB 1712), effective January 1, 2013; Stats 2015 ch 71 § 1 (AB 424), effective January 1, 2016.

## **§ 102. Staffing of Programs; Provision for Volunteers; Service at Pleasure of Court; Training Program; Screening of Volunteers.**

(a) Each CASA program shall, if feasible, be staffed by a minimum of one paid administrator. The staff shall be directly accountable to the presiding juvenile court judge and the CASA program board of directors, as applicable.

(b) The program shall provide for volunteers to serve as CASAs. A CASA may be appointed to any dependent, nonminor dependent, or ward who is subject to the jurisdiction of the juvenile court.

(c) Each CASA shall serve at the pleasure of the court having jurisdiction over the proceedings in which a CASA has been appointed and that appointment may continue after the child attains his or her age of majority, with the consent of the nonminor dependent. A CASA shall do all of the following:

(1) Provide independent, factual information to the court regarding the cases to which he or she is appointed.

(2) Represent the best interests of the child involved, and consider the best interests of the family, in the cases to which he or she is appointed.

(3) At the request of the judge, monitor cases to which he or she has been appointed to ensure that the court's orders have been fulfilled.

(d) The Judicial Council, through its rules and regulations, shall require an initial and ongoing training program consistent with this chapter for all persons acting as a CASA, including, but not limited to, each of the following:

(1) Dynamics of child abuse and neglect.

(2) Court structure, including juvenile court laws.

(3) Social service systems.

(4) Child development.

(5) Cultural competency and sensitivity relating to, and best practices for, providing adequate care to lesbian, gay, bisexual, and transgender youth.

(6) Interviewing techniques.

(7) Report writing.

(8) Roles and responsibilities of a CASA.

**(9) Rules of evidence and discovery procedures.**

**(10) Problems associated with verifying reports.**

**(e)** The Judicial Council, through its CASA Advisory Committee, shall adopt guidelines for the screening of CASA volunteers, which shall include personal interviews, reference checks, checks for records of sex offenses and other criminal records, information from the Department of Motor Vehicles, and other information that the Judicial Council deems appropriate.

**Leg.H.**

Added Stats 1988 ch 723 § 5. Amended Stats 2012 ch 846 § 9 (AB 1712), effective January 1, 2013; Stats 2013 ch 300 § 2 (AB 868), effective January 1, 2014; Stats 2015 ch 71 § 2 (AB 424), effective January 1, 2016.

## **§ 103. Requirements to Act as CASA; Appointment.**

**(a)** Persons acting as a CASA shall be individuals who have demonstrated an interest in children and their welfare. Each CASA shall participate in a training course conducted under the rules and regulations adopted by the Judicial Council and in ongoing training and supervision throughout his or her involvement in the program. Each CASA shall be evaluated before and after initial training to determine his or her fitness for these responsibilities. Ongoing training shall be provided at least monthly.

**(b)** Each CASA shall commit a minimum of one year of service to a child until a permanent placement is achieved for the child or until relieved by the court, whichever is first. At the end of each year of service, the CASA, with the approval of the court, may recommit for an additional year.

**(c)** A CASA shall have no associations that create a conflict of interest with his or her duties as a CASA.

**(d)** An adult otherwise qualified to act as a CASA shall not be discriminated against based upon marital status, socioeconomic factors, or because of any characteristic listed or defined in **Section 11135 of the Government Code**.

**(e)** Each CASA is an officer of the court, with the relevant rights and responsibilities that pertain to that role and shall act consistently with the local rules of court pertaining to CASAs.

**(f)** Each CASA shall be sworn in by a superior court judge or commissioner before beginning his or her duties.

**(g)** A judge may appoint a CASA when, in the opinion of the judge, a child requires services which can be provided by the CASA, consistent with the local rules of court.

**(h)** To accomplish the appointment of a CASA, the judge making the appointment shall sign an order, which may grant the CASA the authority to review specific relevant documents and interview parties involved in the case, as well as other persons having significant information relating to the child, to the same extent as any other officer of the court appointed to investigate proceedings on behalf of the court.

**(i)** Each CASA shall be considered court personnel for purposes of subdivision (a) of Section 827.

**Leg.H.**

Added Stats 1988 ch 723 § 5. Amended Stats 2008 ch 682 § 10 (AB 2654), effective January 1, 2009; Stats 2015 ch 71 § 3 (AB 424), effective January 1, 2016.

## **§ 104. Extent of Duties.**

(a) The court shall determine the extent of the CASA's duties in each case. These duties may include an independent investigation of the circumstances surrounding a case to which he or she has been appointed, interviewing and observing the child and other appropriate individuals, and the reviewing of appropriate records and reports.

(b) The CASA shall report the results of the investigation to the court.

(c) The CASA shall follow the direction and orders of the court and shall provide information specifically requested by the court.

**Leg.H.**

1988 ch. 723.

## **§ 105. Confidentiality of Records and Information.**

All otherwise confidential records and information acquired or reviewed by a CASA during the course of his or her duties shall remain confidential and shall be disclosed only pursuant to a court order.

**Leg.H.**

1988 ch. 723.

## **§ 106. Notice of Hearings and Other Proceedings.**

The CASA shall be notified of hearings and other proceedings concerning the case to which he or she has been appointed.

**Leg.H.**

1988 ch. 723.

## **§ 107. Inspection and Copying of Records.**

(a) Except as provided in subdivision (b), upon presentation of the order of his or her appointment by the CASA, and upon specific court order and consistent with the rules of evidence, any agency, hospital, school, organization, division or department of the state, physician and surgeon, nurse, other health care provider, psychologist, psychiatrist, police department, or mental health clinic shall permit the CASA to inspect and copy any records relating to the child involved in the case of appointment without the consent of the child or parents.

(b) Subdivision (a) does not apply to the records of or pertaining to a nonminor dependent. The CASA may have access to those records only with the explicit written and informed consent of the nonminor dependent.

**Leg.H.**

Added Stats 1988 ch 723 § 5. Amended Stats 2012 ch 846 § 10 (AB 1712), effective January 1, 2013.

## **§ 108. Duty to Report to Legislature.**

The Judicial Council shall report to the Legislature on the implementation of the program, and shall include recommendations on the continued funding and expansion of the program, as appropriate.

**Leg.H.**

1988 ch. 723.

## § 109. Participation or Appearance in Certain Proceedings Prohibited.

(a) Except as provided in subdivisions (b) and (c), nothing in this chapter permits a person acting as a CASA to participate or appear in criminal proceedings or in proceedings to declare a person a ward of the juvenile court pursuant to Section 601 or 602.

(b) A person acting as a CASA may participate in determinations made pursuant to Section 241.1, and in all delinquency proceedings after adjudication of delinquency.

(c) This section does not apply to a person acting as a CASA when that person is acting solely as a support person to the child or who is in court on behalf of a child who is the victim of a crime.

**Leg.H.**

1988 ch. 723. Amended Stats 2015 ch 71 § 4 (AB 424), effective January 1, 2016.

## § 110. Right of Indian Tribe to Operate CASA Programs or to Have CASAs Appointed.

Nothing in this chapter shall be construed as limiting the right of an Indian tribe or Indian organization to establish or operate CASA programs independent of state funding or the discretion of the court to appoint CASAs from those programs in Indian child custody proceedings.

**Leg.H.**

Added Stats 2006 ch 838 § 28 (SB 678), effective January 1, 2007.

# CHAPTER 1.8

## ACQUISITION AND DISPOSITION OF SALVAGEABLE PERSONAL PROPERTY FOR CHARITABLE PURPOSES

### § 148. Definitions.

As used in this chapter:

(a) “Solicit” or any of its derivatives means to request directly or indirectly the giving of any kind of salvageable personal property on the plea or representation, express or implied, to the person requested that the property or any proceeds to be derived therefrom are to be devoted to charitable uses. The word shall extend to such requests made by any of the following means, whether or not the person making the request is given anything as a result:

1. Orally or in writing, by telephone or otherwise.

2. By distribution, circulation, mailing, posting, or publishing of any handbill, advertisement, or publication.

3. By means of any box or receptacle, upon any public street, sidewalk or way, or in any public park or in any publicly owned or controlled place; or by means of any box or receptacle in any place immediately abutting upon any public sidewalk or way, or in any place of business open to the public, or in any room, hallway, corridor, lobby, or entranceway, or other place open or accessible to the public.

4. By making of any announcement through the press, radio, telephone, television, or telegraph concerning an appeal, assemblage, athletic or sports event, bazaar, benefit, campaign, contest, dance, drive, entertainment, exhibition, exposition, party, performance, picnic, sale, or social gathering, which the public is requested to patronize.

(b) "Salvageable personal property" means any type of corporeal personality, new or used, but not including money or evidences of debt.

**Leg.H.**

1959 ch. 1410.

## **§ 148.1. Application of Chapter.**

None of the provisions of this chapter shall apply to the activities of any organization or association of persons or any person engaged by or under its authority, in soliciting donations of salvageable personal property solely from members of the organization or in selling salvageable personal property obtained from the organization's members by that soliciting, or the soliciting and sale of salvageable personal property by fraternal, social, political, or service organizations for occasional rummage sales or bazaars where the activity does not constitute a major part of the organization's activities and is not conducted as a permanent or continuous operation. Nor shall the provisions of this chapter apply to an association which is exempt under [Section 23701d](#) or [23701f of the Revenue and Taxation Code](#) if the membership of the association is comprised of persons with physical, mental, or developmental disabilities and the primary purpose of the association is to provide services to persons with those disabilities.

**Leg.H.**

Amended 1989 ch. 391.

## **§ 148.2. Accounting Requirements for Qualified Organizations Receiving or Selling Personal Property; Law Governing.**

Any organization qualified under Section 148.3 to solicit donations of salvageable personal property, or to sell salvageable personal property obtained by soliciting, shall: (a) maintain separate bank accounts and separate books and records for such solicitations or sales, and shall not commingle any proceeds of such solicitations or sales with any other assets; and (b) fully comply with the provisions of the Supervision of Trustees and Fundraisers for Charitable Purposes Act (Article 7 of Chapter 6 (commencing with Section 12580) of the Government Code).

**Leg.H.**

Added Stats 1976 ch 500 § 2. Amended Stats 2020 ch 370 § 269 (SB 1371), effective January 1, 2021.

## **§ 148.3. Prohibition Against Association's Solicitation of Donations; Exception.**

It shall be unlawful for any association of persons to engage, directly or indirectly, in soliciting donations of salvageable personal property, or in selling salvageable personal property obtained by soliciting, except an association which is exempt under [Section 23701d](#) or [23701f of the Revenue and Taxation Code](#) from any tax imposed by the Bank and Corporations Tax Law.

**Leg.H.**

Amended 1976 ch. 500.

## **§ 148.4. Prohibition Against Using Independent Contractor to Solicit Donations.**

It shall be unlawful for any organization qualified under Section 148.3 to solicit donations of salvageable personal property, to contract with or otherwise engage any independent contractor to perform the work of soliciting such donations or selling any personal property donated. All soliciting shall be done by the officers of the organization or agents appointed by or under the authority of such officers.

**Leg.H.**

1959 ch. 1410.

## **§ 148.5. Prohibition Against Solicitation of Donations by Person Other Than Officer or Agent.**

It shall be unlawful for any person to engage in soliciting donations of salvageable personal property except as an officer or agent of an organization meeting the requirements of Section 148.3, and who has been appointed in the manner prescribed by this chapter.

**Leg.H.**

1959 ch. 1410.

## **§ 148.6. Solicitor Identification Card; Receipt and Accounting Requirements for Sale of Personal Property Obtained by Solicitation.**

Every organization qualified under Section 148.3 to solicit donations of salvageable personal property, shall furnish each officer or agent engaged to work as a solicitor with an identification card stating the name and address of the solicitor, the name of the organization for whom he is soliciting, that he has been appointed by the organization to act as a solicitor, and the signature of the person by whom he was so appointed. The identification card must be exhibited on the demand of any person solicited or of any peace officer. Any such organization receiving the proceeds from any sale of salvageable personal property obtained by soliciting, shall see that each purchaser of such property is given a receipt stating the price paid for the property sold. Every such organization shall keep accurate books and records setting out the proceeds of such sales and the amounts devoted directly to charitable uses, which books and records shall be open to the inspection of any peace officer.

**Leg.H.**

1959 ch. 1410.

## § 148.8. Violations.

The violation of any provision of this chapter by any person or organization is a misdemeanor. Any person who solicits a donation of salvageable personal property, and uses any device purporting to be an identification card and which is not furnished in accordance with the provisions of this chapter is guilty of a misdemeanor.

**Leg.H.**

1959 ch. 1410.

## § 148.9. Powers of Counties and Cities to Impose Additional Requirements.

The enactment of this chapter shall in no way limit or infringe upon the powers of counties and cities to impose additional requirements for the privilege of soliciting and selling salvageable personal property within their jurisdictions.

**Leg.H.**

1959 ch. 1410.

# CHAPTER 2

## UNATTENDED COLLECTION BOXES

**Leg.H.**

[Added Stats 2010 ch 75 § 1, effective January 1, 2011. Former chapter 2, entitled “State Department of Mental Hygiene”, consisting of §§ 150–166.5, was enacted Stats 1937 ch 369, effective May 25, 1937 and repealed Stats 1965 ch 1797 § 1.]

## § 150. Definitions.

For purposes of this chapter, the following definitions shall apply:

- (a) “Collection box” means an unattended cannister, box, receptacle, or similar device, used for soliciting and collecting donations of salvageable personal property.
- (b) “Commercial fundraiser” shall have the same meaning as in subdivision (a) of Section 12599 of the Government Code.
- (c) “Nonprofit organization” means an organization that is exempt from taxation pursuant to Section 501(c)(3) or 501(c)(4) of the United States Internal Revenue Code.
- (d) “Salvageable personal property” has the same meaning as in subdivision (b) of Section 148.

**Leg.H.**

Added Stats 2010 ch 75 § 1 (AB 918), effective January 1, 2011.

## § 151. Collection Box Requirements.

- (a) The front of every collection box shall conspicuously display both of the following:

(1) The name, address, telephone number, and, if available, the Internet Web address of the owner and operator of the collection box.

(2) A statement, in at least two-inch typeface, that either reads, "this collection box is owned and operated by a for-profit organization" or "this collection box is owned and operated by a nonprofit organization." For purposes of this chapter, a commercial fundraiser shall be classified as a for-profit organization.

(b) If the collection box is owned by a nonprofit organization, the front of the collection box shall also conspicuously display a statement describing the charitable cause that will benefit from the donations.

(c) If the collection box is owned by a for-profit entity, the front of the collection box shall also conspicuously display a statement that reads "this donation is not tax deductible." If the collection box is owned and operated by a commercial fundraiser, the commercial fundraiser may post notice of donations to a charitable cause only on the sides of the box. This notice shall always be smaller in size than the for-profit entity's name and address and shall constitute only 25 percent of the notice space of the box.

**Leg.H.**

Added Stats 2010 ch 75 § 1 (AB 918), effective January 1, 2011.

## **§ 152. Box in Violation of Chapter.**

A city, county, or city and county shall have the authority to declare a box that is in violation of this chapter to be a public nuisance and to abate that nuisance accordingly.

**Leg.H.**

Added Stats 2010 ch 75 § 1 (AB 918), effective January 1, 2011.

## **§ 153. Construction of Chapter.**

Nothing in this chapter shall be construed to do either of the following:

(a) Supersede or in any way limit existing authority of the Department of Justice over fundraising for charitable purposes.

(b) Limit or infringe upon the powers of a city, county, or city and county to impose additional requirements upon the solicitation and sale of salvageable personal property within its jurisdiction.

**Leg.H.**

Added Stats 2010 ch 75 § 1 (AB 918), effective January 1, 2011.

# **DIVISION 2**

## **CHILDREN**

### **PART 1**

#### **Delinquents and Wards of the Juvenile Court**

# CHAPTER 2

## JUVENILE COURT LAW

### ARTICLE 1

#### **General Provisions**

##### **§ 200. Title of Chapter.**

This chapter shall be known and may be cited as the “Arnold-Kennick Juvenile Court Law.”

**Leg.H.**

1976 ch. 1068.

##### **§ 201. Construction of Provisions.**

The provisions of this chapter, insofar as they are substantially the same as existing statutory provisions relating to the same subject matter, shall be construed as restatements and continuations thereof, and not as new enactments.

**Leg.H.**

1976 ch. 1068.

##### **§ 202. Purpose of Chapter; Liberal Construction; “Punishment.”**

(a) The purpose of this chapter is to provide for the protection and safety of the public and each minor under the jurisdiction of the juvenile court and to preserve and strengthen the minor’s family ties whenever possible, removing the minor from the custody of his or her parents only when necessary for his or her welfare or for the safety and protection of the public. If removal of a minor is determined by the juvenile court to be necessary, reunification of the minor with his or her family shall be a primary objective. If the minor is removed from his or her own family, it is the purpose of this chapter to secure for the minor custody, care, and discipline as nearly as possible equivalent to that which should have been given by his or her parents. This chapter shall be liberally construed to carry out these purposes.

(b) Minors under the jurisdiction of the juvenile court who are in need of protective services shall receive care, treatment, and guidance consistent with their best interest and the best interest of the public. Minors under the jurisdiction of the juvenile court as a consequence of delinquent conduct shall, in conformity with the interests of public safety and protection, receive care, treatment, and guidance that is consistent with their best interest, that holds them accountable for their behavior, and that is appropriate for their circumstances. This guidance may include punishment that is consistent with the rehabilitative objectives of this chapter. If a minor has been removed from the custody of his or her parents, family preservation and family reunification are appropriate goals for the juvenile court to consider when determining the disposition of a minor under the jurisdiction of the juvenile court as a consequence of delinquent conduct when those goals are consistent with his or her best interests and the best interests of the public. When the minor is no longer a ward of the juvenile court,

the guidance he or she received should enable him or her to be a law-abiding and productive member of his or her family and the community.

(c) It is also the purpose of this chapter to reaffirm that the duty of a parent to support and maintain a minor child continues, subject to the financial ability of the parent to pay, during any period in which the minor may be declared a ward of the court and removed from the custody of the parent.

(d) Juvenile courts and other public agencies charged with enforcing, interpreting, and administering the juvenile court law shall consider the safety and protection of the public, the importance of redressing injuries to victims, and the best interests of the minor in all deliberations pursuant to this chapter. Participants in the juvenile justice system shall hold themselves accountable for its results. They shall act in conformity with a comprehensive set of objectives established to improve system performance in a vigorous and ongoing manner. In working to improve system performance, the presiding judge of the juvenile court and other juvenile court judges designated by the presiding judge of the juvenile court shall take into consideration the recommendations contained in subdivision (e) of Standard 5.40 of Title 5 of the California Standards of Judicial Administration, contained in the California Rules of Court.

(e) As used in this chapter, "punishment" means the imposition of sanctions. It does not include retribution and shall not include a court order to place a child in foster care as defined by Section 727.3. Permissible sanctions may include any of the following:

(1) Payment of a fine by the minor.

(2) Rendering of compulsory service without compensation performed for the benefit of the community by the minor.

(3) Limitations on the minor's liberty imposed as a condition of probation or parole.

(4) Commitment of the minor to a local detention or treatment facility, such as a juvenile hall, camp, or ranch.

(5) Commitment of the minor to the Division of Juvenile Facilities, Department of Corrections and Rehabilitation.

(f) In addition to the actions authorized by subdivision (e), the juvenile court may, as appropriate, direct the offender to complete a victim impact class, participate in victim offender conferencing subject to the victim's consent, pay restitution to the victim or victims, and make a contribution to the victim restitution fund after all victim restitution orders and fines have been satisfied, in order to hold the offender accountable or restore the victim or community.

**Leg.H.**

Added Stats 1984 ch 756 § 2. Amended Stats 1989 ch 569 § 1, effective September 20, 1989; Stats 1998 ch 761 § 1 (SB 2074); Stats 1999 ch 997 § 1 (AB 575); Stats 2001 ch 830 § 2 (SB 940); Stats 2007 ch 130 § 242 (AB 299), effective January 1, 2008.

## **§ 202.5. Probation Officer Governed by Department of Social Services.**

The duties of the probation officer, as described in this chapter with respect to minors alleged or adjudged to be described by Section 300, whether or not delegated pursuant to Section 272, shall be deemed to be social service as defined by Section 10051, and subject to the administration, supervision and regulations of the State Department of Social Services.

**Leg.H.**

1982 ch. 978 § 3, effective September 13, 1982.

## § 203. Noncriminal Status of Juvenile Proceedings.

An order adjudging a minor to be a ward of the juvenile court shall not be deemed a conviction of a crime for any purpose, nor shall a proceeding in the juvenile court be deemed a criminal proceeding.

**Leg.H.**

1976 ch. 1068.

## § 204. Providing All Available Information Regarding Best Interest of Child.

Notwithstanding any other provision of law, except provisions of law governing the retention and storage of data, a family law court and a court hearing a probate guardianship matter shall, upon request from the juvenile court in any county, provide to the court all available information the court deems necessary to make a determination regarding the best interest of a child, as described in Section 202, who is the subject of a proceeding before the juvenile court pursuant to this division. The information shall also be released to a child protective services worker or juvenile probation officer acting within the scope of his or her duties in that proceeding. Any information released pursuant to this section that is confidential pursuant to any other provision of law shall remain confidential and may not be released, except to the extent necessary to comply with this section. No records shared pursuant to this section may be disclosed to any party in a case unless the party requests the agency or court that originates the record to release these records and the request is granted. In counties that provide confidential family law mediation, or confidential dependency mediation, those mediations are not covered by this section.

**Leg.H.**

2004 ch. 574 (AB 2228).

## § 204.5. Disclosure of Minor's Name When Wardship Petition Is Sustained for Committing Serious or Violent Felony.

Notwithstanding any other provision of law, the name of a minor may be disclosed to the public if the minor is 14 years of age or older and found by the juvenile court to be a person described in Section 602 as a result of a sustained petition for the commission of any of the offenses listed in [Section 667.5 of the Penal Code](#), or in [subdivision \(c\) of Section 1192.7 of the Penal Code](#).

**Leg.H.**

1994 ch. 1019.

## § 205. Consideration of Religious Beliefs in Commitments or Placements.

All commitments to institutions or for placement in family homes under this chapter shall be, so far as practicable, either to institutions or for placement in family homes of the same religious belief as that of the person so committed or of his parents or to institutions affording opportunity for instruction in such religious belief.

**Leg.H.**

1976 ch. 1068.

## § 206. Separate Facilities for Dependent Children and Delinquents.

Persons taken into custody and persons alleged to be within the description of Section 300, or persons adjudged to be such and made dependent children of the court pursuant to this chapter solely upon that ground, shall be provided by the board of supervisors with separate facilities segregated from persons either alleged or adjudged to come within the description of Section 601 or 602 except as provided in Section 16514. Separate segregated facilities may be provided in the juvenile hall or elsewhere.

The facilities required by this section shall, with regard to minors alleged or adjudged to come within Section 300, be nonsecure.

For the purposes of this section, the term "secure facility" means a facility which is designed and operated so as to insure that all entrances to, and exits from, the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences, or physical restraints in order to control behavior of its residents. The term "nonsecure facility" means a facility that is not characterized by the use of physically restricting construction, hardware, and procedures and which provides its residents access to the surrounding community with minimal supervision. A facility shall not be deemed secure due solely to any of the following conditions: (1) the existence within the facility of a small room for the protection of individual residents from themselves or others; (2) the adoption of regulations establishing reasonable hours for residents to come and go from the facility based upon a sensible and fair balance between allowing residents free access to the community and providing the staff with sufficient authority to maintain order, limit unreasonable actions by residents, and to ensure that minors placed in their care do not come and go at all hours of the day and night or absent themselves at will for days at a time; and (3) staff control over ingress and egress no greater than that exercised by a prudent parent. The State Department of Social Services may adopt regulations governing the use of small rooms pursuant to this section.

No minor described in this section may be held in temporary custody in any building that contains a jail or lockup for the confinement of adults, unless, while in the building, the minor is under continuous supervision and is not permitted to come into or remain in contact with adults in custody in the building. In addition, no minor who is alleged to be within the description of Section 300 may be held in temporary custody in a building that contains a jail or lockup for the confinement of adults, unless the minor is under the direct and continuous supervision of a peace officer or other child protective agency worker, as specified in [Section 11165.9 of the Penal Code](#), until temporary custody and detention of the minor is assumed pursuant to Section 309. However, if a child protective agency worker is not available to supervise the minor as certified by the law enforcement agency which has custody of the minor, a trained volunteer may be directed to supervise the minor. The volunteer shall be trained and function under the auspices of the agency which utilizes the volunteer. The minor may not remain under the supervision of the volunteer for more than three hours. A county which elects to utilize trained volunteers for the temporary supervision of minors shall adopt guidelines for the training of the volunteers which guidelines shall be approved by the State Department of Social Services. Each county which elects to utilize trained volunteers for the temporary supervision of minors shall report annually to the department on the number of volunteers utilized, the number of minors under their supervision, and the circumstances under which volunteers were utilized.

No record of the detention of such a person shall be made or kept by any law enforcement agency or the Department of Justice as a record of arrest.

Leg.H.

1982 ch. 978, effective September 13, 1982, operative July 1, 1982, 1986 ch. 1271, 1987 ch. 1485, 1989 ch. 913.

## § 207. Places or Facilities for Care and Detention.

**(a)** A minor shall not be detained in any jail, lockup, juvenile hall, or other secure facility if the minor is taken into custody solely upon the ground that the minor is a person described by Section 213.3, or described by Section 601 or adjudged to be such or made a ward of the juvenile court solely upon that ground, except as provided in subdivision (b). If any such minor, other than a minor described in subdivision (b), is detained, the minor shall be detained in a sheltered-care facility or crisis resolution home as provided for in Section 654, or in a nonsecure facility provided for in subdivision (a), (b), (c), or (d) of Section 727.

**(b)** A minor taken into custody upon the ground that the minor is a person described in Section 601, or adjudged to be a ward of the juvenile court solely upon that ground, may be held in a secure facility, other than a facility in which adults are held in secure custody, in any of the following circumstances:

**(1)** For up to 12 hours after having been taken into custody for the purpose of determining if there are any outstanding wants, warrants, or holds against the minor in cases where the arresting officer or probation officer has cause to believe that the wants, warrants, or holds exist.

**(2)** For up to 24 hours after having been taken into custody, in order to locate the minor's parent or guardian as soon as possible and to arrange the return of the minor to the minor's parent or guardian, with the exception of an out-of-state runaway who is being held pursuant to the Interstate Compact for Juveniles.

**(c)** Any minor detained in juvenile hall pursuant to subdivision (b) shall not be permitted to come or remain in contact with any person detained on the basis that the minor has been taken into custody upon the ground that the minor is a person described in Section 602 or adjudged to be such or made a ward of the juvenile court upon that ground.

**(d)** Minors detained in juvenile hall pursuant to Sections 601 and 602 may be held in the same facility provided they are not permitted to come or remain in contact within that facility.

**(e)** Every county shall keep a record of each minor detained under subdivision (b), the place and length of time of the detention, and the reasons why the detention was necessary. Every county shall report this information to the Board of State and Community Corrections on a monthly basis, on forms to be provided by that agency.

The board shall not disclose the name of the detainee, or any personally identifying information contained in reports sent to the Division of Juvenile Justice under this subdivision.

**Leg.H.**

Added Stats 1976 ch 1068 § 1.5; Amended Stats 1977 ch 1241 § 1, effective October 1, 1977; Stats 1978 ch 1061 § 1, effective September 25, 1978; Stats 1979 ch 373 § 347; Stats 1986 ch 1271 § 2; Stats 1996 ch 12 § 2 (AB 1397), effective February 14, 1996; Stats 2010 ch 96 § 1 (AB 2350), effective January 1, 2011; Stats 2014 ch 70 § 2 (SB 1296), effective January 1, 2015; Stats 2019 ch 497 § 289 (AB 991), effective January 1, 2020.

## **§ 207.1. Detention of Minors in Jail or Lockup—Requirements.**

**(a)** A court, judge, referee, peace officer, or employee of a detention facility shall not knowingly detain any minor in a jail or lockup, unless otherwise permitted by any other law.

**(b)**

**(1)** A minor 14 years of age or older who is taken into temporary custody by a peace officer on the basis of being a person described by Section 602, and who, in the reasonable belief of the peace officer, presents a serious security risk of harm to self or others, may be securely detained in a law enforcement facility that contains a lockup for adults, if all of the following conditions are met:

**(A)** The minor is held in temporary custody for the purpose of investigating the case, facilitating release of the minor to a parent or guardian, or arranging transfer of the minor to an appropriate juvenile facility.

**(B)** The minor is detained in the law enforcement facility for a period that does not exceed six hours except as provided in subdivision (d).

**(C)** The minor is informed at the time the minor is securely detained of the purpose of the secure detention, of the length of time the secure detention is expected to last, and of the maximum six-hour period the secure detention is authorized to last. In the event an extension is granted pursuant to subdivision (d), the minor shall be informed of the length of time the extension is expected to last.

**(D)** Contact between the minor and adults confined in the facility is restricted in accordance with Section 208.

**(E)** The minor is adequately supervised.

**(F)** A log or other written record is maintained by the law enforcement agency showing the offense that is the basis for the secure detention of the minor in the facility, the reasons and circumstances forming the basis for the decision to place the minor in secure detention, and the length of time the minor was securely detained.

**(2)** Any other minor, other than a minor to which paragraph (1) applies, who is taken into temporary custody by a peace officer on the basis that the minor is a person described by Section 602 may be taken to a law enforcement facility that contains a lockup for adults and may be held in temporary custody in the facility for the purposes of investigating the case, facilitating the release of the minor to a parent or guardian, or arranging for the transfer of the minor to an appropriate juvenile facility. While in the law enforcement facility, the minor may not be securely detained and shall be supervised in a manner so as to ensure that there will be no contact with adults in custody in the facility. If the minor is held in temporary, nonsecure custody within the facility, the peace officer shall exercise one of the dispositional options authorized by Sections 626 and 626.5 without unnecessary delay and, in every case, within six hours.

**(3)** "Law enforcement facility," as used in this subdivision, includes a police station or a sheriff's station, but does not include a jail, as defined in subdivision (g).

**(c)** The Board of State and Community Corrections shall assist law enforcement agencies, probation departments, and courts with the implementation of this section by doing all of the following:

**(1)** The board shall advise each law enforcement agency, probation department, and court affected by this section as to its existence and effect.

**(2)** The board shall make available and, upon request, shall provide, technical assistance to each governmental agency that reported the confinement of a minor in a jail or lockup in calendar year 1984 or 1985. The purpose of this technical assistance is to develop alternatives to the use of jails or lockups for the confinement of minors. These alternatives may include secure or nonsecure facilities located apart from an existing jail or lockup, improved transportation or access to juvenile halls or other juvenile facilities, and other programmatic alternatives recommended by the board. The technical assistance shall take any form the board deems appropriate for effective compliance with this section.

**(d)**

**(1)**

**(A)** Under the limited conditions of inclement weather, acts of God, or natural disasters that result in the temporary unavailability of transportation, an extension of the six-hour maximum period of detention set forth in paragraph (2) of subdivision (b) may be granted to a county by the Board of Corrections. The extension may be granted only by the board, on an individual, case-by-case basis. If the extension is granted, the detention of minors under those conditions shall not exceed the duration of the special conditions, plus a period reasonably necessary to accomplish transportation of the minor to a suitable juvenile facility, not to exceed six hours after the restoration of available transportation.

**(B)** A county that receives an extension under this paragraph shall comply with the requirements set forth in subdivision (b). The county also shall provide a written report to the board that specifies when the inclement weather, act of God, or natural disaster ceased to exist, when transportation availability was restored, and when the minor was delivered to a suitable juvenile facility. If the minor was detained in excess of 24 hours, the board shall verify the information contained in the report.

**(2)** Under the limited condition of temporary unavailability of transportation, an extension of the six-hour maximum period of detention set forth in paragraph (2) of subdivision (b) may be granted by the board to an offshore law enforcement facility. The extension may be granted only by the board, on an individual, case-by-case basis. If the extension is granted, the detention of minors under those conditions shall extend only until the next available mode of transportation can be arranged.

An offshore law enforcement facility that receives an extension under this paragraph shall comply with the requirements set forth in subdivision (b). The facility also shall provide a written report to the board that specifies when the next mode of transportation became available, and when the minor was delivered to a suitable juvenile facility. If the minor was detained in excess of 24 hours, the board shall verify the information contained in the report.

**(3)** At least annually, the board shall review and report on extensions sought and granted under this subdivision. If, upon that review, the board determines that a county has sought one or more extensions resulting in the excessive confinement of minors in adult facilities, or that a county is engaged in a pattern and practice of seeking extensions, it shall require the county to submit a detailed explanation of the reasons for the extensions sought and an assessment of the need for a conveniently located and suitable juvenile facility. Upon receiving this information, the board shall make available, and the county shall accept, technical assistance for the purpose of developing suitable alternatives to the confinement of minors in adult lockups.

**(e)** Any county that did not have a juvenile hall on January 1, 1987, may establish a special purpose juvenile hall, as defined by the Board of Corrections, for the detention of minors for a period not to exceed 96 hours. Any county that had a juvenile hall on January 1, 1987, also may establish, in addition to the juvenile hall, a special purpose juvenile hall. The board shall prescribe minimum standards for that type of facility.

**(f)** No part of a building or a building complex that contains a jail may be converted or utilized as a secure juvenile facility unless all of the following criteria are met:

**(1)** The juvenile facility is physically, or architecturally, separate and apart from the jail or lockup such that there could be no contact between juveniles and incarcerated adults.

**(2)** Sharing of nonresidential program areas only occurs where there are written policies and procedures that assure that there is time-phased use of those areas that prevents contact between juveniles and incarcerated adults.

**(3)** The juvenile facility has a dedicated and separate staff from the jail or lockup, including management, security, and direct care staff. Staff who provide specialized services such as food, laundry,

maintenance, engineering, or medical services, who are not normally in contact with detainees, or whose infrequent contacts occur under conditions of separation of juveniles and adults, may serve both populations.

(4) The juvenile facility complies with all applicable state and local statutory, licensing, and regulatory requirements for juvenile facilities of its type.

**(g)**

(1) "Jail," as used in this chapter, means a locked facility administered by a law enforcement or governmental agency, the purpose of which is to detain adults who have been charged with violations of criminal law and are pending trial, or to hold convicted adult criminal offenders sentenced for less than one year.

(2) "Lockup," as used in this chapter, means any locked room or secure enclosure under the control of a sheriff or other peace officer that is primarily for the temporary confinement of adults upon arrest.

(3) "Offshore law enforcement facility," as used in this section, means a sheriff's station containing a lockup for adults that is located on an island located at least 22 miles from the California coastline.

(h) This section shall not be deemed to prevent a peace officer or employee of an adult detention facility or jail from escorting a minor into the detention facility or jail for the purpose of administering an evaluation, test, or chemical test pursuant to [Section 23157 of the Vehicle Code](#), if all of the following conditions are met:

(1) The minor is taken into custody by a peace officer on the basis of being a person described by Section 602 and there is no equipment for the administration of the evaluation, test, or chemical test located at a juvenile facility within a reasonable distance of the point where the minor was taken into custody.

(2) The minor is not locked in a cell or room within the adult detention facility or jail, is under the continuous, personal supervision of a peace officer or employee of the detention facility or jail, and is not permitted to come in contact or remain in contact with in-custody adults.

(3) The evaluation, test, or chemical test administered pursuant to [Section 23157 of the Vehicle Code](#) is performed as expeditiously as possible, so that the minor is not delayed unnecessarily within the adult detention facility or jail. Upon completion of the evaluation, test, or chemical test, the minor shall be removed from the detention facility or jail as soon as reasonably possible. A minor shall not be held in custody in an adult detention facility or jail under the authority of this paragraph in excess of two hours.

**Leg.H.**

Added Stats 1995 ch 304 § 2 (AB 904), effective August 3, 1995. Amended Stats 1996 ch 12 § 3 (AB 1397), effective February 14, 1996; Stats 1997 ch 17 § 147 (SB 947); Stats 1998 ch 694 § 1 (SB 2147); Stats 2019 ch 497 § 290 (AB 991), effective January 1, 2020; Stats 2020 ch 337 § 16 (SB 823), effective September 30, 2020.

## **§ 207.2. Release of Minor.**

A minor who is held in temporary custody in a law enforcement facility that contains a lockup for adults pursuant to subdivision (b) of Section 207.1 may be released to a parent, guardian, or responsible relative by the law enforcement agency operating the facility, or may at the discretion of the law enforcement agency be released into their own custody, provided that a minor released into their own custody is furnished, upon request, with transportation to their home or to the place where the minor was taken into custody.

**Leg.H.**

Added Stats 1992 ch 429 § 2 (SB 1274), effective August 1, 1992. Amended Stats 2017 ch 678 § 5 (SB 190), effective January 1, 2018; Stats 2020 ch 337 § 17 (SB 823), effective September 30, 2020.

## § 207.5. Misrepresentation to Secure Admission to Juvenile Hall, Etc. —Misdemeanor.

Every person who misrepresents or falsely identifies himself or herself either verbally or by presenting any fraudulent written instrument to any probation officer, or to any superintendent, director, counselor, or employee of a juvenile hall, ranch, or camp for the purpose of securing admission to the premises or grounds of any juvenile hall, ranch, or camp, or to gain access to any minor detained therein, and who would not otherwise qualify for admission or access thereto, is guilty of a misdemeanor.

**Leg.H.**

1981 ch. 697, 1998 ch. 694.

## § 208. Segregation of Minors from Adult Confinees or Sex Offenders.

(a) When any person under 18 years of age is detained in or sentenced to an adult facility, including a jail or other facility established for the purpose of confinement of adults, it shall be unlawful to permit that person to come or remain in contact with adults confined there.

(b) A person who is a ward or dependent child of the juvenile court who is detained in or committed to any state hospital or other state facility shall not be permitted to come or remain in contact with any adult person who has been committed to any state hospital or other state facility as a mentally disordered sex offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6, or with any adult person who has been charged in an accusatory pleading with the commission of any sex offense for which registration of the convicted offender is required under [Section 290 of the Penal Code](#) and who has been committed to any state hospital or other state facility pursuant to [Section 1026 or 1370 of the Penal Code](#).

(c) As used in this section, “contact” does not include participation in supervised group therapy or other supervised treatment activities, participation in work furlough programs, or participation in hospital recreational activities which are directly supervised by employees of the hospital, so long as living arrangements are strictly segregated and all precautions are taken to prevent unauthorized associations.

(d) This section shall be operative January 1, 1998.

**Leg.H.**

Added Stats 1993–94 1st Ex Sess ch 23 § 2 (ABX1 45), effective November 30, 1994, operative January 1, 1998. Amended Stats 2021 ch 18 § 2 (SB 92), effective May 14, 2021.

## § 208.3. Placement Of Minor Or Ward In Room Confinement

(a) For purposes of this section, the following definitions apply:

(1) “Juvenile facility” includes any of the following:

(A) A juvenile hall, as described in Section 850.

(B) A juvenile camp or ranch, as described in Article 24 (commencing with Section 880).

**(C)** A facility of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

**(D)** A regional youth educational facility, as described in Section 894.

**(E)** A youth correctional center, as described in Article 9 (commencing with Section 1850) of Chapter 1 of Division 2.5.

**(F)** A juvenile regional facility as described in Section 5695.

**(G)** Any other local or state facility used for the confinement of minors or wards.

**(2)** “Minor” means a person who is any of the following:

**(A)** A person under 18 years of age.

**(B)** A person under the maximum age of juvenile court jurisdiction who is confined in a juvenile facility.

**(C)** A person under the jurisdiction of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

**(3)** “Room confinement” means the placement of a minor or ward in a locked sleeping room or cell with minimal or no contact with persons other than correctional facility staff and attorneys. Room confinement does not include confinement of a minor or ward in a single-person room or cell for brief periods of locked room confinement necessary for required institutional operations.

**(4)** “Ward” means a person who has been declared a ward of the court pursuant to Section 602.

**(b)** The placement of a minor or ward in room confinement shall be accomplished in accordance with the following guidelines:

**(1)** Room confinement shall not be used before other less restrictive options have been attempted and exhausted, unless attempting those options poses a threat to the safety or security of any minor, ward, or staff.

**(2)** Room confinement shall not be used for the purposes of punishment, coercion, convenience, or retaliation by staff.

**(3)** Room confinement shall not be used to the extent that it compromises the mental and physical health of the minor or ward.

**(c)** A minor or ward may be held up to four hours in room confinement. After the minor or ward has been held in room confinement for a period of four hours, staff shall do one or more of the following:

**(1)** Return the minor or ward to general population.

**(2)** Consult with mental health or medical staff.

**(3)** Develop an individualized plan that includes the goals and objectives to be met in order to reintegrate the minor or ward to general population.

**(d)** If room confinement must be extended beyond four hours, staff shall do the following:

**(1)** Document the reason for room confinement and the basis for the extension, the date and time the minor or ward was first placed in room confinement, and when he or she is eventually released from room

confinement.

(2) Develop an individualized plan that includes the goals and objectives to be met in order to reintegrate the minor or ward to general population.

(3) Obtain documented authorization by the facility superintendent or his or her designee every four hours thereafter.

(e) This section is not intended to limit the use of single-person rooms or cells for the housing of minors or wards in juvenile facilities and does not apply to normal sleeping hours.

(f) This section does not apply to minors or wards in court holding facilities or adult facilities.

(g) This section shall not be construed to conflict with any law providing greater or additional protections to minors or wards.

(h) This section does not apply during an extraordinary, emergency circumstance that requires a significant departure from normal institutional operations, including a natural disaster or facility-wide threat that poses an imminent and substantial risk of harm to multiple staff, minors, or wards. This exception shall apply for the shortest amount of time needed to address the imminent and substantial risk of harm.

(i) This section does not apply when a minor or ward is placed in a locked cell or sleeping room to treat and protect against the spread of a communicable disease for the shortest amount of time required to reduce the risk of infection, with the written approval of a licensed physician or nurse practitioner, when the minor or ward is not required to be in an infirmary for an illness. Additionally, this section does not apply when a minor or ward is placed in a locked cell or sleeping room for required extended care after medical treatment with the written approval of a licensed physician or nurse practitioner, when the minor or ward is not required to be in an infirmary for illness.

(j) This section shall become operative on January 1, 2018.

**Leg.H.**

Added Stats 2016 ch 726 § 1 (SB 1143), effective January 1, 2017, operative January 1, 2018. Amended Stats 2017 ch 561 § 263 (AB 1516), effective January 1, 2018, operative January 1, 2018.

## **§ 208.5. Detention of person whose case originated in juvenile court in county juvenile facility until 25 years of age; Exceptions.**

(a) Notwithstanding any other law, any person whose case originated in juvenile court shall remain, if the person is held in secure detention, in a county juvenile facility until the person attains 25 years of age, except as provided in subdivisions (b) and (c) of this section and Section 731. A person whose case originated in juvenile court but who was sentenced in criminal court shall not serve their sentence in a juvenile facility, but if not otherwise excluded, may remain in the juvenile facility until transferred to serve their sentence in an adult facility. This section is not intended to authorize confinement in a juvenile facility where authority would not otherwise exist.

(b) The probation department may petition the court to house a person who is 19 years of age or older in an adult facility, including a jail or other facility established for the purpose of confinement of adults.

(c) Upon receipt of a petition to house a person who is 19 years of age or older in an adult facility, the court shall hold a hearing. There shall be a rebuttable presumption that the person will be retained in a juvenile facility.

At the hearing, the court shall determine whether the person will be moved to an adult facility, and make written findings of its decision based on the totality of the following criteria:

- (1) The impact of being held in an adult facility on the physical and mental health and well-being of the person.
  - (2) The benefits of continued programming at the juvenile facility and whether required education and other services called for in any juvenile court disposition or otherwise required by law or court order can be provided in the adult facility.
  - (3) The capacity of the adult facility to separate younger and older people as needed and to provide them with safe and age-appropriate housing and program opportunities.
  - (4) The capacity of the juvenile facility to provide needed separation of older from younger people given the youth currently housed in the facility.
  - (5) Evidence demonstrating that the juvenile facility is unable to currently manage the person's needs without posing a significant danger to staff or other youth in the facility.
- (d) If a person who is 19 to 24 years of age, inclusive, is removed from a juvenile facility pursuant to this section, upon the motion of any party and a showing of changed circumstances, the court shall consider the criteria in subdivision (c) and determine whether the person should be housed at a juvenile facility.
- (e) A person who is 19 years of age or older and who has been committed to a county juvenile facility or a facility of a contracted entity shall remain in the facility and shall not be subject to a petition for transfer to an adult facility. This section is not intended to authorize or extend confinement in a juvenile facility where authority would not otherwise exist.

**Leg.H.**

Added Stats 2020 ch 337 § 20 (SB 823), effective September 30, 2020. Amended Stats 2021 ch 18 § 3 (SB 92), effective May 14, 2021.

## **§ 209. Inspection of Facility for Confinement of Minors; Notice of Findings; Remedy for Conditions; Report of Custodian; Accord with Federal Law.**

**(a)**

(1) The judge of the juvenile court of a county, or, if there is more than one judge, any of the judges of the juvenile court shall, at least annually, inspect any jail, juvenile hall, or special purpose juvenile hall that, in the preceding calendar year, was used for confinement, for more than 24 hours, of any minor.

(2) The judge shall promptly notify the operator of the jail, juvenile hall, or special purpose juvenile hall of any observed noncompliance with minimum standards for juvenile facilities adopted by the Board of State and Community Corrections under Section 210. Based on the facility's subsequent compliance with the provisions of subdivisions (d) and (e), the judge shall thereafter make a finding whether the facility is a suitable place for the confinement of minors and shall note the finding in the minutes of the court.

**(3)**

(A) The Board of State and Community Corrections shall conduct a biennial inspection of each jail, juvenile hall, lockup, or special purpose juvenile hall situated in this state that, during the

preceding calendar year, was used for confinement, for more than 24 hours, of any minor. The board shall promptly notify the operator of any jail, juvenile hall, lockup, or special purpose juvenile hall of any noncompliance found, upon inspection, with any of the minimum standards for juvenile facilities adopted by the Board of State and Community Corrections under Section 210 or 210.2.

**(B)** Any duly authorized officer, employee, or agent of the board may, upon presentation of proper identification, enter and inspect any area of a local detention facility, without notice, to conduct an inspection required by this paragraph.

**(4)** If either a judge of the juvenile court or the board, after inspection of a jail, juvenile hall, special purpose juvenile hall, or lockup, finds that it is not being operated and maintained as a suitable place for the confinement of minors, the juvenile court or the board shall give notice of its finding to all persons having authority to confine minors pursuant to this chapter and commencing 60 days thereafter the facility shall not be used for confinement of minors until the time the judge or board, as the case may be, finds, after reinspection of the facility that the conditions that rendered the facility unsuitable have been remedied, and the facility is a suitable place for confinement of minors.

**(5)** The custodian of each jail, juvenile hall, special purpose juvenile hall, and lockup shall make any reports as may be requested by the board or the juvenile court to effectuate the purposes of this section.

**(b)**

**(1)** The Board of State and Community Corrections may inspect any law enforcement facility that contains a lockup for adults and that it has reason to believe may not be in compliance with the requirements of subdivision (b) of Section 207.1 or with the certification requirements or standards adopted under Section 210.2. A judge of the juvenile court shall conduct an annual inspection, either in person or through a delegated member of the appropriate county or regional juvenile justice commission, of any law enforcement facility that contains a lockup for adults which, in the preceding year, was used for the secure detention of any minor. If the law enforcement facility is observed, upon inspection, to be out of compliance with the requirements of subdivision (b) of Section 207.1, or with any standard adopted under Section 210.2, the board or the judge shall promptly notify the operator of the law enforcement facility of the specific points of noncompliance.

**(2)** If either the judge or the board finds after inspection that the facility is not being operated and maintained in conformity with the requirements of subdivision (b) of Section 207.1 or with the certification requirements or standards adopted under Section 210.2, the juvenile court or the board shall give notice of its finding to all persons having authority to securely detain minors in the facility, and, commencing 60 days thereafter, the facility shall not be used for the secure detention of a minor until the time the judge or the board, as the case may be, finds, after reinspection, that the conditions that rendered the facility unsuitable have been remedied, and the facility is a suitable place for the confinement of minors in conformity with all requirements of law.

**(3)** The custodian of each law enforcement facility that contains a lockup for adults shall make any report as may be requested by the board or by the juvenile court to effectuate the purposes of this subdivision.

**(c)** The board shall collect biennial data on the number, place, and duration of confinements of minors in jails and lockups, as defined in subdivision (g) of Section 207.1, and shall publish biennially this information in the form as it deems appropriate for the purpose of providing public information on continuing compliance with the requirements of Section 207.1.

**(d)** Except as provided in subdivision (e), a juvenile hall, special purpose juvenile hall, law enforcement facility, or jail shall be unsuitable for the confinement of minors if it is not in compliance with one or more of the

minimum standards for juvenile facilities adopted by the Board of State and Community Corrections under Section 210 or 210.2, and if, within 60 days of having received notice of noncompliance from the board or the judge of the juvenile court, the juvenile hall, special purpose juvenile hall, law enforcement facility, or jail has failed to file an approved corrective action plan with the Board of State and Community Corrections to correct the condition or conditions of noncompliance of which it has been notified. The corrective action plan shall outline how the juvenile hall, special purpose juvenile hall, law enforcement facility, or jail plans to correct the issue of noncompliance and give a reasonable timeframe, not to exceed 90 days, for resolution, that the board shall either approve or deny. In the event the juvenile hall, special purpose juvenile hall, law enforcement facility, or jail fails to meet its commitment to resolve noncompliance issues outlined in its corrective action plan, the board shall make a determination of suitability at its next scheduled meeting.

(e) If a juvenile hall is not in compliance with one or more of the minimum standards for juvenile facilities adopted by the Board of State and Community Corrections under Section 210, and where the noncompliance arises from sustained occupancy levels that are above the population capacity permitted by applicable minimum standards, the juvenile hall shall be unsuitable for the confinement of minors if the board or the judge of the juvenile court determines that conditions in the facility pose a serious risk to the health, safety, or welfare of minors confined in the facility. In making its determination of suitability, the board or the judge of the juvenile court shall consider, in addition to the noncompliance with minimum standards, the totality of conditions in the juvenile hall, including the extent and duration of overpopulation as well as staffing, program, physical plant, and medical and mental health care conditions in the facility. The Board of State and Community Corrections may develop guidelines and procedures for its determination of suitability in accordance with this subdivision and to assist counties in bringing their juvenile halls into full compliance with applicable minimum standards. This subdivision shall not be interpreted to exempt a juvenile hall from having to correct, in accordance with subdivision (d), any minimum standard violations that are not directly related to overpopulation of the facility.

(f) In accordance with the federal Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. Sec. 5601 et seq.), the Corrections Standards Authority shall inspect and collect relevant data from any facility that may be used for the secure detention of minors.

(g) All reports and notices of findings prepared by the Board of State and Community Corrections pursuant to this section shall be posted on the Board of State and Community Corrections' internet website in a manner in which they are accessible to the public.

**Leg.H.**

Added Stats 1992 ch 695 § 27 (SB 97), effective September 14, 1992, operative July 1, 1995. Amended Stats 1993 ch 59 § 20 (SB 443), effective June 30, 1993, operative July 1, 1995; Stats 1995 ch 304 § 3 (AB 904), effective August 3, 1995; Stats 1996 ch 805 § 8 (AB 1325); Stats 1998 ch 694 § 3 (SB 2147); Stats 2010 ch 157 § 1 (SB 1447), effective January 1, 2011; Stats 2017 ch 17 § 55 (AB 103), effective June 27, 2017; Stats 2020 ch 337 § 21 (SB 823), effective September 30, 2020; Stats 2021 ch 80 § 26 (AB 145), effective July 16, 2021.

## **§ 210. Minimum Standards for Juvenile Halls; Violations.**

The Board of Corrections shall adopt minimum standards for the operation and maintenance of juvenile halls for the confinement of minors.

**Leg.H.**

1976 ch. 1068, 1996 ch. 12, effective February 14, 1996, 1998 ch. 694.

### **§ 210.1. Development of Guidelines for Operation of Nonsecure Placement Facilities.**

The Board of Corrections shall develop guidelines for the operation and maintenance of nonsecure placement facilities for persons alleged or found to be persons coming within the terms of Section 601 or 602.

**Leg.H.**

1978 ch. 1157, 1996 ch. 12, effective February 14, 1996.

## **§ 210.2. Adoption of Standards for Facilities Containing Lockups for Both Adults and Minors.**

(a) The Board of Corrections shall adopt regulations establishing standards for law enforcement facilities which contain lockups for adults and which are used for the temporary, secure detention of minors upon arrest under subdivision (b) of Section 207.1. The standards shall identify appropriate conditions of confinement for minors in law enforcement facilities, including standards for places within a police station or sheriff's station where minors may be securely detained; standards regulating contact between minors and adults in custody in lockup, booking, or common areas; standards for the supervision of minors securely detained in these facilities; and any other related standard as the board deems appropriate to effectuate compliance with subdivision (b) of Section 207.1.

(b) Every person in charge of a law enforcement facility which contains a lockup for adults and which is used in any calendar year for the secure detention of any minor shall certify annually that the facility is in conformity with the regulations adopted by the board under subdivision (a). The certification shall be endorsed by the sheriff or chief of police of the jurisdiction in which the facility is located and shall be forwarded to and maintained by the board. The board may provide forms and instructions to local jurisdictions to facilitate compliance with this requirement.

**Leg.H.**

Added Stats 1986 ch 1271 § 5. Amended Stats 1996 ch 12 § 7 (AB 1397), effective February 14, 1996; Stats 2020 ch 337 § 22 (SB 823), effective September 30, 2020.

## **§ 210.5. Juvenile Facilities—Staffing Ratios and Housing Capacity; Exemption for Tulare County Demonstration Project.**

The Legislature finds and declares that it is in the best public interest to encourage innovations in staffing ratios, maximization of housing unit size, and experimentation with innovative architectural designs and program components, designs, or operations in the operation and maintenance of new juvenile detention facilities. Therefore, to these ends, Tulare County, as a demonstration project, may undertake the construction and operation of a juvenile detention facility, to be known as the "Tulare County Juvenile Facility," that shall not be subject to laws or regulations governing staffing ratios and housing capacity for juvenile facilities except as provided in this section. Before the county proceeds with the construction and operation of the Tulare County Juvenile Facility, the schematics and the proposed staffing patterns of this project shall be subject to review and approval by the Board of Corrections, which shall consider the proposed regulations, applicable current case law, and appropriate juvenile correctional practices in order to determine the merits of the proposal and to ensure the safety and security of wards and the staff. Any review conducted by the Board of Corrections pursuant to this section shall consider community, inmate, and staff safety, and the extent to which the project makes the most efficient use of resources. In addition, progress reports and evaluative data regarding the success of the demonstration project shall be provided to the Board of Corrections by the county.

Nothing contained in this section shall affect the applicability of the provisions of the Labor Code.

**Leg.H.**

1996 ch. 100, effective July 1, 1996.

## § 210.6. Use of Mechanical Restraints.

(a)

(1) Mechanical restraints, including, but not limited to, handcuffs, chains, irons, straitjackets or cloth or leather restraints, or other similar items, may be used on a juvenile detained in or committed to a local secure juvenile facility, camp, ranch, or forestry camp, as established pursuant to Sections 850 and 881, during transportation outside of the facility only upon a determination made by the probation department, in consultation with the transporting agency, that the mechanical restraints are necessary to prevent physical harm to the juvenile or another person or due to a substantial risk of flight.

(2) If a determination is made that mechanical restraints are necessary, the least restrictive form of restraint shall be used consistent with the legitimate security needs of each juvenile.

(3) A county probation department that chooses to use mechanical restraints other than handcuffs on juveniles shall establish procedures for the documentation of their use, including the reasons for the use of those mechanical restraints.

(4) This subdivision does not apply to mechanical restraints used by medical care providers in the course of medical care or transportation.

(b)

(1) Mechanical restraints may only be used during a juvenile court proceeding if the court determines that the individual juvenile's behavior in custody or in court establishes a manifest need to use mechanical restraints to prevent physical harm to the juvenile or another person or due to a substantial risk of flight.

(2) The burden to establish the need for mechanical restraints pursuant to paragraph (1) is on the prosecution.

(3) If the court determines that mechanical restraints are necessary, the least restrictive form of restraint shall be used and the reasons for the use of mechanical restraints shall be documented in the record.

Leg.H.

Added Stats 2017 ch 660 § 1 (AB 878), effective January 1, 2018.

## § 211. Exclusion of Persons Under Age 14 from State Prison and Under Age 16 from Facility Under Jurisdiction of Department of Corrections.

(a) A person under the age of 14 years shall not be committed to a state prison or be transferred thereto from any other institution.

(b) Notwithstanding any other law, a person under the age of 16 years shall not be housed in any facility under the jurisdiction of the Department of Corrections and Rehabilitation.

Leg.H.

Added Stats 1976 ch 1068 § 1.5. Amended Stats 1994 ch 453 § 2.7 (AB 560); Stats 2019 ch 497 § 291 (AB 991), effective January 1, 2020.

## § 212. Fees and Expenses.

There shall be no fee for filing a petition under this chapter nor shall any fees be charged by any public officer for his services in filing or serving papers or for the performance of any duty enjoined upon him by this chapter, except where the sheriff transports a person to a state institution. If the judge of the juvenile court orders that a ward or dependent child go to a state institution without being accompanied by an officer or that a ward or dependent child be taken to an institution by the probation officer of the county or parole officer of the institution or by some other suitable person, all expenses necessarily incurred therefor shall be allowed and paid in the same manner and from the same funds as such expenses would be allowed and paid were such transportation effected by the sheriff.

Leg.H.

1976 ch. 1068.

## § 213. Contempt Offenses.

Any willful disobedience or interference with any lawful order of the juvenile court or of a judge or referee thereof constitutes a contempt of court.

Leg.H.

1976 ch. 1068.

## § 213.3. Detention in Secure Facility.

A person under 18 years of age shall not be detained in a secure facility, as defined in Section 206, solely upon the ground that he or she is in willful disobedience or interference with any lawful order of the juvenile court, if the basis of an order of contempt is the failure to comply with a court order pursuant to subdivision (b) of Section 601. Upon a finding of contempt of court, the court may issue any other lawful order, as necessary, to ensure the minor's school attendance.

Leg.H.

2014 ch. 70.

## § 213.5. Ex Parte Restraining or Protective Orders During Pendency of Proceedings to Declare Child a Dependent Child of Juvenile Court; Notice and Hearing; Expiration; Transmittal to Local Law Enforcement Agencies; Violation; Criminal Records Search.

(a) After a petition has been filed pursuant to Section 311 to declare a child a dependent child of the juvenile court, and until the time that the petition is dismissed or dependency is terminated, upon application in the manner provided by [Section 527 of the Code of Civil Procedure](#) or in the manner provided by [Section 6300 of the Family Code](#), if related to domestic violence, the juvenile court has exclusive jurisdiction to issue ex parte orders (1) enjoining a person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in

**Section 653m of the Penal Code**, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child or any other child in the household; and (2) excluding a person from the dwelling of the person who has care, custody, and control of the child. A court may also issue an ex parte order enjoining a person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in **Section 653m of the Penal Code**, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of any parent, legal guardian, or current caretaker of the child, regardless of whether the child resides with that parent, legal guardian, or current caretaker, upon application in the manner provided by **Section 527 of the Code of Civil Procedure** or, if related to domestic violence, in the manner provided by **Section 6300 of the Family Code**. A court may also issue an ex parte order enjoining a person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in **Section 653m of the Penal Code**, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child's current or former social worker or court appointed special advocate, upon application in the manner provided by **Section 527 of the Code of Civil Procedure**. On a showing of good cause, in an ex parte order issued pursuant to this subdivision in connection with an animal owned, possessed, leased, kept, or held by a person protected by the restraining order, or residing in the residence or household of a person protected by the restraining order, the court may do either or both of the following:

(1) Grant the applicant exclusive care, possession, or control of the animal.

(2) Order the restrained person to stay away from the animal and refrain from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

(b) After a petition has been filed pursuant to Section 601 or 602 to declare a child a ward of the juvenile court, and until the time that the petition is dismissed or wardship is terminated, upon application in the manner provided by **Section 527 of the Code of Civil Procedure** or, if related to domestic violence, in the manner provided by **Section 6300 of the Family Code**, the juvenile court may issue ex parte orders (1) enjoining a person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in **Section 653m of the Penal Code**, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child or any other child in the household; (2) excluding a person from the dwelling of the person who has care, custody, and control of the child; or (3) enjoining the child from contacting, threatening, stalking, or disturbing the peace of a person the court finds to be at risk from the conduct of the child, or with whom association would be detrimental to the child. A court may also issue an ex parte order enjoining a person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in **Section 653m of the Penal Code**, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of any parent, legal guardian, or current caretaker of the child, regardless of whether the child resides with that parent, legal guardian, or current caretaker, upon application in the manner provided by **Section 527 of the Code of Civil Procedure** or, if related to domestic violence, in the manner provided by **Section 6300 of the Family Code**. A court may also issue an ex parte order enjoining a person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in **Section 653m of the Penal Code**, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child's current or former probation officer or court appointed special advocate, upon application in the manner provided by **Section 527 of the Code of Civil Procedure**. On a showing of good cause, in an ex parte order issued pursuant to this subdivision in connection with an animal owned, possessed, leased, kept, or held by a person protected by the

restraining order, or residing in the residence or household of a person protected by the restraining order, the court may do either or both of the following:

(1) Grant the applicant exclusive care, possession, or control of the animal.

(2) Order the respondent to stay away from the animal and refrain from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

(c)

(1) If a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be granted, on the earliest day that the business of the court will permit, but not later than 21 days or, if good cause appears to the court, 25 days from the date the temporary restraining order is granted. The court may, on the motion of the person seeking the restraining order, or on its own motion, shorten the time for the service of the order to show cause on the person to be restrained.

(2) The respondent shall be entitled, as a matter of course, to one continuance, for a reasonable period, to respond to the petition.

(3) Either party may request a continuance of the hearing, which the court shall grant on a showing of good cause. The request may be made in writing before or at the hearing or orally at the hearing. The court may also grant a continuance on its own motion.

(4) If the court grants a continuance, a temporary restraining order that has been issued shall remain in effect until the end of the continued hearing, unless otherwise ordered by the court. In granting a continuance, the court may modify or terminate a temporary restraining order.

(5) A hearing pursuant to this section may be held simultaneously with any regularly scheduled hearings held in proceedings to declare a child a dependent child or ward of the juvenile court pursuant to Section 300, 601, or 602, or subsequent hearings regarding the dependent child or ward.

(d)

(1) The juvenile court may issue, upon notice and a hearing, any of the orders set forth in subdivisions (a), (b), and (c). A restraining order granted pursuant to this subdivision shall remain in effect, in the discretion of the court, no more than three years, unless otherwise terminated by the court, extended by mutual consent of all parties to the restraining order, or extended by further order of the court on the motion of any party to the restraining order.

(2) If an action is filed for the purpose of terminating or modifying a protective order prior to the expiration date specified in the order by a party other than the protected party, the party who is protected by the order shall be given notice, pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure, of the proceeding by personal service or, if the protected party has satisfied the requirements of Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, by service on the Secretary of State. If the party who is protected by the order cannot be notified prior to the hearing for modification or termination of the protective order, the juvenile court shall deny the motion to modify or terminate the order without prejudice or continue the hearing until the party who is protected can be properly noticed and may, upon a showing of good cause, specify another method for service of process that is reasonably designed to afford actual notice to the protected party. The protected party may waive the right to notice if the party is physically present and does not challenge the sufficiency of the notice.

(e)

(1) The juvenile court may issue an order made pursuant to subdivision (a), (b), or (d) excluding a person from a residence or dwelling. This order may be issued for the time and on the conditions that the court determines, regardless of which party holds legal or equitable title or is the lessee of the residence or dwelling.

(2) The court may issue an order under paragraph (1) only on a showing of all of the following:

(A) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(B) That the party to be excluded has assaulted or threatens to assault the other party or any other person under the care, custody, and control of the other party, or a minor child of the parties or of the other party.

(C) That physical or emotional harm would otherwise result to the other party, to a person under the care, custody, and control of the other party, or to a minor child of the parties or of the other party.

(f) An order issued pursuant to subdivision (a), (b), (c), or (d) shall state on its face the date of expiration of the order.

(g)

(1) In a case where a court issues a protective order pursuant to subdivision (a), (b), (c), or (d), [Section 6389 of the Family Code](#) shall apply. In accordance with that section, the court shall make a determination as to whether the restrained person is in possession or control of a firearm or ammunition, as provided in [Section 6322.5 of the Family Code](#).

(2) [Subdivision \(m\) of Section 6389 of the Family Code](#) does not apply if the restrained person is a child under the jurisdiction of the juvenile court pursuant to Section 601 or 602.

(h) All data with respect to a juvenile court protective order, or extension, modification, or termination thereof, granted pursuant to subdivision (a), (b), (c), or (d), shall be transmitted by the court or its designee, within one business day, to law enforcement personnel by either one of the following methods:

(1) Transmitting a physical copy of the order to a local law enforcement agency authorized by the Department of Justice to enter orders into the California Law Enforcement Telecommunications System (CLETS).

(2) With the approval of the Department of Justice, entering the order into CLETS directly.

(i) A willful and knowing violation of an order granted pursuant to subdivision (a), (b), (c), or (d) shall be a misdemeanor punishable under [Section 273.65 of the Penal Code](#).

(j) A juvenile court restraining order related to domestic violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council and that have been approved by the Department of Justice pursuant to [subdivision \(i\) of Section 6380 of the Family Code](#). However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(k)

(1) Prior to a hearing on the issuance or denial of an order under this part, a search shall be conducted as described in [subdivision \(a\) of Section 6306 of the Family Code](#).

**(2)** Prior to deciding whether to issue an order under this part, the court shall consider the following information obtained pursuant to a search conducted under paragraph (1): a conviction for a violent felony specified in **Section 667.5 of the Penal Code** or a serious felony specified in **Section 1192.7 of the Penal Code**; a misdemeanor conviction involving domestic violence, weapons, or other violence; an outstanding warrant; parole or probation status; a prior restraining order; and a violation of a prior restraining order.

**(3)**

**(A)** If the results of the search conducted pursuant to paragraph (1) indicate that an outstanding warrant exists against the subject of the search, the court shall order the clerk of the court to immediately notify, by the most effective means available, appropriate law enforcement officials of information obtained through the search that the court determines is appropriate. The law enforcement officials notified shall take all actions necessary to execute outstanding warrants or any other actions, as appropriate and as soon as practicable.

**(B)** If the results of the search conducted pursuant to paragraph (1) indicate that the subject of the search is currently on parole or probation, the court shall order the clerk of the court to immediately notify, by the most effective means available, the appropriate parole or probation officer of information obtained through the search that the court determines is appropriate. The parole or probation officer notified shall take all actions necessary to revoke parole or probation, or any other actions, with respect to the subject person, as appropriate and as soon as practicable.

**(I)** Upon making any order for custody or visitation pursuant to this section, the court shall follow the procedures specified in subdivisions (c) and (d) of **Section 6323 of the Family Code**.

#### Leg.H.

Added Stats 1989 ch 1409 § 2. Amended Stats 1996 ch 1138 § 1 (AB 2154), ch 1139 § 3.5 (AB 2647); Stats 1998 ch 390 § 1 (SB 2017); Stats 1999 ch 661 § 13 (AB 825), ch 980 § 19.5 (AB 1671); Stats 2001 ch 572 § 5 (SB 66), ch 713 § 1.5 (AB 1129) (ch 713 prevails); Stats 2002 ch 664 § 229 (AB 3034); ch 1008 § 30 (AB 3028); Stats 2003 ch 365 § 6 (AB 1710); Stats 2005 ch 634 § 1 (AB 519), effective January 1, 2006; Stats 2010 ch 572 § 25 (AB 1596), effective January 1, 2011, operative January 1, 2012; Stats 2011 ch 101 § 5 (AB 454), effective January 1, 2012; Stats 2014 ch 54 § 17 (SB 1461), effective January 1, 2015; Stats 2015 ch 303 § 564 (AB 731), effective January 1, 2016, ch 401 § 2 (AB 494), effective January 1, 2016, ch 411 § 7.5 (AB 1081), effective January 1, 2016 (ch 411 prevails); Stats 2021 ch 685 § 14 (SB 320), effective January 1, 2022.

## § 213.6. Conditions for First-Class Mail Service of Subsequent Restraining Order or Protective Order; Required Statement for Orders on Judicial Forms.

(a) If a person named in a temporary restraining order or emergency protective order issued under this part is personally served with the order and notice of hearing with respect to a subsequent restraining order or protective order based thereon, but the person does not appear at the hearing either in person or by counsel, and the terms and conditions of the restraining order or protective order are identical to those of the prior temporary restraining order, except for the duration of the order, the subsequent restraining order or protective order may be served on the person by first-class mail sent to that person at the most current address for the person available to the court.

(b) The judicial forms for temporary restraining orders or emergency protective orders issued under this part shall contain a statement in substantially the following form:

“If you have been personally served with a temporary restraining order or emergency protective order and notice of hearing, but you do not appear at the hearing either in person or by counsel, and a restraining order or protective order is issued at the hearing that does not differ from the prior temporary restraining

order or protective order except with respect to the duration of the order, a copy of the order will be served upon you by mail at the following address: \_\_\_\_\_. If that address is not correct or if you wish to verify that the temporary order was made permanent without substantive change, call the clerk of the court at \_\_\_\_\_. ”

**Leg.H.**

2003 ch. 365 (AB 1710).

## **§ 213.7. Court Order Prohibiting Obtaining Address or Location of Protected Party or Family Member.**

(a) The court shall order that any party enjoined pursuant to Section 213.5, 304, 362.4, or 726.5 be prohibited from taking any action to obtain the address or location of a protected party or a protected party's family members, caretakers, or guardian, unless there is good cause not to make that order.

(b) The Judicial Council shall promulgate forms necessary to effectuate this section.

**Leg.H.**

2005 ch. 472 (AB 978) § 6.

## **§ 214. Breach of Promise to Appear—Misdemeanor Offense.**

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 promisor to perform as promised constitutes a misdemeanor and is punishable as such if at the time of the execution of such written promise the promisor 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.

**Leg.H.**

1976 ch. 1068.

## **§ 215. Definitions—“Probation Officer,” “Social Worker,” and “Department of Probation.”**

As used in this chapter, unless otherwise specifically provided, the term “probation officer” or “social worker” shall include the juvenile probation officer or the person who is both the juvenile probation officer and the adult probation officer, and any social worker in a county welfare department or any social worker in a California Indian tribe or any out-of-state Indian tribe that has reservation land that extends into the state that has authority, pursuant to an agreement with the department concerning child welfare services or foster care payments under the Aid to Families with Dependent Children program when supervising dependent children of the juvenile court pursuant to Section 272 by order of the court under Section 300, and the term “department of probation” shall mean the department of juvenile probation or the department wherein the services of juvenile and adult probation are both performed.

**Leg.H.**

1976 ch. 1068, 1995 ch. 724, 1998 ch. 1054.

## § 216. Criminal Fugitives—Application of Chapter.

This chapter shall not apply:

(a) To any person who violates any law of this state defining a crime, and is at the time of such violation under the age of 18 years, if such person thereafter flees from this state. Any such person may be proceeded against in the manner otherwise provided by law for proceeding against persons accused of crime. Upon the return of such person to this state by extradition or otherwise, proceedings shall be commenced in the manner provided for in this chapter.

(b) To any person who violates any law of another state defining a crime, and is at the time of such violation under the age of 18 years, if such person thereafter flees from that state into this state. Any such person may be proceeded against as an adult in the manner provided in Chapter 4 (commencing with Section 1547) of Title 12 of Part 2 of the Penal Code. The magistrate shall, for purposes of detention, detain such person in juvenile hall if space is available. If no space is available in juvenile hall, the magistrate may detain such person in the county jail.

**Leg.H.**

1976 ch. 1068.

## § 217. Use of Unclaimed Personal Property in Program Designed to Prevent Juvenile Delinquency.

(a) The board of supervisors of any county or the governing body of any city may by ordinance provide that any personal property with a value of not more than five hundred dollars (\$500) in the possession of the sheriff of the county or in the possession of the police department of the city which have been unclaimed for a period of at least 90 days may, instead of being sold at public auction to the highest bidder pursuant to the provisions of [Section 2080.5 of the Civil Code](#), be turned over to the probation officer, to the welfare department of the county, or to any charitable or nonprofit organization which is authorized under its articles of incorporation to participate in a program or activity designed to prevent juvenile delinquency and which is exempt from income taxation under federal or state law, or both, for use in any program or activity designed to prevent juvenile delinquency.

(b) Before any property subject to this section is turned over to the probation officer, to the welfare department of the county, or to any charitable or nonprofit organization, the police department or sheriff's department shall notify the owner, if his or her identity is known or can be reasonably ascertained, that it possesses the property, and where the property may be claimed. The owner may be notified by mail, telephone, or by means of a notice published in a newspaper of general circulation which it determines is most likely to give notice to the owner of the property.

**Leg.H.**

Amended 1986 ch. 865 § 1, 1999 ch. 233.

## § 218. Compensation and Expenses of Appointed Counsel.

In any case in which, pursuant to this chapter, the court appoints counsel to represent any person who desires but is unable to employ counsel, counsel shall receive a reasonable sum for compensation and for necessary expenses, the amount of which shall be determined by the court, to be paid out of the general fund of the county.

**Leg.H.**

1976 ch. 1068.

## **§ 218.5. Participation of Juvenile Court Counsel in Mandatory Training Programs Concerning Domestic Violence.**

All counsel performing duties under this chapter, including, but not limited to, county counsel, court appointed counsel, or volunteer counsel, shall participate in mandatory training on domestic violence where available through existing programs at no additional cost to the county. The training shall meet the requirements of Section 16206.

**Leg.H.**

1996 ch. 1139.

## **§ 219. Ward's Eligibility for Worker's Compensation Benefit When Injured Performing Rehabilitation Work.**

The board of supervisors of a county may provide a ward of the juvenile court engaged in rehabilitative work without pay, under an assignment by order of the juvenile court to a work project in a county department, with workers' compensation benefits for injuries sustained while performing such rehabilitative work, in accordance with [Section 3364.55 of the Labor Code](#).

**Leg.H.**

1976 ch. 1068.

## **§ 219.5. Access to Personal Information of Private Individuals—Denied to Ward Convicted of Certain Offenses; Disclosure; Supervision.**

**(a)** No ward of the juvenile court or Department of Youth and Community Restoration, shall perform any function that provides access to personal information of private individuals, including, but not limited to: addresses; telephone numbers; health insurance, taxpayer, school, or employee identification numbers; mothers' maiden names; demand deposit account, debit card, credit card, savings or checking account numbers, PINs, or passwords; social security numbers; places of employment; dates of birth; state or government issued driver's license or identification numbers; United States Citizenship and Immigration Services-assigned numbers; government passport numbers; unique biometric data, such as fingerprints, facial scan identifiers, voice prints, retina or iris images, or other similar identifiers; unique electronic identification numbers; address or routing codes; and telecommunication identifying information or access devices.

**(b)** Subdivision (a) shall apply to a person who has been adjudicated to have committed an offense described by any of the following categories:

**(1)** An offense involving forgery or fraud.

**(2)** An offense involving misuse of a computer.

**(3)** An offense for which the person is required to register as a sex offender pursuant to [Section 290 of the Penal Code](#).

**(4) An offense involving any misuse of the personal or financial information of another person.**

**(c) If asked, any person who is a ward of the juvenile court or the Department of Youth and Community Restoration, and who has access to any personal information, shall disclose that the person is a ward of the juvenile court or the Department of the Youth Authority before taking any personal information from anyone.**

**(d) Any program involving the taking of personal information over the telephone by a person who is a ward of the juvenile court or the Department of Youth and Community Restoration, shall be subject to random monitoring of those telephone calls.**

**(e) Any program involving the taking of personal information by a person who is a ward of the juvenile court or the Department of Youth and Community Restoration, shall provide supervision at all times of the ward's activities.**

**(f) This section shall not apply to wards in employment programs or public service facilities where incidental contact with personal information may occur.**

**Leg.H.**

Added Stats 1998 ch 551 § 3 (AB 2649). Amended Stats 2002 ch 196 § 3 (AB 2456); Stats 2021 ch 296 § 62 (AB 1096), effective January 1, 2022.

## **§ 220. Prohibition against Additional Restrictions or Conditions for Obtaining Abortions.**

No condition or restriction upon the obtaining of an abortion by a female detained in any local juvenile facility, pursuant to the Therapeutic Abortion Act (Article 2 (commencing with Section 123400) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code), other than those contained in that act, shall be imposed. Females found to be pregnant and desiring abortions, shall be permitted to determine their eligibility for an abortion pursuant to law, and if determined to be eligible, shall be permitted to obtain an abortion.

For the purposes of this section, “local juvenile facility” means any city, county, or regional facility used for the confinement of female juveniles for more than 24 hours.

The rights provided for females by this section shall be posted in at least one conspicuous place to which all females have access.

**Leg.H.**

1976 ch. 1068, 1996 ch. 1023, effective September 29, 1996.

## **§ 221. Right of Female Inmate to Materials for Personal Hygiene or Birth Control, Information Regarding Prescription Birth Control and Use of Family Planning Services.**

**(a) Any female confined in a state or local juvenile facility shall upon her request be allowed to continue to use materials necessary for (1) personal hygiene with regard to her menstrual cycle and reproductive system and (2) birth control measures as prescribed by her physician.**

**(b) Any female confined in a state or local juvenile facility shall upon her request be furnished by the confining state or local agency with information and education regarding prescription birth control measures.**

(c) Family planning services shall be offered to each and every woman inmate at least 60 days prior to a scheduled release date. Upon request any woman inmate shall be furnished by the confining state or local agency with the services of a licensed physician, or she shall be furnished by the confining state or local agency or by any other agency which contracts with the confining state or local agency, with services necessary to meet her family planning needs at the time of her release.

(d) For the purposes of this section, "local juvenile facility" means any city, county, or regional facility used for the confinement of juveniles for more than 24 hours.

This section shall become operative on January 1, 1988.

**Leg.H.**

1981 ch. 618 § 2.

## **§ 222. Right to Pregnancy Services; Treatment of Inmates at Hospital Giving Birth.**

(a) A female in the custody of a local juvenile facility shall have the right to summon and receive the services of a physician and surgeon of her choice in order to determine whether she is pregnant. If she is found to be pregnant, she is entitled to a determination of the extent of the medical services needed by her and to the receipt of those services from the physician and surgeon of her choice. Expenses occasioned by the services of a physician and surgeon whose services are not provided by the facility shall be borne by the female.

(b) A ward who is known to be pregnant or in recovery from delivery shall not be restrained except as provided in [Section 3407 of the Penal Code](#).

(c) For purposes of this section, "local juvenile facility" means a city, county, or regional facility used for the confinement of juveniles for more than 24 hours.

(d) The rights provided to females by this section shall be posted in at least one conspicuous place to which all female wards have access.

**Leg.H.**

Added Stats 1976 ch 1068 § 1.5. Amended Stats 2005 ch 608 § 6 (AB 478), effective January 1, 2006; Stats 2012 ch 726 § 4 (AB 2530), effective January 1, 2013.

## **§ 223. Parents or Guardians to be Notified of Serious Injury or Serious Offense Committed against Minor While in Custody—Exception; "Serious Offense" and "Serious Injury" Defined.**

(a)

(1) The parents or guardians of any minor in the custody of the state or the county, if they can reasonably be located, shall be notified within 24 hours by the public officer responsible for the well-being of that minor, of any serious injury or serious offense committed against the minor, upon reasonable substantiation that a serious injury or offense has occurred.

(2) This section shall not apply if the minor requests that his or her parents or guardians not be informed and the chief probation officer or the Director of the Youth Authority, as appropriate, determines it would be in the best interest of the minor not to inform the parents or guardians.

(b) For purposes of this section, “serious offense” means any offense that is chargeable as a felony and that involves violence against another person. “Serious injury” means, for purposes of this section, any illness or injury that requires hospitalization, is potentially life threatening, or that potentially will permanently impair the use of a major body organ, appendage, or limb.

**Leg.H.**

1998 ch. 496.

## **§ 223.1. Notification of Suicide Attempt; Explanation of Provisions; Entry on Record.**

(a)

(1) At least one individual who is a parent, guardian, or designated emergency contact of a person in the custody of the Division of Juvenile Facilities, if the individual can reasonably be located, shall be successfully notified within 24 hours by the public officer responsible for the well-being of that person, of any suicide attempt by the person, or any serious injury or serious offense committed against the person. In consultation with division staff, as appropriate, and with concurrence of the public officer responsible for the well-being of that person, the person may designate other persons who should be notified in addition to, or in lieu of, parents or guardians, of any suicide attempt by the person, or any serious injury or serious offense committed against the person.

(2) This section shall not apply if either of the following conditions is met:

(A) A minor requests that his or her parents, guardians, or other persons not be notified, and the director of the division facility, as appropriate, determines it would be in the best interest of the minor not to notify the parents, guardians, or other persons.

(B) A person 18 years of age or older does not consent to the notification.

(b) Upon intake of a person into a division facility, and again upon attaining 18 years of age while in the custody of the division, an appropriate staff person shall explain, using language clearly understandable to the person, all of the provisions of this section, including that the person has the right to (1) request that the information described in paragraph (1) of subdivision (a) not be provided to a parent or guardian, and (2) request that another person or persons in addition to, or in lieu of, a parent or guardian be notified. The division shall provide the person with forms and any information necessary to provide informed consent as to who shall be notified. Any designation made pursuant to paragraph (1) of subdivision (a), the consent to notify parents, guardians, or other persons, and the withholding of that consent, may be amended or revoked by the person, and shall be transferable among facilities.

(c) Staff of the division shall enter the following information into the ward’s record, as appropriate, upon its occurrence:

(1) A minor’s request that his or her parents, guardians, or other persons not be notified of an emergency pursuant to this section, and the determination of the relevant public officer on that request.

(2) The designation of persons who are emergency contacts, in lieu of parents or guardians, who may be notified pursuant to this section.

(3) The revocation or amendment of a designation or consent made pursuant to this section.

(4) A person's consent, or withholding thereof, to notify parents, guardians, or other persons pursuant to this section.

(d) For purposes of this section, the following terms have the following meanings:

(1) "Serious offense" means any offense that is chargeable as a felony and that involves violence against another person.

(2) "Serious injury" means any illness or injury that requires hospitalization, requires an evaluation for involuntary treatment for a mental health disorder or grave disability under the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5), is potentially life threatening, or that potentially will permanently impair the use of a major body organ, appendage, or limb.

(3) "Suicide attempt" means a self-inflicted destructive act committed with explicit or inferred intent to die.

**Leg.H.**

Added Stats 2008 ch 522 § 1 (SB 1250), effective January 1, 2009. Amended Stats 2009 ch 140 § 185 (AB 1164), effective January 1, 2010.

## § 224. Legislative Findings and Declarations.

**(a)** The Legislature finds and declares the following:

**(1)** There is no resource that is more vital to the continued existence and integrity of Indian tribes than their children, and the State of California has an interest in protecting Indian children who are members or citizens of, or are eligible for membership or citizenship in, an Indian tribe. The state is committed to protecting the essential tribal relations and best interest of an Indian child by promoting practices, in accordance with the federal Indian Child Welfare Act of 1978 ([25 U.S.C. Sec. 1901 et seq.](#)) and other applicable state and federal law, designed to prevent the child's involuntary out-of-home placement and, whenever that placement is necessary or ordered, by placing the child, whenever possible, in a placement that reflects the unique values of the child's tribal culture and is best able to assist the child in establishing, developing, and maintaining a political, cultural, and social relationship with the child's tribe and tribal community.

**(2)** It is in the interest of an Indian child that the child's membership or citizenship in the child's Indian tribe and connection to the tribal community be encouraged and protected, regardless of whether the child is in the physical custody of an Indian parent or Indian custodian at the commencement of an Indian child custody proceeding, the parental rights of the child's parents have been terminated, or where the child has resided or been domiciled.

**(b)** In all Indian child custody proceedings, as defined in the federal Indian Child Welfare Act the court shall consider all of the findings contained in subdivision (a), strive to promote the stability and security of Indian tribes and families, comply with the federal Indian Child Welfare Act of 1978 and other applicable federal law, and seek to protect the best interest of the child. Whenever an Indian child is removed from a foster care home or institution, guardianship, or adoptive placement for the purpose of further foster care, guardianship, or adoptive placement, placement of the child shall be in accordance with the federal Indian Child Welfare Act of 1978 and other applicable state and federal law.

**(c)** A determination by an Indian tribe that an unmarried person, who is under the age of 18 years, is either (1) a member or citizen of an Indian tribe or (2) eligible for membership or citizenship in an Indian tribe and a biological child of a member or citizen of an Indian tribe shall constitute a significant political affiliation with the

tribe and shall require the application of the federal Indian Child Welfare Act of 1978 and other applicable state and federal law to the proceedings.

**(d)** In any case in which this code or other applicable state or federal law provides a higher standard of protection to the rights of the parent or Indian custodian of an Indian child, or the Indian child's tribe, than the rights provided under the federal Indian Child Welfare Act of 1978, the court shall apply the higher standard.

**(e)** Any Indian child, the Indian child's tribe, or the parent or Indian custodian from whose custody the child has been removed, may petition the court to invalidate an action in an Indian child custody proceeding for foster care or guardianship placement or termination of parental rights if the action violated Section 1911, 1912, or 1913 of the federal Indian Child Welfare Act of 1978.

**Leg.H.**

Added Stats 2006 ch 838 § 29 (SB 678), effective January 1, 2007; Amended Stats 2018 ch 833 § 2 (AB 3176), effective January 1, 2019.

## § 224.1. Definitions; Determination as to Indian Tribe.

**(a)** As used in this division, unless the context requires otherwise, the terms "Indian," "Indian child," "Indian custodian," "Indian tribe," "reservation," and "tribal court" shall be defined as provided in Section 1903 of the federal Indian Child Welfare Act ([25 U.S.C. Sec. 1901 et seq.](#)).

**(b)** As used in connection with an Indian child custody proceeding, the term "Indian child" also means an unmarried person who is 18 years of age or over, but under 21 years of age, who is a member of an Indian tribe or eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe, and who is under the jurisdiction of the dependency court, unless that person or their attorney elects not to be considered an Indian child for purposes of the Indian child custody proceeding. All Indian child custody proceedings involving persons 18 years of age and older shall be conducted in a manner that respects the person's status as a legal adult.

**(c)** As used in connection with an Indian child custody proceeding, the terms "extended family member" and "parent" shall be defined as provided in Section 1903 of the federal Indian Child Welfare Act.

**(d)**

**(1)** "Indian child custody proceeding" means a hearing during a juvenile court proceeding brought under this code, or a proceeding under the Probate Code or the Family Code, involving an Indian child, other than an emergency proceeding under Section 319, that may culminate in one of the following outcomes:

**(A)** Foster care placement, which includes removal of an Indian child from their parent, parents, or Indian custodian for placement in a foster home, institution, or the home of a guardian or conservator, in which the parent or Indian custodian may not have the child returned upon demand, but in which parental rights have not been terminated. Foster care placement does not include an emergency placement of an Indian child pursuant to Section 309, as long as the emergency proceeding requirements set forth in Section 319 are met.

**(B)** Termination of parental rights, which includes any action involving an Indian child resulting in the termination of the parent-child relationship.

**(C)** Preadoptive placement, which includes the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to, or in lieu of, adoptive placement.

(D) Adoptive placement, which includes the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

(E) If a child is placed in foster care or another out-of-home placement as a result of a status offense, that status offense proceeding is considered an Indian child custody proceeding.

(2) "Indian child custody proceeding" does not include a voluntary foster care or guardianship placement if the parent or Indian custodian retains the right to have the child returned upon demand.

(e)

(1) "Indian child's tribe" means the Indian tribe in which an Indian child is a member or citizen or eligible for membership or citizenship, or in the case of an Indian child who is a member or citizen of, or eligible for membership or citizenship in, more than one tribe, the Indian tribe with which the Indian child has the more significant contacts.

(2) In the case of an Indian child who meets the definition of "Indian child" through more than one tribe, deference should be given to the tribe of which the Indian child is already a member or citizen, unless otherwise agreed to by the tribes.

(3) If an Indian child meets the definition of "Indian child" through more than one tribe because the child is a member or citizen of more than one tribe or the child is not a member or citizen but is eligible for membership or citizenship in more than one tribe, the court shall provide the tribes the opportunity to determine which tribe shall be designated as the Indian child's tribe.

(4) If the tribes are able to reach an agreement, the agreed-upon tribe shall be designated as the Indian child's tribe.

(5) If the tribes are unable to reach an agreement, the court shall designate as the Indian child's tribe, the tribe with which the Indian child has the more significant contacts, taking into consideration all of the following:

(A) Preference of the parents for membership of the child.

(B) Length of past domicile or residence on or near the reservation of each tribe.

(C) Tribal membership of the child's custodial parent or Indian custodian.

(D) Interest asserted by each tribe in the child custody proceeding.

(E) Whether there has been a previous adjudication with respect to the child by a court of one of the tribes.

(F) Self-identification by the child, if the child is of sufficient age and capacity to meaningfully self-identify.

(6) If an Indian child becomes a member of a tribe other than the one designated by the court as the Indian child's tribe under paragraph (5), actions taken based on the court's determination prior to the child's becoming a tribal member continue to be valid.

(7) A determination of the Indian child's tribe for purposes of the federal Indian Child Welfare Act does not constitute a determination for any other purpose.

(f) "Active efforts" means affirmative, active, thorough, and timely efforts intended primarily to maintain or reunite an Indian child with their family. If an agency is involved in an Indian child custody proceeding, active

efforts shall involve assisting the parent, parents, or Indian custodian through the steps of a case plan and with accessing or developing the resources necessary to satisfy the case plan. To the maximum extent possible, active efforts shall be provided in a manner consistent with the prevailing social and cultural conditions and way of life of the Indian child's tribe and shall be conducted in partnership with the Indian child and the Indian child's parents, extended family members, Indian custodians, and tribe. Active efforts shall be tailored to the facts and circumstances of the case and may include, but are not limited to, any of the following:

(1) Conducting a comprehensive assessment of the circumstances of the Indian child's family, with a focus on safe reunification as the most desirable goal.

(2) Identifying appropriate services and helping the parents overcome barriers, including actively assisting the parents in obtaining those services.

(3) Identifying, notifying, and inviting representatives of the Indian child's tribe to participate in providing support and services to the Indian child's family and in family team meetings, permanency planning, and resolution of placement issues.

(4) Conducting or causing to be conducted a diligent search for the Indian child's extended family members, and contacting and consulting with extended family members to provide family structure and support for the Indian child and the Indian child's parents.

(5) Offering and employing all available and culturally appropriate family preservation strategies and facilitating the use of remedial and rehabilitative services provided by the child's tribe.

(6) Taking steps to keep siblings together whenever possible.

(7) Supporting regular visits with parents or Indian custodians in the most natural setting possible, as well as trial home visits of the Indian child during any period of removal, consistent with the need to ensure the health, safety, and welfare of the child.

(8) Identifying community resources, including housing, financial assistance, transportation, mental health and substance abuse services, and peer support services, and actively assisting the Indian child's parents or, when appropriate, the child's family, in utilizing and accessing those resources.

(9) Monitoring progress and participation in services.

(10) Considering alternative ways to address the needs of the Indian child's parents and, where appropriate, the family, if the optimum services do not exist or are not available.

(11) Providing postreunification services and monitoring.

(g) "Assistant Secretary" means the Assistant Secretary of the Bureau of Indian Affairs.

(h) "Bureau of Indian Affairs" means the Bureau of Indian Affairs of the Department of the Interior.

(i) "Continued custody" means physical custody or legal custody or both, under any applicable tribal law or tribal custom or state law, that a parent or Indian custodian already has or had at any time in the past. The biological mother of an Indian child is deemed to have had custody of the Indian child.

(j) "Custody" means physical custody or legal custody or both, under any applicable tribal law or tribal custom or state law.

(k) "Domicile" means either of the following:

**(1)** For a parent, Indian custodian, or legal guardian, the place that a person has been physically present and that the person regards as home. This includes a person's true, fixed, principal, and permanent home, to which that person intends to return and remain indefinitely even though the person may be currently residing elsewhere.

**(2)** For an Indian child, the domicile of the Indian child's parents, Indian custodian, or legal guardian. In the case of an Indian child whose parents are not married to each other, the domicile of the Indian child means the domicile of the Indian child's custodial parent.

**(l)** "Emergency proceeding" for purposes of juvenile dependency proceedings is the initial petition hearing held pursuant to Section 319.

**(m)** "Indian foster home" means a foster home where one or more of the licensed or approved foster parents is an Indian as defined in Section 3 of the federal Indian Child Welfare Act of 1978.

**(n)** "Involuntary proceeding" means an Indian child custody proceeding in which the parent does not consent of their free will to the foster care, preadoptive, or adoptive placement, or termination of parental rights. "Involuntary proceeding" also means an Indian child custody proceeding in which the parent consents to the foster care, preadoptive, or adoptive placement, under threat of removal of the child by a state court or agency.

**(o)** "Status offense" means an offense that would not be considered criminal if committed by an adult, including, but not limited to, school truancy and incorrigibility.

**(p)** "Upon demand" means, in the case of an Indian child, the parent or Indian custodian may regain physical custody during a voluntary proceeding simply upon verbal request, without any delay, formalities, or contingencies.

**(q)** "Voluntary proceeding" means an Indian child custody proceeding that is not an involuntary proceeding, including, but not limited to, a proceeding for foster care, preadoptive or adoptive placement that either parent, both parents, or the Indian custodian has, of their free will, without a threat of removal by a state agency, consented to for the Indian child, or a proceeding for voluntary termination of parental rights.

**(r)** "Tribally approved home" means a home that has been licensed or approved by an Indian child's tribe, or a tribe or tribal organization designated by the Indian child's tribe, for foster care or adoptive placement of an Indian child using standards established by the child's tribe pursuant to Section 1915 of the federal Indian Child Welfare Act ([25 U.S.C. Sec. 1901 et seq.](#)). A tribally approved home is not required to be licensed or approved by the state or county and is equivalent to a state-licensed or county-licensed or approved home, including an approved resource family home. Background check requirements for foster care or adoptive placement as required by [Sections 1522 and 1522.1 of the Health and Safety Code](#) shall apply to a tribally approved home.

**Leg.H.**

Added Stats 2006 ch 838 § 30 (SB 678), effective January 1, 2007. Amended Stats 2010 ch 468 § 1 (AB 2418), effective January 1, 2011; Stats 2018 ch 833 § 3 (AB 3176), effective January 1, 2019; Stats 2019 ch 27 § 17 (SB 80), effective June 27, 2019.

## **§ 224.2. Notice Where Indian Child Involved.**

**(a)** The court, county welfare department, and the probation department have an affirmative and continuing duty to inquire whether a child for whom a petition under Section 300, 601, or 602 may be or has been filed, is or may be an Indian child. The duty to inquire begins with the initial contact, including, but not limited to, asking the party reporting child abuse or neglect whether the party has any information that the child may be an Indian child.

**(b)** If a child is placed into the temporary custody of a county welfare department pursuant to Section 306 or county probation department pursuant to Section 307, the county welfare department or county probation department has a duty to inquire whether that child is an Indian child. Inquiry includes, but is not limited to, asking the child, parents, legal guardian, Indian custodian, extended family members, others who have an interest in the child, and the party reporting child abuse or neglect, whether the child is, or may be, an Indian child and where the child, the parents, or Indian custodian is domiciled.

**(c)** At the first appearance in court of each party, the court shall ask each participant present in the hearing whether the participant knows or has reason to know that the child is an Indian child. The court shall instruct the parties to inform the court if they subsequently receive information that provides reason to know the child is an Indian child.

**(d)** There is reason to know a child involved in a proceeding is an Indian child under any of the following circumstances:

**(1)** A person having an interest in the child, including the child, an officer of the court, a tribe, an Indian organization, a public or private agency, or a member of the child's extended family informs the court that the child is an Indian child.

**(2)** The residence or domicile of the child, the child's parents, or Indian custodian is on a reservation or in an Alaska Native village.

**(3)** Any participant in the proceeding, officer of the court, Indian tribe, Indian organization, or agency informs the court that it has discovered information indicating that the child is an Indian child.

**(4)** The child who is the subject of the proceeding gives the court reason to know that the child is an Indian child.

**(5)** The court is informed that the child is or has been a ward of a tribal court.

**(6)** The court is informed that either parent or the child possess an identification card indicating membership or citizenship in an Indian tribe.

**(e)** If the court, social worker, or probation officer has reason to believe that an Indian child is involved in a proceeding, but does not have sufficient information to determine that there is reason to know that the child is an Indian child, the court, social worker, or probation officer shall make further inquiry regarding the possible Indian status of the child, and shall make that inquiry as soon as practicable.

**(1)** There is reason to believe a child involved in a proceeding is an Indian child whenever the court, social worker, or probation officer has information suggesting that either the parent of the child or the child is a member or may be eligible for membership in an Indian tribe. Information suggesting membership or eligibility for membership includes, but is not limited to, information that indicates, but does not establish, the existence of one or more of the grounds for reason to know enumerated in paragraphs (1) to (6), inclusive, of subdivision (d).

**(2)** When there is reason to believe the child is an Indian child, further inquiry is necessary to help the court, social worker, or probation officer determine whether there is reason to know a child is an Indian child. Further inquiry includes, but is not limited to, all of the following:

**(A)** Interviewing the parents, Indian custodian, and extended family members to gather the information required in paragraph (5) of subdivision (a) of Section 224.3.

**(B)** Contacting the Bureau of Indian Affairs and the State Department of Social Services for assistance in identifying the names and contact information of the tribes in which the child may be a

member, or eligible for membership in, and contacting the tribes and any other person that may reasonably be expected to have information regarding the child's membership status or eligibility.

**(C)** Contacting the tribe or tribes and any other person that may reasonably be expected to have information regarding the child's membership, citizenship status, or eligibility. Contact with a tribe shall, at a minimum, include telephone, facsimile, or electronic mail contact to each tribe's designated agent for receipt of notices under the federal Indian Child Welfare Act of 1978 (**25 U.S.C. Sec. 1901 et seq.**). Contact with a tribe shall include sharing information identified by the tribe as necessary for the tribe to make a membership or eligibility determination, as well as information on the current status of the child and the case.

**(f)** If there is reason to know, as set forth in subdivision (d), that the child is an Indian child, the party seeking foster care placement shall provide notice in accordance with paragraph (5) of subdivision (a) of Section 224.3.

**(g)** If there is reason to know the child is an Indian child, but the court does not have sufficient evidence to determine that the child is or is not an Indian child, the court shall confirm, by way of a report, declaration, or testimony included in the record that the agency or other party used due diligence to identify and work with all of the tribes of which there is reason to know the child may be a member, or eligible for membership, to verify whether the child is in fact a member or whether a biological parent is a member and the child is eligible for membership.

**(h)** A determination by an Indian tribe that a child is or is not a member of, or eligible for membership in, that tribe, or testimony attesting to that status by a person authorized by the tribe to provide that determination, shall be conclusive. Information that the child is not enrolled, or is not eligible for enrollment in, the tribe is not determinative of the child's membership status unless the tribe also confirms in writing that enrollment is a prerequisite for membership under tribal law or custom.

**(i)**

**(1)** When there is reason to know that the child is an Indian child, the court shall treat the child as an Indian child unless and until the court determines on the record and after review of the report of due diligence as described in subdivision (g), and a review of the copies of notice, return receipts, and tribal responses required pursuant to Section 224.3, that the child does not meet the definition of an Indian child as used in Section 224.1 and the federal Indian Child Welfare Act of 1978 (**25 U.S.C. Sec. 1901 et seq.**).

**(2)** If the court makes a finding that proper and adequate further inquiry and due diligence as required in this section have been conducted and there is no reason to know whether the child is an Indian child, the court may make a finding that the federal Indian Child Welfare Act of 1978 (**25 U.S.C. Sec. 1901 et seq.**) does not apply to the proceedings, subject to reversal based on sufficiency of the evidence. The court shall reverse its determination if it subsequently receives information providing reason to believe that the child is an Indian child and order the social worker or probation officer to conduct further inquiry pursuant to Section 224.3.

**(j)** Notwithstanding a determination that the federal Indian Child Welfare Act of 1978 does not apply to the proceedings, if the court, social worker, or probation officer subsequently receives any information required by Section 224.3 that was not previously available or included in the notice issued under Section 224.3, the party seeking placement shall provide the additional information to any tribes entitled to notice under Section 224.3 and to the Secretary of the Interior's designated agent.

**(k)** The Judicial Council, by July 1, 2021, shall adopt rules of court to allow for telephonic or other remote appearance options by an Indian child's tribe in proceedings where the federal Indian Child Welfare Act of 1978

(25 U.S.C. Sec. 1901 et seq.) may apply. Telephonic or other computerized remote access for court appearances established under this subdivision shall not be subject to fees.

**Leg.H.**

Added Stats 2018 ch 833 § 5 (AB 3176), effective January 1, 2019. Amended Stats 2019 ch 434 § 2 (AB 686), effective January 1, 2020; Stats 2020 ch 104 § 15 (AB 2944), effective September 18, 2020.

## **§ 224.3. Notice of Hearings.**

**(a)** If the court, a social worker, or probation officer knows or has reason to know, as described in subdivision (d) of Section 224.2, that an Indian child is involved, notice pursuant to Section 1912 of the federal Indian Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.) shall be provided for hearings that may culminate in an order for foster care placement, termination of parental rights, preadoptive placement, or adoptive placement, as described in paragraph (1) of subdivision (d) of Section 224.1. The notice shall be sent to the minor's parents or legal guardian, Indian custodian, if any, and the child's tribe. Copies of all notices sent shall be served on all parties to the dependency proceeding and their attorneys. Notice shall comply with all of the following requirements:

**(1)** Notice shall be sent by registered or certified mail with return receipt requested. Additional notice by first-class mail is recommended, but not required.

**(2)** Notice to the tribe shall be to the tribal chairperson, unless the tribe has designated another agent for service.

**(3)** Notice of all Indian child custody hearings shall be sent by the party seeking placement of the child to all of the following:

**(A)** All tribes of which the child may be a member or citizen, or eligible for membership or citizenship, unless either of the following occur:

**(i)** A tribe has made a determination that the child is not a member or citizen, or eligible for membership or citizenship.

**(ii)** The court makes a determination as to which tribe is the child's tribe in accordance with subdivision (e) of Section 224.1, after which notice need only be sent to the Indian child's tribe.

**(B)** The child's parents.

**(C)** The child's Indian custodian.

**(4)** Notice, to the extent required by federal law, shall be sent to the Secretary of the Interior's designated agent.

**(5)** In addition to the information specified in other sections of this article, notice shall include all of the following information:

**(A)** The name, birth date, and birthplace of the Indian child, if known.

**(B)** The name of the Indian tribe in which the child is a member, or may be eligible for membership, if known.

**(C)** All names known of the Indian child's biological parents, grandparents, and great-grandparents, or Indian custodians, including maiden, married, and former names or aliases, as well as their current and former addresses, birth dates, places of birth and death, tribal enrollment

information of other direct lineal ancestors of the child, and any other identifying information, if known.

(D) A copy of the petition by which the proceeding was initiated.

(E) A copy of the child's birth certificate, if available.

(F) The location, mailing address, and telephone number of the court and all parties notified pursuant to this section.

(G) The information regarding the time, date, and any location of any scheduled hearings.

(H) A statement of all of the following:

(i) The name of the petitioner and the name and address of the petitioner's attorney.

(ii) The absolute right of the child's parents, Indian custodians, and tribe to intervene in the proceeding.

(iii) The right of the child's parents, Indian custodians, and tribe to petition the court to transfer the proceeding to the tribal court of the Indian child's tribe, absent objection by either parent and subject to declination by the tribal court.

(iv) The right of the child's parents, Indian custodians, and tribe to, upon request, be granted up to an additional 20 days from the receipt of the notice to prepare for the proceeding.

(v) The potential legal consequences of the proceedings on the future custodial and parental rights of the child's parents or Indian custodians.

(vi) That if the parents or Indian custodians are unable to afford counsel, counsel will be appointed to represent the parents or Indian custodians pursuant to Section 1912 of the federal Indian Child Welfare Act of 1978.

(vii) In accordance with Section 827, the information contained in the notice, petition, pleading, and other court documents is confidential. Any person or entity notified shall maintain the confidentiality of the information contained in the notice concerning the particular proceeding and not reveal that information to anyone who does not need the information in order to exercise the tribe's rights under the federal Indian Child Welfare Act of 1978.

(b) Notice shall be sent whenever it is known or there is reason to know that an Indian child is involved, and for every hearing that may culminate in an order for foster care placement, termination of parental rights, preadoptive placement, or adoptive placement, as described in paragraph (1) of subdivision (d) of Section 224.1, unless it is determined that the federal Indian Child Welfare Act of 1978 does not apply to the case in accordance with Section 224.2. After a tribe acknowledges that the child is a member of, or eligible for membership in, that tribe, or after a tribe intervenes in a proceeding, the information set out in subparagraphs (C), (D), (E), and (H) of paragraph (5) of subdivision (a) need not be included with the notice.

(c) Proof of the notice, including copies of notices sent and all return receipts and responses received, shall be filed with the court in advance of the hearing, except as permitted under subdivision (d).

(d) A proceeding shall not be held until at least 10 days after receipt of notice by the parent, Indian custodian, the tribe, or the Bureau of Indian Affairs, except for a hearing held pursuant to Section 319, provided that notice of the hearing held pursuant to Section 319 shall be given as soon as possible after the filing of the petition to declare the Indian child a dependent child. Notice to tribes of the hearing pursuant to Section 319 shall be consistent with the requirements for notice to parents set forth in Sections 290.1 and 290.2. With the

exception of the hearing held pursuant to Section 319, the parent, Indian custodian, or tribe shall, upon request, be granted up to 20 additional days to prepare for that proceeding. This subdivision does not limit the rights of the parent, Indian custodian, or tribe to more than 10 days' notice when a lengthier notice period is required by law.

(e) With respect to giving notice to Indian tribes, a party is subject to court sanctions if that person knowingly and willfully falsifies or conceals a material fact concerning whether the child is an Indian child, or counsels a party to do so.

(f) The inclusion of contact information of any adult or child that would otherwise be required to be included in the notification pursuant to this section shall not be required if that person is at risk of harm as a result of domestic violence, child abuse, sexual abuse, or stalking.

(g) For any hearing that does not meet the definition of an Indian child custody proceeding set forth in Section 224.1, or is not an emergency proceeding, notice to the child's parents, Indian custodian, and tribe shall be sent in accordance with Sections 292, 293, and 295.

**Leg.H.**

Added Stats 2018 ch 833 § 7 (AB 3176), effective January 1, 2019.

## **§ 224.4. Intervention.**

The Indian child's tribe and Indian custodian have the right to intervene at any point in an Indian child custody proceeding.

**Leg.H.**

Added Stats 2006 ch 838 § 33 (SB 678), effective January 1, 2007.

## **§ 224.5. Full Faith and Credit.**

In an Indian child custody proceeding, the court shall give full faith and credit to the public acts, records, judicial proceedings, and judgments of any Indian tribe applicable to the proceeding to the same extent that such entities give full faith and credit to the public acts, records, judicial proceedings, and judgments of any other entity.

**Leg.H.**

Added Stats 2006 ch 838 § 34 (SB 678), effective January 1, 2007.

## **§ 224.6. Testimony of Qualified Expert Witness.**

(a) When testimony of a "qualified expert witness" is required in an Indian child custody proceeding, a "qualified expert witness" shall be qualified to testify regarding whether continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child and shall be qualified to testify to the prevailing social and cultural standards of the Indian child's tribe. A person may be designated by the child's tribe as qualified to testify to the prevailing social and cultural standards of the Indian child's tribe. The individual may not be an employee of the person or agency recommending foster care placement or termination of parental rights.

(b) In considering whether to remove an Indian child from the custody of a parent or Indian custodian or to terminate the parental rights of the parent of an Indian child, the court shall do both of the following:

- (1) Require that a qualified expert witness testify regarding whether continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.
- (2) Consider evidence concerning the prevailing social and cultural standards of the Indian child's tribe, including that tribe's family organization and child-rearing practices.

(c) Persons with the following characteristics are most likely to meet the requirements for a qualified expert witness for purposes of Indian child custody proceedings:

(1) A person designated by the Indian child's tribe as being qualified to testify to the prevailing social and cultural standards of the Indian child's tribe.

(2) A member or citizen of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and child-rearing practices.

(3) An expert witness having substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing social and cultural standards and child-rearing practices within the Indian child's tribe.

(d) The court or any party may request the assistance of the Indian child's tribe or Bureau of Indian Affairs agency serving the Indian child's tribe in locating persons qualified to serve as expert witnesses.

(e) The court may accept a declaration or affidavit from a qualified expert witness in lieu of testimony only if the parties have so stipulated in writing and the court is satisfied the stipulation is made knowingly, intelligently, and voluntarily.

**Leg.H.**

Added Stats 2006 ch 838 § 35 (SB 678), effective January 1, 2007; Amended Stats 2018 ch 833 § 8 (AB 3176), effective January 1, 2019.

## **ARTICLE 1.5**

### **Youth Bill of Rights**

#### **§ 224.70. Definitions.**

For the purposes of this article:

(a) "Committed" means placed in a facility of the Division of Juvenile Facilities pursuant to a court order, independent of, or in connection with, other sentencing alternatives.

(b) "Detained" means held in secure confinement in a juvenile facility of the Division of Juvenile Facilities.

(c) "Extended family member" means any adult related to the youth by blood, adoption, or marriage, and any adult who has an established familial or mentoring relationship with the youth, including, but not limited to, godparents, clergy, teachers, neighbors, and family friends.

(d) "Facility of the Division of Juvenile Facilities" means a place of confinement that is operated by, or contracted for, the Department of Corrections and Rehabilitation, for the purpose of the detention or commitment of youth who are taken into custody and alleged to be within the description of Section 601 or 602 or who are adjudged to be a ward of the court.

(e) "Youth" means any person detained in a facility of the Division of Juvenile Facilities.

**Leg.H.**

Added Stats 2007 ch 649 § 2 (SB 518), effective January 1, 2008.

## **§ 224.71. Juvenile Rights Listed.**

It is the policy of the state that all youth confined in a facility of the Division of Juvenile Facilities shall have the following rights:

- (a) To live in a safe, healthy, and clean environment conducive to treatment and rehabilitation and where they are treated with dignity and respect.
- (b) To be free from physical, sexual, emotional, or other abuse, or corporal punishment.
- (c) To receive adequate and healthy food and water, sufficient personal hygiene items, and clothing that is adequate and clean.
- (d) To receive adequate and appropriate medical, dental, vision, and mental health services.
- (e) To refuse the administration of psychotropic and other medications consistent with applicable law or unless immediately necessary for the preservation of life or the prevention of serious bodily harm.
- (f) To not be searched for the purpose of harassment or humiliation or as a form of discipline or punishment.
- (g) To maintain frequent and continuing contact with parents, guardians, siblings, children, and extended family members, through visits, telephone calls, and mail.
- (h) To make and receive confidential telephone calls, send and receive confidential mail, and have confidential visits with attorneys and their authorized representatives, ombudspersons and other advocates, holders of public office, state and federal court personnel, and legal service organizations.
- (i) To have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.
- (j) To have regular opportunity for age-appropriate physical exercise and recreation, including time spent outdoors.
- (k) To contact attorneys, ombudspersons and other advocates, and representatives of state or local agencies, regarding conditions of confinement or violations of rights, and to be free from retaliation for making these contacts or complaints.
- (l) To participate in religious services and activities of their choice.
- (m) To not be deprived of any of the following as a disciplinary measure: food, contact with parents, guardians, or attorneys, sleep, exercise, education, bedding, access to religious services, a daily shower, a drinking fountain, a toilet, medical services, reading material, or the right to send and receive mail.
- (n) To receive a quality education that complies with state law, to attend age-appropriate school classes and vocational training, and to continue to receive educational services while on disciplinary or medical status.

(o) To attend all court hearings pertaining to them.

(p) To have counsel and a prompt probable cause hearing when detained on probation or parole violations.

(q) To make at least two free telephone calls within an hour after initially being placed in a facility of the Division of Juvenile Facilities following an arrest.

**Leg.H.**

Added Stats 2007 ch 649 § 2 (SB 518), effective January 1, 2008.

## **§ 224.72. Facilities to Provide Orientation; Posted List of Rights; Translation into Spanish and Other Languages; Rights to be Included in Orientation Packets Provided to Parents or Guardians.**

(a) Every facility of the Division of Juvenile Facilities shall provide each youth who is placed in the facility with an age and developmentally appropriate orientation that includes an explanation and a copy of the rights of the youth, as specified in Section 224.71, and that addresses the youth's questions and concerns.

(b) Each facility of the Division of Juvenile Facilities shall post a listing of the rights provided by Section 224.71 in a conspicuous location. The Office of the Ombudspersons of the Division of Juvenile Facilities shall design posters and provide the posters to each Division of Juvenile Facilities facility subject to this subdivision. These posters shall include the toll-free telephone number of the Office of the Ombudspersons of the Division of Juvenile Facilities.

(c) Consistent with Chapter 17.5 (commencing with Section 7290) of Division 7 of Title 1 of the Government Code, on or before July 1, 2010, the division shall ensure the listing of rights and posters described in this section are translated into Spanish and other languages as determined necessary by the division.

(d) A copy of the rights of the youth shall be included in orientation packets provided to parents or guardians of wards. Copies of the rights of youth in English, Spanish, and other languages shall also be made available in the visiting areas of division facilities and, upon request, to parents or guardians.

**Leg.H.**

Added Stats 2007 ch 649 § 2 (SB 518), effective January 1, 2008. Amended Stats 2008 ch 522 § 2 (SB 1250), effective January 1, 2009.

## **§ 224.73. Safety and Dignity of Youth; Discrimination Prohibited.**

All facilities of the Division of Juvenile Facilities shall ensure the safety and dignity of all youth in their care and shall provide care, placement, and services to youth without discriminating on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

**Leg.H.**

Added Stats 2007 ch 649 § 2 (SB 518), effective January 1, 2008.

## **§ 224.74. Duties of Office of Ombudsperson.**

(a) The Office of the Ombudspersons of the Division of Juvenile Facilities shall do all of the following:

(1) Disseminate information on the rights of children and youth in the custody of the Division of Juvenile Facilities, as provided in Section 224.71, and the services provided by the office.

(2) Investigate and attempt to resolve complaints made by or on behalf of youth in the custody of the Division of Juvenile Facilities, related to their care, placement, or services, or in the alternative, refer appropriate complaints to another agency for investigation.

(3) Notify the complainant in writing of the intention to investigate or the decision to refer the complaint to another agency within 15 days of receiving the complaint. If the office declines to investigate a complaint, the office shall notify the complainant of the reason for this decision.

(4) Update the complainant on the progress of the investigation and notify the complainant in writing of the final outcome, steps taken during the investigation, basis for the decision, and any action to be taken as a result of the complaint.

(5) Document the number, source, origin, location, and nature of complaints.

(6) Provide a toll-free telephone number for the Office of the Ombudspersons of the Division of Juvenile Facilities.

(7) Compile and make available to the Legislature and the public all data collected over the course of the year, including, but not limited to, the number of contacts to the toll-free telephone number, the number of complaints made, the number of investigations performed by the office, the number of referrals made, the issues complained about, the number of sustained complaints, the actions taken as a result of sustained complaints, and the number of unresolved complaints, including the reasons the complaints could not be resolved.

(b)

(1) The Office of the Ombudspersons of the Division of Juvenile Facilities, in consultation with youth advocate and support groups, and groups representing children, families, children's facilities, and other interested parties, shall develop, no later than July 1, 2008, standardized information explaining the rights specified in Section 224.71. The information developed shall be age-appropriate.

(2) The Office of the Ombudspersons of the Division of Juvenile Facilities and other interested parties may use the information developed in paragraph (1) in carrying out their responsibilities to inform youth of their rights provided under Section 224.71.

**Leg.H.**

Added Stats 2007 ch 649 § 2 (SB 518), effective January 1, 2008.

## **ARTICLE 2**

### **Commissions and Committees**

## **§ 225. Requirements of County Juvenile Justice Committee.**

In each county there shall be a juvenile justice commission consisting of not less than 7 and no more than 15 citizens. Two or more of the members shall be persons who are between 14 and 21 years of age, provided there are available persons between 14 and 21 years of age who are able to carry out the duties of a commission member in a manner satisfactory to the appointing authority. Each person serving as a member of a probation

committee immediately prior to September 15, 1961, shall be a member of the juvenile justice commission and shall continue to serve as such until such time as his or her term of appointment as a member of the probation committee would have expired under any prior provision of law. Upon a vacancy occurring in the membership of the commission and upon the expiration of the term of office of any member, a successor shall be appointed by the presiding judge of the superior court with the concurrence of the judge of the juvenile court or, in a county having more than one judge of the juvenile court, with the concurrence of the presiding judge of the juvenile court for a term of four years. When a vacancy occurs for any reason other than the expiration of a term of office, the appointee to fill such vacancy shall hold office for the unexpired term of his or her predecessor.

Appointments may be made by the presiding judge of the superior court, in the same manner designated in this section for the filling of vacancies, to increase the membership of a commission to the maximum of 15 in any county which has a commission with a membership of less than 15 members.

In any county in which the membership of the commission, on the effective date of amendments to this section enacted at the 1971 Regular Session of the Legislature, exceeds the maximum number permitted by this section, no additional appointments shall be made until the number of commissioners is less than the maximum number permitted by this section. In any case, such county's commission membership shall, on or after January 1, 1974, be no greater than the maximum permitted by this section.

**Leg.H.**

Amended 1980 ch. 751 § 1.

## **§ 226. Requirements of Regional Juvenile Justice Committee Formed by Two or More Adjacent Counties.**

In lieu of county juvenile justice commissions, the boards of supervisors of two or more adjacent counties may agree to establish a regional juvenile justice commission consisting of not less than eight citizens, and having a sufficient number of members so that their appointment may be equally apportioned between the participating counties. Two or more of the members shall be persons who are between 14 and 21 years of age, provided there are available persons between 14 and 21 years of age who are able to carry out the duties of a commission member in a manner satisfactory to the appointing authority. The presiding judge of the superior court with the concurrence of the judge of the juvenile court or, in a county having more than one judge of the juvenile court, with the concurrence of the presiding judge of the juvenile court of each of the participating counties shall appoint an equal number of members to the regional justice commission and they shall hold office for a term of four years. Of those first appointed, however, if the number appointed be an even number, half shall serve for a term of two years and half shall serve for a term of four years and if the number of members first appointed be an odd number, the greater number nearest half shall serve for a term of two years and the remainder shall serve for a term of four years. The respective terms of the members first appointed shall be determined by lot as soon as possible after their appointment. Upon a vacancy occurring in the membership of the commission and upon the expiration of the term of office of any member, a successor shall be appointed by the presiding judge of the superior court with the concurrence of the judge of the juvenile court or, in a county having more than one judge of the juvenile court, with the concurrence of the presiding judge of the juvenile court of the county which originally appointed such vacating or retiring member. When a vacancy occurs for any reason other than the expiration of a term of office, the appointee shall hold office for the unexpired term of his or her predecessor.

**Leg.H.**

Amended 1980 ch. 751 § 2.

## § 227. Notice to and Qualification of Appointed Members.

The clerk of the court of the appointing judge shall immediately notify each person appointed a member of a county or regional juvenile justice commission and thereupon such person shall appear before the appointing judge and qualify by taking an oath faithfully to perform the duties of a member of the juvenile justice commission. The qualification of each member shall be entered in the juvenile court record.

**Leg.H.**

1976 ch. 1068.

## § 228. Election of Chairman and Vice Chairman.

A juvenile justice commission shall elect a chairman and vice chairman annually.

**Leg.H.**

1976 ch. 1068.

## § 229. Duties and Powers of Juvenile Justice Commission.

It shall be the duty of a juvenile justice commission to inquire into the administration of the juvenile court law in the county or region in which the commission serves. For this purpose the commission shall have access to all publicly administered institutions authorized or whose use is authorized by this chapter situated in the county or region, shall inspect such institutions no less frequently than once a year, and may hold hearings. A judge of the juvenile court shall have the power to issue subpoenas requiring attendance and testimony of witnesses and production of papers at hearings of the commission.

A juvenile justice commission shall annually inspect any jail or lockup within the county which in the preceding calendar year was used for confinement for more than 24 hours of any minor. It shall report the results of such inspection together with its recommendations based thereon, in writing, to the juvenile court and to the Board of Corrections.

**Leg.H.**

1976 ch. 1068, 1996 ch. 12, effective February 14, 1996.

## § 229.5. Right to Inquire into Operation of Group Home and Visit with Advance Notice; Disposition of Findings.

(a) Notwithstanding any other provision of law, a juvenile justice commission may inquire into the operation of any group home that serves wards or dependent children of the juvenile court and is located in the county or region the commission serves. The commission may review the safety and well-being of wards or dependent children placed in the group home and the program and services provided in relation to the home's published program statement.

(b) In conducting its review, the commission shall respect the confidentiality of minors' records and other information protected under other provisions of law. It may review court or case records of a child provided it keeps the identities of minors named in those records confidential, and may review the financial records of a group home. However, the commission may not review the personnel records of employees or the records of donors to the group home.

(c) The commission shall give the group home manager at least 24 hours' advance notice of a visit to a group home. If the commission believes that there is a serious violation of applicable licensing laws or regulations or that residents of a group home are in danger of physical or mental abuse, abandonment or other substantial threat to their health and safety, the commission shall notify the Community Care Licensing Division of the State Department of Social Services for appropriate action, shall consult with the presiding judge of the juvenile court and chief probation officer as to whether or not a visit is appropriate, and shall notify other juvenile justice commissions of its actions, as appropriate.

(d) Upon the completion of a visit, if the commission finds any condition in the group home that poses a danger to its residents or otherwise violates any applicable law, ordinance, or regulation, the commission shall verbally advise the group home manager of its findings, unless it determines that the advisement could be detrimental to the children placed there, and shall send written confirmation of its findings to the group home manager within 14 days. The commission may also report its findings to the presiding judge of the juvenile court, chief probation officer, State Department of Social Services, or other juvenile justice commissions as appropriate. A group home manager may meet with the juvenile justice commission, chief probation officer, county welfare director, juvenile court, or the State Department of Social Services to resolve any problem or to submit a plan of correction.

**Leg.H.**

1987 ch. 228 § 1, 1994 ch. 358, 2000 ch. 908.

## **§ 230. Making and Publicizing Recommendations for Changes.**

A juvenile justice commission may recommend to any person charged with the administration of any of the provisions of this chapter such changes as it has concluded, after investigation, will be beneficial. A commission may publicize its recommendations.

**Leg.H.**

1976 ch. 1068.

## **§ 231. Reimbursement of Expenses of Commission Members.**

Members of a juvenile justice commission shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties. Such reimbursement shall be made by the county of appointment or, in lieu of such actual and necessary expenses the board of supervisors may provide that the members of the commission shall be paid not to exceed the sum of twenty-five dollars (\$25) per meeting not exceeding two meetings per month. In the case of a regional justice commission, the duty of reimbursement shall be divided among the participating counties in the manner prescribed by agreement of the boards of supervisors.

**Leg.H.**

1976 ch. 1068.

## **§ 232. Coordination of Activities with One or More Agencies or Departments.**

The board of supervisors may by ordinance provide for the establishment, support, and maintenance of one or more agencies or departments to cooperate with and assist in coordinating on a countywide basis the work of those community agencies engaged in activities designed to prevent juvenile and adult delinquency; and such

agencies or departments may cooperate with any such public or community committees, agencies, or councils at their invitation.

**Leg.H.**

1976 ch. 1068.

## **§ 233. Creation of Delinquency Prevention Commission; Requirements.**

The board of supervisors may by ordinance provide for the establishment, support, and maintenance of a delinquency prevention commission, composed of not fewer than seven citizens, to coordinate on a countywide basis the work of those governmental and nongovernmental organizations engaged in activities designed to prevent juvenile delinquency. If the board so elects, it may designate the juvenile justice commission, or any other committee or council appointed pursuant to Section 232 or 235, to serve in such capacity.

The commission may receive funds from governmental and nongovernmental sources to hire an executive secretary and necessary staff and to defray needed administrative expenses. The board of supervisors may direct any county department to provide necessary staff service to the commission. The commission may expend its funds on specific projects designed to accomplish its objectives.

Members of the delinquency prevention commission shall be appointed by the board of supervisors to serve a term of four years, and they shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties. Upon a vacancy occurring in the membership in the commission and upon the expiration in the term of office of any member, a successor shall be appointed by the board of supervisors. When a vacancy occurs for any reason other than the expiration of a term of office, the appointee to fill such vacancy shall hold office for the unexpired term of his or her predecessor.

The board of supervisors may appoint initial members to any delinquency prevention commission created after the effective date of the amendment made to this section at the 1973–74 Regular Session of the Legislature to hold office for the following terms: one-half of the membership of an even-numbered commission for a term of two years and one-half plus one of the membership of an odd-numbered commission for a term of two years. The remaining initial members and the term of office of each successor appointed to fill a vacancy occurring on the expiration of a term thereafter shall be four years.

For a delinquency prevention commission existing on the effective date of the amendment made to this section at the 1973–74 Regular Session of the Legislature the board of supervisors may at any time upon the expiration of all the members' terms of office appoint members to hold office for the following terms: one-half of the membership of an even-numbered commission for a term of two years and one-half plus one of the membership of an odd-numbered commission for a term of two years. The remaining members and the term of office of each successor appointed to fill a vacancy occurring on the expiration of a term thereafter shall be four years.

Notwithstanding the preceding provisions of this section, the board of supervisors shall appoint two or more persons who are between 14 and 21 years of age to membership on a delinquency prevention commission, provided there are available persons between 14 and 21 years of age who are able to carry out the duties of a commission member in a manner satisfactory to the appointing authority.

**Leg.H.**

Amended 1980 ch. 751 § 3.

## **§ 233.5. Commission Assistance Concerning Indecent or Pornographic Materials in Counties with Population Over 6,000,000.**

In a county having a population of over 6,000,000, the board of supervisors may assign the responsibility for assisting and advising the board and other county officers concerning the publication and distribution of allegedly indecent or pornographic materials and such other related duties as the board may determine proper to the delinquency prevention commission established pursuant to Section 233.

**Leg.H.**

1979 ch. 431.

## **§ 234. Creation of Delinquency Prevention Agency or Department.**

The board of supervisors may by ordinance provide for the establishment, support, and maintenance of a delinquency prevention agency or department, or may assign delinquency prevention duties to any existing county agency, or department. Any such agency or department may engage in activities designed to prevent juvenile and adult delinquency, including rendering direct and indirect services to persons in the community, and may cooperate with any other agency of government in carrying out its purposes.

**Leg.H.**

1976 ch. 1068.

## **§ 235. Creation of Related Public Councils or Committees.**

The juvenile court and the probation department of any county may establish, or assist in the establishment of, any public council or committee having as its object the prevention of juvenile delinquency and may cooperate with, or participate in, the work of any such councils or committees for the purpose of preventing or decreasing juvenile delinquency, including the improving of recreational, health, and other conditions in the community affecting juvenile welfare.

**Leg.H.**

1976 ch. 1068.

## **§ 236. Right of Probation Departments to Engage in Juvenile Delinquency Prevention Services.**

Notwithstanding any other law, probation departments may engage in activities designed to prevent juvenile delinquency. These activities include rendering direct and indirect services to persons in the community. Probation departments shall not be limited to providing services only to those persons on probation being supervised under Section 330 or 654, but may provide services to any juveniles in the community. Services or programs offered to minors or minors' parents or guardians who are not on probation are voluntary and shall not include probation conditions or consequences as a result of not engaging in or completing those programs or services. For minors not on probation, the provision of services or programs under this section shall not be construed to allow probation departments to maintain a formal or informal caseload, establish formal or informal contracts with minors or minors' parents or guardians, or create mandated-probation conditions.

**Leg.H.**

Added Stats 1976 ch 1068 § 2. Amended Stats 2020 ch 323 § 6 (AB 901), effective January 1, 2021.

## **ARTICLE 3**

### **Probation Commission**

#### **§ 240. Creation of Probation Commission in Counties with Population Over 6,000,000.**

In counties having a population in excess of 6,000,000 in lieu of a county juvenile justice commission, there shall be a probation commission consisting of not less than seven members who shall be appointed by the same authority as that authorized to appoint the probation officer in that county.

**Leg.H.**

Amended 1987 ch. 228 § 3.

#### **§ 241. Continuation in Office for Persons Appointed Prior to Article.**

The members of a probation commission appointed and holding office under prior provisions of law on January 1, 1977, shall continue in office and shall be members of the probation commission created hereby for the same term as that for which they were appointed.

**Leg.H.**

Amended 1987 ch. 228 § 4.

#### **§ 241.1. Determination of Minor's Status.**

(a) Whenever a minor appears to come within the description of both Section 300 and Section 601 or 602, the county probation department and the child welfare services department shall, pursuant to a jointly developed written protocol described in subdivision (b), initially determine which status will serve the best interests of the minor and the protection of society. The recommendations of both departments shall be presented to the juvenile court with the petition that is filed on behalf of the minor, and the court shall determine which status is appropriate for the minor. Any other juvenile court having jurisdiction over the minor shall receive notice from the court, within five calendar days, of the presentation of the recommendations of the departments. The notice shall include the name of the judge to whom, or the courtroom to which, the recommendations were presented.

(b)

(1) The probation department and the child welfare services department in each county shall jointly develop a written protocol to ensure appropriate local coordination in the assessment of a minor described in subdivision (a), and the development of recommendations by these departments for consideration by the juvenile court.

(2) These protocols shall require, but not be limited to, consideration of the nature of the referral, the age of the minor, the prior record of the minor's parents for child abuse, the prior record of the minor for out-of-control or delinquent behavior, the parents' cooperation with the minor's school, the minor's functioning at school, the nature of the minor's home environment, and the records of other agencies that have been involved with the minor and his or her family. The protocols also shall contain provisions for resolution of disagreements between the probation and child welfare services departments regarding the

need for dependency or ward status and provisions for determining the circumstances under which filing a new petition is required to change the minor's status.

(3)

(A) These protocols may also require immediate notification of the child welfare services department and the minor's dependency attorney upon referral of a dependent minor to probation, procedures for release to, and placement by, the child welfare services department pending resolution of the determination pursuant to this section, timelines for dependents in secure custody to ensure timely resolution of the determination pursuant to this section for detained dependents, and nondiscrimination provisions to ensure that dependents are provided with any option that would otherwise be available to a nondependent minor.

(B) If the alleged conduct that appears to bring a dependent minor within the description of Section 601 or 602 occurs in, or under the supervision of, a foster home, group home, or other licensed facility that provides residential care for minors, the county probation department and the child welfare services department may consider whether the alleged conduct was within the scope of behaviors to be managed or treated by the foster home or facility, as identified in the minor's case plan, needs and services plan, placement agreement, facility plan of operation, or facility emergency intervention plan, in determining which status will serve the best interests of the minor and the protection of society pursuant to subdivision (a).

(4) The protocols shall contain the following processes:

(A) A process for determining which agency and court shall supervise a child whose jurisdiction is modified from delinquency jurisdiction to dependency jurisdiction pursuant to paragraph (2) of subdivision (b) of Section 607.2 or subdivision (i) of Section 727.2.

(B) A process for determining which agency and court shall supervise a nonminor dependent under the transition jurisdiction of the juvenile court.

(C) A process that specifically addresses the manner in which supervision responsibility is determined when a nonminor dependent becomes subject to adult probation supervision.

(c) Whenever a minor who is under the jurisdiction of the juvenile court of a county pursuant to Section 300, 601, or 602 is alleged to come within the description of Section 300, 601, or 602 by another county, the county probation department or child welfare services department in the county that has jurisdiction under Section 300, 601, or 602 and the county probation department or child welfare services department of the county alleging the minor to be within one of those sections shall initially determine which status will best serve the best interests of the minor and the protection of society. The recommendations of both departments shall be presented to the juvenile court in which the petition is filed on behalf of the minor, and the court shall determine which status is appropriate for the minor. In making their recommendation to the juvenile court, the departments shall conduct an assessment consistent with the requirements of subdivision (b). Any other juvenile court having jurisdiction over the minor shall receive notice from the court in which the petition is filed within five calendar days of the presentation of the recommendations of the departments. The notice shall include the name of the judge to whom, or the courtroom to which, the recommendations were presented.

(d) Except as provided in subdivision (e), this section shall not authorize the filing of a petition or petitions, or the entry of an order by the juvenile court, to make a minor simultaneously both a dependent child and a ward of the court.

(e) Notwithstanding subdivision (d), the probation department and the child welfare services department, in consultation with the presiding judge of the juvenile court, in any county may create a jointly written protocol to

allow the county probation department and the child welfare services department to jointly assess and produce a recommendation that the child be designated as a dual status child, allowing the child to be simultaneously a dependent child and a ward of the court. This protocol shall be signed by the chief probation officer, the director of the county social services agency, and the presiding judge of the juvenile court prior to its implementation. A juvenile court shall not order that a child is simultaneously a dependent child and a ward of the court pursuant to this subdivision unless and until the required protocol has been created and entered into. This protocol shall include all of the following:

(1) A description of the process to be used to determine whether the child is eligible to be designated as a dual status child.

(2) A description of the procedure by which the probation department and the child welfare services department will assess the necessity for dual status for specified children and the process to make joint recommendations for the court's consideration prior to making a determination under this section. These recommendations shall ensure a seamless transition from wardship to dependency jurisdiction, as appropriate, so that services to the child are not disrupted upon termination of the wardship.

(3) A provision for ensuring communication between the judges who hear petitions concerning children for whom dependency jurisdiction has been suspended while they are within the jurisdiction of the juvenile court pursuant to Section 601 or 602. A judge may communicate by providing a copy of any reports filed pursuant to Section 727.2 concerning a ward to a court that has jurisdiction over dependency proceedings concerning the child.

(4) A plan to collect data in order to evaluate the protocol pursuant to Section 241.2.

(5) Counties that exercise the option provided for in this subdivision shall adopt either an "on-hold" system as described in subparagraph (A) or a "lead court/lead agency" system as described in subparagraph (B). There shall not be any simultaneous or duplicative case management or services provided by both the county probation department and the child welfare services department. It is the intent of the Legislature that judges, in cases in which more than one judge is involved, shall not issue conflicting orders.

(A) In counties in which an on-hold system is adopted, the dependency jurisdiction shall be suspended or put on hold while the child is subject to jurisdiction as a ward of the court. When it appears that termination of the court's jurisdiction, as established pursuant to Section 601 or 602, is likely and that reunification of the child with his or her parent or guardian would be detrimental to the child, the county probation department and the child welfare services department shall jointly assess and produce a recommendation for the court regarding whether the court's dependency jurisdiction shall be resumed.

(B) In counties in which a lead court/lead agency system is adopted, the protocol shall include a method for identifying which court or agency will be the lead court/lead agency. That court or agency shall be responsible for case management, conducting statutorily mandated court hearings, and submitting court reports.

(f) Whenever the court determines pursuant to this section or Section 607.2 or 727.2 that it is necessary to modify the court's jurisdiction over a dependent or ward who was removed from his or her parent or guardian and placed in foster care, the court shall ensure that all of the following conditions are met:

(1) The petition under which jurisdiction was taken at the time the dependent or ward was originally removed is not dismissed until the new petition has been sustained.

(2) The order modifying the court's jurisdiction contains all of the following provisions:

(A) Reference to the original removal findings and a statement that findings that continuation in the home is contrary to the child's welfare, and that reasonable efforts were made to prevent removal, remain in effect.

(B) A statement that the child continues to be removed from the parent or guardian from whom the child was removed under the original petition.

(C) Identification of the agency that is responsible for placement and care of the child based upon the modification of jurisdiction.

**Leg.H.**

Added Stats 1989 ch 1441 § 1. Amended Stats 1998 ch 390 § 2 (SB 2017). Amended Stats 2001 ch 830 § 3 (SB 940); Stats 2004 ch 468 § 1 (AB 129); Stats 2006 ch 538 § 684 (SB 1852), effective January 1, 2007, ch 901 § 13 (SB 1422) (ch 901 prevails), effective January 1, 2007; Stats 2009 ch 140 § 186 (AB 1164), effective January 1, 2010; Stats 2010 ch 559 § 5.5 (AB 12), effective January 1, 2011; Stats 2011 ch 459 § 5 (AB 212), effective October 4, 2011; Stats 2014 ch 760 § 4 (AB 388), effective January 1, 2015.

## **§ 241.2. Dual Status Minors; Recommendations By Stakeholder Committee To Facilitate And Enhance Data And Outcome Tracking For Youth Involved In Child Welfare And Juvenile Justice Systems; Implementation Of Case Management System.**

**(a)** The Judicial Council shall convene a committee comprised of stakeholders involved in serving the needs of dependents or wards of the juvenile court, including, but not limited to, judges, probation officers, social workers, youth involved in both the child welfare system and the juvenile justice system, child welfare and juvenile justice attorneys, child welfare and juvenile justice advocates, education officials, and representatives from the State Department of Social Services, county child welfare agencies, and county probation departments. By January 1, 2018, the committee shall develop and report to the Legislature, pursuant to [Section 9795 of the Government Code](#), its recommendations to facilitate and enhance comprehensive data and outcome tracking for the state's youth involved in both the child welfare system and the juvenile justice system. The committee's recommendations shall include, but not be limited to, all of the following:

**(1)** A common identifier for counties to use to reconcile data across child welfare and juvenile justice systems statewide.

**(2)** Standardized definitions for terms related to the populations of youth involved in both the child welfare system and the juvenile justice system.

**(3)** Identified and defined outcomes for counties to track youth involved in both the child welfare system and the juvenile justice system, including, but not limited to, outcomes related to recidivism, health, pregnancy, homelessness, employment, and education.

**(4)** Established baselines and goals for the identified and defined outcomes specified in paragraph (3).

**(5)** An assessment as to the costs and benefits associated with requiring all counties to implement the committee's recommendations.

**(6)** An assessment of whether a single technology system, including, but not limited to, the State Department of Social Services' Child Welfare Services/Case Management System (CWS/CMS) or the Child Welfare Services-New System (CWS-NS), is needed to track youth in the child welfare system and the juvenile justice system.

(b) The State Department of Social Services shall, on or before January 1, 2019, implement a function within the applicable case management system that will enable county child welfare agencies and county probation departments to identify youth involved in both the child welfare system and the juvenile justice system who are within their counties and shall issue instructions to all counties on how to completely and consistently track the involvement of these youth in both the child welfare system and the juvenile justice system.

**Leg.H.**

Added Stats 2016 ch 637 § 2 (AB 1911), effective January 1, 2017.

## **§ 242. Terms of Office of Members; Filling of Vacancies.**

The members of the probation commission shall hold office for four years and until their successors are appointed and qualify. Of those first appointed, however, one shall hold office for one year, two for two years, two for three years, and two for four years; and the respective terms of the members first appointed shall be determined by lot as soon as possible after their appointment. When a vacancy occurs in a probation commission by expiration of the term of office of any member thereof, his or her successor shall be appointed to hold office for the term of four years. When a vacancy occurs for any other reason the appointee shall hold office for the unexpired term of his or her predecessor.

**Leg.H.**

Amended 1987 ch. 228 § 5.

## **§ 243. Advisory Capacity of Commission.**

The probation commission shall function in an advisory capacity to the probation officer.

**Leg.H.**

Amended 1987 ch. 228 § 6.

## **ARTICLE 4**

### **The Juvenile Court**

## **§ 245. Name of Court When Exercising Jurisdiction Under Article.**

Each superior court shall exercise the jurisdiction conferred by this chapter, and while sitting in the exercise of such jurisdiction, shall be known and referred to as the juvenile court. Appealable orders and judgments of the juvenile court are subject to the appellate jurisdiction of the court of appeal.

**Leg.H.**

1976 ch. 1068, 1998 ch. 931, effective September 28, 1998.

## **§ 245.5. Auxiliary Jurisdiction.**

In addition to all other powers granted by law, the juvenile court may direct all such orders to the parent, parents, or guardian of a minor who is subject to any proceedings under this chapter as the court deems necessary and proper for the best interests of or for the rehabilitation of the minor. These orders may concern the care,

supervision, custody, conduct, maintenance, and support of the minor, including education and medical treatment.

**Leg.H.**

1978 ch. 282, 1990 ch. 182.

## **§ 246. Designation of Judges to Hear Juvenile Cases; Presiding Judge.**

The presiding judge of the superior court shall annually, in the month of January, designate one or more judges of the court to hear all cases under this chapter during the ensuing year, and shall, from time to time, designate such additional judges as may be necessary for the prompt disposition of the judicial business before the juvenile court.

In all counties where more than one judge is designated as a judge of the juvenile court, the presiding judge of the superior court shall also designate one such judge as presiding judge of the juvenile court.

**Leg.H.**

1976 ch. 1068 § 4, 2002 ch. 784 (SB 1316).

## **§ 247.5. Reassignment of Matter When Referee Is Disqualified.**

The provisions of **Sections 170 and 170.6 of the Code of Civil Procedure** shall apply to a referee, provided, that the presiding judge of the juvenile court shall if the motion is granted reassign the matter to another referee or to a judge of the juvenile court.

**Leg.H.**

Renumbered from § 553.2, 1977 ch. 910.

## **§ 248. Hearing Assigned Cases; Furnishing and Serving Finding and Order.**

(a) A referee shall hear those cases that are assigned to him or her by the presiding judge of the juvenile court, with the same powers as a judge of the juvenile court, except that a referee shall not conduct any hearing to which the state or federal constitutional prohibitions against double jeopardy apply unless all of the parties thereto stipulate in writing that the referee may act in the capacity of a temporary judge. A referee shall promptly furnish to the presiding judge of the juvenile court and the minor, if the minor is 14 or more years of age or if younger has so requested, and shall serve upon the minor's attorney of record and the minor's parent or guardian or adult relative and the attorney of record for the minor's parent or guardian or adult relative a written copy of his or her findings and order and shall also furnish to the minor, if the minor is 14 or more years of age or if younger has so requested, and to the parent or guardian or adult relative, with the findings and order, a written explanation of the right of those persons to seek review of the order by the juvenile court.

(b) Service, as provided in this section, shall be made as follows:

(1) If a minor, parent, or guardian is present in court at the time the findings and order are made, then the findings and order may be served in court on any minor, parent, or guardian who is present in court on that date and a written explanation of the right to seek review of the order as required pursuant to subdivision (a) shall be furnished at that time.

(2) If paragraph (1) is not applicable, service shall be made by mail or electronic service pursuant to Section 212.5, within the time period specified in Section 248.5, to the last known address of those persons or to the address designated by those persons appearing at the hearing before the referee and the documents served shall include, if applicable, the written explanation of the right to seek review of the order. If the parent or guardian does not have a last known address or electronic service address designated, service shall be to that party in care of his or her counsel.

## SUGGESTED FORMS

### Stipulation That Referee Act as Judge Pro Tempore

\_\_\_\_\_ [Title of Court and Cause]

It is hereby stipulated by the parties to this action, through their counsel, pursuant to **Welfare and Institutions Code Section 248**, that \_\_\_\_\_, a referee of the Juvenile Court, may act as judge pro tempore for the purpose of conducting the \_\_\_\_\_ [*specify type of hearing, such as: detention*] hearing in the above-entitled action, to take place on \_\_\_\_\_ [date], at \_\_\_\_ o'clock \_\_\_\_\_.m., at \_\_\_\_\_ [*the courthouse or as the case may be*] located at \_\_\_\_\_ [address].

Dated: \_\_\_\_\_.

Attorney for Petitioner Attorney for Mother

Attorney for Minor Attorney for Father

### Findings and Recommendations of Referee—After Hearing on Verified Petition

\_\_\_\_\_ [Title of Court and Cause]

1. On \_\_\_\_\_ [date], a verified petition was brought before me for hearing and examination on allegations that \_\_\_\_\_, a minor, age \_\_\_\_\_, comes within the provisions of Section of the Welfare and Institutions Code of the State of California.

2. The probation officer's report having been read and considered and all evidence relevant to this matter having been duly considered, the following findings are hereby made:

That notice of this hearing was duly given to all parties entitled thereto; and

That the minor was born on \_\_\_\_\_ [date]; and

That the minor comes within the provisions of Section of the Welfare and Institutions Code of the State of California in that \_\_\_\_\_.

Therefore, I recommend that the allegations of the petition be sustained, and further recommend that, for the welfare of the minor, \_\_\_\_\_ [*recommend appropriate disposition*].

Dated: \_\_\_\_\_.

[Signature of referee] \_\_\_\_\_

### Notice to Minor, Parent, or Guardian:

Section 252 of the **Welfare and Institutions Code** provides that you may within [10] days following service upon you of these findings, for cause, apply to the juvenile court for a rehearing, in whole or in part.

I hereby report my findings and recommendations to the presiding judge of the juvenile court and certify that I have served upon the parent or guardian of such minor, in manner provided by law, a copy of the findings and

recommendations, together with an explanation of the right of the parent or guardian to seek review by the juvenile court.

[Signature of referee] \_\_\_\_\_

**Leg.H.**

Added Stats 1976 ch 1068 § 4; Amended Stats 1980 ch 532 § 1; Stats 2010 ch 66 § 1 (SB 179), effective January 1, 2011; Stats 2017 ch 319 § 109 (AB 976), effective January 1, 2018.

## **§ 248.5. Service of Findings and Orders.**

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.

**Leg.H.**

Added Stats 1990 ch 1530 § 2 (SB 2232); Amended Stats 2017 ch 319 § 110 (AB 976), effective January 1, 2018.

## **§ 249. Removal Orders by Referees—Judicial Approval Required.**

No order of a referee removing a minor from his home shall become effective until expressly approved by a judge of the juvenile court.

**Leg.H.**

1976 ch. 1068.

## **§ 250. Effectiveness of Other Referee Orders.**

Except as provided in Section 251, all orders of a referee other than those specified in Section 249 shall become immediately effective, subject also to the right of review as hereinafter provided, and shall continue in full force and effect until vacated or modified upon rehearing by order of the judge of the juvenile court. In a case in which an order of a referee becomes effective without approval of a judge of the juvenile court, it becomes final on the expiration of the time allowed by Section 252 for application for rehearing, if application therefor is not made within such time and if the judge of the juvenile court has not within such time ordered a rehearing pursuant to Section 253.

Where a referee sits as a temporary judge, his or her orders become final in the same manner as orders made by a judge.

**Leg.H.**

1976 ch. 1068, 1980 ch. 532.

## **§ 251. Approval of Other Orders.**

The judge of the juvenile court, or in counties having more than one judge of the juvenile court, the presiding judge of the juvenile court may establish requirements that any or all orders of referees shall be expressly approved by a judge of the juvenile court before becoming effective.

**Leg.H.**

1976 ch. 1068.

## § 252. Rehearing Procedures.

At any time prior to the expiration of 10 days after service of a written copy of the order and findings of a referee, a minor or his or her parent or guardian or, in cases brought pursuant to Section 300, the county welfare department may apply to the juvenile court for a rehearing. That application may be directed to all or to any specified part of the order or findings, and shall contain a statement of the reasons the rehearing is requested. If all of the proceedings before the referee have been taken down by an official reporter, the judge of the juvenile court may, after reading the transcript of those proceedings, grant or deny the application. If proceedings before the referee have not been taken down by an official reporter, the application shall be granted as of right. If an application for rehearing is not granted, denied, or extended within 20 days following the date of its receipt, it shall be deemed granted. However, the court, for good cause, may extend the period beyond 20 days, but not in any event beyond 45 days, following the date of receipt of the application, at which time the application for rehearing shall be deemed granted unless it is denied within that period. All decisions to grant or deny the application, or to extend the period, shall be expressly made in a written minute order with copies provided to the minor or his or her parent or guardian, and to the attorneys of record.

**Leg.H.**

1976 ch. 1068, 1979 ch. 596, 1997 ch. 510.

## § 253. Rehearing on Motion of Judge.

A judge of the juvenile court may, on his own motion made within 20 judicial days of the hearing before a referee, order a rehearing of any matter heard before a referee.

**Leg.H.**

1976 ch. 1068.

## § 254. De Novo Rehearings.

All rehearings of matters heard before a referee shall be before a judge of the juvenile court and shall be conducted de novo.

**Leg.H.**

1976 ch. 1068.

## § 255. Juvenile Hearing Officers—Appointment and Compensation.

The court may appoint as subordinate judicial officers one or more persons of suitable experience, who may be a probation officer or assistant or deputy probation officers, to serve as juvenile hearing officers on a full-time or part-time basis. A hearing officer shall serve at the pleasure of the court, and unless the court makes an order terminating the appointment of a hearing officer, the hearing officer shall continue to serve until the appointment of his or her successor. The court shall determine whether any compensation shall be paid to hearing officers, not otherwise employed by a public agency or holding another public office, and shall establish the amounts and rates thereof. An appointment of a probation officer, assistant probation officer, or deputy probation officer as a juvenile hearing officer may be made only with the consent of the probation officer. A juvenile court shall be known as the Informal Juvenile and Traffic Court when a hearing officer appointed pursuant to this section hears a case specified in Section 256.

**Leg.H.**

1976 ch. 1068, 1997 ch. 679, 1998 ch. 931, effective September 28, 1998, 2002 ch. 784 (SB 1316).

## **§ 256. Hearings and Dispositions by Juvenile Hearing Officers.**

Subject to the orders of the juvenile court, a juvenile hearing officer may hear and dispose of any case in which a minor under the age of 18 years as of the date of the alleged offense is charged with (1) any violation of the Vehicle Code, except Section 23136, 23140, 23152, or 23153 of that code, not declared to be a felony, (2) a violation of subdivision (m) of Section 602 of the Penal Code, (3) a violation of the Fish and Game Code not declared to be a felony, (4) a violation of any of the equipment provisions of the Harbors and Navigation Code or the vessel registration provisions of the Vehicle Code, (5) a violation of any provision of state or local law relating to traffic offenses, loitering or curfew, or evasion of fares on a public transportation system, as defined by Section 99211 of the Public Utilities Code, (6) a violation of Section 27176 of the Streets and Highways Code, (7) a violation of Section 640 or 640a of the Penal Code, (8) a violation of the rules and regulations established pursuant to Sections 5003 and 5008 of the Public Resources Code, (9) a violation of Section 33211.6 of the Public Resources Code, (10) a violation of Section 25658, 25658.5, 25661, or 25662 of the Business and Professions Code, (11) a violation of subdivision (f) of Section 647 of the Penal Code, (12) a misdemeanor violation of Section 594 of the Penal Code, involving defacing property with paint or any other liquid, (13) a violation of subdivision (b), (d), or (e) of Section 594.1 of the Penal Code, (14) a violation of subdivision (b) of Section 11357 of the Health and Safety Code, (15) any infraction, (16) any misdemeanor for which the minor is cited to appear by a probation officer pursuant to subdivision (f) of Section 660.5, or (17) a violation of subdivision (b) of Section 601 that is due to having four or more truancies, as described in Section 48260 of the Education Code, within one school year.

**Leg.H.**

Added Stats 1976 ch 1068 § 4; Amended Stats 1982 ch 1235 § 4; Stats 1983 ch 22 § 2; Stats 1988 ch 1454 § 1; Stats 1989 ch 1244 § 1; Stats 1990 ch 1697 § 7 (SB 2635); Stats 1991 ch 493 § 1 (SB 65), ch 1202 § 8 (SB 377); Stats 1993 ch 90 § 1 (AB 612); Stats 1995 ch 55 § 1 (AB 1445); Stats 1997 ch 666 § 6 (SB 810), ch 679 § 2.5 (AB 1105); Stats 2000 ch 228 § 1 (AB 2744); Stats 2014 ch 898 § 1 (AB 2195), effective January 1, 2015.

## **§ 256.5. Failure to Appear at Hearing Before Juvenile Officer—Issuance of Warrant.**

A juvenile hearing officer may request the juvenile court judge or referee to issue a warrant of arrest against a minor who is issued and signs a written notice to appear for any violation listed in Section 256 and who fails to appear at the time and place designated in the notice. The juvenile court judge or referee may issue and have delivered for execution a warrant of arrest against a minor within 20 days after the minor's failure to appear as promised or within 20 days after the minor's failure to appear after a lawfully granted continuance of his or her promise to appear. A juvenile hearing officer who is also a referee or juvenile court judge may personally issue the warrant of arrest.

**Leg.H.**

1991 ch. 1202, 1997 ch. 679.

## **§ 257. Hearing With Consent of Minor.**

(a)

(1) Except in the case of infraction violations, with the consent of the minor, a hearing before a juvenile hearing officer, or a hearing before a referee or a judge of the juvenile court, when the minor is charged with an offense as specified in this section, may be conducted upon an exact legible copy of a written notice given pursuant to Article 2 (commencing with Section 40500) of Chapter 2 of Division 17 or **Section 41103 of the Vehicle Code**, or an exact legible copy of a written notice given pursuant to Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code when the offense charged is a violation listed in Section 256, or an exact legible copy of a citation as set forth in subdivision (e) of Section 660.5, or an exact legible copy of the notice given pursuant to subdivision (d) of Section 601 when the minor is within the jurisdiction of the juvenile court pursuant to subdivision (b) of Section 601, in lieu of a petition as provided in Article 16 (commencing with Section 650).

(2) Notwithstanding any other law, in the case of infraction violations, consent of the minor is not required prior to conducting a hearing upon written notice to appear.

(b) Prior to the hearing, the judge, referee, or juvenile hearing officer may request the probation officer to commence a proceeding, as provided in Article 16 (commencing with Section 650), in lieu of a hearing in Informal Juvenile and Traffic Court.

**Leg.H.**

1976 ch. 1068, 1982 ch. 1235, 1983 ch. 22, 1988 ch. 1454, 1989 ch. 1244, 1990 ch. 1697, 1991 chs. 493, 1202, 1997 ch. 679, 2001 ch. 830; Stats 2014 ch 898 § 2 (AB 2195), effective January 1, 2015.

## **§ 258. Sentencing Alternatives For Minors; Procedures And Limitations For Truancy Based Offenses; Jurisdiction And Termination Of Jurisdiction.**

**(a)** Upon a hearing conducted in accordance with Section 257, and upon either an admission by the minor of the commission of a violation charged, or a finding that the minor did in fact commit the violation, the judge, referee, or juvenile hearing officer may do any of the following:

**(1)** Reprimand the minor and take no further action.

**(2)** Direct that the probation officer undertake a program of supervision of the minor for a period not to exceed six months, in addition to or in place of the following orders.

**(3)** Order that the minor pay a fine up to the amount that an adult would pay for the same violation, unless the violation is otherwise specified within this section, in which case the fine shall not exceed two hundred fifty dollars (\$250). This fine may be levied in addition to or in place of the following orders and the court may waive any or all of this fine, if the minor is unable to pay. In determining the minor's ability to pay, the court shall not consider the ability of the minor's family to pay.

**(4)** Subject to the minor's right to a restitution hearing, order that the minor pay restitution to the victim, in lieu of all or a portion of the fine specified in paragraph (3). The total dollar amount of the fine, restitution, and any program fees ordered pursuant to paragraph (9) shall not exceed the maximum amount which may be ordered pursuant to paragraph (3). This paragraph shall not be construed to limit the right to recover damages, less any amount actually paid in restitution, in a civil action.

**(5)** Order that the driving privileges of the minor be suspended or restricted as provided in the Vehicle Code or, notwithstanding **Section 13203 of the Vehicle Code** or any other provision of law, when the Vehicle Code does not provide for the suspension or restriction of driving privileges, that, in addition to

any other order, the driving privileges of the minor be suspended or restricted for a period of not to exceed 30 days.

(6) In the case of a traffic related offense, order the minor to attend a licensed traffic school, or other court approved program of traffic school instruction pursuant to Chapter 1.5 (commencing with Section 11200) of Division 5 of the Vehicle Code, to be completed by the juvenile within 60 days of the court order.

(7) Order that the minor produce satisfactory evidence that the vehicle or its equipment has been made to conform with the requirements of the Vehicle Code pursuant to [Section 40150 of the Vehicle Code](#) if the violation involved an equipment violation.

(8) Order that the minor perform community service work in a public entity or any private nonprofit entity, for not more than 50 hours over a period of 60 days, during times other than his or her hours of school attendance or employment. Work performed pursuant to this paragraph shall not exceed 30 hours during any 30-day period. The timeframes established by this paragraph shall not be modified except in unusual cases where the interests of justice would best be served. When the order to work is made by a referee or a juvenile hearing officer, it shall be approved by a judge of the juvenile court.

For purposes of this paragraph, a judge, referee, or juvenile hearing officer shall not, without the consent of the minor, order the minor to perform work with a private nonprofit entity that is affiliated with any religion.

(9) In the case of a misdemeanor, order that the minor participate in and complete a counseling or educational program, or, if the offense involved a violation of a controlled substance law, a drug treatment program, if those programs are available. Fees for participation shall be subject to the right to a hearing as the minor's ability to pay and shall not, together with any fine or restitution order, exceed the maximum amount that may be ordered pursuant to paragraph (3).

(10) Require that the minor attend a school program without unexcused absence.

(11) If the offense is a misdemeanor committed between 10 p.m. and 6 a.m., require that the minor be at his or her legal residence at hours to be specified by the juvenile hearing officer between the hours of 10 p.m. and 6 a.m., except for a medical or other emergency, unless the minor is accompanied by his or her parent, guardian, or other person in charge of the minor. The maximum length of an order made pursuant to this paragraph shall be six months from the effective date of the order.

(12) Make any or all of the following orders with respect to a violation of the Fish and Game Code which is not charged as a felony:

(A) That the fishing or hunting license involved be suspended or restricted.

(B) That the minor work in a park or conservation area for a total of not to exceed 20 hours over a period not to exceed 30 days, during times other than his or her hours of school attendance or employment.

(C) That the minor forfeit, pursuant to [Section 12157 of the Fish and Game Code](#), any device or apparatus designed to be, and capable of being, used to take birds, mammals, fish, reptiles, or amphibia and that was used in committing the violation charged. The judge, referee, or juvenile hearing officer shall, if the minor committed an offense that is punishable under [Section 12008](#) or [12008.1 of the Fish and Game Code](#), order the device or apparatus forfeited pursuant to [Section 12157 of the Fish and Game Code](#).

**(13)** If the violation charged is of an ordinance of a city, county, or local agency relating to loitering, curfew, or fare evasion on a public transportation system, as defined by [Section 99211 of the Public Utilities Code](#), or is a violation of [Section 640](#) or [640a of the Penal Code](#), make the order that the minor shall perform community service for a total time not to exceed 20 hours over a period not to exceed 30 days, during times other than his or her hours of school attendance or employment.

**(b)** If the minor is before the court on the basis of truancy, as described in subdivision (b) of Section 601, all of the following procedures and limitations shall apply:

**(1)** The judge, referee, or juvenile hearing officer shall not proceed with a hearing unless both of the following have been provided to the court:

**(A)** Evidence that the minor's school has undertaken the actions specified in subdivisions (a), (b), and (c) of [Section 48264.5 of the Education Code](#). If the school district does not have an attendance review board, as described in [Section 48321 of the Education Code](#), the minor's school is not required to provide evidence to the court of any actions the school has undertaken that demonstrate the intervention of a school attendance review board.

**(B)** The available record of previous attempts to address the minor's truancy.

**(2)** The court is encouraged to set the hearing outside of school hours, so as to avoid causing the minor to miss additional school time.

**(3)** Pursuant to paragraph (1) of subdivision (a) of Section 257, the minor and his or her parents shall be advised of the minor's right to refuse consent to a hearing conducted upon a written notice to appear.

**(4)** The minor's parents shall be permitted to participate in the hearing.

**(5)** The judge, referee, or juvenile hearing officer may continue the hearing to allow the minor the opportunity to demonstrate improved attendance before imposing any of the orders specified in paragraph (6). Upon demonstration of improved attendance, the court may dismiss the case.

**(6)** Upon a finding that the minor violated subdivision (b) of Section 601, the judge, referee, or juvenile hearing officer shall direct his or her orders at improving the minor's school attendance. The judge, referee, or juvenile hearing officer may do any of the following:

**(A)** Order the minor to perform community service work, as described in [Section 48264.5 of the Education Code](#), which may be performed at the minor's school.

**(B)** Order the payment of a fine by the minor of not more than fifty dollars (\$50), for which a parent or legal guardian of the minor may be jointly liable. The fine described in this subparagraph shall not be subject to [Section 1464 of the Penal Code](#) or additional penalty pursuant to any other law. The minor, at his or her discretion, may perform community service, as described in subparagraph (A), in lieu of any fine imposed under this subparagraph.

**(C)** Order a combination of community service work described in subparagraph (A) and payment of a portion of the fine described in subparagraph (B).

**(D)** Restrict driving privileges in the manner set forth in paragraph (5) of subdivision (a). The minor may request removal of the driving restrictions if he or she provides proof of school attendance, high school graduation, GED completion, or enrollment in adult education, a community college, or a trade program. Any driving restriction shall be removed at the time the minor attains 18 years of age.

(c)

(1) The judge, referee, or juvenile hearing officer shall retain jurisdiction of the case until all orders made under this section have been fully complied with.

(2) If a minor is before the judge, referee, or juvenile hearing officer on the basis of truancy, jurisdiction shall be terminated upon the minor attaining 18 years of age.

Leg.H.

Added Stats 1976 ch 1068 § 4. Amended Stats 1980 ch 530 § 12; Stats 1981 ch 166 § 15, effective July 12, 1981; Stats 1982 ch 73 § 1; Stats 1988 ch 1454 § 3; Stats 1990 ch 292 § 1 (AB 3325); Stats 1991 ch 1202 § 11 (SB 377); Stats 1997 ch 679 § 5 (AB 1105); Stats 2003 ch 149 § 89 (SB 79); Stats 2014 ch 898 § 3 (AB 2195), effective January 1, 2015; Stats 2015 ch 303 § 565 (AB 731), effective January 1, 2016; Stats 2016 ch 340 § 49 (SB 839), effective September 13, 2016.

## § 260. Written Report of Findings and Orders Required; Transmittal to Department of Motor Vehicles.

A juvenile hearing officer shall promptly furnish a written report of his or her findings and orders to the clerk of the juvenile court. The clerk of the juvenile court shall promptly transmit an abstract of those findings and orders to the Department of Motor Vehicles.

Leg.H.

1976 ch. 1068, 1997 ch. 679.

## § 261. Orders Given Immediate Effect.

Subject to the provisions of Section 262, all orders of a juvenile hearing officer shall be immediately effective.

Leg.H.

1976 ch. 1068, 1997 ch. 679.

## § 262. Review and Modification of Orders of Juvenile Hearing Officers.

Upon motion of the minor or his or her parent or guardian for good cause, or upon his or her own motion, a judge of the juvenile court may set aside or modify any order of a juvenile hearing officer, or may order or himself or herself conduct a rehearing. If the minor or parent or guardian has made a motion that the judge set aside or modify the order or has applied for a rehearing, and the judge has not set aside or modified the order or ordered or conducted a rehearing within 10 days after the date of the order, the motion or application shall be deemed denied as of the expiration of that period.

Leg.H.

1976 ch. 1068, 1997 ch. 679.

## § 263. Transfer of Cases to Minor's County of Residence.

At any time prior to the final disposition of a hearing pursuant to Section 257, the judge, referee, or juvenile hearing officer may, on motion of the minor, his or her parent, or guardian, or on its own motion, transfer the

case to the county of the minor's residence for further proceedings pursuant to Sections 258, 260, 261, and 262.

**Leg.H.**

1976 ch. 1068, 1997 ch. 679.

## **§ 264. Statewide or Regional Conferences Required; Costs Paid by County.**

At the direction and under the supervision of the Judicial Council, judges of the juvenile courts and juvenile court referees shall meet from time to time in statewide or regional conferences, to discuss problems arising in the course of administration of this chapter, for the purpose of improving the administration of justice in the juvenile courts. Actual and necessary expenses incurred by a judge or referee in attending any such conference shall be a charge upon the county.

**Leg.H.**

1976 ch. 1068.

## **§ 265. Creation of Rules Governing Practice and Procedure in Court.**

The Judicial Council shall establish rules governing practice and procedure in the juvenile court not inconsistent with law.

**Leg.H.**

1976 ch. 1068.

# **ARTICLE 5**

## **Probation Officers**

### **§ 270. Chief Probation Officer.**

The chief probation officer shall be appointed and compensation for the position shall be determined as provided in Chapter 16 (commencing with Section 27770) of Part 3 of Division 2 of Title 3 of the Government Code.

**Leg.H.**

Added Stats 2017 ch 17 § 57 (AB 103), effective June 27, 2017.

### **§ 271. Application of Charter and Code Provisions to Appointment and Tenure of Office for Probation Officers and Juvenile Hall Employees.**

In counties having charters that provide a method of appointment and tenure of office for the superintendent, matron, and other employees of the juvenile hall, the charter provisions shall control as to those matters and, in counties that have established or hereafter establish merit or civil service systems governing the methods of appointment and the tenure of office for the superintendent, matrons, and other employees of the

juvenile hall, the provisions of the merit or civil service systems shall control as to those matters. In all other counties, these matters shall be controlled exclusively by the provisions of this code.

**Leg.H.**

Added Stats 2017 ch 17 § 59 (AB 103), effective June 27, 2017.

## **§ 272. Delegation of Probation Officer's Duties to County Welfare Departments or Indian Tribes; Right of Access to Relevant State Criminal History Information.**

(a)

(1) The board of supervisors may delegate to the county welfare department all or part of the duties of the probation officer concerning dependent children described in Section 300.

(2) The State Department of Social Services may delegate child welfare service or AFDC-FC foster care payment duties, or both, concerning dependent children described in Section 300 to any Indian tribe that has entered into an agreement pursuant to Section 10553.1.

(b) The board of supervisors may also delegate to those persons within the county welfare department and to any Indian tribe that has entered into an agreement pursuant to Section 10553.1 performing child welfare services the probation officer's right of access to state summary criminal history information pursuant to [Section 11105 of the Penal Code](#) as is necessary to carry out its duties concerning children reasonably believed to be described by Section 300. The information shall include any current incarceration, the location of any current probation or parole, any current requirement that the individual register pursuant to [Section 290](#) or [457.1 of the Penal Code](#), or pursuant to [Section 11140](#) or [11590 of the Health and Safety Code](#), and any history of offenses involving abuse or neglect of, or violence against, a child, or convictions of any offenses involving violence, sexual offenses, the abuse or illegal possession, manufacture, or sale of alcohol or controlled substances, and any arrest for which the person is released on bail or on his or her own recognizance.

(c) Notwithstanding subdivision (a), a social worker in a county welfare department or an Indian tribe that has entered into an agreement pursuant to Section 10553.1 may perform the duties specified by Section 306.

**Leg.H.**

Amended 1990 ch. 1530, 1995 ch. 724.

## **§ 273. Employment of Clinical Experts by Probation Officer.**

The probation officer may, within budgetary limitations established by the board of supervisors, employ such psychiatrists, psychologists, and other clinical experts as are required to assist in determining appropriate treatment of minors within the jurisdiction of the juvenile court and in the implementation of such treatment.

**Leg.H.**

1976 ch. 1068.

## **§ 274. Bond Requirements.**

Each probation officer and each assistant and deputy probation officer receiving an official salary shall furnish a bond in the sum of not more than two thousand dollars (\$2,000) and approved by the judge of the

juvenile court, conditioned for the faithful discharge of the duties of his office. If such bonds, or any of them, are furnished by a surety company licensed to transact business in the state, the premium thereon shall be paid out of the county treasury. In the event the probation officer, assistants and deputies are included as covered employees in a master bond pursuant to [Sections 1481 and 1481.1 of the Government Code](#), the individual bonds prescribed above shall not be required.

**Leg.H.**

1976 ch. 1068.

## **§ 275. Accounting and Documentation Requirement; Annual Audit by County.**

(a) For the purpose of handling the reimbursement and other payments provided for in this chapter, the probation officer or other county officer designated by the board of supervisors of the county shall keep suitable books and accounts and shall give and keep suitable receipts and vouchers.

(b) The auditor of the county shall audit these books and accounts annually, or at least biennially if so ordered by the board of supervisors upon the recommendation of the county auditor, on a fiscal year basis ending June 30 and shall make a report thereon to the judge of the court and to the supervisors of the county prior to the 31st day of the next succeeding month of January. This subdivision shall become inoperative on July 1, 1993, and shall remain inoperative until July 1, 1994, on which date this section shall become operative.

**Leg.H.**

1976 ch. 1068, 1993 ch. 60, effective June 30, 1993.

## **§ 276. Power of Probation Officer to Manage Funds in Certain Transactions.**

In addition to the powers and duties of the probation officer elsewhere prescribed in this chapter, the probation officer is authorized to receive money, give his or her receipt therefor, deposit or invest such money as soon as practicable in the county treasury, in a commercial bank account designated and approved for such a purpose by the board of supervisors, or in investment certificates or share accounts issued by a savings and loan association doing business in this state, insured by the Federal Savings and Loan Insurance Corporation and designated and approved for such purpose by the board of supervisors, and direct the disbursement thereof, in any of the following instances:

(a) Money payable to spouse or child in an action for divorce, separate maintenance, or similar action, together with court costs, upon order of a court of competent jurisdiction. Instead of designating the probation officer to act as court trustee for the receipt and disbursement of money payable to a spouse or child under this subdivision, the court may designate in its order a bonded employee of the court to act as court trustee for that purpose.

(b) Money payable to or on behalf of a ward or dependent child of the juvenile court or a person concerning whom a petition has been filed in the juvenile court. The probation officer may petition the court for approval of any past or prospective disbursement.

(c) Money payable to, by, or on behalf of probationers under the supervision of the probation officer. The probation officer may petition the court for approval of any past or prospective disbursement.

(d) Money payable to a child, wife, or indigent parent when it has been alleged or claimed that there has been a violation of either [Section 270, 270a, or 270c of the Penal Code](#) and the matter has been referred to the probation officer by the district attorney.

(e) Gifts of money made to the county to assist in the prevention or correction of delinquency or crime when the donor requests the probation officer to disburse such funds for such purposes and the board of supervisors accepts the gift upon such conditions.

(f) Other similar cases.

In addition to the foregoing, the probation officer is authorized to receive money payable to the county when ordered to do so by a court of competent jurisdiction. Such money shall be deposited or invested in the same manner as the other items set forth in this section.

If a bank account or savings and loan association investment certificate or share account is authorized pursuant to this section, the probation officer shall pay into the county treasury all money collected by him or under his or her control during the preceding month that is payable into the treasury in conformity with [Section 24353 of the Government Code](#).

**Leg.H.**

1976 ch. 1068, 1992 ch. 848, effective September 22, 1992.

## **§ 277. Power to Authorize Sale of Handiworks of Ward Under Probation; Disposition of Funds.**

The probation officer may authorize the sale of articles of handiwork made by wards under the jurisdiction of the probation officer to the public at probation institutions, in public buildings, at fairs, or on property operated by nonprofit associations. The cost of any county materials or other property consumed in the manufacture of articles shall be paid for out of funds received from the sale of the articles. The remainder of any funds received from the sale of the articles shall be placed in the ward's trust account pursuant to subdivision (b) of Section 276.

**Leg.H.**

1976 ch. 1068.

## **§ 278. Delegation of Probation Officer's Functions to County Officers.**

The board of supervisors may delegate to the auditor or other county officer any of the functions of the probation officer authorized by Section 276 and required by [Sections 1685 to 1687, inclusive, of the Code of Civil Procedure](#).

**Leg.H.**

1976 ch. 1068.

## **§ 279. Imposition of Service Charge for Trustee Services Performed Under § 276.**

The board of supervisors may impose a service charge at a uniform rate sufficient to defray the cost of services of the probation officer or other officer designated to act as trustee, not exceeding 2 percent of the

amount collected, in addition to the payments made under subdivision (a), (c), (d), or (f) of Section 276. However, a service charge may not be imposed for services relating to child support.

The service charge imposed in relation to payments under subdivision (c) of Section 276 shall be imposed only for payments made by probationers, and the service charge imposed in relation to payments made under subdivision (f) of Section 276 shall be imposed only for cases similar to those listed in subdivision (a), (c), or (d) of that section.

When the payments are ordered by the court, the payment of the service charge shall be included in the order. All proceeds shall be deposited in the general fund of the county.

**Leg.H.**

1976 ch. 1068, 1992 ch. 848, effective September 22, 1992.

## **§ 280. Presence and Assistance in Proceedings to Declare Wards or Dependent Children.**

Except where waived by the probation officer, judge, or referee and the minor, the probation officer shall be present in court to represent the interests of each person who is the subject of a petition to declare that person to be a ward or dependent child upon all hearings or rehearings of his or her case, and shall furnish to the court such information and assistance as the court may require. If so ordered, the probation officer shall take charge of that person before and after any hearing or rehearing.

It shall be the duty of the probation officer to prepare for every hearing on the disposition of a case as provided by Section 356, 358, 358.1, 361.5, 364, 366, 366.2, or 366.21 as is appropriate for the specific hearing, or, for a hearing as provided by Section 702, a social study of the minor, containing such matters as may be relevant to a proper disposition of the case. The social study shall include a recommendation for the disposition of the case.

**Leg.H.**

1976 ch. 1068, 1987 ch. 1485.

## **§ 281. Reports to Court in Certain Cases.**

The probation officer shall upon order of any court in any matter involving the custody, status, or welfare of a minor or minors, make an investigation of appropriate facts and circumstances and prepare and file with the court written reports and written recommendations in reference to such matters. The court is authorized to receive and consider the reports and recommendations of the probation officer in determining any such matter.

**Leg.H.**

1976 ch. 1068.

## **§ 281.5. Mandatory Placement Recommendations.**

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

**Leg.H.**

1977 ch. 236.

## **§ 282. Examination of Qualifications and Management of Non-State Institutions Receiving Wards; Effect of Refusal of Entry to Examine.**

At any time the judge of the juvenile court may, and upon the request of the county board of supervisors shall, require the probation officer to examine into and report to the court upon the qualifications and management of any society, association, or corporation, other than a state institution, which applies for or receives custody of any ward or dependent child of the juvenile court. No probation officer, however, shall, under authority of this section, enter any institution without its consent. If such consent is refused, commitments to that institution shall not be made.

**Leg.H.**

1976 ch. 1068.

## **§ 283. Probation Officers Granted Powers of Peace Officer.**

Every probation officer, assistant probation officer, and deputy probation officer shall have the powers and authority conferred by law upon peace officers listed in [Section 830.5 of the Penal Code](#).

**Leg.H.**

1976 ch. 1068.

## **§ 284. Reports to Youth Authority as Required.**

All probation officers shall make such special and periodic reports to the Youth Authority as the authority may require and upon forms furnished by the authority.

**Leg.H.**

1976 ch. 1068.

## **§ 285. Periodic Reports to Attorney General.**

All probation officers shall make periodic reports to the Attorney General at those times and in the manner prescribed by the Attorney General, provided that no names or social security numbers shall be transmitted regarding any proceeding under Section 300 or 601.

**Leg.H.**

Amended 1979 ch. 610, 2004 ch. 405 (SB 1796).

## **§ 286. Continuation in Office of Persons Appointed Prior to Effective Date of Section.**

Any person lawfully appointed to serve as a probation officer or assistant or deputy probation officer prior to the effective date of this section shall continue in his office or employment as if appointed in the manner prescribed by this article.

**Leg.H.**

1976 ch. 1068.

## **ARTICLE 5.5**

### **Notices in Dependent Child Proceedings**

#### **§ 290.1. Duty to File Petition and Give Notice.**

If the probation officer or social worker determines that the child shall be retained in custody, he or she shall immediately file a petition pursuant to Section 332 with the clerk of the juvenile court, who shall set the matter for hearing on the detention hearing calendar. The probation officer or social worker shall serve notice as prescribed in this section.

**(a)** Notice shall be given to the following persons whose whereabouts are known or become known prior to the initial petition hearing:

**(1)** The mother.

**(2)** The father or fathers, presumed and alleged.

**(3)** The legal guardian or guardians.

**(4)** The Indian custodian, if it is known that the child is an Indian child, as defined by Section 224.1.

**(5)** The child, if the child is 10 years of age or older.

**(6)** The child's tribe, if it is known that the child is an Indian child, as defined by Section 224.1.

**(7)** Any known sibling of the child who is the subject of the hearing if that sibling either is the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, the sibling's caregiver and the sibling's attorney. However, notice is not required to be given to any sibling whose matter is calendared in the same court on the same day.

**(8)** If there is no parent or guardian residing in California, or if the residence is unknown, then to any adult relative residing within the county, or, if none, the adult relative residing nearest the court.

**(9)** The attorney for the parent or parents, legal guardian or guardians, or Indian custodian.

**(10)** The district attorney, if the district attorney has notified the clerk of the court that he or she wishes to receive the petition, containing the time, date, and place of the hearing.

**(11)** The probate department of the superior court that appointed the guardian, if the child is a ward of a guardian appointed pursuant to the Probate Code.

**(b)** No notice is required for a parent whose parental rights have been terminated.

**(c)** The notice shall be given as soon as possible after the filing of the petition.

**(d)** The notice of the initial petition hearing shall include all of the following:

**(1)** The date, time, and place of the hearing.

**(2)** The name of the child.

**(3)** A copy of the petition.

**(e)** Service of the notice shall be written or oral. If the person being served cannot read, notice shall be given orally.

**(f)** Notice shall not be served electronically under this section.

**Leg.H.**

Added Stats 2002 ch 416 § 1 (SB 1956). Amended Stats 2003 ch 558 § 1 (AB 579); Stats 2006 ch 838 § 36 (SB 678), effective January 1, 2007; Stats 2015 ch 219 § 1 (AB 879), effective January 1, 2016, repealed January 1, 2019; Stats 2017 ch 319 § 111 (AB 976), effective January 1, 2018 ch; Stats 2018 ch 833 § 9 (AB 3176), effective January 1, 2019.

## § 290.2. Issuance and Service of Notice.

**(a)** Notice shall be given to the following persons whose address is known or becomes known prior to the initial petition hearing:

**(1)** The mother.

**(2)** The father or fathers, presumed and alleged.

**(3)** The legal guardian or guardians.

**(4)** The Indian custodian, if it is known that the child is an Indian child, as defined by Section 224.1.

**(5)** The child, if the child is 10 years of age or older.

**(6)** The child's tribe, if it is known that the child is an Indian child, as defined by Section 224.1.

**(7)** Any known sibling of the child who is the subject of the hearing if that sibling either is the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, the sibling's caregiver and the sibling's attorney. However, notice is not required to be given to any sibling whose matter is calendared in the same court on the same day.

**(8)** If there is no parent or guardian residing in California, or, if the residence is unknown, to any adult relative residing within the county, or, if none, the adult relative residing nearest the court.

**(9)** Upon reasonable notification by counsel representing the child, parent, or guardian, the clerk of the court shall give notice to that counsel as soon as possible.

**(10)** The district attorney, if the district attorney has notified the clerk of the court that he or she wishes to receive the petition, containing the time, date, and place of the hearing.

**(11)** The probate department of the superior court that appointed the guardian, if the child is a ward of a guardian appointed pursuant to the Probate Code.

**(b)** Notice is not required for a parent whose parental rights have been terminated.

**(c)** Notice shall be served as follows:

**(1)** If the child is retained in custody, the notice shall be given to the persons required to be noticed as soon as possible, and at least five days before the hearing, unless the hearing is set to be heard in less than five days in which case notice shall be given at least 24 hours prior to the hearing.

**(2)** If the child is not retained in custody, the notice shall be given to those persons required to be noticed at least 10 days prior to the date of the hearing. If any person who is required to be given notice is known to reside outside of the county, the clerk of the juvenile court shall mail the notice and copy of the petition by first-class mail to that person as soon as possible after the filing of the petition and at least 10 days before the time set for hearing. Failure to respond to the notice is not cause for an arrest or detention. In the instance of a failure to appear after notice by first-class mail, the court shall direct that the notice and copy of the petition be personally served on all persons required to receive the notice and copy of the petition. For these purposes, personal service of the notice and copy of the petition outside of the county at least 10 days before the time set for hearing is equivalent to service by first-class mail. Service may be waived by any person by a voluntary appearance entered in the minutes of the court or by a written waiver of service filed with the clerk of the court at, or prior to, the hearing.

**(3)** Notice shall not be served electronically under this section.

**(d)** The notice of the initial petition hearing shall include all of the following:

**(1)** The date, time, and place of the hearing.

**(2)** The name of the child.

**(3)** A copy of the petition.

**Leg.H.**

Added Stats 2002 ch 416 § 1 (SB 1956). Amended Stats 2003 ch 558 § 2 (AB 579); Stats 2006 ch 838 § 37 (SB 678), effective January 1, 2007; Stats 2015 ch 219 § 3 (AB 879), effective January 1, 2016, repealed January 1, 2019; Stats 2016 ch 86 § 309 (SB 1171), effective January 1, 2017, repealed January 1, 2019 ch; Stats 2017 ch 319 § 113 (AB 976), effective January 1, 2018 ch; Stats 2018 ch 833 § 10 (AB 3176), effective January 1, 2019.

## **§ 291. Notice Following Initial Petition Hearing; Service; Waiver.**

After the initial petition hearing, the clerk of the court shall cause the notice to be served in the following manner:

**(a)** Notice of the hearing shall be given to the following persons:

**(1)** The mother.

**(2)** The father or fathers, presumed and alleged.

**(3)** The legal guardian or guardians.

**(4)** The Indian custodian, if it is known that the child is an Indian child, as defined by Section 224.1.

**(5)** The child, if the child is 10 years of age or older.

**(6)** The child's tribe, if known, and any tribe in which the child may be a member or eligible for membership if the specific tribe is not known, and it is known or there is reason to know that the child is an Indian child, as defined by Section 224.1.

**(7)** Any known sibling of the child who is the subject of the hearing if that sibling either is the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, the sibling's caregiver and the sibling's attorney. However, notice is not required to be given to any sibling whose matter is calendared in the same court on the same day.

**(8)** Each attorney of record unless counsel of record is present in court when the hearing is scheduled, then no further notice need be given.

**(9)** If there is no parent or guardian residing in California, or if the residence is unknown, then to any adult relative residing within the county, or, if none, the adult relative residing nearest the court.

**(10)** If the hearing is a dispositional hearing that is also serving as a permanency hearing pursuant to subdivision (f) of Section 361.5, notice shall be given to the current caregiver for the child, including foster parents, relative caregivers, preadoptive parents, nonrelative extended family members, and resource family. Any person notified may attend all hearings and may submit any information he or she deems relevant to the court in writing.

**(b)** No notice is required for a parent whose parental rights have been terminated.

**(c)** Notice shall be served as follows:

**(1)** If the child is detained, the notice shall be given to the persons required to be noticed as soon as possible, and at least five days before the hearing, unless the hearing is set less than five days and then at least 24 hours before the hearing.

**(2)** If the child is not detained, the notice shall be given to those persons required to be noticed at least 10 days before the date of the hearing.

**(d)** The notice shall include all of the following:

**(1)** The name and address of the person notified.

**(2)** The nature of the hearing.

**(3)** Each section and subdivision under which the proceeding has been initiated.

**(4)** The date, time, and place of the hearing.

**(5)** The name of the child upon whose behalf the petition has been brought.

**(6)** A statement that:

**(A)** If they fail to appear, the court may proceed without them.

**(B)** The child, parent, guardian, Indian custodian, or adult relative to whom notice is required to be given pursuant to paragraph (1), (2), (3), (4), (5), or (9) of subdivision (a) is entitled to have an attorney present at the hearing.

**(C)** If the parent, guardian, Indian custodian, or adult relative noticed pursuant to paragraph (1), (2), (3), (4), or (9) of subdivision (a) is indigent and cannot afford an attorney, and desires to be represented by an attorney, the parent, guardian, Indian custodian, or adult relative shall promptly notify the clerk of the juvenile court.

**(D)** If an attorney is appointed to represent the parent, guardian, Indian custodian, or adult relative, the represented person shall be liable for all or a portion of the costs to the extent of his or her ability to pay.

**(E)** The parent, guardian, Indian custodian, or adult relative may be liable for the costs of support of the child in any out-of-home placement.

**(7)** A copy of the petition.

**(e)** Service of the notice of the hearing shall be given in the following manner:

**(1)** If the child is detained and the persons required to be noticed are not present at the initial petition hearing, they shall be noticed by personal service or by certified mail, return receipt requested.

**(2)** If the child is detained and the persons required to be noticed are present at the initial petition hearing, they shall be noticed by personal service, by first-class mail, or by electronic service pursuant to Section 212.5.

**(3)** If the child is not detained, the persons required to be noticed shall be noticed by personal service, by first-class mail, or by electronic service pursuant to Section 212.5, unless the person to be served is known to reside outside the county, in which case service shall be by first-class mail or by electronic service pursuant to Section 212.5.

**(f)** Any of the notices required to be given under this section or Sections 290.1 and 290.2 may be waived by a party in person or through his or her attorney, or by a signed written waiver filed on or before the date scheduled for the hearing.

**(g)** If it is known or there is reason to know that the child is an Indian child, as defined in Section 224.1, notice shall be given in accordance with Section 224.3.

**Leg.H.**

Added Stats 2002 ch 416 § 1 (SB 1956). Amended Stats 2003 ch 558 § 3 (AB 579); Stats 2006 ch 838 § 38 (SB 678), effective January 1, 2007; Stats 2007 ch 583 § 20 (SB 703), effective January 1, 2008; Stats 2015 ch 219 § 5 (AB 879), effective January 1, 2016, repealed January 1, 2019; Stats 2016 ch 612 § 60 (AB 1997), effective January 1, 2017, repealed January 1, 2019; Stats 2017 ch 319 § 115 (AB 976), effective January 1, 2018; Stats 2018 ch 833 § 11 (AB 3176), effective January 1, 2019.

## **§ 292. Notice of Dependency Status Review Hearing When Child Not Removed from Parent's Custody.**

The social worker or probation officer shall give notice of the review hearing held pursuant to Section 364 in the following manner:

**(a)** Notice of the hearing shall be given to the following persons:

**(1)** The mother.

**(2)** The presumed father or any father receiving services.

(3) The legal guardian or guardians.

(4) The Indian custodian, if it is known that the child is an Indian child, as defined by Section 224.1.

(5) The child, if the child is 10 years of age or older.

(6) The child's tribe, if known, and it is known or there is reason to know that the child is an Indian child, as defined by Section 224.1.

(7) Any known sibling of the child who is the subject of the hearing if that sibling either is the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, the sibling's caregiver and the sibling's attorney. However, notice is not required to be given to any sibling whose matter is calendared in the same court on the same day.

(8) Each attorney of record, if that attorney was not present at the time that the hearing was set by the court.

(b) No notice is required for a parent whose parental rights have been terminated.

(c) The notice of the hearing shall be served not earlier than 30 days, nor later than 15 days, before the hearing.

(d) The notice shall contain a statement regarding the nature of the hearing to be held and any change in the custody or status of the child being recommended by the supervising agency. The notice shall also include a statement that the child and the parent or parents or legal guardian or guardians have a right to be present at the hearing, to be represented by counsel at the hearing and the procedure for obtaining appointed counsel, and to present evidence regarding the proper disposition of the case. The notice shall also state that if the parent or parents or legal guardian or guardians fail to appear, the court may proceed without them.

(e) Service of the notice shall be by personal service, by first-class mail, or by certified mail with return receipt requested, addressed to the last known address of the person to be noticed, or by electronic service pursuant to Section 212.5.

#### Leg.H.

Added Stats 2002 ch 416 § 1 (SB 1956). Amended Stats 2003 ch 558 § 4 (AB 579); Stats 2006 ch 838 § 39 (SB 678), effective January 1, 2007; Stats 2015 ch 219 § 7 (AB 879), effective January 1, 2016, repealed January 1, 2019; Stats 2017 ch 319 § 117 (AB 976), effective January 1, 2018 ch; Stats 2018 ch 833 § 12 (AB 3176), effective January 1, 2019.

## § 293. Notice of Dependency Status Review Hearings and Permanency Review Hearings Following Continuance.

The social worker or probation officer shall give notice of the review hearings held pursuant to Section 366.21, 366.22, or 366.25 in the following manner:

(a) Notice of the hearing shall be given to the following persons:

(1) The mother.

(2) The presumed father or any father receiving services.

(3) The legal guardian or guardians.

(4) The Indian custodian, if it is known or there is reason to know that the child is an Indian child, as defined by Section 224.1.

(5) The child, if the child is 10 years of age or older.

(6) The child's tribe, if known, and it is known or there is reason to know that the child is an Indian child, as defined by Section 224.1.

(7) Any known sibling of the child who is the subject of the hearing if that sibling either is the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, the sibling's caregiver and the sibling's attorney. However, notice is not required to be given to any sibling whose matter is calendared in the same court on the same day.

(8) In the case of a child removed from the physical custody of his or her parent or legal guardian, the current caregiver of the child, including the foster parents, relative caregivers, preadoptive parents, nonrelative extended family members, resource family, community care facility, or foster family agency having custody of the child. In a case in which a foster family agency is notified of the hearing pursuant to this section, and the child resides in a foster home certified by the foster family agency, the foster family agency shall provide timely notice of the hearing to the child's caregivers.

(9) Each attorney of record if that attorney was not present at the time that the hearing was set by the court.

(b) No notice is required for a parent whose parental rights have been terminated. On and after January 1, 2012, in the case of a nonminor dependent, as described in subdivision (v) of Section 11400, no notice is required for a parent.

(c) The notice of hearing shall be served not earlier than 30 days, nor later than 15 days, before the hearing.

(d) The notice shall contain a statement regarding the nature of the hearing to be held and any change in the custody or status of the child being recommended by the supervising agency. If the notice is to the child, parent or parents, or legal guardian or guardians, the notice shall also advise them of the right to be present, the right to be represented by counsel, the right to request counsel, and the right to present evidence. The notice shall also state that if the parent or parents or legal guardian or guardians fail to appear, the court may proceed without them.

(e) Service of the notice shall be by first-class mail addressed to the last known address of the person to be noticed, by personal service, or by electronic service pursuant to Section 212.5.

(f) Notice to the current caregiver of the child, including a foster parent, a relative caregiver, a preadoptive parent, a nonrelative extended family member, a resource family, a certified foster parent who has been approved for adoption, or the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, shall indicate that the person notified may attend all hearings or may submit any information he or she deems relevant to the court in writing.

#### Leg.H.

Added Stats 2002 ch 416 § 1 (SB 1956). Amended Stats 2003 ch 558 § 5 (AB 579); Stats 2004 ch 858 § 8 (SB 1357); Stats 2006 ch 838 § 40 (SB 678), effective January 1, 2007; Stats 2007 ch 583 § 21 (SB 703), effective January 1, 2008; Stats 2010 ch 559 § 6 (AB 12),

effective January 1, 2011; Stats 2012 ch 35 § 40 (SB 1013), effective June 27, 2012; Stats 2015 ch 219 § 9 (AB 879), effective January 1, 2016, repealed January 1, 2019; Stats 2016 ch 612 § 62 (AB 1997), effective January 1, 2017, repealed January 1, 2019 ch; Stats 2017 ch 319 § 119 (AB 976), effective January 1, 2018 ch; Stats 2018 ch 833 § 13 (AB 3176), effective January 1, 2019.

## § 294. Notice of Selection and Implementation Hearing; Notification; Service; Reasons for any Continuance.

The social worker or probation officer shall give notice of a selection and implementation hearing held pursuant to Section 366.26 in the following manner:

(a) Notice of the hearing shall be given to the following persons:

(1) The mother.

(2) The fathers, presumed and alleged.

(3) The Indian custodian, if it is known or there is reason to know that the child is an Indian child, as defined by Section 224.1.

(4) The child, if the child is 10 years of age or older.

(5) The child's tribe, if known, and any tribe in which the child may be a member or eligible for membership if the specific tribe is not known, and it is known or there is reason to know that the child is an Indian child, as defined by Section 224.1.

(6) Any known sibling of the child who is the subject of the hearing if that sibling either is the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, the sibling's caregiver and the sibling's attorney. However, notice is not required to be given to any sibling whose matter is calendared in the same court on the same day.

(7) The grandparents of the child, if their address is known and if the parent's whereabouts are unknown.

(8) All counsel of record.

(9) To any unknown parent by publication, if ordered by the court pursuant to paragraph (2) of subdivision (g).

(10) The current caregiver of the child, including foster parents, relative caregivers, preadoptive parents, nonrelative extended family members, or resource family. Any person notified may attend all hearings and may submit any information he or she deems relevant to the court in writing.

(b) The following persons shall not be notified of the hearing:

(1) A parent who has relinquished the child to the State Department of Social Services, county adoption agency, or licensed adoption agency for adoption, and the relinquishment has been accepted and filed with notice as required under [Section 8700 of the Family Code](#).

(2) An alleged father who has denied paternity and has executed a waiver of the right to notice of further proceedings.

(3) A parent whose parental rights have been terminated.

**(c)**

**(1)** Service of the notice shall be completed at least 45 days before the hearing date. Service is deemed complete at the time the notice is personally delivered to the person named in the notice or 10 days after the notice has been placed in the mail or sent by electronic mail, or at the expiration of the time prescribed by the order for publication.

**(2)** Service of notice in cases where publication is ordered shall be completed at least 30 days before the date of the hearing.

**(d)** Regardless of the type of notice required, or the manner in which it is served, once the court has made the initial finding that notice has properly been given to the parent, or to any person entitled to receive notice pursuant to this section, subsequent notice for any continuation of a Section 366.26 hearing may be by first-class mail to any last known address, by an order made pursuant to Section 296, by electronic service pursuant to Section 212.5, or by any other means that the court determines is reasonably calculated, under any circumstance, to provide notice of the continued hearing. However, if the recommendation changes from the recommendation contained in the notice previously found to be proper, notice shall be provided to the parent, and to any person entitled to receive notice pursuant to this section, regarding that subsequent hearing.

**(e)** The notice shall contain the following information:

- (1)** The date, time, and place of the hearing.
- (2)** The right to appear.
- (3)** The parents' right to counsel.
- (4)** The nature of the proceedings.
- (5)** The recommendation of the supervising agency.

**(6)** A statement that, at the time of hearing, the court is required to select a permanent plan of adoption, legal guardianship, placement with a fit and willing relative, or another planned permanent living arrangement, as appropriate, for the child.

**(f)** Notice to the parents may be given in any one of the following manners:

**(1)** If the parent is present at the hearing at which the court schedules a hearing pursuant to Section 366.26, the court shall advise the parent of the date, time, and place of the proceedings, their right to counsel, the nature of the proceedings, and the requirement that at the proceedings the court shall select and implement a plan of adoption, legal guardianship, placement with a fit and willing relative, or another planned permanent living arrangement, as appropriate, for the child. The court shall direct the parent to appear for the proceedings and then direct that the parent be notified thereafter only by first-class mail to the parent's usual place of residence or business, or by electronic service pursuant to Section 212.5.

**(2)** Certified mail, return receipt requested, to the parent's last known mailing address. This notice shall be sufficient if the child welfare agency receives a return receipt signed by the parent.

- (3)** Personal service to the parent named in the notice.

**(4)** Delivery to a competent person who is at least 18 years of age at the parent's usual place of residence or business, and thereafter served on the parent named in the notice by first-class mail at the place where the notice was delivered or by electronic service pursuant to Section 212.5.

(5) If the residence of the parent is outside the state, service may be made as described in paragraph (1), (3), or (4) or by certified mail, return receipt requested.

(6) If the recommendation of the probation officer or social worker is legal guardianship, placement with a fit and willing relative, or another planned permanent living arrangement, as appropriate, service may be made by first-class mail to the parent's usual place of residence or business or by electronic service pursuant to Section 212.5. In the case of an Indian child, if the recommendation of the probation officer or social worker is tribal customary adoption, service may be made by first-class mail to the parent's usual place of residence or business.

(7) If a parent's identity is known but his or her whereabouts are unknown and the parent cannot, with reasonable diligence, be served in any manner specified in paragraphs (1) to (6), inclusive, the petitioner shall file an affidavit with the court at least 75 days before the hearing date, stating the name of the parent and describing the efforts made to locate and serve the parent.

(A) If the court determines that there has been due diligence in attempting to locate and serve the parent and the probation officer or social worker recommends adoption, service shall be to that parent's attorney of record, if any, by certified mail, return receipt requested. If the parent does not have an attorney of record, the court shall order that service be made by publication of citation requiring the parent to appear at the date, time, and place stated in the citation, and that the citation be published in a newspaper designated as most likely to give notice to the parent. Publication shall be made once a week for four consecutive weeks. Whether notice is to the attorney of record or by publication, the court shall also order that notice be given to the grandparents of the child, if their identities and addresses are known, by first-class mail or by electronic service pursuant to Section 212.5.

(B) If the court determines that there has been due diligence in attempting to locate and serve the parent and the probation officer or social worker recommends legal guardianship, placement with a fit and willing relative, or another planned permanent living arrangement, as appropriate, no further notice is required to the parent, but the court shall order that notice be given to the grandparents of the child, if their identities and addresses are known, by first-class mail or by electronic service pursuant to Section 212.5.

(C) In any case where the residence of the parent becomes known, notice shall immediately be served upon the parent as provided for in either paragraph (2), (3), (4), (5), or (6).

**(g)**

(1) If the identity of one or both of the parents, or alleged parents, of the child is unknown, or if the name of one or both parents is uncertain, then that fact shall be set forth in the affidavit filed with the court at least 75 days before the hearing date and the court, consistent with [Sections 7665 and 7666 of the Family Code](#), shall issue an order dispensing with notice to a natural parent or possible natural parent under this section if, after inquiry and a determination that there has been due diligence in attempting to identify the unknown parent, the court is unable to identify the natural parent or possible natural parent and no person has appeared claiming to be the natural parent.

(2) After a determination that there has been due diligence in attempting to identify an unknown parent pursuant to paragraph (1) and the probation officer or social worker recommends adoption, the court shall consider whether publication notice would be likely to lead to actual notice to the unknown parent. The court may order publication notice if, on the basis of all information before the court, the court determines that notice by publication is likely to lead to actual notice to the parent. If publication notice to an unknown parent is ordered, the court shall order the published citation to be directed to either the father or mother, or both, of the child, and to all persons claiming to be the father

or mother of the child, naming and otherwise describing the child. An order of publication pursuant to this paragraph shall be based on an affidavit describing efforts made to identify the unknown parent or parents. Service made by publication pursuant to this paragraph shall require the unknown parent or parents to appear at the date, time, and place stated in the citation. Publication shall be made once a week for four consecutive weeks.

(3) If the court determines that there has been due diligence in attempting to identify one or both of the parents, or alleged parents, of the child and the probation officer or social worker recommends legal guardianship, placement with a fit and willing relative, or another planned permanent living arrangement, as appropriate, no further notice to the parent shall be required.

(h) Notice to all counsel of record shall be by first-class mail or by electronic service pursuant to Section 212.5.

(i) If it is known or there is reason to know that the child is an Indian child, as defined by Section 224.1, notice shall be given in accordance with Section 224.3.

(j) Notwithstanding subdivision (a), if the attorney of record is present at the time the court schedules a hearing pursuant to Section 366.26, no further notice is required, except as required by subparagraph (A) of paragraph (7) of subdivision (f).

(k) This section shall also apply to children adjudged wards pursuant to Section 727.31.

(l) The court shall state the reasons on the record explaining why good cause exists for granting any continuance of a hearing held pursuant to Section 366.26 to fulfill the requirements of this section.

(m) Notice of any hearing at which the county welfare department is recommending the termination of parental rights may only be served electronically if notice is also given by another means of service provided for in this section.

**Leg.H.**

Added Stats 2002 ch 416 § 1 (SB 1956); Amended Stats 2003 ch 558 § 6 (AB 579); Stats 2004 ch 20 § 2 (AB 44), effective March 5, 2004; Stats 2005 ch 22 § 213 (SB 1108), effective January 1, 2006; Stats 2006 ch 838 § 41 (SB 678), effective January 1, 2007; Stats 2007 ch 583 § 22 (SB 703), effective January 1, 2008; Stats 2009 ch 287 § 2 (AB 1325), effective January 1, 2010, operative July 1, 2010, repealed January 1, 2014; Stats 2012 ch 35 § 41 (SB 1013), effective June 27, 2012; Stats 2015 ch 219 § 11 (AB 879), effective January 1, 2016, repealed January 1, 2019; Stats 2016 ch 612 § 64 (AB 1997), effective January 1, 2017, repealed January 1, 2019; Stats 2017 ch 319 § 121 (AB 976), effective January 1, 2018; Stats 2018 ch 833 § 14 (AB 3176), effective January 1, 2019.

## **§ 295. Notice of Review Hearings for Permanent Plan of Adoption or Legal Guardianship.**

The social worker or probation officer shall give notice of review hearings held pursuant to Sections 366.3 and 366.31 and for termination of jurisdiction hearings held pursuant to Section 391 in the following manner:

(a) Notice of the hearing shall be given to the following persons:

(1) The mother.

(2) The presumed father.

(3) The legal guardian or guardians.

(4) The Indian custodian, if it is known or there is reason to know that the child is an Indian child, as defined by Section 224.1.

**(5)** The child, if the child is 10 years of age or older, or a nonminor dependent.

**(6)** The child's tribe, if it is known or there is reason to know that the child is an Indian child, as defined by Section 224.1.

**(7)** Any known sibling of the child or nonminor dependent who is the subject of the hearing if that sibling either is the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, the sibling's caregiver and the sibling's attorney. However, notice is not required to be given to any sibling whose matter is calendared in the same court on the same day.

**(8)** The current caregiver of the child, including the foster parents, relative caregivers, preadoptive parents, nonrelative extended family members, resource family, community care facility, or foster family agency having physical custody of the child if a child is removed from the physical custody of the parents or legal guardian. The person notified may attend all hearings and may submit any information he or she deems relevant to the court in writing.

**(9)** The current caregiver of a nonminor dependent, as described in subdivision (v) of Section 11400. The person notified may attend all hearings and may submit for filing an original and eight copies of written information he or she deems relevant to the court. The court clerk shall provide the current parties and attorneys of record with a copy of the written information immediately upon receipt and complete, file, and distribute a proof of service.

**(10)** The attorney of record if that attorney of record was not present at the time that the hearing was set by the court.

**(11)** The alleged father or fathers, but only if the recommendation is to set a new hearing pursuant to Section 366.26.

**(b)** No notice shall be required for a parent whose parental rights have been terminated or for the parent of a nonminor dependent, as described in subdivision (v) of Section 11400, unless the parent is receiving court-ordered family reunification services pursuant to Section 361.6.

**(c)** The notice of the review hearing shall be served no earlier than 30 days, nor later than 15 days, before the hearing.

**(d)** The notice of the review hearing shall contain a statement regarding the nature of the hearing to be held, any recommended change in the custody or status of the child, and any recommendation that the court set a new hearing pursuant to Section 366.26 in order to select a more permanent plan.

**(e)** Service of notice shall be by first-class mail addressed to the last known address of the person to be provided notice or by electronic service pursuant to Section 212.5.

**(f)** If the child is ordered into a permanent plan of legal guardianship, and subsequently a petition to terminate or modify the guardianship is filed, the probation officer or social worker shall serve notice of the petition not less than 15 court days before the hearing on all persons listed in subdivision (a) and on the court that established legal guardianship if it is in another county.

#### Leg.H.

Added Stats 2002 ch 416 § 1 (SB 1956). Amended Stats 2003 ch 558 § 7 (AB 579); Stats 2006 ch 389 § 1 (SB 1667), effective January 1, 2007, ch 838 § 42.5 (SB 678) (ch 838 prevails), effective January 1, 2007; Stats 2007 ch 583 § 23 (SB 703), effective January 1, 2008; Stats 2010 ch 559 § 6.5 (AB 12), effective January 1, 2011; Stats 2012 ch 846 § 11 (AB 1712), effective January 1, 2013; Stats 2015 ch 219 § 13 (AB 879), effective January 1, 2016, repealed January 1, 2019; Stats 2016 ch 612 § 66 (AB 1997), effective January 1, 2017,

repealed January 1, 2019 ch; Stats 2017 ch 319 § 123 (AB 976), effective January 1, 2018 ch; Stats 2018 ch 833 § 15 (AB 3176), effective January 1, 2019.

## § 296. Additional Appearances by Parties as Ordered by Court.

Upon any hearing or rehearing under this article, the court may order the child or any parent or guardian, or Indian custodian of the child who is present in court, to again appear before the court, before the social worker or probation officer, or before the county financial officer at a time and place specified in the order.

Leg.H.

2002 ch. 416 (SB 1956).

## § 297. Notice of Subsequent Petition for Person Adjudged to be Child Dependent Upon the Court.

(a)

(1) A subsequent petition filed pursuant to Section 342 shall be noticed pursuant to Sections 290.1 and 290.2, except that service may be delivered by electronic service pursuant to Section 212.5.

(2) If it is known or there is reason to know that the child is an Indian child, as defined by Section 224.1, notice of the adjudication and disposition hearings on the subsequent petition shall be given in accordance with Section 224.3.

(b)

(1) Upon the filing of a supplemental petition pursuant to Section 387, the clerk of the juvenile court shall immediately set the matter for hearing within 30 days of the date of the filing, and the social worker or probation officer shall cause notice thereof to be served upon the persons required by, and in the manner prescribed by, Sections 290.1, 290.2, and 291, except that service may be delivered by electronic service pursuant to Section 212.5.

(2) If it is known or there is reason to know that the child is an Indian child, as defined by Section 224.1, notice of the adjudication and disposition hearings on the supplemental petition shall be given in accordance with Section 224.3.

(c)

(1) If a petition for modification has been filed pursuant to Section 388, and it appears that the best interest of the child may be promoted by the proposed change of the order, the recognition of a sibling relationship, or the termination of jurisdiction, the court shall order that a hearing be held and shall give prior notice, or cause prior notice to be given, to the social worker or probation officer and to the child's attorney of record, or if there is no attorney of record for the child, to the child, his or her parent or parents or legal guardian or guardians or Indian custodian, and the child's tribe in the manner prescribed by Section 291 unless a different manner is prescribed by the court.

(2) If it is known or there is reason to know that the child is an Indian child, as defined by Section 224.1, and the hearing on the petition for modification pursuant to Section 388 may culminate in an order for foster care placement, termination of parental rights, preadoptive placement, or adoptive placement, notice shall be given in accordance with Section 224.3.

**(d)** On and after January 1, 2012, if a petition for modification has been filed pursuant to subdivision (e) of Section 388 by a nonminor dependent, as described in subdivision (v) of Section 11400, no notice is required for a parent.

**Leg.H.**

Added Stats 2002 ch 416 § 1 (SB 1956). Amended Stats 2006 ch 838 § 43 (SB 678), effective January 1, 2007; Stats 2010 ch 559 § 6.7 (AB 12), effective January 1, 2011; Stats 2017 ch 319 § 125 (AB 976), effective January 1, 2018 ch; Stats 2018 ch 833 § 16 (AB 3176), effective January 1, 2019.

## **ARTICLE 6**

### **Dependent Children—Jurisdiction**

#### **§ 300. Jurisdiction of Juvenile Court.**

A child who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court:

**(a)** The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child's parent or guardian. For purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the child or the child's siblings, or a combination of these and other actions by the parent or guardian that indicate the child is at risk of serious physical harm. For purposes of this subdivision, "serious physical harm" does not include reasonable and age-appropriate spanking to the buttocks if there is no evidence of serious physical injury.

**(b)**

**(1)** The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of the child's parent or guardian to adequately supervise or protect the child, or the willful or negligent failure of the child's parent or guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left, or by the willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse. A child shall not be found to be a person described by this subdivision solely due to the lack of an emergency shelter for the family. A child shall not be found to be a person described by this subdivision solely due to the failure of the child's parent or alleged parent to seek court orders for custody of the child. Whenever it is alleged that a child comes within the jurisdiction of the court on the basis of the parent's or guardian's willful failure to provide adequate medical treatment or specific decision to provide spiritual treatment through prayer, the court shall give deference to the parent's or guardian's medical treatment, nontreatment, or spiritual treatment through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, by an accredited practitioner thereof, and shall not assume jurisdiction unless necessary to protect the child from suffering serious physical harm or illness. In making its determination, the court shall consider (1) the nature of the treatment proposed by the parent or guardian, (2) the risks to the child posed by the course of treatment or nontreatment proposed by the parent or guardian, (3) the risk, if any, of the course of treatment being proposed by the petitioning agency, and (4) the likely success of the courses of treatment or nontreatment proposed by the parent

or guardian and agency. The child shall continue to be a dependent child pursuant to this subdivision only so long as is necessary to protect the child from risk of suffering serious physical harm or illness.

(2) The Legislature finds and declares that a child who is sexually trafficked, as described in [Section 236.1 of the Penal Code](#), or who receives food or shelter in exchange for, or who is paid to perform, sexual acts described in [Section 236.1 or 11165.1 of the Penal Code](#), and whose parent or guardian failed to, or was unable to, protect the child, is within the description of this subdivision, and that this finding is declaratory of existing law. These children shall be known as commercially sexually exploited children.

(c) The child is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian or who has no parent or guardian capable of providing appropriate care. A child shall not be found to be a person described by this subdivision if the willful failure of the parent or guardian to provide adequate mental health treatment is based on a sincerely held religious belief and if a less intrusive judicial intervention is available.

(d) The child has been sexually abused, or there is a substantial risk that the child will be sexually abused, as defined in [Section 11165.1 of the Penal Code](#), by the child's parent or guardian or a member of the child's household, or the parent or guardian has failed to adequately protect the child from sexual abuse when the parent or guardian knew or reasonably should have known that the child was in danger of sexual abuse.

(e) The child is under five years of age and has suffered severe physical abuse by a parent, or by any person known by the parent, if the parent knew or reasonably should have known that the person was physically abusing the child. For the purposes of this subdivision, "severe physical abuse" means any of the following: any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness; or the willful, prolonged failure to provide adequate food. A child shall not be removed from the physical custody of the child's parent or guardian on the basis of a finding of severe physical abuse unless the social worker has made an allegation of severe physical abuse pursuant to Section 332.

(f) The child's parent or guardian caused the death of another child through abuse or neglect.

(g) The child has been left without any provision for support; physical custody of the child has been voluntarily surrendered pursuant to [Section 1255.7 of the Health and Safety Code](#) and the child has not been reclaimed within the 14-day period specified in subdivision (g) of that section; the child's parent has been incarcerated or institutionalized and cannot arrange for the care of the child; or a relative or other adult custodian with whom the child resides or has been left is unwilling or unable to provide care or support for the child, the whereabouts of the parent are unknown, and reasonable efforts to locate the parent have been unsuccessful.

(h) The child has been freed for adoption by one or both parents for 12 months by either relinquishment or termination of parental rights or an adoption petition has not been granted.

(I) The child has been subjected to an act or acts of cruelty by the parent or guardian or a member of the child's household, or the parent or guardian has failed to adequately protect the child from an act or acts of cruelty when the parent or guardian knew or reasonably should have known that the child was in danger of being subjected to an act or acts of cruelty.

(j) The child's sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the child.

It is the intent of the Legislature that this section not disrupt the family unnecessarily or intrude inappropriately into family life, prohibit the use of reasonable methods of parental discipline, or prescribe a particular method of parenting. Further, this section is not intended to limit the offering of voluntary services to those families in need of assistance but who do not come within the descriptions of this section. To the extent that savings accrue to the state from child welfare services funding obtained as a result of the enactment of the act that enacted this section, those savings shall be used to promote services which support family maintenance and family reunification plans, such as client transportation, out-of-home respite care, parenting training, and the provision of temporary or emergency in-home caretakers and persons teaching and demonstrating homemaking skills. The Legislature further declares that a physical disability, such as blindness or deafness, is no bar to the raising of happy and well-adjusted children and that a court's determination pursuant to this section shall center upon whether a parent's disability prevents him or her from exercising care and control. The Legislature further declares that a child whose parent has been adjudged a dependent child of the court pursuant to this section shall not be considered to be at risk of abuse or neglect solely because of the age, dependent status, or foster care status of the parent.

As used in this section, "guardian" means the legal guardian of the child.

**Leg.H.**

Added Stats 1987 ch 1485 § 4, operative January 1, 1989. Amended Stats 1989 ch 913 § 3; Stats 1991 ch 1203 § 1.5 (SB 1125); Stats 1992 ch 382 § 1 (SB 1646); Stats 1996 ch 1082 § 1.5 (AB 2679), ch 1084 § 1.5 (SB 1516); Stats 1998 ch 1054 § 2 (AB 1091); Stats 2000 ch 824 § 3 (SB 1368), operative until January 1, 2006; Stats 2005 ch 625 § 3 (SB 116), ch 630 § 1 (SB 500); Stats 2014 ch 29 § 64 (SB 855), effective June 20, 2014; Stats 2015 ch 303 § 566 (AB 731), effective January 1, 2016; Stats 2021 ch 98 § 1 (AB 841), effective January 1, 2022.

## **§ 300.1. Dependent Children Ineligible for Reunification Services.**

Notwithstanding subdivision (e) of Section 361 and Section 16507, family reunification services shall not be provided to a child adjudged a dependent pursuant to subdivision (h) of Section 300.

**Leg.H.**

1987 ch. 1485 § 6, operative January 1, 1989, 1998 ch. 1054.

## **§ 300.2. Purpose of Article.**

Notwithstanding any other provision of law, the purpose of the provisions of this chapter relating to dependent children is to provide maximum safety and protection for children who are currently being physically, sexually, or emotionally abused, being neglected, or being exploited, and to ensure the safety, protection, and physical and emotional well-being of children who are at risk of that harm. This safety, protection, and physical and emotional well-being may include provision of a full array of social and health services to help the child and family and to prevent reabuse of children. The focus shall be on the preservation of the family as well as the safety, protection, and physical and emotional well-being of the child. The provision of a home environment free from the negative effects of substance abuse is a necessary condition for the safety, protection and physical and emotional well-being of the child. Successful participation in a treatment program for substance abuse may be

considered in evaluating the home environment. In addition, the provisions of this chapter ensuring the confidentiality of proceedings and records are intended to protect the privacy rights of the child.

**Leg.H.**

1996 ch. 1084, 1999 ch. 346.

### **§ 300.3. Supervision of Child or Nonminor Placed in Foster Care.**

(a) Notwithstanding Section 215 or 272, or any other provision of law, a child or nonminor whose jurisdiction is modified pursuant to subdivision (b) of Section 607.2 or subdivision (i) of Section 727.2 and who is placed in foster care may be supervised by the probation department of the county in which the court with jurisdiction over the dependent is located, if the county protocol in that county requires it. In those counties, all case management, case plan review, and reporting functions as described in [Sections 671 and 675 of Title 42 of the United States Code](#) and contained in this article shall be performed by the probation officer for these dependents.

(b) This section shall become operative on January 1, 2012.

**Leg.H.**

Added Stats 2010 ch 559 § 7 (AB 12), effective January 1, 2011, operative January 1, 2012. Amended Stats 2011 ch 459 § 6 (AB 212), effective October 4, 2011, operative January 1, 2012.

### **§ 300.5. Determining Jurisdiction—Consideration of Prayer as Treatment.**

In any case in which a child is alleged to come within the provisions of Section 300 on the basis that he or she is in need of medical care, the court, in making that finding, shall give consideration to any treatment being provided to the child by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner thereof.

**Leg.H.**

1978 ch. 539, 1998 ch. 1054.

### **§ 301. Program of Supervision; Obtaining Care and Treatment for Misuse of Restricted Dangerous Drugs or Addiction to Controlled Substances.**

(a) In any case in which a social worker, after investigation of an application for petition or other investigation he or she is authorized to make, determines that a child is within the jurisdiction of the juvenile court or will probably soon be within that jurisdiction, the social worker may, in lieu of filing a petition or subsequent to dismissal of a petition already filed, and with consent of the child's parent or guardian, undertake a program of supervision of the child. If a program of supervision is undertaken, the social worker shall attempt to ameliorate the situation that brings the child within, or creates the probability that the child will be within, the jurisdiction of Section 300 by providing or arranging to contract for all appropriate child welfare services pursuant to Sections 16506 and 16507.3, within the time periods specified in those sections. No further child welfare services shall be provided subsequent to these time limits. If the family has refused to cooperate with the services being provided, the social worker may file a petition with the juvenile court pursuant to Section 332.

Nothing in this section shall be construed to prevent the social worker from filing a petition pursuant to Section 332 when otherwise authorized by law.

(b) The program of supervision of the child undertaken pursuant to this section may call for the child 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.

(c) If the parent is a dependent, nonminor dependent, or ward of the juvenile court at the time that a social worker seeks to undertake a program of supervision pursuant to subdivision (a), including a voluntary family reunification program or a voluntary family maintenance program, and if counsel has been appointed for the parent pursuant to subdivision (c) of Section 317, the program of supervision shall not be undertaken until the parent has consulted with his or her counsel. In cases when a ward is not represented by counsel appointed in a dependency proceeding pursuant to subdivision (c) of Section 317, he or she shall be given the opportunity to confer with counsel appointed in the wardship proceeding pursuant to Section 634 or by counsel retained to represent the ward in the wardship proceeding.

## SUGGESTED FORMS

### Consent of Parent or Guardian to Supervision of Minor by Social Worker—In Lieu of Dependency Petition

To: \_\_\_\_\_ [Department of Social Services]

I hereby consent to the supervision of my \_\_\_\_\_ [son or daughter or as the case may be] \_\_\_\_\_ [name], a minor, by \_\_\_\_\_, for no longer than \_\_\_\_\_ [six months]. I understand that this supervision is in lieu of a petition to declare a dependent child of the court.

I agree to cooperate with the \_\_\_\_\_ [social worker] and to assist \_\_\_\_\_ [him or her] in any way that I can.

It is understood that a petition may be filed in the juvenile court at any time \_\_\_\_\_ [he or she] decides it is necessary.

Dated: \_\_\_\_\_.

[Signature of parent or guardian] \_\_\_\_\_

I have read the above consent and understand that I have been placed under the supervision of the Department of Social Services for no longer than [six months]. I agree to cooperate with the [social worker] and to attempt to correct the situation which led to this action.

[Signature of minor] \_\_\_\_\_

Witness:

Dated: \_\_\_\_\_.

#### Leg.H.

Added Stats 1976 ch 1068 § 8, as W & I C § 330; Amended Stats 1982 ch 978 § 13, effective September 13, 1982, operative July 1, 1982; Stats 1984 ch 1618 § 2, ch 1635 § 94.5; Amended and renumbered by Stats 1991 ch 1203 § 4 (SB 1125); Stats 1998 ch 1054 § 5 (AB 1091); Stats 2008 ch 132 § 1 (AB 2483), effective January 1, 2009; Stats 2017 ch 666 § 1 (AB 1371), effective January 1, 2018.

## **§ 302. Assumption of Jurisdiction Over Child in Physical Custody of 1 or Both Parents.**

(a) A juvenile court may assume jurisdiction over a child described in Section 300 regardless of whether the child was in the physical custody of both parents or was in the sole legal or physical custody of only one parent at the time that the events or conditions occurred that brought the child within the jurisdiction of the court.

(b) Unless their parental rights have been terminated, both parents shall be notified of all proceedings involving the child. In any case where the social worker is required to provide a parent or guardian with notice of a proceeding at which the social worker intends to present a report, the social worker shall also provide both parents, whether custodial or noncustodial, or any guardian, or the counsel for the parent or guardian a copy of the report prior to the hearing, by personal service, by first-class mail, or by electronic service pursuant to Section 212.5. The social worker shall not charge any fee for providing a copy of a report required by this subdivision. The social worker shall keep confidential the address of any parent who is known to be the victim of domestic violence.

(c) When a child is adjudged a dependent of the juvenile court, any issues regarding custodial rights between his or her parents shall be determined solely by the juvenile court, as specified in Sections 304, 361.2, and 362.4, so long as the child remains a dependent of the juvenile court.

(d) Any custody or visitation order issued by the juvenile court at the time the juvenile court terminates its jurisdiction pursuant to Section 362.4 regarding a child who has been previously adjudged to be a dependent child of the juvenile court shall be a final judgment and shall remain in effect after that jurisdiction is terminated. The order shall not be modified in a proceeding or action described in **Section 3021 of the Family Code** unless the court finds that there has been a significant change of circumstances since the juvenile court issued the order and modification of the order is in the best interests of the child.

**Leg.H.**

Added Stats 1987 ch 1485 § 7.5, as W & I C § 301; Renumbered Stats 1991 ch 1203 § 3 (SB 1125); Amended Stats 1996 ch 1139 § 5 (AB 2647); Stats 1998 ch 1054 § 6 (AB 1091); Stats 2000 ch 921 § 1 (AB 2464); Stats 2001 ch 854 § 69 (SB 205); Stats 2017 ch 319 § 126 (AB 976), effective January 1, 2018.

## **§ 303. Retention of Jurisdiction; Termination of Dependency, Delinquency, or Transition Jurisdiction; Foster Care Benefits.**

(a) The court may retain jurisdiction over any person who is found to be a ward or a dependent child of the juvenile court until the ward or dependent child attains 21 years of age.

(b) The court shall have within its jurisdiction any nonminor dependent, as defined in subdivision (v) of Section 11400. The court may terminate its dependency, delinquency, or transition jurisdiction over the nonminor dependent between the time the nonminor reaches the age of majority and 21 years of age. If the court terminates dependency, delinquency, or transition jurisdiction, the nonminor dependent shall remain under the general jurisdiction of the court in order to allow for a petition under subdivision (e) of Section 388.

(c) A nonminor who has not yet attained 21 years of age and who exited foster care at or after the age of majority, may petition the court pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction over himself or herself or to assume transition jurisdiction over himself or herself pursuant to Section 450.

(d)

(1) Nothing in this code, including, but not limited to, Sections 340, 366.27, and 369.5, shall be construed to provide legal custody of a person who has attained 18 years of age to the county welfare or probation department or to otherwise abrogate any other rights that a person who has attained 18 years of age may have as an adult under California law. A nonminor dependent shall retain all of his or her legal decisionmaking authority as an adult. The nonminor shall enter into a mutual agreement for placement, as described in subdivision (u) of Section 11400, unless the nonminor dependent is incapable of making an informed agreement, or a voluntary reentry agreement, as described in subdivision (z) of Section 11400, for placement and care in which the nonminor consents to placement and care in a setting supervised by, and under the responsibility of, the county child welfare services department, the county probation department, or Indian tribe, tribal organization, or consortium of tribes that entered into an agreement pursuant to Section 10553.1.

(2) A nonminor dependent who remains under delinquency jurisdiction in order to complete his or her rehabilitative goals and is under a foster care placement order is not required to complete the mutual agreement as described in subdivision (u) of Section 11400. His or her adult decisionmaking authority may be limited by and subject to the care, supervision, custody, conduct, and maintenance orders as described in Section 727.

(e) Unless otherwise specified, the rights of a dependent child and the responsibilities of the county welfare or probation department, or tribe, and other entities, toward the child and family, shall also apply to nonminor dependents.

(f) The court shall assume transition jurisdiction pursuant to Section 450 over a person notwithstanding a court order vacating the underlying adjudication pursuant to [Section 236.14 of the Penal Code](#). On or before January 1, 2019, the Judicial Council shall amend and adopt rules of court and develop appropriate forms to implement this subdivision.

**Leg.H.**

Added Stats 1976 ch 1068 § 6, as W & I C § 301; Amended and renumbered Stats 1987 ch 1485 § 7; Amended Stats 2010 ch 559 § 8 (AB 12), effective January 1, 2011; Stats 2011 ch 459 § 7 (AB 212), effective October 4, 2011; Stats 2012 ch 846 § 12 (AB 1712), effective January 1, 2013; Stats 2017 ch 707 § 1 (AB 604), effective January 1, 2018.

## **§ 304. Juvenile Court Jurisdiction Over Custody or Guardianship Issues Involving Dependent Child.**

After a petition has been filed pursuant to Section 311, and until the time that the petition is dismissed or dependency is terminated, no other division of any superior court may hear proceedings pursuant to Part 2 (commencing with Section 3020) of Division 8 of the Family Code regarding the custody of the child or proceedings under Part 2 (commencing with Section 1500) of Division 4 of the Probate Code, except as otherwise authorized in this code, regarding the establishment of a guardianship for the child. While the child is under the jurisdiction of the juvenile court all issues regarding his or her custody shall be heard by the juvenile court. In deciding issues between the parents or between a parent and a guardian regarding custody of a child who has been adjudicated a dependent of the juvenile court, the juvenile court may review any records that would be available to the domestic relations division of a superior court hearing that matter. The juvenile court, on its own motion, may issue an order as provided for in Section 213.5, or as described in [Section 6218 of the Family Code](#). The Judicial Council shall adopt forms for these restraining orders. These form orders shall not be confidential and shall be enforceable in the same manner as any other order issued pursuant to Division 10 (commencing with Section 6200) of the Family Code.

This section shall not be construed to divest the domestic relations division of a superior court from hearing any issues regarding the custody of a child when that child is no longer a dependent of the juvenile court.

**Leg.H.**

1987 ch. 1485, 1989 ch. 137, 1992 ch. 163, operative January 1, 1994, 1993 ch. 219, 1996 chs. 1138, 1139, 1998 ch. 1054.

## **§ 304.7. Education and Training of Judges.**

**(a)** The Judicial Council shall develop and implement standards for the education and training of all judges who conduct hearings pursuant to Section 300. The training shall include, but not be limited to, all of the following:

- (1)** A component relating to Section 300 proceedings for newly appointed or elected judges and an annual training session in Section 300 proceedings.
- (2)** Cultural competency and sensitivity relating to, and best practices for, providing adequate care to lesbian, gay, bisexual, and transgender youth.
- (3)** The information described in subdivision (d) of Section 16501.4.
- (4)** The information described in subdivision (i) of Section 16521.5.

**(b)** A commissioner or referee who is assigned to conduct hearings held pursuant to Section 300 shall meet the minimum standards for education and training established pursuant to subdivision (a), by July 31, 1998.

**(c)** The Judicial Council shall submit an annual report to the Legislature on compliance by judges, commissioners, and referees with the education and training standards described in subdivisions (a) and (b).

**Leg.H.**

Added Stats 1996 ch 945 § 1 (SB 1811); Amended Stats 2013 ch 300 § 3 (AB 868), effective January 1, 2014; Stats 2014 ch 71 § 180 (SB 1304), effective January 1, 2015; Stats 2015 ch 534 § 3 (SB 238), effective January 1, 2016; Stats 2017 ch 24 § 10 (SB 89), effective June 27, 2017.

## **ARTICLE 7**

### **Dependent Children—Temporary Custody and Detention**

## **§ 305. Custody by Peace Officer Without Warrant—Grounds.**

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

**(a)** When the officer has reasonable cause for believing that the minor is a person described in Section 300, and, in addition, that the minor has an immediate need for medical care, or the minor is in immediate danger of physical or sexual abuse, or the physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety. In cases in which the child is left unattended, the peace officer shall first attempt to contact the child's parent or guardian to determine if the parent or guardian is able to assume custody of the child. If the parent or guardian cannot be contacted, the peace officer shall notify a social worker in the county welfare department to assume custody of the child.

**(b)** Who is in a hospital and release of the minor to a parent poses an immediate danger to the child's health or safety.

**(c)** Who is a dependent child of the juvenile court, or concerning whom an order has been made under Section 319, when the officer has reasonable cause for believing that the minor has violated an order of the

juvenile court or has left any placement ordered by the juvenile court.

(d) 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.

**Leg.H.**

1987 ch. 1485 § 11, 1988 ch. 701, effective August 29, 1988, ch. 1075.

## **§ 305.5. Notice of Indian Child's Removal; Transfer; Denial of a Petition for Transfer; Emergency Removal; Release of File.**

(a) In any Indian child custody proceeding as defined by Section 224.1, the court shall determine the child's residence and domicile as defined in Section 224.1 and in the federal Indian Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.).

(b) If at any stage of an Indian child custody proceeding as defined in Section 224.1 and in Section 1903 of the federal Indian Child Welfare Act of 1978, the court receives information from the child welfare agency or any other source that suggests an Indian child is already a ward of a tribal court or resides or is domiciled within a reservation of an Indian tribe that has exclusive jurisdiction over child custody proceedings, as recognized in Section 1911 of Title 25 of the United States Code, or reassumed exclusive jurisdiction over Indian child custody proceedings pursuant to Section 1918 of Title 25 of the United States Code, the state court shall expeditiously notify the tribe and the tribal court of the pending dismissal based on the tribe's exclusive jurisdiction. The notification shall advise the tribe that the state court will dismiss the child custody proceeding upon receiving confirmation from the tribe that the child is a ward of a tribal court or subject to the tribe's exclusive jurisdiction.

(c) Unless otherwise agreed upon by the state and the tribe pursuant to Section 1919 of Title 25 of the United States Code, upon receipt of confirmation that the child is already a ward of a tribal court or is subject to the exclusive jurisdiction of an Indian tribe as described in subdivision (b), the state court shall dismiss the child custody proceeding and ensure that the tribal court is sent all information regarding the proceeding, including, but not limited to, the pleadings and any state court record. If the local agency has not already transferred physical custody of the Indian child to the child's tribe, the state court shall order that the local agency do so forthwith and hold in abeyance any dismissal order pending confirmation that the Indian child is in the physical custody of the tribe. This subdivision does not preclude a state court from ordering an Indian child detained on an emergency basis pursuant to Section 319 if emergency removal is necessary to protect the child from imminent physical damage or harm and if more time is needed to facilitate the transfer of custody of the Indian child from the county welfare department to the tribe.

(d) In the case of an Indian child who is not a ward of a tribal court or subject to the exclusive jurisdiction of an Indian tribe, as described in subdivision (b), the state court shall transfer the proceeding to the jurisdiction of the child's tribe upon petition of either parent, the Indian custodian, or the child's tribe, unless the state court finds good cause not to transfer. The petition for transfer may be made orally on the record or in writing at any stage of the proceedings. Upon receipt of a petition for transfer, the state court shall terminate jurisdiction only after receiving confirmation that the tribal court has accepted the transfer. At the time that the state court terminates jurisdiction, the state court shall also do both of the following:

(1) Expeditorily provide the tribal court with all records related to the proceeding, including, but not limited to, the pleadings and any state court record.

(2) Work with the tribal court to ensure that the transfer of the child and of the proceeding is accomplished smoothly and in a way that minimizes the disruption of services to the family.

(e)

**(1)** If a petition to transfer proceedings as described in subdivision (d) is made orally on the record or in writing, the state court shall find good cause to deny the petition if either of the following circumstances are shown to exist:

**(A)** One or both of the child's parents object to the transfer.

**(B)** The tribal court of the child's tribe declines the transfer.

**(2)** In determining whether good cause exists to deny a transfer, the state court shall not consider any of the following:

**(A)** Socioeconomic conditions and the perceived adequacy of tribal social services or judicial systems.

**(B)** Whether the child custody proceeding is at an advanced stage if the Indian child's parent, Indian custodian, or tribe did not receive notice of the child custody proceeding until an advanced stage. It shall not, in and of itself, be considered an unreasonable delay for a party to wait until reunification efforts have failed and reunification services have been terminated before filing a petition to transfer.

**(C)** Whether there have been prior proceedings involving the child for which no transfer petition was filed.

**(D)** Whether the transfer could affect the placement of the child.

**(E)** Whether the Indian child has cultural connections with the tribe or its reservation.

**(3)** The burden of establishing good cause not to transfer shall be on the party opposing the transfer. If the state court believes, or any party asserts, that good cause not to transfer exists, the reasons for that belief or assertion shall be stated orally on the record or in writing and made available to all parties who are petitioning for the transfer, and the petitioner shall have the opportunity to provide information or evidence in rebuttal of the belief or assertion.

**(4)** This section and [Sections 1911 and 1918 of Title 25 of the United States Code](#) shall not be construed as requiring a tribe to petition the Secretary of the Interior to reassume exclusive jurisdiction pursuant to [Section 1918 of Title 25 of the United States Code](#) prior to exercising jurisdiction over a proceeding transferred under subdivision (d).

**(f)** If any petitioner in an Indian child custody proceeding has improperly removed the child from the custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the state court shall decline jurisdiction over the petition and shall immediately return the child to his or her parent or Indian custodian, unless retaining the child outside the custody of his or her parent or Indian custodian is necessary to prevent imminent physical damage or harm.

**(g)** This section shall not be construed to prevent the emergency removal of an Indian child who is a ward of a tribal court or resides or is domiciled within a reservation of an Indian tribe that has exclusive jurisdiction over child custody proceedings, but is temporarily located off the reservation, from a parent or Indian custodian or the emergency placement of the child in a foster home or institution in order to prevent imminent physical damage or harm to the child. The state or local authority shall ensure that the emergency removal or placement terminates immediately when the removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and shall expeditiously initiate an Indian child custody proceeding, transfer the child

to the jurisdiction of the Indian child's tribe, or restore the child to the parent or Indian custodian, as may be appropriate.

**(h)** When an Indian child is transferred from a state court to an Indian tribe pursuant to subdivision (c), (d), or (g), the county shall, pursuant to Section 827.15, release the child case file to the tribe having jurisdiction.

**Leg.H.**

Added Stats 1999 ch 275 § 2 (AB 65), effective September 1, 1999; Amended Stats 2006 ch 838 § 44 (SB 678), effective January 1, 2007; Stats 2014 ch 772 § 8 (SB 1460), effective January 1, 2015; Amended Stats 2018 ch 833 § 17 (AB 3176), effective January 1, 2019.

## **§ 305.6. Temporary Custody by Peace Officer of Child in Hospital When Release to Adoptive Parent or Representative of Licensed Adoption Agency Poses Immediate Danger to Minor.**

**(a)** Any peace officer may, without a warrant, take into temporary custody a child who is in a hospital if the release of the child to a prospective adoptive parent or a representative of a licensed adoption agency poses an immediate danger to the child's health or safety.

**(b)** Notwithstanding subdivision (a) and Section 305, a peace officer shall not, without a warrant, take into temporary custody a child who is in a hospital if all of the following conditions exist:

**(1)** The child is a newborn who tested positive for illegal drugs or whose birth mother tested positive for illegal drugs.

**(2)** The child is the subject of a proposed adoption and a Health Facility Minor Release Report, developed by the department, has been completed by the hospital, including the marking of the boxes applicable to an independent adoption or agency adoption planning, and signed by the placing birth parent or birth parents, as well as either the prospective adoptive parent or parents or an authorized representative of a licensed adoption agency, prior to the discharge of the birth parent or the child from the hospital. The Health Facility Minor Release Report shall include a notice written in at least 14-point pica type, containing substantially all of the following statements:

**(A)** That the Health Facility Minor Release Report does not constitute consent to adoption of the child by the prospective adoptive parent or parents, or any other person.

**(B)** That the Health Facility Minor Release Report does not constitute a relinquishment of parental rights for the purposes of adoption.

**(C)** That the birth parent or parents or any person authorized by the birth parent or parents may reclaim the child at any time from the prospective adoptive parent or parents or any other person to whom the child was released by the hospital, as provided in [Section 8700, 8814.5, or 8815 of the Family Code](#).

**(3)** The release of the child to a prospective adoptive parent or parents or an authorized representative of a licensed adoption agency does not pose an immediate danger to the child.

**(4)** An attorney or an adoption agency has provided documentation stating that he or she, or the agency, is representing the prospective adoptive parent or parents for purposes of the adoption. In the case of an independent adoption, as defined in [Section 8524 of the Family Code](#), the attorney or adoption agency shall provide documentation stating that the prospective adoptive parent or parents have been informed that the child may be eligible for benefits provided pursuant to the Adoption Assistance Program, as set forth in Chapter 2.1 (commencing with Section 16115) of Part 4 of Division 9, only if, at the time the

adoption request is filed, the child has met the requirements to receive federal supplemental security income benefits pursuant to Subchapter XVI (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code, as determined and documented by the federal Social Security Administration.

**(5)** The prospective adoptive parent or parents or their representative, or an authorized representative of a licensed adoption agency, provides all of the following to the peace officer:

**(A)** A fully executed copy of the Health Facility Minor Release Report.

**(B)** A written form signed by either the prospective adoptive parent or parents or a representative of the licensed adoption agency, which shall include all of the following:

**(i)** A statement that the child is the subject of a proposed adoption.

**(ii)** A declaration that the signer or signers will immediately notify the county child welfare agency pursuant to [Section 11165.9 of the Penal Code](#) if the adoption plan is terminated for any reason, and will not release the child to the birth parent or parents or any designee of the birth parent or parents until the county child welfare agency or local law enforcement agency completes an investigation and determines that release of the child to the birth parent or parents or a designee of the birth parent or parents will not create an immediate risk to the health or safety of the child.

**(iii)** An agreement to provide a conformed copy of the adoption request or guardianship petition to the county child welfare agency within five business days after filing.

**(iv)** The names, identifying information, and contact information for the child, for each prospective adoptive parent, and for each birth parent, to the extent that information is known. In the case of an agency adoption where no prospective adoptive parent or parents are identified at the time of the child's release from the hospital, the licensed adoption agency may provide the information as it pertains to the licensed or certified foster home into which the agency intends to place the child.

**(c)**

**(1)** In every independent adoption proceeding under this section, the prospective adoptive parent or parents shall file with the court either an adoption request within 10 working days after execution of an adoption placement agreement, or a guardianship petition within 30 calendar days after the child's discharge from the hospital, whichever is earlier.

**(2)** If the adoption plan for a child who was released from the hospital pursuant to subdivision (b) is terminated for any reason, the prospective adoptive parent or parents or licensed adoption agency shall immediately notify the county child welfare agency. The prospective adoptive parent or parents or licensed adoption agency may not release the child into the physical custody of the birth parent or parents, or any designee of the birth parent or parents, until the county child welfare agency or local law enforcement agency completes an investigation and determines that release of the child to the birth parent or parents or a designee of the birth parent or parents will not create an immediate risk to the health or safety of the child.

**(d)** Upon request by a birth parent or parents of the newborn child, the appropriate hospital personnel shall complete a Health Facility Minor Release Report and provide copies of the report to the birth parent or parents, and the person or persons who will receive physical custody of the child upon discharge pursuant to [Section 1283 of the Health and Safety Code](#). Hospital personnel shall not refuse to complete a Health Facility Minor Release Report for any reason, even if the child is ineligible for release at that time. This section shall not be construed to require hospital personnel to release a child contrary to the directives of a child welfare agency.

(e) This section is not intended to create a duty that requires law enforcement to investigate the prospective adoptive parent or parents.

(f) This section does not suspend the requirements for voluntary adoptive placement under the federal Indian Child Welfare Act of 1978 ([25 U.S.C. Sec. 1901 et seq.](#)).

**History:**

Added Stats 2002 ch 920 § 2 (AB 2279), as W & I C § 305.5; Amended and renumbered by Stats 2003 ch 568 § 1 (AB 962); Stats 2010 ch 440 § 1 (AB 973), effective January 1, 2011, repealed January 1, 2013; Stats 2012 ch 35 § 43 (SB 1013), effective June 27, 2012; Amended Stats 2016 ch 702 § 2 (AB 2872), effective January 1, 2017; Stats 2018 ch 833 § 18 (AB 3176), effective January 1, 2019.

## § 306. Temporary Custody of Minors by Social Workers.

(a) Any social worker in a county welfare department, or in an Indian tribe that has entered into an agreement pursuant to Section 10553.1 while acting within the scope of his or her regular duties under the direction of the juvenile court and pursuant to subdivision (b) of Section 272, may do all of the following:

(1) Receive and maintain, pending investigation, temporary custody of a child who is described in Section 300, and who has been delivered by a peace officer.

(2) Take into and maintain temporary custody of, without a warrant, a child who has been declared a dependent child of the juvenile court under Section 300 or who the social worker has reasonable cause to believe is a person described in subdivision (b) or (g) of Section 300, and the social worker has reasonable cause to believe that the child has an immediate need for medical care or is in immediate danger of physical or sexual abuse or the physical environment poses an immediate threat to the child's health or safety.

(b) Upon receiving temporary custody of a child, the county welfare department shall inquire pursuant to Section 224.2, whether the child is an Indian child.

(c) If it is known or if there is reason to know the child is an Indian child, any county social worker in a county welfare department may take into custody, and maintain temporary custody of, without a warrant, the Indian child if removing the child from the physical custody of his or her parent, parents, or Indian custodian is necessary to prevent imminent physical damage or harm to the Indian child. The temporary custody shall be considered an emergency removal under Section 1922 of the federal Indian Child Welfare Act ([25 U.S.C. Sec. 1922](#)).

(d) If a county social worker takes or maintains an Indian child into temporary custody under subdivision (a), and the social worker knows or has reason to believe the Indian child is already a ward of a tribal court, or resides or is domiciled within a reservation of an Indian tribe that has exclusive jurisdiction over child custody proceedings as recognized in [Section 1911 of Title 25 of the United States Code](#), or reassumed exclusive jurisdiction over Indian child custody proceedings pursuant to [Section 1918 of Title 25 of the United States Code](#), the county welfare agency shall notify the tribe that the child was taken into temporary custody no later than the next working day and shall provide all relevant documentation to the tribe regarding the temporary custody and the child's identity. If the tribe determines that the child is an Indian child who is already a ward of a tribal court or who is subject to the tribe's exclusive jurisdiction, the county welfare agency shall transfer custody of the child to the tribe within 24 hours after learning of the tribe's determination.

(e) If the social worker is unable to confirm that an Indian child is a ward of a tribal court or subject to the exclusive jurisdiction of an Indian tribe as described in subdivision (d), or is unable to transfer custody of the Indian child to the child's tribe, prior to the expiration of the period permitted by subdivision (a) of Section 313 for filing a petition to declare the Indian child a dependent of the juvenile court, the county welfare agency shall

file the petition. The county welfare agency shall inform the state court in its report for the hearing pursuant to Section 319, that the Indian child may be a ward of a tribal court or subject to the exclusive jurisdiction of the child's tribe. If the child welfare agency receives confirmation that an Indian child is a ward of a tribal court or subject to the exclusive jurisdiction of the Indian child's tribe between the time of filing a petition and the initial petition hearing, the agency shall inform the state court, provide a copy of the written confirmation, if any, and move to dismiss the petition. This subdivision does not prevent the court from authorizing a state or local agency to maintain temporary custody of the Indian child for a period not to exceed 30 days in order to arrange for the Indian child to be placed in the custody of the child's tribe.

(f) Before taking a child into custody, a social worker shall consider whether the child may remain safely in his or her residence. The consideration of whether the child may remain safely at home shall include, but not be limited to, the following factors:

(1) Whether there are any reasonable services available to the worker which, if provided to the child's parent, guardian, caretaker, or to the child would eliminate the need to remove the child from the custody of his or her parent, guardian, Indian custodian, or other caretaker.

(2) Whether a referral to public assistance pursuant to Chapter 2 (commencing with Section 11200) of Part 3, Chapter 7 (commencing with Section 14000) of Part 3, Chapter 1 (commencing with Section 17000) of Part 5, and Chapter 10 (commencing with Section 18900) of Part 6, of Division 9 would eliminate the need to take temporary custody of the child. If those services are available they shall be utilized.

(3) Whether a nonoffending caretaker can provide for and protect the child from abuse and neglect and whether the alleged perpetrator voluntarily agrees to withdraw from the residence, withdraws from the residence, and is likely to remain withdrawn from the residence.

(4) If it is known or there is reason to know the child is an Indian child, the county social worker shall make active efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family prior to removal from the custody of a parent or parents or Indian custodian unless emergency removal is necessary to prevent imminent physical damage or harm to the Indian child.

**Leg.H.**

Added Stats 1987 ch 1485 § 13, operative January 1, 1989; Amended Stats 1988 ch 701 § 3, effective August 29, 1988; Stats 1989 ch 408 § 2; Stats 1994 ch 469 § 1 (AB 1579); Stats 1995 ch 724 § 3 (AB 1525); Amended Stats 2018 ch 833 § 19 (AB 3176), effective January 1, 2019.

## § 306.5. Placing Minor with Siblings.

In any case in which a social worker takes a minor into custody pursuant to Section 306, the social worker shall, to the extent that it is practical and appropriate, place the minor together with any siblings or half-siblings who are also detained or include in the report prepared pursuant to Section 319 a statement of his or her continuing efforts to place the siblings together or why those efforts are not appropriate.

**Leg.H.**

2001 ch. 747.

## § 306.6. Participation in Dependency Proceeding.

(a) In a dependency proceeding involving a child who would otherwise be an Indian child, based on the definition contained in paragraph (4) of Section 1903 of the federal Indian Child Welfare Act (**25 U.S.C. Sec. 1901 et seq.**), but is not an Indian child based on status of the child's tribe, as defined in paragraph (8) of Section

1903 of the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), the court may permit the tribe from which the child is descended to participate in the proceeding upon request of the tribe.

(b) If the court permits a tribe to participate in a proceeding, the tribe may do all of the following, upon consent of the court:

- (1) Be present at the hearing.
- (2) Address the court.
- (3) Request and receive notice of hearings.
- (4) Request to examine court documents relating to the proceeding.
- (5) Present information to the court that is relevant to the proceeding.
- (6) Submit written reports and recommendations to the court.
- (7) Perform other duties and responsibilities as requested or approved by the court.

(c) If more than one tribe requests to participate in a proceeding under subdivision (a), the court may limit participation to the tribe with which the child has the most significant contacts, as determined in accordance with paragraph (2) of subdivision (d) of Section 170 of the Family Code.

(d) This section is intended to assist the court in making decisions that are in the best interest of the child by permitting a tribe in the circumstances set out in subdivision (a) to inform the court and parties to the proceeding about placement options for the child within the child's extended family or the tribal community, services and programs available to the child and the child's parents as Indians, and other unique interests the child or the child's parents may have as Indians. This section shall not be construed to make the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), or any state law implementing the Indian Child Welfare Act, applicable to the proceedings, or to limit the court's discretion to permit other interested persons to participate in these or any other proceedings.

(e) The court shall, on a case-by-case basis, make a determination if this section is applicable and may request information from the tribe, or the entity claiming to be a tribe, from which the child is descended for the purposes of making this determination, if the child would otherwise be an Indian child pursuant to subdivision (a).

**Leg.H.**

Added Stats 2006 ch 838 § 45 (SB 678), effective January 1, 2007.

## **§ 307. Alternative Dispositions of Minors in Temporary Custody.**

A peace officer or probation officer who takes a minor into temporary custody under the provisions of Section 305 shall thereafter proceed as follows:

(a) The officer may release the minor.

(b) The officer may prepare in duplicate a written notice for the parent or parents of the minor to appear with the minor 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 and a parent, guardian, or responsible relative of the minor and may require the minor and the parent, guardian, or

relative to sign a written promise that he or she shall 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.

(c) The officer 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 take place or the circumstances exist which are alleged to bring the minor within the provisions of Section 300, and deliver the minor into the custody of the probation officer.

In determining which disposition of the minor shall be made, the officer shall give preference to the alternative which least interferes with the parents' or guardians' custody of the minor if this alternative is compatible with the safety of the minor. The officer shall also consider the needs of the minor for the least restrictive environment and the protective needs of the community.

**Leg.H.**

1976 ch. 1068, 1982 ch. 978, effective September 13, 1982, operative July 1, 1982.

## **§ 307.4. Notification to Parents of Minor Taken into Protective Custody.**

(a) Any peace officer, probation officer, or social worker who takes into temporary custody pursuant to Sections 305 to 307, inclusive, a minor who comes within the description of Section 300 shall immediately inform, through the most efficient means available, the parent, guardian, or responsible relative, that the minor has been taken into protective custody and that a written statement is available which explains the parent's or guardian's procedural rights and the preliminary stages of the dependency investigation and hearing. The Judicial Council shall, in consultation with the County Welfare Directors Association of California, adopt a form for the written statement, which shall be in simple language and shall be printed and distributed by the county. The written statement shall be made available for distribution through all public schools, probation offices, and appropriate welfare offices. It shall include, but is not limited to, the following information:

(1) The conditions under which the minor will be released, hearings which may be required, and the means whereby further specific information about the minor's case and conditions of confinement may be obtained.

(2) The rights to counsel, privileges against self-incrimination, and rights to appeal possessed by the minor, and his or her parents, guardians, or responsible relative.

(b) If a good faith attempt was made at notification, the failure on the part of the peace officer, probation officer, or social worker to notify the parent or guardian that the written information required by subdivision (a) is available shall be considered to be due to circumstances beyond the control of the peace officer, probation officer, or social worker, and shall not be construed to permit a new defense to any juvenile or judicial proceeding or to interfere with any rights, procedures, or investigations accorded under any other law.

**Leg.H.**

1986 ch. 386.

## **§ 307.5. Referrals to Programs for Abused or Neglected Children.**

Notwithstanding the provisions of Section 307, an officer who takes a minor suspected of being a person described in Section 300 into temporary custody pursuant to subdivision (a) of Section 305 may, in a case where

he or she deems that it is in the best interest of the minor and the public, take the minor to a community service program for abused or neglected children. Organizations or programs receiving referrals pursuant to this section shall have a contract or an agreement with the county to provide shelter care or counseling. Employees of a program receiving referrals pursuant to this section are "child care custodians" for the purpose of the requirements of [Section 11165.7 of the Penal Code](#). The receiving organization shall take immediate steps to notify the minor's parent, guardian, or a responsible relative of the place to which the minor was taken.

**Leg.H.**

1982 ch. 461, 1989 ch. 913.

## **§ 308. Notification to Parent or Guardian; Disclosure of Address of Foster Home; Telephone Calls.**

(a) When a peace officer or social worker takes a minor into custody pursuant to this article, he or she shall take immediate steps to notify the minor's parent, guardian, or a responsible relative that the minor is in custody and that the child has been placed in a facility authorized by law to care for the child, and shall provide a telephone number at which the minor may be contacted. The confidentiality of the address of any licensed foster family home in which the child has been placed shall be maintained until the dispositional hearing, at which time the judge may authorize, upon a finding of good cause, the disclosure of the address. However, the court may order the release of the address of the licensed foster family home to the minor's parent, guardian, or responsible relative upon notification of the licensed foster family home in cases where a petition to challenge jurisdiction or other motion to delay the dispositional hearing beyond 60 days after the hearing at which the minor was ordered removed or detained, pursuant to subdivision (b) of Section 352, is granted. Moreover, a foster parent may authorize the release of the address of the foster family home at any time during the placement. The county welfare department shall make a diligent and reasonable effort to ensure regular telephone contact between the parent and a child of any age, prior to the detention hearing, unless that contact would be detrimental to the child. The initial telephone contact shall take place as soon as practicable, but no later than five hours after the child is taken into custody.

(b) Immediately after being taken to a place of confinement pursuant to this article and, except where physically impossible, no later than one hour after he or she has been taken into custody, a minor 10 years of age or older shall be advised that he or she has the right to make at least two telephone calls from the place where he or she is being held, one call completed to his or her parent, guardian, or a responsible relative, and another call completed to an attorney. The calls shall be at public expense, if the calls are completed to telephone numbers within the local calling area, and in the presence of a public officer or employee. Any public officer or employee who willfully deprives a minor taken into custody of his or her right to make these telephone calls is guilty of a misdemeanor.

**Leg.H.**

1976 ch. 1068, 1978 ch. 1168, 1980 ch. 1092, 1982 ch. 978, effective September 13, 1982, operative July 1, 1982, 1984 ch. 1370, 1987 ch. 1485, 1988 ch. 1083, 1990 ch. 320, 1996 ch. 275.

## **§ 309. Duty of Social Worker When Child Taken into Temporary Custody.**

(a) Upon delivery to the social worker of a child who has been taken into temporary custody under this article, the social worker shall immediately investigate the circumstances of the child and the facts surrounding the child's being taken into custody and attempt to maintain the child with the child's family through the provision of services. The social worker shall immediately release the child to the custody of the child's parent,

guardian, Indian custodian, or relative, regardless of the parent's, guardian's, Indian custodian's, or relative's immigration status, unless one or more of the following conditions exist:

(1) The child has no parent, guardian, Indian custodian, or relative willing to provide care for the child.

(2) Continued detention of the child is a matter of immediate and urgent necessity for the protection of the child and there are no reasonable means by which the child can be protected in their home or the home of a relative.

(3) If it is known or there is reason to know the child is an Indian child, the child has been physically removed from the custody of a parent or parents or an Indian custodian, continued detention of the child continues to be necessary to prevent imminent physical damage or harm to the child, and there are no reasonable means by which the child can be protected if maintained in the physical custody of their parent or parents or Indian custodian.

(4) There is substantial evidence that a parent, guardian, or custodian of the child is likely to flee the jurisdiction of the court, and, in the case of an Indian child, fleeing the jurisdiction will place the child at risk of imminent physical damage or harm.

(5) The child has left a placement in which the child was placed by the juvenile court.

(6) The parent or other person having lawful custody of the child voluntarily surrendered physical custody of the child pursuant to **Section 1255.7 of the Health and Safety Code** and did not reclaim the child within the 14-day period specified in subdivision (g) of that section.

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

(c) If the child is not released to their parent or guardian, the child shall be deemed detained for purposes of this chapter.

(d)

(1) If a relative, as defined in Section 319, an extended family member of an Indian child, as defined in Section 224.1 and Section 1903 of the federal Indian Child Welfare Act of 1978 (**25 U.S.C. Sec. 1901 et seq.**), or a nonrelative extended family member, as defined in Section 362.7, is available and requests emergency placement of the child pending the detention hearing, or after the detention hearing and pending the dispositional hearing conducted pursuant to Section 358, the county welfare department shall initiate an assessment of the relative's or nonrelative extended family member's suitability for emergency placement pursuant to Section 361.4.

(2) Upon completion of the assessment pursuant to Section 361.4, the child may be placed in the home on an emergency basis. Following the emergency placement of the child, the county welfare department shall evaluate and approve or deny the home pursuant to Section 16519.5. If the home in which the Indian child is placed is licensed or approved by the child's tribe, the provisions of Section 16519.5 do not apply for further approval. The county shall require the relative or nonrelative extended family member to submit an application for approval as a resource family and initiate the home environment assessment no later than five business days after the placement.

(3) If the sole issue preventing an emergency placement of a child with a relative or nonrelative extended family member is a lack of resources, including, but not limited to, physical items such as cribs and car seats, the agency shall use reasonable efforts to assist the relative or nonrelative extended family member in obtaining the necessary items within existing available resources. The department shall work with counties and stakeholders to issue guidance regarding reasonable efforts requirements.

(e)

(1) If the child is removed, the social worker shall conduct, within 30 days, an investigation in order to identify and locate all grandparents, parents of a sibling of the child, if the parent has legal custody of the sibling, adult siblings, other adult relatives of the child, as defined in paragraph (2) of subdivision (h) of Section 319, including any other adult relatives suggested by the parents, and, if it is known or there is reason to know the child is an Indian child, any extended family members as defined in Section 224.1 and Section 1903 of the federal Indian Child Welfare Act of 1978 ([25 U.S.C. Sec. 1901 et seq.](#)). As used in this section, “sibling” means a person related to the identified child by blood, adoption, or affinity through a common legal or biological parent. The social worker 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 removal of the child, 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 their parent or parents, guardian or guardians, or Indian custodian.

(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 while the family receives reunification services with the goal of returning the child to the parent or guardian, how to become a resource family, and additional services and support that are available in out-of-home placements, and, if it is known or there is reason to know the child is an Indian child, the option of obtaining approval for placement through the tribe’s license or approval procedure. 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. The State Department of Social Services, in consultation with the County Welfare Directors Association of California and other interested stakeholders, shall develop the written notice.

(2) The social worker shall also provide the adult relatives notified pursuant to paragraph (1) with a relative information form to provide information to the social worker and the court regarding the needs of the child. The form shall include a provision whereby the relative may request the permission of the court to address the court, if the relative so chooses. The Judicial Council, in consultation with the State Department of Social Services and the County Welfare Directors Association of California, shall develop the form.

(3) The social worker shall use due diligence in investigating the names and locations of the relatives pursuant to paragraph (1), 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. Each county welfare department shall create and make public a procedure by which relatives of a child who has been removed from their parents or guardians may identify themselves to the county welfare department and be provided with the notices required by paragraphs (1) and (2).

**Leg.H.**

Added Stats 1976 ch 1068 § 7. Amended Stats 1982 ch 978 § 7, effective September 13, 1982, operative July 1, 1982; Stats 1987 ch 1485 § 15; Stats 1989 ch 913 § 6; Stats 1997 ch 793 § 10 (AB 1544); Stats 1998 ch 1054 § 8 (AB 1091); Stats 2000 ch 421 § 4 (SB 2161), effective September 13, 2000, ch 824 § 4 (SB 1368); Stats 2001 ch 653 § 7 (AB 1695), effective October 10, 2001; Stats 2002 ch 918 § 3 (AB 1694); Stats 2004 ch 373 § 1 (AB 1913); Stats 2006 ch 726 § 1 (AB 1774), effective September 29, 2006; Stats 2008 ch 701 § 11 (AB 2651), effective September 30, 2008; Stats 2009 ch 261 § 1 (AB 938), effective January 1, 2010; Stats 2012 ch 845 § 4 (SB 1064), effective January 1, 2013; Stats 2014 ch 765 § 1 (AB 1761), effective January 1, 2015; Stats 2015 ch 425 § 5 (SB 794), effective January 1, 2016; Stats 2016 ch 612 § 68 (AB 1997), effective January 1, 2017; Stats 2017 ch 732 § 43 (AB 404), effective January 1, 2018; Stats 2018 ch 833 § 20 (AB 3176), effective January 1, 2019; Stats 2021 ch 687 § 6 (SB 354), effective January 1, 2022.

## **§ 310. Promise to Appear as Condition of Release.**

As a condition for the release of such minor, the probation officer may require such minor or his parent, guardian, or relative, or both, to sign a written promise that either or both of them will appear before the probation officer at a suitable place designated by the probation officer at a specified time.

**Leg.H.**

1976 ch. 1068, 1978 ch. 1168.

## **§ 311. Probation Officer's Petition for Retention of Custody.**

(a) If the probation officer determines that the minor shall be retained in custody, he shall immediately file a petition pursuant to Section 332 with the clerk of the juvenile court who shall set the matter for hearing on the detention hearing calendar.

(b) In the hearing, the child, parents, or guardians have a privilege against self-incrimination and have a right to confrontation by, and cross-examination of, any person examined by the court as provided in Section 319.

**Leg.H.**

1976 ch. 1068, 1982 ch. 978, effective September 13, 1982, operative July 1, 1982, 2002 ch. 416 (SB 1956).

## **§ 313. Time Limitations on Preliminary Custody of Minor.**

(a) Whenever a minor is taken into custody by a peace officer or probation officer, except when such minor willfully misrepresents himself as 18 or more years of age, such minor shall be released within 48 hours after having been taken into custody, excluding nonjudicial days, unless within said period of time a petition to declare him a dependent child has been filed pursuant to the provisions of this chapter.

(b) Whenever a minor who has been held in custody for more than six 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 six 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.

**Leg.H.**

1976 ch. 1068.

## **§ 314. Effect of Minor's Willful Misrepresentation of Age.**

When a minor willfully misrepresents himself to be 18 or more years of age when taken into custody by a peace officer or probation officer, and this misrepresentation effects a material delay in investigation which prevents the filing of a petition pursuant to the provisions of this chapter, such petition or complaint shall be filed within 48 hours from the time his true age is determined, excluding nonjudicial days. If, in such cases, the petition is not filed within the time prescribed by this section, the minor shall be immediately released from custody.

**Leg.H.**

1976. ch. 1068.

## **§ 315. Detention Hearing.**

If a child has been taken into custody under this article and not released to a parent or guardian, the juvenile court shall hold a hearing (which shall be referred to as a "detention hearing") to determine whether the child shall be further detained. This hearing shall be held as soon as possible, but not later than the expiration of the next judicial day after a petition to declare the child a dependent child has been filed. If the hearing is not held within the period prescribed by this section, the child shall be released from custody. In the case of an Indian child, the hearing pursuant to Section 319 shall be considered an emergency removal under Section 1922 of the federal Indian Child Welfare Act of 1978 ([25 U.S.C. Sec. 1922](#)).

**Leg.H.**

Added Stats 1987 ch 1485 § 17; Amended Stats 2018 ch 833 § 21 (AB 3176), effective January 1, 2019.

## **§ 316. Information Regarding Reasons for Custody and Right to Counsel.**

Upon his or her appearance before the court at the detention hearing, each parent or guardian and the minor, if present, shall first be informed of the reasons why the minor was taken into custody, the nature of the juvenile court proceedings, and the right of each parent or guardian and any minor to be represented at every stage of the proceedings by counsel.

**Leg.H.**

Added Stats 1987 ch 1485 § 19.

### **§ 316.1. Designation of Permanent Mailing Address.**

(a) Upon his or her appearance before the court, each parent or guardian shall designate for the court his or her permanent mailing address. The court shall advise each parent or guardian that the designated mailing address will be used by the court and the social services agency for notice purposes unless and until the parent or guardian notifies the court or the social services agency of a new mailing address in writing.

(b) Upon his or her appearance before the court, each party who consents to electronic service pursuant to Section 212.5 shall designate for the court his or her electronic service address. The court shall advise each party that the electronic service address will be used by the court and the social services agency for purposes of providing notice pursuant to Sections 291, 292, 293, 294, 295, 297, and 342, unless and until the party notifies the court or the social services agency of a new electronic service address in writing or unless the party withdraws consent to electronic service.

(c) A party's decision not to consent to electronic service and designate an electronic service address, as authorized in subdivision (b), does not preclude the use of electronic means to send information regarding the date, time, and place of a juvenile court hearing, provided that the confidentiality requirement of paragraph (7) of subdivision (a) of Section 212.5 is met. The party does not need to designate an electronic service address in order for the information to be provided electronically. However, information shared, as described in this subdivision, shall only be in addition to, and not in lieu of, any required service or notification made in accordance with any other law governing how that service or notification is provided.

**Leg.H.**

Added Stats 1992 ch 288 § 1 (SB 1741); Amended Stats 2015 ch 219 § 15 (AB 879), effective January 1, 2016, repealed January 1, 2019; Stats 2017 ch 319 § 127 (AB 976), effective January 1, 2018; Stats 2018 ch 910 § 22 (AB 1930), effective January 1, 2019.

## **§ 316.2. Court Inquiry into Identity and Address of Presumed or Alleged Fathers; Notice to Alleged Fathers; Jurisdiction Over Action to Determine Father and Child Relationship.**

(a) At the detention hearing, or as soon thereafter as practicable, the court shall inquire of the mother and any other appropriate person as to the identity and address of all presumed or alleged fathers. The presence at the hearing of a man claiming to be the father shall not relieve the court of its duty of inquiry. The inquiry shall include at least all of the following, as the court deems appropriate:

(1) Whether a judgment of paternity already exists.

(2) Whether the mother was married or believed she was married at the time of conception of the child or at any time thereafter.

(3) Whether the mother was cohabiting with a man at the time of conception or birth of the child.

(4) Whether the mother has received support payments or promises of support with respect to the child or in connection with her pregnancy.

(5) Whether any man has formally or informally acknowledged or declared his possible paternity of the child, including by signing a voluntary declaration of paternity.

(6) Whether paternity tests have been administered and the results, if any.

(7) Whether any man otherwise qualifies as a presumed father pursuant to Section 7611, or any other provision, of the Family Code.

(b) If, after the court inquiry, one or more men are identified as an alleged father, each alleged father shall be provided notice at his last and usual place of abode by certified mail return receipt requested alleging that he is or could be the father of the child. The notice shall state that the child is the subject of proceedings under Section 300 and that the proceedings could result in the termination of parental rights and adoption of the child. Judicial Council form Paternity-Waiver of Rights (JV-505) shall be included with the notice. Nothing in this section shall preclude a court from terminating a father's parental rights even if an action has been filed under Section 7630 or 7631 of the Family Code.

(c) The court may determine that the failure of an alleged father to return the certified mail receipt is not good cause to continue a hearing pursuant to Section 355, 358, 360, 366.21, or 366.22.

(d) If a man appears in the dependency action and files an action under Section 7630 or 7631 of the Family Code, the court shall determine if he is the father.

(e) After a petition has been filed to declare a child a dependent of the court, and until the time that the petition is dismissed, dependency is terminated, or parental rights are terminated pursuant to Section 366.26 or proceedings are commenced under Part 4 (commencing with Section 7800) of Division 12 of the Family Code, the juvenile court which has jurisdiction of the dependency action shall have exclusive jurisdiction to hear an action filed under **Section 7630 or 7631 of the Family Code**.

(f) After any inquiry, proceeding, or determination made pursuant to this section, the juvenile court shall note its findings in the minutes of the court.

**Leg.H.**

1997 ch. 793, 2000 ch. 56.

## **§ 317. Appointment of Counsel for Parent or Guardian Unable to Afford Counsel; Appointment of Counsel for Child or Nonminor Dependent.**

**(a)**

(1) When it appears to the court that a parent or guardian of the child desires counsel but is presently financially unable to afford and cannot for that reason employ counsel, the court may appoint counsel as provided in this section.

(2) When it appears to the court that a parent or Indian custodian in an Indian child custody proceeding desires counsel but is presently unable to afford and cannot for that reason employ counsel, the provisions of **Section 1912(b) of Title 25 of the United States Code** and **Section 23.13** of Title 25 of the Code of Federal Regulations shall apply.

(b) When it appears to the court that a parent or guardian of the child is presently financially unable to afford and cannot for that reason employ counsel, and the child has been placed in out-of-home care, or the petitioning agency is recommending that the child be placed in out-of-home care, the court shall appoint counsel for the parent or guardian, unless the court finds that the parent or guardian has made a knowing and intelligent waiver of counsel as provided in this section.

**(c)**

(1) If a child or nonminor dependent is not represented by counsel, the court shall appoint counsel for the child or nonminor dependent, unless the court finds that the child or nonminor dependent would not benefit from the appointment of counsel. The court shall state on the record its reasons for that finding.

(2) A primary responsibility of counsel appointed to represent a child or nonminor dependent pursuant to this section shall be to advocate for the protection, safety, and physical and emotional well-being of the child or nonminor dependent.

(3) Counsel may be a district attorney, public defender, or other member of the bar, provided that he or she does not represent another party or county agency whose interests conflict with the child's or nonminor dependent's interests. The fact that the district attorney represents the child or nonminor dependent in a proceeding pursuant to Section 300 as well as conducts a criminal investigation or files a criminal complaint or information arising from the same or reasonably related set of facts as the proceeding pursuant to Section 300 is not in and of itself a conflict of interest.

(4) The court may fix the compensation for the services of appointed counsel.

(5)

(A) The appointed counsel shall have a caseload and training that ensures adequate representation of the child or nonminor dependent. The Judicial Council shall promulgate rules of court that establish caseload standards, training requirements, and guidelines for appointed counsel for children and shall adopt rules as required by Section 326.5 no later than July 1, 2001.

(B) The training requirements imposed pursuant to subparagraph (A) shall include instruction on both of the following:

(i) Cultural competency and sensitivity relating to, and best practices for, providing adequate care to lesbian, gay, bisexual, and transgender youth in out-of-home care.

(ii) The information described in subdivision (d) of Section 16501.4.

(d) Counsel shall represent the parent, guardian, child, or nonminor dependent at the detention hearing and at all subsequent proceedings before the juvenile court. Counsel shall continue to represent the parent, guardian, child, or nonminor dependent unless relieved by the court upon the substitution of other counsel or for cause. The representation shall include representing the parent, guardian, or the child in termination proceedings and in those proceedings relating to the institution or setting aside of a legal guardianship. On and after January 1, 2012, in the case of a nonminor dependent, as described in subdivision (v) of Section 11400, no representation by counsel shall be provided for a parent, unless the parent is receiving court-ordered family reunification services.

(e)

(1) Counsel shall be charged in general with the representation of the child's interests. To that end, counsel shall make or cause to have made any further investigations that he or she deems in good faith to be reasonably necessary to ascertain the facts, including the interviewing of witnesses, and shall examine and cross-examine witnesses in both the adjudicatory and dispositional hearings. Counsel may also introduce and examine his or her own witnesses, make recommendations to the court concerning the child's welfare, and participate further in the proceedings to the degree necessary to adequately represent the child. When counsel is appointed to represent a nonminor dependent, counsel is charged with representing the wishes of the nonminor dependent except when advocating for those wishes conflicts with the protection or safety of the nonminor dependent. If the court finds that a nonminor dependent is not competent to direct counsel, the court shall appoint a guardian ad litem for the nonminor dependent.

(2) If the child is four years of age or older, counsel shall interview the child to determine the child's wishes and assess the child's well-being, and shall advise the court of the child's wishes. Counsel shall not advocate for the return of the child if, to the best of his or her knowledge, return of the child conflicts with the protection and safety of the child.

(3) Counsel shall investigate the interests of the child beyond the scope of the juvenile proceeding, and report to the court other interests of the child that may need to be protected by the institution of other administrative or judicial proceedings. Counsel representing a child in a dependency proceeding is not required to assume the responsibilities of a social worker, and is not expected to provide nonlegal services to the child.

(4)

(A) At least once every year, if the list of educational liaisons is available on the Internet Web site for the State Department of Education, both of the following shall apply:

(i) Counsel shall provide his or her contact information to the educational liaison, as described in subdivision (c) of Section 48853.5 of the Education Code, of each local educational

agency serving counsel's foster child clients in the county of jurisdiction.

**(ii)** If counsel is part of a firm or organization representing foster children, the firm or organization may provide its contact information in lieu of contact information for the individual counsel. The firm or organization may designate a person or persons within the firm or organization to receive communications from educational liaisons.

**(B)** The child's caregiver or other person holding the right to make educational decisions for the child may provide the contact information of the child's attorney to the child's local educational agency.

**(C)** Counsel for the child and counsel's agent may, but are not required to, disclose to an individual who is being assessed for the possibility of placement pursuant to Section 361.3 the fact that the child is in custody, the alleged reasons that the child is in custody, and the projected likely date for the child's return home, placement for adoption, or legal guardianship. Nothing in this paragraph shall be construed to prohibit counsel from making other disclosures pursuant to this subdivision, as appropriate.

**(5)** Nothing in this subdivision shall be construed to permit counsel to violate a child's attorney-client privilege.

**(6)** The changes made to this subdivision during the 2011-12 Regular Session of the Legislature by the act adding subparagraph (C) of paragraph (4) and paragraph (5) are declaratory of existing law.

**(7)** The court shall take whatever appropriate action is necessary to fully protect the interests of the child.

**(f)** Either the child or counsel for the child, with the informed consent of the child if the child is found by the court to be of sufficient age and maturity to consent, which shall be presumed, subject to rebuttal by clear and convincing evidence, if the child is over 12 years of age, may invoke the psychotherapist-client privilege, physician-patient privilege, and clergyman-penitent privilege. If the child invokes the privilege, counsel may not waive it, but if counsel invokes the privilege, the child may waive it. Counsel shall be the holder of these privileges if the child is found by the court not to be of sufficient age and maturity to consent. For the sole purpose of fulfilling his or her obligation to provide legal representation of the child, counsel shall have access to all records with regard to the child maintained by a health care facility, as defined in [Section 1545 of the Penal Code](#), health care providers, as defined in [Section 6146 of the Business and Professions Code](#), a physician and surgeon or other health practitioner, as defined in former [Section 11165.8 of the Penal Code](#), as that section read on January 1, 2000, or a child care custodian, as defined in former [Section 11165.7 of the Penal Code](#), as that section read on January 1, 2000. Notwithstanding any other law, counsel shall be given access to all records relevant to the case that are maintained by state or local public agencies. All information requested from a child protective agency regarding a child who is in protective custody, or from a child's guardian ad litem, shall be provided to the child's counsel within 30 days of the request.

**(g)** In a county of the third class, if counsel is to be provided to a child at the county's expense other than by counsel for the agency, the court shall first use the services of the public defender before appointing private counsel. Nothing in this subdivision shall be construed to require the appointment of the public defender in any case in which the public defender has a conflict of interest. In the interest of justice, a court may depart from that portion of the procedure requiring appointment of the public defender after making a finding of good cause and stating the reasons therefor on the record.

**(h)** In a county of the third class, if counsel is to be appointed to provide legal counsel for a parent or guardian at the county's expense, the court shall first use the services of the alternate public defender before appointing private counsel. Nothing in this subdivision shall be construed to require the appointment of the

alternate public defender in any case in which the public defender has a conflict of interest. In the interest of justice, a court may depart from that portion of the procedure requiring appointment of the alternate public defender after making a finding of good cause and stating the reasons therefor on the record.

**Leg.H.**

Added Stats 1987 ch 1485 § 21, operative January 1, 1989. Amended Stats 1992 ch 433 § 1 (AB 2448); Stats 1996 ch 1084 § 3 (SB 1516); Stats 1998 ch 900 § 2 (AB 2316); Stats 2000 ch 450 § 1 (SB 2160); Stats 2006 ch 385 § 1 (AB 2480), effective January 1, 2007, ch 838 § 46.5 (SB 678) (ch 838 prevails), effective January 1, 2007; Stats 2010 ch 559 § 8.5 (AB 12), effective January 1, 2011; Stats 2011 ch 132 § 1 (SB 926), effective January 1, 2012; Stats 2012 ch 846 § 13 (AB 1712), effective January 1, 2013, ch 849 § 6.5 (AB 1909), effective January 1, 2013; Stats 2013 ch 300 § 4 (AB 868), effective January 1, 2014; Stats 2015 ch 534 § 4 (SB 238), effective January 1, 2016, ch 554 § 6.1 (AB 224), effective January 1, 2016.

## **§ 317.5. Party Entitlement to Competent Counsel; Minor as Party.**

(a) All parties who are represented by counsel at dependency proceedings shall be entitled to competent counsel.

(b) Each minor who is the subject of a dependency proceeding is a party to that proceeding.

**Leg.H.**

1994 ch. 1073.

## **§ 317.6. Adoption of Rules by Judicial Council; Adoption of Local Rules by Superior Courts.**

(a) On or before January 1, 1996, the Judicial Council shall, after consulting with representatives from the State Bar of California, county counsels, district attorneys, public defenders, county welfare directors, and children's advocacy groups, adopt rules of court regarding the appointment of competent counsel in dependency proceedings, including, but not limited to, the following:

(1) The screening and appointment of competent counsel.

(2) Establishing minimum standards of experience and education necessary to qualify as competent counsel to represent a party in dependency proceedings.

(3) Procedures for handling client complaints regarding attorney performance, including measures to inform clients of the complaint process.

(4) Procedures for informing the court of any interests of the minor that may need to be protected in other proceedings.

(b) On or before July 1, 1996, each superior court shall, after consulting with representatives from the State Bar of California and the local offices of the county counsel, district attorney, public defender, county welfare department, and children's advocacy groups, adopt local rules of court regarding the conduct of dependency proceedings that address items such as procedures and timeframes for the presentation of contested issues and witness lists to eliminate unnecessary delays in dependency hearings.

**Leg.H.**

1994 ch. 1073, 1995 ch. 91.

## **§ 318. District Attorney Who Represented Minor in Dependency Proceedings Prohibited from Appearing on Behalf of State in Action Alleging Same Minor Committed Crime.**

If a district attorney has represented a minor in a dependency proceeding, that district attorney shall not appear, on behalf of the people of the State of California, in any juvenile court hearing which is based upon a petition that alleges that the same minor is a person within the description of Section 602.

Records kept by the district attorney in the course of representation of a minor described in Section 300 are confidential and shall be held separately, and shall not be inspected by members of the district attorney's office not directly involved in the representation of that minor. A district attorney who represents or who has represented a minor in a proceeding brought pursuant to Section 300 shall not discuss the substance of that case with a district attorney representing the people pursuant to Section 681 in a proceeding brought pursuant to Section 602 in which that same minor is the subject of the petition.

**Leg.H.**

1992 ch. 1327.

## **§ 318.5. Appearance by County Counsel or District Attorney.**

In a juvenile court hearing, where the parent or guardian is represented by counsel, the county counsel or district attorney shall, at the request of the juvenile court judge, appear and participate in the hearing to represent the petitioner.

**Leg.H.**

1976 ch. 1068, 1986 ch. 1122 (amended and renumbered from § 351), 1987 ch. 56 (renumbered from § 318).

## **§ 319. Hearing; Order Releasing or Detaining Minor; Criteria; Efforts to Prevent Removal; Placement; Educational or Developmental Services Decisions.**

(a) At the initial petition hearing, the court shall examine the child's parents, guardians, Indian custodian, or other persons having relevant knowledge and hear the relevant evidence as the child, the child's parents or guardians, the child's Indian custodian, the petitioner, the Indian child's tribe, or their counsel desires to present. The court may examine the child, as provided in Section 350.

(b) The social worker shall report to the court on the reasons why the child has been removed from the parent's, guardian's, or Indian custodian's physical custody, the need, if any, for continued detention, the available services and the referral methods to those services that could facilitate the return of the child to the custody of the child's parents, guardians, or Indian custodian, and whether there are any relatives who are able and willing to take temporary physical custody of the child. If it is known or there is reason to know the child is an Indian child, the report shall also include all of the following:

(1) A statement of the risk of imminent physical damage or harm to the Indian child and any evidence that the emergency removal or placement continues to be necessary to prevent the imminent physical damage or harm to the child.

(2) The steps taken to provide notice to the child's parents, custodians, and tribe about the hearing pursuant to this section.

(3) If the child's parents and Indian custodians are unknown, a detailed explanation of what efforts have been made to locate and contact them, including contact with the appropriate Bureau of Indian Affairs regional director.

(4) The residence and the domicile of the Indian child.

(5) If either the residence or the domicile of the Indian child is believed to be on a reservation or in an Alaska Native village, the name of the tribe affiliated with that reservation or village.

(6) The tribal affiliation of the child and of the parents or Indian custodians.

(7) A specific and detailed account of the circumstances that caused the Indian child to be taken into temporary custody.

(8) If the child is believed to reside or be domiciled on a reservation in which the tribe exercises exclusive jurisdiction over child custody matters, a statement of efforts that have been made and that are being made to contact the tribe and transfer the child to the tribe's jurisdiction.

(9) A statement of the efforts that have been taken to assist the parents or Indian custodians so the Indian child may safely be returned to their custody.

(c) The court shall order the release of the child from custody unless a *prima facie* showing has been made that the child comes within Section 300, the court finds that continuance in the parent's or guardian's home is contrary to the child's welfare, and any of the following circumstances exist:

(1) There is a substantial danger to the physical health of the child or the child is suffering severe emotional damage, and there are no reasonable means by which the child's physical or emotional health may be protected without removing the child from the parent's or guardian's physical custody.

(2) There is substantial evidence that a parent, guardian, or custodian of the child is likely to flee the jurisdiction of the court, and, in the case of an Indian child, fleeing the jurisdiction will place the child at risk of imminent physical damage or harm.

(3) The child has left a placement in which the child was placed by the juvenile court.

(4) The child indicates an unwillingness to return home, if the child has been physically or sexually abused by a person residing in the home.

(d) If the court knows or there is reason to know the child is an Indian child, the court may only detain the Indian child if it also finds that detention is necessary to prevent imminent physical damage or harm. The court shall state on the record the facts supporting this finding.

(e)

(1) If the hearing pursuant to this section is continued pursuant to Section 322 or for any other reason, the court shall find that the continuance of the child in the parent's or guardian's home is contrary to the child's welfare at the initial petition hearing or order the release of the child from custody.

(2) If the court knows or has reason to know the child is an Indian child, the hearing pursuant to this section may not be continued beyond 30 days unless the court finds all of the following:

- (A) Restoring the child to the parent, parents, or Indian custodian would subject the child to imminent physical damage or harm.
- (B) The court is unable to transfer the proceeding to the jurisdiction of the appropriate Indian tribe.
- (C) It is not possible to initiate an Indian child custody proceeding as defined in Section 224.1.

(f)

(1) The court shall also make a determination on the record, referencing the social worker's report or other evidence relied upon, as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from their home, pursuant to subdivision (b) of Section 306, and whether there are available services that would prevent the need for further detention. Services to be considered for purposes of making this determination are case management, counseling, emergency shelter care, emergency in-home caretakers, out-of-home respite care, teaching and demonstrating homemakers, parenting training, transportation, and any other child welfare services authorized by the State Department of Social Services pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9. The court shall also review whether the social worker has considered whether a referral to public assistance services pursuant to Chapter 2 (commencing with Section 11200) and Chapter 7 (commencing with Section 14000) of Part 3 of, Chapter 1 (commencing with Section 17000) of Part 5 of, and Chapter 10 (commencing with Section 18900) of Part 6 of, Division 9 would have eliminated the need to take temporary custody of the child or would prevent the need for further detention.

(2) If the court knows or has reason to know the child is an Indian child, the court shall also determine whether the county welfare department made active efforts to provide remedial services and rehabilitation programs designed to prevent the breakup of the Indian family. The court shall order the county welfare department to initiate or continue services or programs pending disposition pursuant to Section 358.

(3) If the child can be returned to the custody of their parent, guardian, or Indian custodian through the provision of those services, the court shall place the child with their parent, guardian, or Indian custodian and order that the services shall be provided. If the child cannot be returned to the physical custody of their parent or guardian, the court shall determine if there is a relative who is able and willing to care for the child, and has been assessed pursuant to Section 361.4.

(4) In order to preserve the bond between the child and the parent and to facilitate family reunification, the court shall consider whether the child can be returned to the custody of their parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with their parent. The fact that the parent is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with their parent shall not be, for that reason alone, *prima facie* evidence of substantial danger. The court shall specify the factual basis for its conclusion that the return of the child to the custody of their parent would pose a substantial danger or would not pose a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the child.

(g) If a court orders a child detained, the court shall state the facts on which the decision is based, specify why the initial removal was necessary, reference the social worker's report or other evidence relied upon to make its determination whether continuance in the home of the parent or legal guardian is contrary to the child's welfare, order temporary placement and care of the child to be vested with the county child welfare department pending the hearing held pursuant to Section 355 or further order of the court, and order services to be provided as soon as possible to reunify the child and their family, if appropriate.

(h)

**(1)**

**(A)** If the child is not released from custody, the court may order the temporary placement of the child in any of the following for a period not to exceed 15 judicial days:

**(i)** The home of a relative, an extended family member, as defined in Section 224.1 and Section 1903 of the federal Indian Child Welfare Act of 1978 ([25 U.S.C. Sec. 1901 et seq.](#)), or a nonrelative extended family member, as defined in Section 362.7, that has been assessed pursuant to Section 361.4.

**(ii)** The approved home of a resource family, as defined in Section 16519.5, or a home licensed or approved by the Indian child's tribe.

**(iii)** An emergency shelter or other suitable licensed place.

**(iv)** A place exempt from licensure designated by the juvenile court.

**(B)** A youth homelessness prevention center licensed by the State Department of Social Services pursuant to [Section 1502.35 of the Health and Safety Code](#) shall not be a placement option pursuant to this section.

**(C)** If the court knows or has reason to know that the child is an Indian child, the Indian child shall be detained in a home that complies with the placement preferences set forth in Section 361.31 and in the federal Indian Child Welfare Act of 1978 ([25 U.S.C. Sec. 1901 et seq.](#)), unless the court finds good cause exists pursuant to Section 361.31 not to follow the placement preferences. If the court finds good cause not to follow the placement preferences for detention, this finding does not affect the requirement that a diligent search be made for a subsequent placement within the placement preferences.

**(2)** Relatives shall be given preferential consideration for placement of the child. As used in this section, "relative" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of these persons, even if the marriage was terminated by death or dissolution.

**(3)** When placing in the home of a relative, an extended family member, as defined in Section 224.1 and Section 1903 of the federal Indian Child Welfare Act of 1978, or nonrelative extended family member, the court shall consider the recommendations of the social worker based on the assessment pursuant to Section 361.4 of the home of the relative, extended family member, or nonrelative extended family member, including the results of a criminal records check and prior child abuse allegations, if any, before ordering that the child be placed with a relative or nonrelative extended family member. The court may authorize the placement of a child on temporary basis in the home of a relative, regardless of the status of any criminal record exemption or resource family approval, if the court finds that the placement does not pose a risk to the health and safety of the child. The court shall order the parent to disclose to the social worker the names, residences, and any known identifying information of any maternal or paternal relatives of the child. The social worker shall initiate the assessment pursuant to Section 361.3 of any relative to be considered for continuing placement.

**(i)** In the case of an Indian child, any order detaining the child pursuant to this section shall be considered an emergency removal within the meaning of Section 1922 of the federal Indian Child Welfare Act of 1978. The emergency proceeding shall terminate if the child is returned to the custody of the parent, parents, or Indian custodian, the child has been transferred to the custody and jurisdiction of the child's tribe, or the agency or

another party to the proceeding recommends that the child be removed from the physical custody of their parent or parents or Indian custodian pursuant to Section 361 or 361.2.

(j)

(1) At the initial hearing upon the petition filed in accordance with subdivision (c) of **Rule 5.520 of the California Rules of Court** or anytime thereafter up until the time that the minor is adjudged a dependent child of the court or a finding is made dismissing the petition, the court may temporarily limit the right of the parent or guardian to make educational or developmental services decisions for the child and temporarily appoint a responsible adult to make educational or developmental services decisions for the child if all of the following conditions are found:

(A) The parent or guardian is unavailable, unable, or unwilling to exercise educational or developmental services rights for the child.

(B) The county placing agency has made diligent efforts to locate and secure the participation of the parent or guardian in educational or developmental services decisionmaking.

(C) The child's educational and developmental services needs cannot be met without the temporary appointment of a responsible adult.

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

(3) If the court cannot identify a responsible adult to make educational decisions for the child and the appointment of a surrogate parent, as defined in **subdivision (a) of Section 56050 of the Education Code**, is not warranted, the court may, with the input of any interested person, make educational decisions for the child. If the child is receiving services from a regional center, the provision of any developmental services related to the court's decision shall be consistent with the child's individual program plan and pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)). If the court cannot identify a responsible adult to make developmental services decisions for the child, the court may, with the input of any interested person, make developmental services decisions for the child. If the court makes educational or developmental services decisions for the child, the court shall also issue appropriate orders to ensure that every effort is made to identify a responsible adult to make future educational or developmental services decisions for the child.

(4) A temporary appointment of a responsible adult and temporary limitation on the right of the parent or guardian to make educational or developmental services decisions for the child shall be specifically addressed in the court order. An order made under this section shall expire at the conclusion of the hearing held pursuant to Section 361 or upon dismissal of the petition. Upon the entering of disposition orders, additional needed limitation on the parent's or guardian's educational or developmental services rights shall be addressed pursuant to Section 361.

(5) This section does not remove the obligation to appoint surrogate parents for students with disabilities who are without parental representation in special education procedures, as required by state and federal law, including **Section 1415(b)(2) of Title 20 of the United States Code**, **Section 56050 of the Education Code**, **Section 7579.5 of the Government Code**, and **Rule 5.650 of the California Rules of Court**.

(6) If the court appoints a developmental services decisionmaker pursuant to this section, the developmental services decisionmaker shall have the authority to access the child's information and records pursuant to subdivision (u) of Section 4514 and paragraph (23) of subdivision (a) of Section 5328,

and to act on the child's behalf for the purposes of the individual program plan process pursuant to Sections 4646, 4646.5, and 4648 and the fair hearing process pursuant to Chapter 7 (commencing with Section 4700) of Division 4.5, and as set forth in the court order.

**(k)** For a placement made on or after October 1, 2021, each temporary placement of the child pursuant to subdivision (h) in a short-term residential therapeutic program shall comply with the requirements of Section 4096 and be reviewed by the court pursuant to Section 361.22.

**Leg.H.**

Added Stats 1976 ch 1068 § 7. Amended Stats 1982 ch 978 § 9, effective September 13, 1982, operative July 1, 1982; Stats 1983 ch 309 § 4; Stats 1984 ch 1608 § 2, effective September 30, 1984; Stats 1985 ch 440 § 1; Stats 1986 ch 1121 § 1, ch 1122 § 3; Stats 1987 ch 1485 § 24; Stats 1990 ch 1530 § 4 (SB 2232); Stats 1994 ch 469 § 2 (AB 1579); Stats 1997 ch 793 § 12 (AB 1544); Stats 1998 ch 1054 § 9 (AB 1091), ch 1056 § 10 (AB 2773); Stats 1999 ch 83 § 192 (SB 966); Stats 2001 ch 653 § 9 (AB 1695), effective October 10, 2001; Stats 2004 ch 373 § 3 (AB 1913); Stats 2005 ch 639 § 9 (AB 1261), effective January 1, 2006; Stats 2006 ch 538 § 685 (SB 1852), effective January 1, 2007; Stats 2007 ch 130 § 243 (AB 299), effective January 1, 2008; Stats 2011 ch 471 § 1 (SB 368), effective January 1, 2012; Stats 2012 ch 162 § 187 (SB 1171), effective January 1, 2013, ch 176 § 1 (AB 2060), effective January 1, 2013 (ch 176 prevails); Stats 2013 ch 485 § 3 (AB 346), effective January 1, 2014; Stats 2014 ch 219 § 1 (SB 977), effective January 1, 2015; Stats 2015 ch 303 § 567 (AB 731), effective January 1, 2016; Stats 2017 ch 732 § 44 (AB 404), effective January 1, 2018; Stats 2018 ch 833 § 22 (AB 3176), effective January 1, 2019; Stats 2021 ch 86 § 15 (AB 153), effective July 16, 2021; Stats 2019 ch 341 § 12 (AB 1235), effective January 1, 2020; Stats 2021 ch 687 § 7 (SB 354), effective January 1, 2022.

## **§ 319.1. Specialized Mental Health Treatment for Minor Unable to Reside in Natural Home.**

When the court finds a minor to be a person described by Section 300, and believes that the minor may need specialized mental health treatment while the minor is unable to reside in his or her natural home, the court shall notify the director of the county mental health department in the county where the minor resides. The county mental health department shall perform the duties required under Section 5694.7 for all those minors.

Nothing in this section shall restrict the provisions of emergency psychiatric services to those minors who are involved in dependency cases and have not yet reached the point of adjudication or disposition, nor shall it operate to restrict evaluations at an earlier stage of the proceedings or to restrict orders removing the minor from a detention facility for psychiatric treatment.

**Leg.H.**

1985 ch. 1286, effective September 30, 1985, 1999 ch. 892, 2001 ch. 854.

## **§ 319.2. Placement of Children Under 6 Years of Age.**

Notwithstanding Section 319, when a child under the age of six years is not released from the custody of the court, the child may be placed in a community care facility licensed as a group home for children or in a temporary shelter care facility, as defined in [Section 1530.8 of the Health and Safety Code](#), only when the court finds that placement is necessary to secure a complete and adequate evaluation, including placement planning and transition time. The placement period shall not exceed 60 days unless a case plan has been developed and the need for additional time is documented in the case plan and has been approved by the deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department.

**Leg.H.**

Added Stats 1993 ch 1088 § 3 (AB 1197). Amended Stats 2013 ch 21 § 7 (AB 74), effective June 27, 2013.

### § 319.3. Placement of Children 6 to 12 Years of Age.

(a) Notwithstanding Section 319, a child who is the subject of a petition under Section 300 and who is 6 to 12 years of age, inclusive, may be placed in a community care facility licensed as a group home for children, a short-term residential therapeutic program, or in a temporary shelter care facility, as defined in **Section 1530.8 of the Health and Safety Code**, only when the court finds that placement is necessary to secure a complete and adequate evaluation, including placement planning and transition time. The placement period in a group home for children or a short-term residential therapeutic program shall not exceed 60 days unless a case plan has been developed and the need for additional time is documented in the case plan and has been approved by a deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department. The placement period in a temporary shelter care facility shall not exceed 10 days.

(b) For a placement made on or after October 1, 2021, each placement of a child in a short-term residential therapeutic program pursuant to this section shall comply with the requirements of Section 4096 and be reviewed by the court pursuant to Section 361.22.

**Leg.H.**

Added Stats 2013 ch 21 § 8 (AB 74), effective June 27, 2013. Amended Stats 2015 ch 773 § 46 (AB 403), effective January 1, 2016; Stats 2016 ch 612 § 69 (AB 1997), effective January 1, 2017; Stats 2017 ch 732 § 45 (AB 404), effective January 1, 2018; Stats 2021 ch 86 § 16 (AB 153), effective July 16, 2021.

### § 319.4. Ex Parte Hearing to Present Evidence That Emergency Placement Is No Longer Necessary.

If it is known or if there is reason to know the child is an Indian child, and the child has been ordered detained pursuant to Section 319, any party may request an ex parte hearing prior to disposition to present evidence to the court that the emergency placement is no longer necessary to prevent imminent physical damage or harm to the child. If the court determines placement is no longer necessary, it shall order the child returned to the physical custody of the parent or parents or Indian custodian. The Judicial Council shall develop a rule of court and forms for implementation of this section.

**Leg.H.**

Added Stats 2018 ch 833 § 23 (AB 3176), effective January 1, 2019.

### § 321. Rehearing Upon Affidavit Showing Absence of Parental Notice.

When a hearing is held under the provisions of this article and no parent or guardian of the minor is present and no parent or guardian has had actual notice of the hearing, a parent or guardian of the minor may file an affidavit setting forth the facts with the clerk of the juvenile court and the clerk shall immediately set the matter for rehearing at a time within 24 hours, excluding Sundays and nonjudicial days from the filing of the affidavit. Upon the rehearing, the court shall proceed in the same manner as upon the original hearing.

If the minor, a parent or guardian or the minor's attorney or guardian ad litem, if either one or the other has been appointed by the court, requests evidence of the prima facie case, a rehearing shall be held within three judicial days to consider evidence of the prima facie case. If the prima facie case is not established, the minor shall be released from detention.

In lieu of a requested rehearing, the court may set the matter for trial within 10 days.

When the court ascertains that the rehearing cannot be held within three judicial days because of the unavailability of a witness, a reasonable continuance may be granted for a period not to exceed five judicial days.

**Leg.H.**

1976 ch. 1068, 1982 ch. 978, effective September 13, 1982, operative July 1, 1982, 1983 ch. 309, 1984 ch. 144.

## **§ 322. Continuances.**

Upon motion of the minor or a parent or guardian of such minor, the court shall continue any hearing or rehearing held under the provisions of this article for one day, excluding Sundays and nonjudicial days.

**Leg.H.**

1976 ch. 1068.

## **§ 323. Order to Reappear.**

Upon any hearing or rehearing under the provisions of this article, the court may order such minor or any parent or guardian of such minor who is present in court to again appear before the court, the probation officer or the county financial evaluation officer at a time and place specified in said order.

**Leg.H.**

1976 ch. 1068, 1985 ch. 1485.

## **§ 324. Proper County of Custody—Conditions for Appearance.**

Whenever any minor is taken into temporary custody under the provisions of this article in any county other than the county in which the minor is alleged to be within or to come within the jurisdiction of the juvenile court, which county is referred to herein as the requesting county, the officer who has taken the minor into temporary custody may notify the law enforcement agency in the requesting county of the fact that the minor is in custody. When a law enforcement officer, of such requesting county files a petition pursuant to Section 332 with the clerk of the juvenile court of his respective county and secures a warrant therefrom, he shall forward said warrant, or a telegraphic copy thereof to the officer who has the minor in temporary custody as soon as possible within 48 hours, excluding Sundays and nonjudicial days, from the time said juvenile was taken into temporary custody. Thereafter an officer from said requesting county shall take custody of the minor within five days, in the county in which the minor is in temporary custody, and shall take the minor before the juvenile court judge who issued the warrant, or before some other juvenile court of the same county without unnecessary delay. If the minor is not brought before a judge of the juvenile court within the period prescribed by this section, he must be released from custody.

**Leg.H.**

1976 ch. 1068.

## **§ 324.5. Physical Examination by Medical Specialist of Child Taken into Protective Custody.**

(a) Whenever allegations of physical or sexual abuse of a child come to the attention of a local law enforcement agency or the local child welfare department and the child is taken into protective custody, the local law enforcement agency, or child welfare department may, as soon as practically possible, consult with a medical

practitioner, who has specialized training in detecting and treating child abuse injuries and neglect, to determine whether a physical examination of the child is appropriate. If deemed appropriate, the local law enforcement agency, or the child welfare department, shall cause the child to undergo a physical examination performed by a medical practitioner who has specialized training in detecting and treating child abuse injuries and neglect, and, whenever possible, shall ensure that this examination take place within 72 hours of the time the child was taken into protective custody. In the event the allegations are made while the child is in custody, the physical examination shall be performed within 72 hours of the time the allegations were made.

In the case of a petition filed pursuant to Section 319, the department shall provide the results of the physical examination to the court and to any counsel for the minor, and counsel for the parent or guardian of the minor. Failure to obtain this physical examination shall not be grounds to deny a petition under this section.

(b) The local child welfare agency shall, whenever possible, request that additional medical examinations to determine child abuse injuries or neglect, be performed by the same medical practitioner who performed the examinations described in subdivision (a). If it is not possible to obtain additional medical examinations, the local child welfare agency shall ensure that future medical practitioners to whom the child has been referred for ongoing diagnosis and treatment have specialized training in detecting and treating child abuse injuries and neglect and have access to the child's medical records covering the current and previous incidents of child abuse.

**Leg.H.**

1998 ch. 949.

## **ARTICLE 8**

### **Dependent Children—Commencement of Proceedings**

#### **§ 325. Commencement of Proceedings.**

A proceeding in the juvenile court to declare a child to be a dependent child of the court is commenced by the filing with the court, by the social worker, of a petition, in conformity with the requirements of this article.

**Leg.H.**

1976 ch. 1068, 1998 ch. 1054.

#### **§ 326.5. Appointment of Guardian Ad Litem for Victim of Child Abuse or Neglect.**

The Judicial Council shall adopt a rule of court effective July 1, 2001, that complies with the requirement of the federal Child Abuse Prevention and Treatment Act ([Public Law 93-247](#)) for the appointment of a guardian ad litem, who may be an attorney or a court-appointed special advocate, for a child in cases in which a petition is filed based upon neglect or abuse of the child or in which a prosecution is initiated under the Penal Code arising from neglect or abuse of the child. The rule of court may include guidelines to the courts for determining when an attorney should be appointed rather than a court appointed special advocate, and caseload standards for guardians ad litem.

**Leg.H.**

2000 ch. 450.

## § 326.7. Appointment of Guardian Ad Litem.

Appointment of a guardian ad litem shall not be required for a minor who is a parent of the child who is the subject of the dependency petition, unless the minor parent is unable to understand the nature of the proceedings or to assist counsel in preparing the case.

**Leg.H.**

Added Stats 2008 ch 181 § 3 (SB 1612), effective January 1, 2009.

## § 327. Venue for Juvenile Proceedings.

Either the juvenile court in the county in which a minor resides or in the county where the minor is found or in the county in which the acts take place or the circumstances exist which are alleged to bring such minor within the provisions of Section 300, is the proper court to commence proceedings under this chapter.

**Leg.H.**

1976 ch. 1068.

## § 328. Duty of Social Worker to Make Investigation Determining Whether Proceedings Should be Commenced.

Whenever the social worker has cause to believe that there was or is within the county, or residing therein, a person described in Section 300, the social worker shall immediately make any investigation he or she deems necessary to determine whether child welfare services should be offered to the family and whether proceedings in the juvenile court should be commenced. If the social worker determines that it is appropriate to offer child welfare services to the family, the social worker shall make a referral to these services pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9. No inference regarding the credibility of the allegations or the need for child welfare services shall be drawn from the mere existence of a child custody or visitation dispute.

However, this section does not require an investigation by the social worker with respect to a child delivered or referred to any agency pursuant to Section 307.5.

The social worker shall interview any child four years of age or older who is a subject of an investigation, and who is in juvenile hall or other custodial facility, or has been removed to a foster home, to ascertain the child's view of the home environment. If proceedings are commenced, the social worker shall include the substance of the interview in any written report submitted at an adjudicatory hearing, or if no report is then received in evidence, the social worker shall include the substance of the interview in the social study required by Section 358. A referral based on allegations of child abuse from the family court pursuant to [Section 3027 of the Family Code](#) shall be investigated to the same extent as any other child abuse allegation.

**Leg.H.**

Added Stats 1976 ch 1068 § 8. Amended Stats 1981 ch 875 § 1; Stats 1982 ch 461 § 2, ch 978 § 12, effective September 13, 1982, operative July 1, 1982, ch 1094 § 1.1; Stats 1984 ch 260 § 1; Stats 1987 ch 1485 § 25; Stats 1998 ch 1054 § 11 (AB 1091); Stats 2010 ch 352 § 20 (AB 939), effective January 1, 2011.

## § 328.1. Investigation by Referral Agency to Determine Disposition of Referral.

**(a)** A county child welfare department investigating a case of child abuse or neglect involving an allegation against the parent or guardian of the child shall attempt, as soon as practicable, to determine if the parent or guardian is an active duty member of the Armed Forces of the United States.

**(b)** A county child welfare department may develop and adopt memoranda of understanding with military installations, located in whole or in part within the borders of its jurisdiction, that govern the investigation of allegations of child abuse or neglect against active duty service members assigned to units on those installations. Those memoranda may include, but are not limited to, all of the following:

**(1)** To whom, how, and when each party would report information about an investigation.

**(2)** Each party's role and responsibilities when conducting an investigation and in providing child maltreatment prevention or rehabilitative services to a family in response to the results of the investigations, consistent with state and federal law.

**(3)** Protocols describing what, if any, confidential information may be shared between the parties and for what purposes, in accordance with applicable state and federal law.

**(c)** This section does not limit or change the responsibilities of a county child welfare department with respect to investigations of, or responses to, allegations of abuse or neglect.

**Leg.H.**

Added Stats 2020 ch 231 § 1 (SB 907), effective January 1, 2021.

### **§ 328.3. Investigation by Referral Agency to Determine Disposition of Referral.**

Whenever any officer refers or delivers a minor pursuant to Section 307.5, the agency to which the minor is referred shall immediately make such investigation as it deems necessary to determine what disposition of the referral or delivery should be made. 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 calendar 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.

**Leg.H.**

1984 ch. 260.

### **§ 329. Application to Social Worker to Commence Proceedings; Form and Contents; Endorsement of Decision and Notification of Applicant; Retention of Affidavit and Endorsement.**

**(a)** When a person applies to the social worker 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 child within the provisions of Section 300, and setting forth facts in support thereof. The social worker shall immediately investigate as necessary to determine whether proceedings in the juvenile court should be commenced. If the social worker does not take action under Section 301 and does not file a petition in the juvenile court within three weeks after the application, the social worker shall endorse upon the affidavit of the applicant the decision not to proceed further, including any recommendation made to the applicant, if one is made, to consider commencing a probate guardianship proceeding for the child, and the reasons therefor and

shall immediately notify the applicant of the action taken or the decision rendered under this section. The social worker shall retain the affidavit and the endorsement thereon for a period of 30 days after notifying the applicant.

**(b)**

**(1)** If a social worker receives a referral from the probate court pursuant to **Section 1513 of the Probate Code**, the social worker shall immediately investigate as necessary to determine whether proceedings in the juvenile court should be commenced.

**(2)** The social worker shall, within three weeks of the referral, report the findings and conclusions of the investigation, along with any decision made as a result and the reasons for the decision, to the probate court as required by **subdivision (b) of Section 1513 of the Probate Code**.

**Leg.H.**

Added Stats 1976 ch 1068 § 8. Amended Stats 1998 ch 1054 § 12 (AB 1091); Stats 2012 ch 638 § 15 (AB 1757), effective January 1, 2013; Stats 2021 ch 578 § 4 (AB 260), effective January 1, 2022.

## **§ 331. Social Worker's Failure to Act.**

**(a)** If a person has applied to the social worker, pursuant to Section 329, to commence juvenile court proceedings and the social worker does not file a petition within three weeks after the application, the person may, within one month after making the application, apply to the juvenile court to review the decision of the social worker, and the court may either affirm the decision of the social worker or, if it finds that the child is, *prima facie*, described by Section 300, order the social worker to commence juvenile court proceedings.

**(b)** If the probate court has referred a matter to the child welfare agency pursuant to **Section 1513 of the Probate Code**, and the agency does not file a petition to commence juvenile court proceedings within three weeks of the referral, the probate court or counsel appointed by the probate court pursuant to **Section 1470 of the Probate Code** to represent the child may, within one month after the referral, request that the juvenile court review the decision of the social worker not to file a petition. The request shall contain the probate court referral made pursuant to **subdivision (b) of Section 1513 of the Probate Code** and the social worker's report, if available to the court, and need not contain any additional information. The juvenile court may either affirm the decision of the social worker or, if it finds that the child is, *prima facie*, described by Section 300, order the social worker to commence juvenile court proceedings.

**(1)** Either the appointment of a temporary probate guardian or any delay attributable to the child welfare investigation shall not preclude the juvenile court from ordering the social worker to commence dependency proceedings or from hearing and determining a petition alleging that the child is described by Section 300.

**(2)** The juvenile court shall, within five days of completing its review, transmit its decision, in writing, to the probate court. The probate court shall file the decision in question in the guardianship proceeding and shall make it available only to persons entitled to receive reports pursuant to **subdivision (d) of Section 1513 of the Probate Code**.

**Leg.H.**

Added Stats 1976 ch 1068 § 8. Amended Stats 1998 ch 1054 § 13 (AB 1091); Stats 2021 ch 578 § 5 (AB 260), effective January 1, 2022.

## **§ 331.5. Referral Agency's Failure to Act.**

When any officer has referred or delivered a child to an agency pursuant to Section 307.5, and that agency does not initiate a service program for the child within the time periods required by Section 328.3, the referring agency may, within 10 court days following receipt of the notification from the referral agency, apply to the social worker for a review of that decision.

**Leg.H.**

1984 ch. 260, 1998 ch. 1054.

## **§ 332. Contents of Petition to Commence Proceedings.**

A petition to commence proceedings in the juvenile court to declare a child a dependent child of the court shall be verified and shall contain all of the following:

(a) The name of the court to which it is addressed.

(b) The title of the proceeding.

(c) The code section and the subdivision under which the proceedings are instituted. If it is alleged that the child is a person described by subdivision (e) of Section 300, the petition shall include an allegation pursuant to that section.

(d) The name, age, and address, if any, of the child upon whose behalf the petition is brought.

(e) The names and residence addresses, if known to the petitioner, of both parents and any guardian of the child. If there is no parent or guardian residing within the state, or if his or her place of residence is not known to the petitioner, the petition shall also contain the name and residence address, if known, of any adult relative residing within the county, or, if there is none, the adult relative residing nearest to the location of the court. If it is known to the petitioner that one of the parents is a victim of domestic violence and that parent is currently living separately from the batterer-parent, the address of the victim-parent shall remain confidential.

(f) A concise statement of facts, separately stated, to support the conclusion that the child upon whose behalf the petition is being brought is a person within the definition of each of the sections and subdivisions under which the proceedings are being instituted.

(g) The fact that the child upon whose behalf the petition is brought is detained in custody or is not detained in custody, and if he or she is detained in custody, the date and the precise time the child was taken into custody.

(h) A notice to the father, mother, spouse, or other person liable for support of the child, of all of the following: (1) Section 903 makes that person, the estate of that person, and the estate of the child, liable for the cost of the care, support, and maintenance of the child in any county institution or any other place in which the child is placed, detained, or committed pursuant to an order of the juvenile court; (2) Section 903.1 makes that person, the estate of that person, and the estate of the child, liable for the cost to the county of legal services rendered to the child or the parent by a private attorney or a public defender appointed pursuant to the order of the juvenile court; (3) Section 903.2 makes that person, the estate of that person, and the estate of the child, liable for the cost to the county of the supervision of the child by the social worker pursuant to the order of the juvenile court; and (4) the liabilities established by these sections are joint and several.

## **SUGGESTED FORMS**

# Petition by Social Worker to Declare Child a Dependent Child of Court

\_\_\_\_\_ [Title of Court and Cause]

1. Petitioner, \_\_\_\_\_, is a social worker in the County of \_\_\_\_\_, State of California.
2. is a child, born on \_\_\_\_\_ [date], who now resides at \_\_\_\_\_ [address], in the County of \_\_\_\_\_, State of California.
3. The \_\_\_\_\_ [name or names] and \_\_\_\_\_ [address or addresses] of the \_\_\_\_\_ [parent or parents or guardian or guardians or adult relative or adult relatives] of the child are: \_\_\_\_\_.
4. The child comes within the provisions of Section 300, \_\_\_\_\_ [specify subdivision] of the Welfare and Institutions Code of the State of California.
5. \_\_\_\_\_ [Set forth facts bringing child within the provisions of the Code section]. [If it is alleged that child is person described by Section 300 subd (e), add that severe physical abuse has occurred if social worker intends to request finding of severe physical abuse pursuant to **Section 332 of Welfare and Institutions Code**].
6. The child is [not detained in custody or being detained in custody, having been taken into custody on \_\_\_\_\_ [date], at \_\_\_\_\_ o'clock \_\_\_\_\_ .m.].
7. Notice is hereby given to \_\_\_\_\_ [father, mother, spouse, or other person liable for support of the child] that pursuant to Welfare and Institutions Code of the State of California, Sections 903, 903.1 and 903.2 respectively, you, your estate, and the Estate of \_\_\_\_\_ [child] are jointly and severally liable for: the cost of the care, support and maintenance of \_\_\_\_\_ [child] in any county institution or any other place which \_\_\_\_\_ [minor] is placed, detained, or committed pursuant to an order of the juvenile court; the cost to the county of legal services rendered to \_\_\_\_\_ [child] by a private attorney or public defender appointed pursuant to the order of the juvenile court; and the cost to the county of the probate supervision of \_\_\_\_\_ [child] by the social worker pursuant to the order of the juvenile court.

Wherefore, petitioner prays that the court inquire into the truth of the statements alleged herein and make such order for the disposition of \_\_\_\_\_ [child] as the court may deem in the best interest of the child.

Dated: \_\_\_\_\_.

[Signature] \_\_\_\_\_

[Verification] \_\_\_\_\_

## Leg.H.

Added Stats 1976 ch 1068 § 8; Amended Stats 1982 ch 1276 § 3, effective September 22, 1982; Stats 1984 ch 1246 § 2; Stats 1986 ch 1122 § 5; Stats 1987 ch 1485 § 26; Stats 1989 ch 1151 § 3; Stats 1990 ch 1530 § 5 (SB 2232); Stats 1996 ch 1139 § 7 (AB 2647); Stats 1998 ch 1054 § 15 (AB 1091); Stats 2017 ch 678 § 6 (SB 190), effective January 1, 2018.

## § 333. Dismissal of Unverified Petition.

Any petition filed in juvenile court to commence proceedings pursuant to this chapter that is not verified may be dismissed without prejudice by such court.

## Leg.H.

1976 ch. 1068.

## § 334. Hearing Dates on Petitions.

Upon the filing of the petition, the clerk of the juvenile court shall set the same for hearing within 30 days, except that in the case of a minor detained in custody at the time of the filing of the petition, the petition must be set for hearing within 15 judicial days from the date of the order of the court directing such detention.

Leg.H.

1976 ch. 1068.

## § 338. Citation of Parent or Guardian.

In addition to the notice provided in Sections 290.1 and 290.2 the juvenile court may issue its citation directing any parent or guardian of the person concerning whom a petition has been filed to appear at the time and place set for any hearing or financial evaluation under the provisions of this chapter, including a hearing under the provisions of Section 257, and directing any person having custody or control of the minor concerning whom the petition has been filed to bring such minor with him or her. The notice shall in addition state that a parent or guardian may be required to participate in a counseling program with the minor concerning whom the petition has been filed. Personal service of such citation shall be made at least 24 hours before the time stated therein for that appearance.

Leg.H.

1976 ch. 1068, 1985 ch. 1485, 2002 ch. 416 (SB 1956).

## § 339. Arrest of Custodial Party.

In case such citation cannot be served, or the person served fails to obey it, or in any case in which it appears to the court that the citation will probably be ineffective, a warrant of arrest may issue on the order of the court either against the parent, or guardian, or the person having the custody of the minor, or with whom the minor is living.

Leg.H.

1976 ch. 1068.

## § 340. Issuance of Protective Custody Warrant—Circumstances.

(a) Whenever a petition has been filed in the juvenile court alleging that a minor comes within Section 300 and praying for a hearing on that petition, or whenever any subsequent petition has been filed praying for a hearing in the matter of the minor and it appears to the court that the circumstances of his or her home environment may endanger the health, person, or welfare of the minor, or whenever a dependent minor has run away from his or her court-ordered placement, a protective custody warrant may be issued immediately for the minor.

(b) A protective custody warrant may be issued without filing a petition under Section 300 if the court finds probable cause to support all of the following:

- (1) The child is a person described in Section 300.

- (2) There is a substantial danger to the safety or to the physical or emotional health of the child.
- (3) There are no reasonable means to protect the child's safety or physical health without removal.
- (c) Any child taken into protective custody pursuant to this section shall immediately be delivered to the social worker who shall investigate, pursuant to Section 309, the facts and circumstances of the child and the facts surrounding the child being taken into custody and attempt to maintain the child with the child's family through the provision of services.

(d)

- (1) Nothing in this section is intended to limit any other circumstance that permits a magistrate to issue a warrant for a person.
- (2) Nothing in this section is intended to limit a social worker from taking into and maintaining temporary custody of a minor pursuant to paragraph (2) of subdivision (a) of Section 306.

**Leg.H.**

Added Stats 1976 ch 1068 § 8; Amended Stats 1987 ch 1485 § 29; Stats 2017 ch 262 § 1 (AB 1401), effective January 1, 2018.

## **§ 340.5. Order Restraining Parents of Dependent Child from Threatening Social Worker.**

(a) Whenever pursuant to Article 10 (commencing with Section 360) a social worker is assigned to provide child welfare services, family reunification services, or other services to a dependent child of the juvenile court, the juvenile court may, for good cause shown and after an ex parte hearing, issue its order restraining the parents of the dependent child from threatening the social worker, or any member of the social worker's family, with physical harm.

(b) For purposes of this section, "good cause" means at least one threat of physical harm to the social worker, or any member of the social worker's family, made by the person who is to be the subject of the restraining order, with the apparent ability to carry out the threat.

(c) Violation of a restraining order issued pursuant to this section shall be punishable as contempt.

**Leg.H.**

1991 ch. 980.

## **§ 341. Subpoenas.**

Upon request of the social worker, district attorney, the child, or the child's parent, guardian, or custodian, or on the court's own motion, the court or the clerk of the court, or an attorney, pursuant to [Section 1985 of the Code of Civil Procedure](#), shall issue subpoenas requiring attendance and testimony of witnesses and production of papers at any hearing regarding a child who is alleged or determined by the court to be a person described by Section 300. When a person attends a juvenile court hearing as a witness upon a subpoena, in its discretion, the court may by an order on its minutes, direct the county auditor to draw his or her warrant upon the county treasurer in favor of the witness for witness fees in the amount and manner prescribed by [Section 68093 of the Government Code](#). The fees are county charges.

**Leg.H.**

1976 ch. 1068, 1982 ch. 978, effective September 13, 1982, operative July 1, 1982, 1996 ch. 90, 1998 ch. 1054.

## **§ 342. Subsequent Petition Alleging New Facts and Circumstances.**

(a) In any case in which a minor has been found to be a person described by Section 300 and the petitioner alleges new facts or circumstances, other than those under which the original petition was sustained, sufficient to state that the minor is a person described in Section 300, the petitioner shall file a subsequent petition. This section does not apply if the jurisdiction of the juvenile court has been terminated prior to the new allegations.

(b) Unless otherwise provided by law, all procedures and hearings required for an original petition are applicable to a subsequent petition filed under this section.

**Leg.H.**

Added Stats 1987 ch 1485 § 30; Amended Stats 1988 ch 1075 § 3; Stats 2017 ch 319 § 129 (AB 976), effective January 1, 2018.

## **ARTICLE 9**

### **Dependent Children—Hearings**

## **§ 345. Confidentiality of Proceedings; Calendar Priorities.**

All cases under this chapter shall be heard at a special or separate session of the court, and no other matter shall be heard at such a session. No person on trial, awaiting trial, or under accusation of crime, other than a parent, guardian, or relative of the minor, shall be permitted to be present at any such session, except as a witness.

Cases in which the minor is detained and the sole allegation is that the minor is a person described in Section 300 shall be granted precedence on the calendar of the court for the day on which the case is set for hearing.

**Leg.H.**

1976 ch. 1068, 1986 ch. 1122, 1987 ch. 1485.

## **§ 346. Exclusion of Public; Admission of Interested Parties.**

Unless requested by a parent or guardian and consented to or requested by the minor concerning whom the petition has been filed, the public shall not be admitted to a juvenile court hearing. The judge or referee may nevertheless admit such persons as he deems to have a direct and legitimate interest in the particular case or the work of the court.

**Leg.H.**

1976 ch. 1068, 1982 ch. 978, effective September 13, 1982, operative July 1, 1982.

## **§ 347. Hearing Records and Transcripts.**

At any juvenile court hearing conducted by a juvenile court judge, an official court reporter shall, and at any such hearing conducted by a juvenile court referee, the official reporter, as directed by the court, may take down in shorthand all the testimony and all of the statements and remarks of the judge and all persons appearing at the hearing; and, if directed by the judge, or requested by the person on whose behalf the petition was brought, or by his parent or legal guardian, or the attorneys of such persons, he must, within such reasonable time after the

hearing of the petition as the court may designate, write out the same or such specific portions thereof as may be requested in plain and legible longhand or by typewriter or other printing machine and certify to the same as being correctly reported and transcribed, and when directed by the court, file the same with the clerk of the court. Unless otherwise directed by the judge, the costs of writing out and transcribing all or any portion of the reporter's shorthand notes shall be paid in advance at the rates fixed for transcriptions in a civil action by the person requesting the same.

**Leg.H.**

1976 ch. 1068.

## **§ 348. Variance and Amendment of Pleadings.**

The provisions of Chapter 8 (commencing with Section 469) of Title 6 of Part 2 of the Code of Civil Procedure relating to variance and amendment of pleadings in civil actions shall apply to petitions and proceedings under this chapter, to the same extent and with the same effect as if proceedings under this chapter were civil actions.

**Leg.H.**

1976 ch. 1068.

## **§ 349. Parties Present at Hearing; Representation by Counsel; Minor's Participation; Inquiry as to Proper Notification.**

**(a)** A minor who is the subject of a juvenile court hearing, and any person entitled to notice of the hearing under Sections 290.1 and 290.2, is entitled to be present at the hearing.

**(b)** The minor and any person who is entitled to that notice has the right to be represented at the hearing by counsel of his or her own choice.

**(c)** If the minor is present at the hearing, the court shall inform the minor that he or she has the right to address the court and participate in the hearing and the court shall allow the minor, if the minor so desires, to address the court and participate in the hearing.

**(d)** If the minor is 10 years of age or older and he or she is not present at the hearing, the court shall determine whether the minor was properly notified of his or her right to attend the hearing and inquire whether the minor was given an opportunity to attend. If that minor was not properly notified or if he or she wished to be present and was not given an opportunity to be present, the court shall continue the hearing to allow the minor to be present unless the court finds that it is in the best interest of the minor not to continue the hearing. The court shall continue the hearing only for that period of time necessary to provide notice and secure the presence of the child. The court may issue any and all orders reasonably necessary to ensure that the child has an opportunity to attend.

**(e)** Nothing in this section shall prevent or limit any child's right to attend or participate in the hearing.

**Leg.H.**

Added Stats 1976 ch 1068 § 9. Amended Stats 2003 ch 813 § 1 (AB 408); Stats 2008 ch 166 § 3 (AB 3051), effective January 1, 2009; Stats 2015 ch 36 § 1 (AB 217), effective January 1, 2016.

## § 350. Conduct of Proceedings in General; Development of Dependency Mediation Program; Testimony of Minor Taken in Chambers; Court Action Following Hearing.

(a)

(1) The judge of the juvenile court shall control all proceedings during the hearings with a view to the expeditious and effective ascertainment of the jurisdictional facts and the ascertainment of all information relative to the present condition and future welfare of the person upon whose behalf the petition is brought. Except where there is a contested issue of fact or law, the proceedings shall be conducted in an informal nonadversary atmosphere with a view to obtaining the maximum cooperation of the minor upon whose behalf the petition is brought and all persons interested in his or her welfare with any provisions that the court may make for the disposition and care of the minor.

(2) Each juvenile court is encouraged to develop a dependency mediation program to provide a problem-solving forum for all interested persons to develop a plan in the best interests of the child, emphasizing family preservation and strengthening. The Legislature finds that mediation of these matters assists the court in resolving conflict, and helps the court to intervene in a constructive manner in those cases where court intervention is necessary. Notwithstanding any other provision of law, no person, except the mediator, who is required to report suspected child abuse pursuant to the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code), shall be exempted from those requirements under Chapter 2 (commencing with Section 1115) of Division 9 of the Evidence Code because he or she agreed to participate in a dependency mediation program established in the juvenile court.

If a dependency mediation program has been established in a juvenile court, and if mediation is requested by any person who the judge or referee deems to have a direct and legitimate interest in the particular case, or on the court's own motion, the matter may be set for confidential mediation to develop a plan in the best interests of the child, utilizing resources within the family first and within the community if required.

(b) The testimony of a minor may be taken in chambers and outside the presence of the minor's parent or parents, if the minor's parent or parents are represented by counsel, the counsel is present and any of the following circumstances exist:

- (1) The court determines that testimony in chambers is necessary to ensure truthful testimony.
- (2) The minor is likely to be intimidated by a formal courtroom setting.
- (3) The minor is afraid to testify in front of his or her parent or parents.

After testimony in chambers, the parent or parents of the minor may elect to have the court reporter read back the testimony or have the testimony summarized by counsel for the parent or parents.

The testimony of a minor also may be taken in chambers and outside the presence of the guardian or guardians of a minor under the circumstances specified in this subdivision.

(c) At any hearing in which the probation department bears the burden of proof, after the presentation of evidence on behalf of the probation department and the minor has been closed, the court, on motion of the minor, parent, or guardian, or on its own motion, shall order whatever action the law requires of it if the court, upon weighing all of the evidence then before it, finds that the burden of proof has not been met. That action includes, but is not limited to, the dismissal of the petition and release of the minor at a jurisdictional hearing, the return of

the minor at an out-of-home review held prior to the permanency planning hearing, or the termination of jurisdiction at an in-home review. If the motion is not granted, the parent or guardian may offer evidence without first having reserved that right.

**Leg.H.**

1976 ch. 1068, 1985 ch. 528, 1986 ch. 248, 1987 ch. 1485, 1992 ch. 360, effective July 27, 1992, 1994 ch. 24, 1996 ch. 405, 1997 ch. 772.

## § 352. Continuances.

**(a)**

**(1)** Upon request of counsel for the parent, guardian, minor, or petitioner, the court may continue any hearing under this chapter beyond the time limit within which the hearing is otherwise required to be held, provided that a continuance shall not be granted that is contrary to the interest of the minor. In considering the minor's interests, the court shall give substantial weight to a minor's need for prompt resolution of his or her custody status, the need to provide children with stable environments, and the damage to a minor of prolonged temporary placements.

**(2)** Continuances shall be granted only upon a showing of good cause and only for that period of time shown to be necessary by the evidence presented at the hearing on the motion for the continuance. Neither a stipulation between counsel nor the convenience of the parties is in and of itself a good cause. Further, neither a pending criminal prosecution nor family law matter shall be considered in and of itself as good cause. Whenever any continuance is granted, the facts proven which require the continuance shall be entered upon the minutes of the court.

**(3)** In order to obtain a motion for a continuance of the hearing, written notice shall be filed at least two court days prior to the date set for hearing, together with affidavits or declarations detailing specific facts showing that a continuance is necessary, unless the court for good cause entertains an oral motion for continuance.

**(b)** Notwithstanding any other law, if a minor has been removed from the parents' or guardians' custody, a continuance shall not be granted that would result in the dispositional hearing, held pursuant to Section 361, being completed longer than 60 days, or 30 days in the case of an Indian child, after the hearing at which the minor was ordered removed or detained, unless the court finds that there are exceptional circumstances requiring a continuance. If the court knows or has reason to know that the child is an Indian child, the absence of the opinion of a qualified expert witness shall not, in and of itself, support a finding that exceptional circumstances exist. The facts supporting a continuance shall be entered upon the minutes of the court. The court shall not grant continuances that would cause the hearing pursuant to Section 361 to be completed more than six months after the hearing pursuant to Section 319.

**(c)** In any case in which the parent, guardian, or minor is represented by counsel and no objection is made to an order continuing any such hearing beyond the time limit within which the hearing is otherwise required to be held, the absence of such an objection shall be deemed a consent to the continuance. The consent does not affect the requirements of subdivision (a).

**Leg.H.**

Added Stats 1976 ch 1068 § 9. Amended Stats 1982 ch 978 § 16, effective September 13, 1982, operative July 1, 1982; Stats 1986 ch 1122 § 8; Stats 2018 ch 833 § 25 (AB 3176), effective January 1, 2019.

## § 353. Procedure at Commencement of Hearing.

At the beginning of the hearing on a petition filed pursuant to Article 8 (commencing with Section 325) of this chapter, the judge or clerk shall first read the petition to those present. Upon request of any parent, guardian, or adult relative, counsel for the minor, or the minor, if he or she is present, the judge shall explain any term of allegation contained therein and the nature of the hearing, its procedures, and possible consequences. The judge shall ascertain whether the parent, guardian, or adult relative and, when required by Section 317, the minor have been informed of their right to be represented by counsel, and if not, the judge shall advise those persons, if present, of the right to have counsel present and where applicable, of the right to appointed counsel. If such a person is unable to afford counsel and desires to be represented by counsel, the court shall appoint counsel in accordance with Section 317. The court shall continue the hearing for not to exceed seven days, as necessary to make an appointment of counsel, or to enable counsel to acquaint himself or herself with the case, or to determine whether the parent or guardian or adult relative is unable to afford counsel at his or her own expense, and shall continue the hearing as necessary to provide reasonable opportunity for the minor and the parent or guardian or adult relative to prepare for the hearing.

**Leg.H.**

1976 ch. 1068, 1987 ch. 1485, 1989 ch. 913.

### **§ 353.1. Informing Dependent Child of Right to Modify Order or Terminate Jurisdiction of Juvenile Court.**

(a) At the hearing on a petition filed pursuant to Article 8 (commencing with Section 325) of this chapter, any person adjudged a dependent child of the juvenile court shall be informed, both orally and in writing by the court as provided in subdivision (b), of both of the following:

(1) His or her rights pursuant to Section 388.

(2) The procedure for bringing a petition pursuant to Section 388, including the availability of all appropriate and necessary Judicial Council forms.

(b) Where the dependent child has attained the age of 12 years, the court shall directly inform the child as required by subdivision (a) in clear language appropriate for the child's level of cognitive development. Where the dependent child is under the age of 12 years, the court shall inform the child as required by subdivision (a) through the child's guardian ad litem or legal counsel.

**Leg.H.**

1994 ch. 159, 1995 ch. 91.

### **§ 354. Continuance of Article 8 Proceedings.**

Except where a minor is in custody, any hearing on a petition filed pursuant to Article 8 (commencing with Section 325) of this chapter may be continued by the court for not more than 10 days in addition to any other continuance authorized in this chapter whenever the court is satisfied that an unavailable and necessary witness will be available within such time.

**Leg.H.**

1976 ch. 1068.

### **§ 355. Determination of Jurisdiction over Minor; Evidence; Social Study by Petitioning Agency; Hearsay.**

(a) At the jurisdictional hearing, the court shall first consider only the question whether the minor is a person described by Section 300. Any legally admissible evidence that is relevant to the circumstances or acts that are alleged to bring the minor within the jurisdiction of the juvenile court is admissible and may be received in evidence. Proof by a preponderance of evidence must be adduced to support a finding that the minor is a person described by Section 300. Objections that could have been made to evidence introduced shall be deemed to have been made by a parent or guardian who is present at the hearing and unrepresented by counsel, unless the court finds that the parent or guardian has made a knowing and intelligent waiver of the right to counsel. Objections that could have been made to evidence introduced shall be deemed to have been made by an unrepresented child.

(b) A social study prepared by the petitioning agency, and hearsay evidence contained in it, is admissible and constitutes competent evidence upon which a finding of jurisdiction pursuant to Section 300 may be based, to the extent allowed by subdivisions (c) and (d).

(1) For purposes of this section, "social study" means any written report furnished to the juvenile court and to all parties or their counsel by the county probation or welfare department in any matter involving the custody, status, or welfare of a minor in a dependency proceeding pursuant to Article 6 (commencing with Section 300) to Article 12 (commencing with Section 385), inclusive.

(2) The preparer of the social study shall be made available for cross-examination upon a timely request by a party. The court may deem the preparer available for cross-examination if it determines that the preparer is on telephone standby and can be present in court within a reasonable time of the request.

(3) The court may grant a reasonable continuance not to exceed 10 days upon request by any party if the social study is not provided to the parties or their counsel within a reasonable time before the hearing.

(c)

(1) If a party to the jurisdictional hearing raises a timely objection to the admission of specific hearsay evidence contained in a social study, the specific hearsay evidence shall not be sufficient by itself to support a jurisdictional finding or any ultimate fact upon which a jurisdictional finding is based, unless the petitioner establishes one or more of the following exceptions:

(A) The hearsay evidence would be admissible in any civil or criminal proceeding under any statutory or decisional exception to the prohibition against hearsay.

(B) The hearsay declarant is a minor under 12 years of age who is the subject of the jurisdictional hearing. However, the hearsay statement of a minor under 12 years of age shall not be admissible if the objecting party establishes that the statement is unreliable because it was the product of fraud, deceit, or undue influence.

(C) The hearsay declarant is a peace officer as defined by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, a health practitioner described in paragraphs (21) to (28), inclusive, of subdivision (a) of Section 11165.7 of the Penal Code, a social worker licensed pursuant to Chapter 14 (commencing with Section 4991) of Division 2 of the Business and Professions Code, or a teacher who holds a credential pursuant to Chapter 2 (commencing with Section 44200) of Part 25 of Division 3 of Title 2 of the Education Code. For the purpose of this subdivision, evidence in a declaration is admissible only to the extent that it would otherwise be admissible under this section or if the declarant were present and testifying in court.

(D) The hearsay declarant is available for cross-examination. For purposes of this section, the court may deem a witness available for cross-examination if it determines that the witness is on

telephone standby and can be present in court within a reasonable time of a request to examine the witness.

(2) For purposes of this subdivision, an objection is timely if it identifies with reasonable specificity the disputed hearsay evidence and it gives the petitioner a reasonable period of time to meet the objection prior to a contested hearing.

(d) This section shall not be construed to limit the right of a party to the jurisdictional hearing to subpoena a witness whose statement is contained in the social study or to introduce admissible evidence relevant to the weight of the hearsay evidence or the credibility of the hearsay declarant.

**Leg.H.**

Added Stats 1976 ch 1068 § 9. Amended Stats 1987 ch 1485 § 34; Stats 1996 ch 36 § 1 (SB 86); Stats 1997 ch 793 § 13 (AB 1544). Amended Stats 2003 ch 365 § 8 (AB 1710) (ch 365 prevails), ch 468 § 31 (SB 851); Stats 2012 ch 518 § 3 (SB 1264), effective January 1, 2013; Stats 2014 ch 71 § 181 (SB 1304), effective January 1, 2015.

## **§ 355.1. Prima Facie Evidence of Inadequate Parental Care; Evidence of Neglect or Abuse; Sexual Abuse; Child Protective Agency; Evidence of Parent or Guardian Inadmissible in Any Other Proceeding.**

(a) Where the court finds, based upon competent professional evidence, that an injury, injuries, or detrimental condition sustained by a minor is of a nature as would ordinarily not be sustained except as the result of the unreasonable or neglectful acts or omissions of either parent, the guardian, or other person who has the care or custody of the minor, that finding shall be prima facie evidence that the minor is a person described by subdivision (a), (b), or (d) of Section 300.

(b) Proof that either parent, the guardian, or other person who has the care or custody of a minor who is the subject of a petition filed under Section 300 has physically abused, neglected, or cruelly treated another minor shall be admissible in evidence.

(c) The presumption created by subdivision (a) constitutes a presumption affecting the burden of producing evidence.

(d) Where the court finds that either a parent, a guardian, or any other person who resides with, or has the care or custody of, a minor who is currently the subject of the petition filed under Section 300 (1) has been previously convicted of sexual abuse as defined in [Section 11165.1 of the Penal Code](#), (2) has been previously convicted of an act in another state that would constitute sexual abuse as defined in [Section 11165.1 of the Penal Code](#) if committed in this state, (3) has been found in a prior dependency hearing or similar proceeding in the corresponding court of another state to have committed an act of sexual abuse, or (4) is required, as the result of a felony conviction, to register as a sex offender pursuant to [Section 290 of the Penal Code](#), that finding shall be prima facie evidence in any proceeding that the subject minor is a person described by subdivision (a), (b), (c), or (d) of Section 300 and is at substantial risk of abuse or neglect. The prima facie evidence constitutes a presumption affecting the burden of producing evidence.

(e) Where the court believes that a child has suffered criminal abuse or neglect, the court may direct a representative of the child protective agency to take action pursuant to [subdivision \(i\) of Section 11166 of the Penal Code](#).

(f) Testimony by a parent, guardian, or other person who has the care or custody of the minor made the subject of a proceeding under Section 300 shall not be admissible as evidence in any other action or proceeding.

**Leg.H.**

1976 ch. 89, 1977 chs. 579, 910, 1978 ch. 380, 1987 ch. 1485, 1999 ch. 417, effective September 16, 1999.

## **§ 356. Findings; Orders.**

After hearing the evidence, the court shall make a finding, noted in the minutes of the court, whether or not the minor is a person described by Section 300 and the specific subdivisions of Section 300 under which the petition is sustained. If it finds that the minor is not such a person, it shall order that the petition be dismissed and the minor be discharged from any detention or restriction theretofore ordered. If the court finds that the minor is such a person, it shall make and enter its findings and order accordingly.

**Leg.H.**

1976 ch. 1068, 1982 ch. 978, effective September 13, 1982, operative July 1, 1982, 1984 ch. 1246, 1985 ch. 1341, 1986 ch. 1122.

## **§ 356.5. Duties and Responsibilities of Child Advocate.**

A child advocate appointed by the court to represent the interests of a dependent child in a proceeding under this chapter shall have the same duties and responsibilities as a guardian ad litem and shall be trained by and function under the auspices of a court appointed special advocate guardian ad litem program, formed and operating under the guidelines established by the National Court Appointed Special Advocate Association.

**Leg.H.**

1985 ch. 1341.

## **§ 357. Disposition in Cases Involving Mental Health Questions.**

Whenever the court, before or during the hearing on the petition, is of the opinion that the minor is mentally ill or if the court is in doubt concerning the mental health of any such person, the court may order that such person be held temporarily in the psychopathic ward of the county hospital or hospital whose services have been approved and/or contracted for by the department of health of the county, for observation and recommendation concerning the future care, supervision, and treatment of such person.

**Leg.H.**

1976 ch. 1068.

## **§ 358. Evidence on Proper Disposition.**

(a) After finding that a child is a person described in Section 300, the court shall hear evidence on the question of the proper disposition to be made of the child. Prior to making a finding required by this section, the court may continue the hearing on its own motion, the motion of the parent or guardian, or the motion of the child, as follows:

(1) If the child is detained during the continuance, and the social worker is not alleging that subdivision (b) of Section 361.5 is applicable, the continuance shall not exceed 10 judicial days. The court may make an order for detention of the child or for the child's release from detention, during the period of continuance, as is appropriate.

(2) If the child is not detained during the continuance, the continuance shall not exceed 30 days after the date of the finding pursuant to Section 356. However, the court may, for cause, continue the hearing for

an additional 15 days.

**(3)** If the social worker is alleging that subdivision (b) of Section 361.5 is applicable, the court shall continue the proceedings for a period not to exceed 30 days. The social worker shall notify each parent of the content of subdivision (b) of Section 361.5 and shall inform each parent that if the court does not order reunification a permanency planning hearing will be held, and that their parental rights may be terminated within the timeframes specified by law.

**(b)**

**(1)** Before determining the appropriate disposition, the court shall receive in evidence the social study of the child made by the social worker, any study or evaluation made by a child advocate appointed by the court, and other relevant and material evidence as may be offered, including, but not limited to, the willingness of the caregiver to provide legal permanency for the child if reunification is unsuccessful. In any judgment and order of disposition, the court shall specifically state that the social study made by the social worker and the study or evaluation made by the child advocate appointed by the court, if there be any, has been read and considered by the court in arriving at its judgment and order of disposition. Any social study or report submitted to the court by the social worker shall include the individual child's case plan developed pursuant to Section 16501.1.

**(2)** Whenever a child is removed from a parent's or guardian's custody, the court shall make a finding as to whether the social worker has exercised due diligence in conducting the investigation, as required pursuant to paragraph (1) of subdivision (e) of Section 309, to identify, locate, and notify the child's relatives, including both maternal and paternal relatives.

**(3)** When making the determination required pursuant to paragraph (2), the court may consider, among other examples of due diligence, the extent to which the social worker has complied with paragraph (1) of subdivision (e) of Section 309, and has done any of the following:

**(A)** Asked the child, in an age-appropriate manner and consistent with the child's best interest, about their relatives.

**(B)** Obtained information regarding the location of the child's relatives.

**(C)** Reviewed the child's case file for any information regarding the child's relatives.

**(D)** Telephoned, emailed, or visited all identified relatives.

**(E)** Asked located relatives for the names and locations of other relatives.

**(F)** Used internet search tools to locate relatives identified as supports.

**(c)** If the court finds that a child is described by subdivision (h) of Section 300 or that subdivision (b) of Section 361.5 may be applicable, the court shall conduct the dispositional proceeding pursuant to subdivision (c) of Section 361.5.

**(d)**

**(1)** The court shall hold a dispositional proceeding for a youth 18 years of age if both of the following requirements are met:

**(A)** The youth was found to be a minor described in Section 300 at a hearing pursuant to Section 355 prior to the youth attaining 18 years of age, and was continuously detained pursuant to subdivision (c) of Section 319.

**(B)** The youth has provided informed consent to the dispositional proceeding.

**(2)** For purposes of this subdivision, the fact that a youth has attained 18 years of age shall not be cause to relieve counsel appointed pursuant to Section 317.

**(3)** A dispositional proceeding for a youth as described in paragraph (1) shall be held within 30 days of the date of the finding pursuant to Section 355.

**(4)** At the dispositional proceeding, the court shall determine by clear and convincing evidence if at least one of the conditions described in subdivision (c) of Section 361 existed immediately prior to the youth attaining 18 years of age.

**(5)**

**(A)** If the youth does not provide informed consent to the dispositional proceeding, or the court does not find the criteria described in paragraph (4), the court shall vacate the temporary orders made under Section 319 and dependency or general jurisdiction shall not be retained.

**(B)** If the court finds that the youth meets the criteria described in paragraph (4) but chooses not to remain in foster care, the court shall set a hearing for termination of jurisdiction pursuant to Section 391 within 30 days.

**(6)** For purposes of the definition of “nonminor dependent” pursuant to subdivision (v) of Section 11400, an order for foster care placement made at disposition pursuant to this subdivision shall be treated as though the nonminor attained 18 years of age while under an order of foster care placement by the juvenile court.

**(7)** Implementation of this subdivision is subject to federal approval of the state plan amendment made under Title IV-E of the federal Social Security Act ([42 U.S.C. Sec. 670 et seq.](#)), and shall be operative as of the date of federal approval.

**(8)** On or before July 1, 2020, the Judicial Council shall amend or adopt rules of court, and shall develop or amend appropriate forms, as necessary to implement this subdivision.

**Leg.H.**

Added Stats 1987 ch 1485 § 37, operative January 1, 1989. Amended Stats 1991 ch 1203 § 5 (SB 1125); Stats 1998 ch 1054 § 20 (AB 1091); Stats 2003 ch 812 § 1 (SB 591); Stats 2016 ch 890 § 1 (SB 1336), effective January 1, 2017; Stats 2019 ch 682 § 1 (AB 748), effective January 1, 2020.

## **§ 358.1. Contents of Social Study.**

Each social study or evaluation made by a social worker or child advocate appointed by the court, required to be received in evidence pursuant to Section 358, shall include, but not be limited to, a factual discussion of each of the following subjects:

**(a)** Whether the county welfare department or social worker has considered either of the following:

**(1)** Child protective services, as defined in Chapter 5 (commencing with Section 16500) of Part 4 of Division 9, as a possible solution to the problems at hand, and has offered these services to qualified parents if appropriate under the circumstances.

**(2)** Whether the child can be returned to the custody of the child’s parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with the child’s parent.

**(b)** What plan, if any, for return of the child to the child's parents and for achieving legal permanence for the child if efforts to reunify fail, is recommended to the court by the county welfare department or probation officer.

**(c)** Whether the best interest of the child will be served by granting reasonable visitation rights with the child to the child's grandparents, in order to maintain and strengthen the child's family relationships.

**(d)**

**(1)** Whether the child has siblings under the court's jurisdiction, and, if any siblings exist, all of the following:

**(A)** The nature of the relationship between the child and the child's siblings.

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

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

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

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

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

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

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

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

**(2)** The factual discussion shall include a discussion of indicators of the nature of the child's sibling relationships, including, but not limited to, whether the siblings were raised together in the same home, whether the siblings have shared significant common experiences or have existing close and strong bonds, whether either sibling expresses a desire to visit or live with another sibling, as applicable, and whether ongoing contact is in the child's best emotional interest.

**(e)** If the parent or guardian is unwilling or unable to participate in making an educational decision for their child, or if other circumstances exist that compromise the ability of the parent or guardian to make educational decisions for the child, the county welfare department or social worker shall consider whether the right of the parent or guardian to make educational decisions for the child should be limited. If the study or evaluation makes that recommendation, it shall identify whether there is a responsible adult available to make educational decisions for the child pursuant to Section 361.

**(f)** Whether the child appears to be a person who is eligible to be considered for further court action to free the child from parental custody and control.

**(g)** Whether the parent has been advised of the child's option to participate in adoption planning, including the option to enter into a postadoption contact agreement as described in **Section 8616.5 of the**

**Family Code**, and to voluntarily relinquish the child for adoption if an adoption agency is willing to accept the relinquishment.

**(h)** The appropriateness of any relative placement pursuant to Section 361.3. However, this consideration may not be cause for continuance of the dispositional hearing.

**(i)** Whether the caregiver desires, and is willing, to provide legal permanency for the child if reunification is unsuccessful.

**(j)** For an Indian child, in consultation with the Indian child's tribe, whether tribal customary adoption is an appropriate permanent plan for the child if reunification is unsuccessful.

**(k)** On and after the date that the director executes a declaration pursuant to Section 11217, whether the child has been placed in an approved relative's home under a voluntary placement agreement for a period not to exceed 180 days, the parent or guardian is not interested in additional family maintenance or family reunification services, and the relative desires and is willing to be appointed the child's legal guardian.

**(l)** For a placement made on or after October 1, 2021, if the child has been placed in a short-term residential therapeutic program, the social study shall include the information specified in subdivision (c) of Section 361.22.

**Leg.H.**

Added Stats 1980 ch 716 § 1. Amended Stats 1983 ch 1170 § 1; Stats 1985 ch 1341 § 4; Stats 1989 ch 913 § 8; Stats 1993 ch 892 § 1 (SB 426); Stats 1997 ch 793 § 14 (AB 1544); Stats 1998 ch 1054 § 21 (AB 1091); Stats 2000 ch 909 § 1 (AB 1987), ch 930 § 5 (SB 2157); Stats 2001 ch 754 § 5 (AB 1697); Stats 2002 ch 785 § 2 (SB 1677); Stats 2003 ch 812 § 2 (SB 591); Stats 2009 ch 287 § 4 (AB 1325), effective January 1, 2010, operative July 1, 2010, repealed January 1, 2014; Stats 2010 ch 559 § 9 (AB 12), effective January 1, 2011, repealed January 1, 2014; Stats 2012 ch 35 § 45 (SB 1013), effective June 27, 2012; Stats 2014 ch 219 § 2 (SB 977), effective January 1, 2015, ch 773 § 1.5 (SB 1099), effective January 1, 2015; Stats 2021 ch 86 § 17 (AB 153), effective July 16, 2021.

## **§ 358.2. Attachment of Child and Family Team Meeting Summary Report or Action Plan to Social Study.**

If the county has produced a summary report or an action plan of the child and family team meeting for use by the team members, a copy of that report or action plan with any necessary redactions made may be attached to the court report that is prepared pursuant to Section 358.1.

**Leg.H.**

Added Stats 2019 ch 780 § 1 (AB 1068), effective January 1, 2020.

## **§ 359. Minor Dangerous to Self or Others from Use of Narcotics or Restricted Dangerous Drugs; 72-Hour Treatment and Evaluation; Report; Disposition; Reimbursement of Expenditures.**

**(a)** Whenever a minor who appears to be a danger to himself or others as a result of the use of narcotics, as defined in **Section 11019 of the Health and Safety Code**, or a restricted dangerous drug (as defined in former **Section 11901 of the Health and Safety Code**), is brought before any judge of the juvenile court, the judge may continue the hearing and proceed pursuant to this section. The court may order the minor taken to a facility designated by the county and approved by the State Department of Health Care Services as a facility for 72-hour treatment and evaluation. Thereupon the provisions of **Section 11922 of the Health and Safety Code** shall apply,

except that the professional person in charge of the facility shall make a written report to the court concerning the results of the evaluation of the minor.

(b) If the professional person in charge of the facility for 72-hour evaluation and treatment reports to the juvenile court that the minor is not a danger to himself or others as a result of the use of narcotics or restricted dangerous drugs or that the minor does not require 14-day intensive treatment, or if the minor has been certified for not more than 14 days of intensive treatment and the certification is terminated, the minor shall be released if the juvenile court proceedings have been dismissed; referred for further care and treatment on a voluntary basis, subject to the disposition of the juvenile court proceedings; or returned to the juvenile court, in which event the court shall proceed with the case pursuant to this chapter.

(c) Any expenditure for the evaluation or intensive treatment of a minor under this section shall be considered an expenditure made under Part 2 (commencing with Section 5600) of Division 5, and shall be reimbursed by the state as are other local expenditures pursuant to that part.

**Leg.H.**

Added Stats 1976 ch 1068 § 9. Amended Stats 1978 ch 380 § 151; Stats 2012 ch 34 § 40 (SB 1009), effective June 27, 2012; Stats 2013 ch 23 § 27 (AB 82), effective June 27, 2013.

## **ARTICLE 10**

### **Dependent Children—Judgments and Orders**

#### **§ 360. Order Placing Child Under Supervision and Requiring Services, Adjudicating Child to be Dependent Child, or Ordering Guardianship.**

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

(a) Notwithstanding any other provision of law, if the court finds that the child is a person described by Section 300 and the parent has advised the court that the parent is not interested in family maintenance or family reunification services, it may, in addition to or in lieu of adjudicating the child a dependent child of the court, order a legal guardianship, appoint a legal guardian, and issue letters of guardianship, if the court determines that a guardianship is in the best interest of the child, provided the parent and the child agree to the guardianship, unless the child's age or physical, emotional, or mental condition prevents the child's meaningful response. The court shall advise the parent and the child that no reunification services will be provided as a result of the establishment of a guardianship. The proceeding for the appointment of a guardian shall be in the juvenile court.

Any application for termination of guardianship shall be filed in juvenile court in a form as may be developed by the Judicial Council pursuant to [Section 68511 of the Government Code](#). Sections 366.4 and 388 shall apply to this order of guardianship.

No person shall be appointed a legal guardian under this section until an assessment as specified in subdivision (g) of Section 361.5 is read and considered by the court and reflected in the minutes of the court.

On and after the date that the director executes a declaration pursuant to Section 11217, if the court appoints an approved relative caregiver as the child's legal guardian, the child has been in the

care of that approved relative for a period of six consecutive months under a voluntary placement agreement, and the child otherwise meets the conditions for federal financial participation, the child shall be eligible for aid under the Kin-GAP Program as provided in Article 4.7 (commencing with Section 11385) of Chapter 2. The nonfederally eligible child placed with an approved relative caregiver who is appointed as the child's legal guardian shall be eligible for aid under the state-funded Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) of Chapter 2.

The person responsible for preparing the assessment may be called and examined by any party to the guardianship proceeding.

(b) If the court finds that the child is a person described by Section 300, it may, without adjudicating the child a dependent child of the court, order that services be provided to keep the family together and place the child and the child's parent or guardian under the supervision of the social worker for a time period consistent with Section 301.

(c) If the family subsequently is unable or unwilling to cooperate with the services being provided, the social worker may file a petition with the juvenile court pursuant to Section 332 alleging that a previous petition has been sustained and that disposition pursuant to subdivision (b) has been ineffective in ameliorating the situation requiring the child welfare services. Upon hearing the petition, the court shall order either that the petition shall be dismissed or that a new disposition hearing shall be held pursuant to subdivision (d).

(d) If the court finds that the child is a person described by Section 300, it may order and adjudge the child to be a dependent child of the court.

**Leg.H.**

Added Stats 1976 ch 1068 § 10. Amended Stats 1982 ch 978 § 19, effective September 13, 1982, operative July 1, 1982; Stats 1984 ch 1608 § 3, effective September 30, 1984; Stats 1991 ch 1203 § 6 (SB 1125); Stats 1994 ch 900 § 1 (SB 1407); Stats 1998 ch 1054 § 22 (AB 1091). Amended Stats 2002 ch 416 § 8 (SB 1956); Stats 2010 ch 559 § 11 (AB 12), effective January 1, 2011.

## **§ 360.6. [Section Repealed 2007.]**

**Leg.H.**

Added Stats 1999 ch 275 § 3 (AB 65), effective September 1, 1999. Repealed Stats 2006 ch 838 § 47 (SB 678), effective January 1, 2007. The repealed section related to an Indian child's connection to a tribe.

## **§ 361. Limitations on Control of Parent or Guardian; Appointment of Responsible Adult or Surrogate Parent to Make Educational or Developmental Decisions; Voluntary Relinquishment; When Child May be Taken from Custody of Parents; Efforts to Prevent Removal; Required Findings [Contingent effective January 1, 2018].**

**(a)**

**(1)** In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all those limitations. Any limitation on the right of the parent or guardian to make educational or developmental

services decisions for the child shall be specifically addressed in the court order. The limitations may not exceed those necessary to protect the child. If the court specifically limits the right of the parent or guardian to make educational or developmental services decisions for the child, or, for the nonminor dependent, if the court finds the appointment of a developmental services decisionmaker to be in the best interests of the nonminor dependent, the court shall at the same time appoint a responsible adult to make educational or developmental services decisions for the child or nonminor dependent until one of the following occurs:

(A) The minor reaches 18 years of age, unless the child or nonminor dependent chooses not to make educational or developmental services decisions for himself or herself, or is deemed by the court to be incompetent.

(B) Another responsible adult is appointed to make educational or developmental services decisions for the minor pursuant to this section.

(C) The right of the parent or guardian to make educational or developmental services decisions for the minor is fully restored.

(D) A successor guardian or conservator is appointed.

(E) The child is placed into a planned permanent living arrangement pursuant to paragraph (5) of subdivision (g) of Section 366.21, Section 366.22, Section 366.26, or subdivision (i) of Section 366.3, at which time, for educational decisionmaking, the foster parent, relative caretaker, or nonrelative extended family member as defined in Section 362.7, has the right to represent the child in educational matters pursuant to [Section 56055 of the Education Code](#), and for decisions relating to developmental services, unless the court specifies otherwise, the foster parent, relative caregiver, or nonrelative extended family member of the planned permanent living arrangement has the right to represent the child or nonminor dependent in matters related to developmental services.

(2) An individual who would have a conflict of interest in representing the child or nonminor dependent shall not be appointed to make educational or developmental services decisions. For purposes of this section, “an individual who would have a conflict of interest” means a person having any interests that might restrict or bias his or her ability to make educational or developmental services decisions, including, but not limited to, those conflicts of interest prohibited by [Section 1126 of the Government Code](#), and the receipt of compensation or attorney’s fees for the provision of services pursuant to this section. A foster parent shall not be deemed to have a conflict of interest solely because he or she receives compensation for the provision of services pursuant to this section.

(3) Regardless of the person or persons currently holding the right to make educational decisions for the child, a foster parent, relative caregiver, nonrelated extended family member, or resource family shall retain rights and obligations regarding accessing and maintaining health and education information pursuant to [Sections 49069.3](#) and [49076 of the Education Code](#) and Section 16010 of this code.

(4)

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

(B) If the court cannot identify a responsible adult who is known to the child and available to make educational decisions for the child, subparagraphs (A) to (E), inclusive, of paragraph (1) do not apply, and the child has either been referred to the local educational agency for special education and

related services, or has a valid individualized education program, the court shall refer the child to the local educational agency for appointment of a surrogate parent pursuant to **Section 7579.5 of the Government Code**.

**(C)** If the court cannot identify a responsible adult to make educational decisions for the child, the appointment of a surrogate parent as defined in subdivision (a) of **Section 56050 of the Education Code** is not warranted, and there is no foster parent to exercise the authority granted by **Section 56055 of the Education Code**, the court may, with the input of any interested person, make educational decisions for the child.

**(5)**

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

**(B)** If the court cannot identify a responsible adult to make developmental services decisions for the child or nonminor dependent, the court may, with the input of any interested person, make developmental services decisions for the child or nonminor dependent. If the child is receiving services from a regional center, the provision of any developmental services related to the court's decision must be consistent with the child's or nonminor dependent's individual program plan and pursuant to the provisions of the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)).

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

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

**(b)**

**(1)** Subdivision (a) does not limit the ability of a parent to voluntarily relinquish his or her child to the State Department of Social Services, to a county adoption agency, or to a licensed private adoption agency at any time while the child is the subject of a petition to declare him or her, or is, a dependent child of the juvenile court, if the department, county adoption agency, or licensed private adoption agency is willing to accept the relinquishment.

**(2)** When accepting the relinquishment of a child described in paragraph (1), the department or a county adoption agency shall comply with **Section 8700 of the Family Code** and, within five court days of

accepting the relinquishment, shall file written notice of that fact with the court and all parties to the case and their counsel.

**(3)** When accepting the relinquishment of a child described in paragraph (1), a licensed private adoption agency shall comply with **Section 8700 of the Family Code** and, within 10 court days of accepting the relinquishment, shall file or allow another party or that party's counsel to file with the court one original and five copies of a request to approve the relinquishment. The clerk of the court shall file the request under seal, subject to examination only by the parties and their counsel or by others upon court approval. If the request is accompanied by the written agreement of all parties, the court may issue an ex parte order approving the relinquishment. Unless approved pursuant to that agreement, the court shall set the matter for hearing no later than 10 court days after filing, and shall provide notice of the hearing to all parties and their counsel, and to the licensed private adoption agency and its counsel. The licensed private adoption agency and any prospective adoptive parent or parents named in the relinquishment shall be permitted to attend the hearing and participate as parties regarding the strictly limited issue of whether the court should approve the relinquishment. The court shall issue an order approving or denying the relinquishment within 10 court days after the hearing.

**(c)** A dependent child shall not be taken from the physical custody of his or her parents or guardian or guardians with whom the child resides at the time the petition was initiated, unless the juvenile court finds clear and convincing evidence of any of the following circumstances listed in paragraphs (1) to (5), inclusive, and, in an Indian child custody proceeding, paragraph (6):

**(1)** There is or would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parent's or guardian's physical custody. The fact that a minor has been adjudicated a dependent child of the court pursuant to subdivision (e) of Section 300 shall constitute prima facie evidence that the minor cannot be safely left in the physical custody of the parent or guardian with whom the minor resided at the time of injury. The court shall consider, as a reasonable means to protect the minor, each of the following:

**(A)** The option of removing an offending parent or guardian from the home.

**(B)** Allowing a nonoffending parent or guardian to retain physical custody as long as that parent or guardian presents a plan acceptable to the court demonstrating that he or she will be able to protect the child from future harm.

**(2)** The parent or guardian of the minor is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period specified in Section 366.26, the minor may be declared permanently free from their custody and control.

**(3)** The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward himself or herself or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the physical custody of his or her parent or guardian.

**(4)** The minor or a sibling of the minor has been sexually abused, or is deemed to be at substantial risk of being sexually abused, by a parent, guardian, or member of his or her household, or other person known to his or her parent, and there are no reasonable means by which the minor can be protected from further sexual abuse or a substantial risk of sexual abuse without removing the minor from his or her parent or guardian, or the minor does not wish to return to his or her parent or guardian.

**(5)** The minor has been left without any provision for his or her support, or a parent who has been incarcerated or institutionalized cannot arrange for the care of the minor, or a relative or other adult

custodian with whom the child has been left by the parent is unwilling or unable to provide care or support for the child and the whereabouts of the parent is unknown and reasonable efforts to locate him or her have been unsuccessful.

**(6)** In an Indian child custody proceeding, continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child, and that finding is supported by testimony of a “qualified expert witness” as described in Section 224.6.

**(A)** For purposes of this paragraph, stipulation by the parent, Indian custodian, or the Indian child’s tribe, or failure to object, may waive the requirement of producing evidence of the likelihood of serious damage only if the court is satisfied that the party has been fully advised of the requirements of the federal Indian Child Welfare Act ([25 U.S.C. Sec. 1901 et seq.](#)), and has knowingly, intelligently, and voluntarily waived them.

**(B)** For purposes of this paragraph, failure to meet non-Indian family and child-rearing community standards, or the existence of other behavior or conditions that meet the removal standards of this section, will not support an order for placement in the absence of the finding in this paragraph.

**(d)** A dependent child shall not be taken from the physical custody of his or her parents with whom the child did not reside at the time the petition was initiated, unless the juvenile court finds clear and convincing evidence that there would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the child for the parent to live with the child or otherwise exercise the parent’s right to physical custody, and there are no reasonable means by which the child’s physical and emotional health can be protected without removing the child from the child’s parent’s physical custody.

**(e)** The court shall make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the minor from his or her home or, if the minor is removed for one of the reasons stated in paragraph (5) of subdivision (c), whether it was reasonable under the circumstances not to make any of those efforts, or, in the case of an Indian child custody proceeding, whether active efforts as required in Section 361.7 were made and that these efforts have proved unsuccessful. The court shall state the facts on which the decision to remove the minor is based.

**(f)** The court shall make all of the findings required by subdivision (a) of Section 366 in either of the following circumstances:

**(1)** The minor has been taken from the custody of his or her parent or guardian and has been living in an out-of-home placement pursuant to Section 319.

**(2)** The minor has been living in a voluntary out-of-home placement pursuant to Section 16507.4.

#### Leg.H.

Added Stats 1976 ch 1068 § 10; Amended Stats 1982 ch 978 § 20, effective September 13, 1982, operative July 1, 1982; Stats 1984 ch 867 § 1, ch 1246 § 4, ch 1608 § 4, effective September 30, 1984, ch 1608 § 12, effective September 30, 1984, operative January 1, 1985; Stats 1985 ch 440 § 2; Stats 1986 ch 1122 § 11; Stats 1987 ch 1485 § 38; Stats 1990 ch 182 § 7 (AB 1528); Stats 1992 ch 382 § 2 (SB 1646); Stats 1996 ch 1084 § 4 (SB 1516), ch 1139 § 8.5 (AB 2647); Stats 1997 ch 793 § 15 (AB 1544); Stats 2002 ch 180 § 2 (AB 886); Stats 2003 ch 862 § 10 (AB 490); Stats 2005 ch 639 § 10 (AB 1261), effective January 1, 2006; Stats 2006 ch 838 § 48 (SB 678), effective January 1, 2007; Stats 2011 ch 471 § 2 (SB 368), effective January 1, 2012; Stats 2012 ch 35 § 47 (SB 1013), effective June 27, 2012, ch 176 § 2 (AB 2060), effective January 1, 2013, ch 845 § 5 (SB 1064), effective January 1, 2013, ch 846 § 14.3 (AB 1712), effective January 1, 2013; Stats 2014 ch 219 § 3 (SB 977), effective January 1, 2015, ch 763 § 16.5 (AB 1701), effective January 1, 2015; Stats 2016 ch 474 § 30 (AB 2882), effective January 1, 2017; Stats 2017 ch 665 § 1 (AB 1332), effective January 1, 2018, ch 829 § 4.5 (SB 233), effective January 1, 2018 (ch 829 prevails).

## § 361.2. Placement with Noncustodial Parent; Placement by Social Worker; Foster Care; Change of Placement; Grandparent Visitation.

(a) If a court orders removal of a child pursuant to Section 361, the court shall first determine whether there is a parent of the child, with whom the child was not residing at the time that the events or conditions arose that brought the child within the provisions of Section 300, who desires to assume custody of the child. If that parent requests custody, the court shall place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child. The fact that the parent is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with their parent shall not be, for that reason alone, *prima facie* evidence that placement with that parent would be detrimental.

(b) If the court places the child with that parent, the court may do any of the following:

(1) Order that the parent become legal and physical custodian of the child. The court may also provide reasonable visitation by the noncustodial parent. The court shall then terminate its jurisdiction over the child. The custody order shall continue unless modified by a subsequent order of the superior court. The order of the juvenile court shall be filed in any domestic relation proceeding between the parents.

(2) Order that the parent assume custody subject to the jurisdiction of the juvenile court and require that a home visit be conducted within three months. In determining whether to take the action described in this paragraph, the court shall consider any concerns that have been raised by the child's current caregiver regarding the parent. After the social worker conducts the home visit and files their report with the court, the court may then take the action described in paragraph (1), (3), or this paragraph. However, this paragraph does not imply that the court is required to take the action described in this paragraph as a prerequisite to the court taking the action described in either paragraph (1) or (3).

(3) Order that the parent assume custody subject to the supervision of the juvenile court. In that case the court may order that reunification services be provided to the parent or guardian from whom the child is being removed, or the court may order that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court supervision, or that services be provided to both parents, in which case the court shall determine, at review hearings held pursuant to Section 366, which parent, if either, shall have custody of the child.

(c) The court shall make a finding, either in writing or on the record, of the basis for its determination under subdivisions (a) and (b).

(d) Part 6 (commencing with Section 7950) of Division 12 of the Family Code shall apply to the placement of a child pursuant to paragraphs (1) and (2) of subdivision (e).

(e) If the court orders removal pursuant to Section 361, the court shall order the care, custody, control, and conduct of the child to be under the supervision of the social worker who may place the child in any of the following:

(1) The home of a noncustodial parent, as described in subdivision (a), regardless of the parent's immigration status.

(2) The approved home of a relative, or the home of a relative who has been assessed pursuant to Section 361.4 and is pending approval pursuant to Section 16519.5, regardless of the relative's immigration status.

(3) The approved home of a nonrelative extended family member, as defined in Section 362.7, or the home of a nonrelative extended family member who has been assessed pursuant to Section 361.4 and is pending approval pursuant to Section 16519.5.

(4) The approved home of a resource family, as defined in Section 16519.5, or a home that is pending approval pursuant to paragraph (1) of subdivision (e) of Section 16519.5.

(5) A foster home considering first a foster home in which the child has been placed before an interruption in foster care, if that placement is in the best interest of the child and space is available.

(6) If it is known or there is reason to know that the child is an Indian child, as defined by Section 224.1, a home or facility in accordance with the placement preferences contained in Section 361.31 and the federal Indian Child Welfare Act ([25 U.S.C. Sec. 1901 et seq.](#)).

(7) A suitable licensed community care facility, except a youth homelessness prevention center licensed by the State Department of Social Services pursuant to [Section 1502.35 of the Health and Safety Code](#).

(8) With a foster family agency, as defined in subdivision (g) of Section 11400 and paragraph (4) of subdivision (a) of [Section 1502 of the Health and Safety Code](#), to be placed in a suitable family home certified or approved by the agency, with prior approval of the county placing agency.

(9) A community care facility licensed as a group home for children vendored by a regional center pursuant to [Section 56004 of Title 17 of the California Code of Regulations](#) or a short-term residential therapeutic program, as defined in subdivision (ad) of Section 11400 of this code and paragraph (18) of subdivision (a) of [Section 1502 of the Health and Safety Code](#). A child of any age who is placed in a community care facility licensed as a group home for children vendored by a regional center or a short-term residential therapeutic program shall have a case plan that indicates that placement is for purposes of providing short-term, specialized, and intensive treatment for the child, the case plan specifies the need for, nature of, and anticipated duration of this treatment, pursuant to paragraph (2) of subdivision (d) of Section 16501.1, and the case plan includes transitioning the child to a less restrictive environment and the projected timeline by which the child will be transitioned to a less restrictive environment. Any placement longer than six months shall be documented consistent with paragraph (3) of subdivision (a) of Section 16501.1 and, unless subparagraph (A) or (B) applies to the child, shall be approved by the deputy director or director of the county child welfare department no less frequently than every six months.

(A) A child under six years of age shall not be placed in a community care facility licensed as a group home for children vendored by a regional center or a short-term residential therapeutic program except under the following circumstances:

(i) If the facility meets the applicable regulations adopted under [Section 1530.8 of the Health and Safety Code](#) and standards developed pursuant to Section 11467.1 of this code, and the deputy director or director of the county child welfare department has approved the case plan.

(ii) The short-term, specialized, and intensive treatment period shall not exceed 120 days, unless the county has made progress toward or is actively working toward implementing the case plan that identifies the services or supports necessary to transition the child to a family setting, circumstances beyond the county's control have prevented the county from obtaining those services or supports within the timeline documented in the case plan, and the need for additional time pursuant to the case plan is documented by the caseworker and approved by a deputy director or director of the county child welfare department.

**(iii)** To the extent that placements pursuant to this paragraph are extended beyond an initial 120 days, the requirements of clauses (i) and (ii) shall apply to each extension. In addition, the deputy director or director of the county child welfare department shall approve the continued placement no less frequently than every 60 days.

**(iv)** In addition, if a case plan indicates that placement is for purposes of providing family reunification services, the facility shall offer family reunification services that meet the needs of the individual child and their family, permit parents, guardians, or Indian custodians to have reasonable access to their children 24 hours a day, encourage extensive parental involvement in meeting the daily needs of their children, and employ staff trained to provide family reunification services. In addition, one of the following conditions exists:

**(I)** The child's parent, guardian, or Indian custodian is also under the jurisdiction of the court and resides in the facility.

**(II)** The child's parent, guardian, or Indian custodian is participating in a treatment program affiliated with the facility and the child's placement in the facility facilitates the coordination and provision of reunification services.

**(III)** Placement in the facility is the only alternative that permits the parent, guardian, or Indian custodian to have daily 24-hour access to the child in accordance with the case plan, to participate fully in meeting all of the daily needs of the child, including feeding and personal hygiene, and to have access to necessary reunification services.

**(B)** A child who is 6 to 12 years of age, inclusive, may be placed in a community care facility licensed as a group home for children vendedored by a regional center or a short-term residential therapeutic program under the following conditions:

**(i)** The deputy director of the county welfare department shall approve the case prior to initial placement.

**(ii)** The short-term, specialized, and intensive treatment period shall not exceed six months, unless the county has made progress or is actively working toward implementing the case plan that identifies the services or supports necessary to transition the child to a family setting, circumstances beyond the county's control have prevented the county from obtaining those services or supports within the timeline documented in the case plan, and the need for additional time pursuant to the case plan is documented by the caseworker and approved by a deputy director or director of the county child welfare department.

**(iii)** To the extent that placements pursuant to this paragraph are extended beyond an initial six months, the requirements of this subparagraph shall apply to each extension. In addition, the deputy director or director of the county child welfare department shall approve the continued placement no less frequently than every 60 days.

**(10)** Any child placed in a short-term residential therapeutic program shall be either of the following:

**(A)** A child who has been assessed as meeting one of the placement requirements set forth in subdivisions (b) and (h) of Section 11462.01.

**(B)** A child under six years of age who is placed with their minor parent or for the purpose of reunification pursuant to clause (iv) of subparagraph (A) of paragraph (9).

**(11)** This subdivision does not allow a social worker to place any dependent child outside the United States, except as specified in subdivision (f).

**(f)**

**(1)** A child under the supervision of a social worker pursuant to subdivision (e) shall not be placed outside the United States prior to a judicial finding that the placement is in the best interest of the child, except as required by federal law or treaty.

**(2)** The party or agency requesting placement of the child outside the United States shall carry the burden of proof and shall show, by clear and convincing evidence, that placement outside the United States is in the best interest of the child.

**(3)** In determining the best interest of the child, the court shall consider, but not be limited to, all of the following factors:

**(A)** Placement with a relative.

**(B)** Placement of siblings in the same home.

**(C)** Amount and nature of any contact between the child and the potential guardian or caretaker.

**(D)** Physical and medical needs of the dependent child.

**(E)** Psychological and emotional needs of the dependent child.

**(F)** Social, cultural, and educational needs of the dependent child.

**(G)** Specific desires of any dependent child who is 12 years of age or older.

**(4)** If the court finds that a placement outside the United States is, by clear and convincing evidence, in the best interest of the child, the court may issue an order authorizing the social worker to make a placement outside the United States. A child subject to this subdivision shall not leave the United States prior to the issuance of the order described in this paragraph.

**(5)** For purposes of this subdivision, “outside the United States” shall not include the lands of any federally recognized American Indian tribe or Alaskan Natives.

**(6)** This subdivision shall not apply to the placement of a dependent child with a parent pursuant to subdivision (a).

**(g)**

**(1)** If the child is taken from the physical custody of the child’s parent, guardian, or Indian custodian and unless the child is placed with relatives, the child shall be placed in foster care in the county of residence of the child’s parent, guardian, or Indian custodian in order to facilitate reunification of the family.

**(2)** If there are no appropriate placements available in the parent’s, guardian’s, or Indian custodian’s county of residence, a placement may be made in an appropriate place in another county, preferably a county located adjacent to the parent’s, guardian’s, or Indian custodian’s community of residence.

**(3)** This section does not require multiple disruptions of the child’s placement corresponding to frequent changes of residence by the parent, guardian, or Indian custodian. In determining whether the child should be moved, the social worker shall take into consideration the potential harmful effects of disrupting the placement of the child and the parent’s, guardian’s, or Indian custodian’s reason for the move.

(4) If it has been determined that it is necessary for a child to be placed in a county other than the child's parent's, guardian's, or Indian custodian's county of residence, the specific reason the out-of-county placement is necessary shall be documented in the child's case plan. If the reason the out-of-county placement is necessary is the lack of resources in the sending county to meet the specific needs of the child, those specific resource needs shall be documented in the case plan.

(5) If it has been determined that a child is to be placed out of county either in a group home for children vendedored by a regional center or a short-term residential therapeutic program, or with a foster family agency for subsequent placement in a certified foster family home, and the sending county is to maintain responsibility for supervision and visitation of the child, the sending county shall develop a plan of supervision and visitation that specifies the supervision and visitation activities to be performed and specifies that the sending county is responsible for performing those activities. In addition to the plan of supervision and visitation, the sending county shall document information regarding any known or suspected dangerous behavior of the child that indicates the child may pose a safety concern in the receiving county. Upon implementation of the Child Welfare Services Case Management System, the plan of supervision and visitation, as well as information regarding any known or suspected dangerous behavior of the child, shall be made available to the receiving county upon placement of the child in the receiving county. If placement occurs on a weekend or holiday, the information shall be made available to the receiving county on or before the end of the next business day.

(6) If it has been determined that a child is to be placed out of county and the sending county plans that the receiving county shall be responsible for the supervision and visitation of the child, the sending county shall develop a formal agreement between the sending and receiving counties. The formal agreement shall specify the supervision and visitation to be provided the child, and shall specify that the receiving county is responsible for providing the supervision and visitation. The formal agreement shall be approved and signed by the sending and receiving counties prior to placement of the child in the receiving county. In addition, upon completion of the case plan, the sending county shall provide a copy of the completed case plan to the receiving county. The case plan shall include information regarding any known or suspected dangerous behavior of the child that indicates the child may pose a safety concern to the receiving county.

**(h)**

(1) Subject to paragraph (2), if the social worker must change the placement of the child and is unable to find a suitable placement within the county and must place the child outside the county, the placement shall not be made until the social worker has served written notice on the parent, guardian, Indian custodian, the child's tribe, the child's attorney, and, if the child is 10 years of age or older, on the child, at least 14 days prior to the placement, unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given. The notice shall state the reasons that require placement outside the county. The child or parent, guardian, Indian custodian, or the child's tribe may object to the placement not later than seven days after receipt of the notice and, upon objection, the court shall hold a hearing not later than five days after the objection and prior to the placement. The court shall order out-of-county placement if it finds that the child's particular needs require placement outside the county.

**(2)**

(A) The notice required prior to placement, as described in paragraph (1), may be waived if the child and family team has determined that the identified placement is in the best interest of the child, no member of the child and family team objects to the placement, and the child's attorney has been informed of the intended placement and has no objection, and, if applicable, the Indian custodian or child's tribe has been informed of the intended placement and has no objection.

**(B)** If the child is transitioning from a temporary shelter care facility, as described in Section 11462.022, and all of the circumstances set forth in subparagraph (A) do not exist, the county shall provide oral notice to the child's parents, guardian, Indian custodian, the child's tribe, the child's attorney, and, if the child is 10 years of age or older, to the child no later than one business day after the determination that out-of-county placement is necessary and the circumstances in subparagraph (A) do not exist. The oral notice shall state the reasons that require placement outside the county and shall be immediately followed by written notice stating the reasons. The child, parent, guardian, Indian custodian, or tribe may object to the placement not later than seven days after oral notice is provided and, upon objection, the court shall hold a hearing not later than two judicial days after the objection is made. The court may authorize that the child remain in the temporary shelter care facility pending the outcome of the hearing. The court shall order out-of-county placement if it finds that the child's particular needs require placement outside the county. This subparagraph does not preclude placement of the child without prior notice if the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given.

**(i)** If the court has ordered removal of the child from the physical custody of the child's parents pursuant to Section 361, the court shall consider whether the family ties and best interest of the child will be served by granting visitation rights to the child's grandparents. The court shall clearly specify those rights to the social worker.

**(j)** If the court has ordered removal of the child from the physical custody of the child's parents pursuant to Section 361, the court shall consider whether there are any siblings under the court's jurisdiction, or any nondependent siblings in the physical custody of a parent subject to the court's jurisdiction, the nature of the relationship between the child and their siblings, the appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002, and the impact of the sibling relationships on the child's placement and planning for legal permanence.

**(k)**

**(1)** An agency shall ensure placement of a child in a home that, to the fullest extent possible, best meets the day-to-day needs of the child. A home that best meets the day-to-day needs of the child shall satisfy all of the following criteria:

**(A)** The child's caregiver is able to meet the day-to-day health, safety, and well-being needs of the child.

**(B)** The child's caregiver is permitted to maintain the least restrictive family setting that promotes normal childhood experiences and that serves the day-to-day needs of the child.

**(C)** The child is permitted to engage in reasonable, age-appropriate day-to-day activities that promote normal childhood experiences for the foster child.

**(2)** The foster child's caregiver shall use a reasonable and prudent parent standard, as defined in paragraph (2) of subdivision (a) of Section 362.04, to determine day-to-day activities that are age appropriate to meet the needs of the child. This section does not permit a child's caregiver to permit the child to engage in day-to-day activities that carry an unreasonable risk of harm, or subject the child to abuse or neglect.

**Leg.H.**

Added Stats 2015 ch 773 § 48 (AB 403), effective January 1, 2016, operative January 1, 2017. Amended Stats 2016 ch 605 § 1 (AB 1688), effective January 1, 2017; Stats 2016 ch 612 § 70.5 (AB 1997), effective January 1, 2017; Stats 2017 ch 561 § 264 (AB 1516), effective January 1, 2018; Stats 2017 ch 732 § 46 (AB 404), effective January 1, 2018 (ch 732 prevails); Stats 2018 ch 833 § 28 (AB 3176), effective January 1, 2019; Stats 2018 ch 910 § 23.5 (AB 1930), effective January 1, 2019 (ch 910 prevails); Stats 2019 ch 341 § 13 (AB 1235), effective January 1, 2020 (ch 341 prevails); Stats 2019 ch 497 § 292 (AB 991), effective January 1, 2020; Stats 2021 ch 76 § 14 (AB

136), effective July 16, 2021; Stats 2021 ch 86 § 18 (AB 153), effective July 16, 2021; Stats 2021 ch 687 § 8 (SB 354), effective January 1, 2022; Stats 2021 ch 696 § 18 (AB 172), effective October 8, 2021 (ch 696 prevails).

## § 361.21. Placement of Minor in Out-of-State Group Home.

(a) The court shall not order or approve the placement of a child or nonminor dependent in an out-of-state residential facility, as defined in subdivision (b) of Section 7910 of the Family Code, unless the court finds, in its order of placement and based on evidence presented by the county placing agency, that all of the following conditions have been met:

(1) The out-of-state group home is licensed or certified for the placement of children by an agency of the state in which the child or nonminor dependent will be placed.

(2) The out-of-state residential facility has been certified by the State Department of Social Services or is exempt from that certification, pursuant to Section 7911.1 of the Family Code.

(3) On and after July 1, 2021, the county placing agency has fulfilled its responsibilities as set forth in Sections 4096 and 16010.9.

(4) The court has reviewed the documentation of any required assessment, technical assistance efforts, or recommendations and finds that in-state facilities or programs are unavailable or inadequate to meet the needs of the child or nonminor dependent.

(b) At least every six months, the court shall review each placement made pursuant to subdivision (a) in order to determine compliance with that subdivision.

(c) A county shall not be entitled to receive or expend any public funds for the placement of a child or nonminor dependent in an out-of-state residential facility unless the requirements of subdivisions (a) and (b) are met.

(d) Notwithstanding any other law, on and after July 1, 2022, the court shall not order or approve any new placement of a child by a county child welfare agency in an out-of-state residential facility, as defined in subdivision (b) of Section 7910 of the Family Code, except for placements described in subdivision (h) of Section 7911.1 of the Family Code.

(e) Notwithstanding any other law, the court shall order any child placed out of state by a county child welfare agency in an out-of-state residential facility, as defined in subdivision (b) of Section 7910 of the Family Code, to be returned to California no later than January 1, 2023, except for placements described in subdivision (h) of Section 7911.1 of the Family Code.

Leg.H.

Added Stats 1998 ch 311 § 52 (SB 933), effective August 19, 1998. Amended Stats 1999 ch 881 § 6 (AB 1659), effective October 10, 1999; Stats 2021 ch 86 § 19 (AB 153), effective July 16, 2021.

## § 361.22. Review of placement of child or nonminor dependent in short-term residential therapeutic program.

(a) For a placement made on or after October 1, 2021, each placement of a child or nonminor dependent in a short-term residential therapeutic program, including the initial placement and each subsequent placement into a short-term residential therapeutic program, shall be reviewed by the court within 45 days of the start of

placement in accordance with this section. In no event shall the court grant a continuance that would cause the review to be completed more than 60 days after the start of the placement.

**(b)**

**(1)** Within five calendar days of each placement of the child or nonminor dependent in a short-term residential therapeutic program, the social worker shall request the court to schedule a hearing to review the placement.

**(2)** The social worker shall serve a copy of the request on all parties to the proceeding, the child's or nonminor dependent's court appointed special advocate, if applicable, and the child's tribe in the case of an Indian child.

**(c)**

**(1)** The social worker shall prepare and submit a report that shall include all of the following:

**(A)** A copy of the assessment, determination as to the services and care needs of the child or nonminor dependent, and documentation prepared by the qualified individual pursuant to paragraph (1) of subdivision (g) of Section 4096.

**(B)** The case plan documentation required pursuant to subparagraph (C) of paragraph (2) of subdivision (d) of Section 16501.1.

**(C)** In the case of an Indian child, a statement regarding whether the child's tribe had an opportunity to confer regarding the departure from the placement preferences described in Section 361.31, and the active efforts made prior to placement in a short-term therapeutic program to satisfy subdivision (f) of Section 224.1.

**(D)** A statement regarding whether the child or nonminor dependent or any party to the proceeding, or the child's tribe in the case of an Indian child, objects to the placement of the child or nonminor dependent in the short-term residential therapeutic program.

**(2)** The social worker shall serve a copy of the report to all parties to the proceeding no later than seven calendar days before the hearing.

**(d)** Within five calendar days of the request described in subdivision (b), the court shall set a hearing to be held within 45 days after the start of the placement and give notice of the hearing to all parties to the proceeding, and the child's tribe in the case of an Indian child.

**(e)** When reviewing each placement of the child or nonminor dependent in a short-term residential therapeutic program, the court shall do all of the following:

**(1)** Consider the information specified in subdivision (c).

**(2)** Determine whether the needs of the child or nonminor dependent can be met through placement in a family-based setting, or, if not, whether placement in a short-term residential therapeutic program provides the most effective and appropriate care setting for the child or nonminor dependent in the least restrictive environment. A shortage or lack of family homes shall not be an appropriate reason for determining that the needs of the child cannot be met in a family-based setting.

**(3)** Determine whether a short-term residential therapeutic program level of care is consistent with the short- and long-term mental and behavioral health goals and permanency plan for the child or nonminor dependent.

(4) In the case of an Indian child, determine whether there is good cause to depart from the placement preferences set forth in Section 361.31.

(5) Approve or disapprove the placement.

(6) Make a finding, either in writing or on the record, of the basis for its determinations pursuant to this subdivision.

(f) If the court disapproves the placement, the court shall order the social worker to transition the child or nonminor dependent to a placement setting that is consistent with the determinations made pursuant to subdivision (e) within 30 days of the disapproval.

(g) This section does not prohibit the court from reviewing the placement of a child or nonminor dependent in a short-term residential therapeutic program pursuant to subdivision (a) at a regularly scheduled hearing if that hearing is held within 60 days of the placement and the information described in subdivision (c) has been presented to the court.

(h) On or before October 1, 2021, the Judicial Council shall amend or adopt rules of court and shall develop or amend appropriate forms, as necessary, to implement this section, including developing a procedure to enable the court to review the placement without a hearing.

**Leg.H.**

Added Stats 2021 ch 86 § 20 (AB 153), effective July 16, 2021.

## **§ 361.3. Preferential Consideration of Relative's Request for Placement of Child Removed from Physical Custody of Parents.**

(a) In any case in which a child is removed from the physical custody of his or her parents pursuant to Section 361, preferential consideration shall be given to a request by a relative of the child for placement of the child with the relative, regardless of the relative's immigration status. In determining whether placement with a relative is appropriate, the county social worker and court shall consider, but shall not be limited to, consideration of all the following factors:

(1) The best interest of the child, including special physical, psychological, educational, medical, or emotional needs.

(2) The wishes of the parent, the relative, and child, if appropriate.

(3) The provisions of Part 6 (commencing with Section 7950) of Division 12 of the Family Code regarding relative placement.

(4) Placement of siblings and half siblings in the same home, unless that placement is found to be contrary to the safety and well-being of any of the siblings, as provided in Section 16002.

(5) The good moral character of the relative and any other adult living in the home, including whether any individual residing in the home has a prior history of violent criminal acts or has been responsible for acts of child abuse or neglect.

(6) The nature and duration of the relationship between the child and the relative, and the relative's desire to care for, and to provide legal permanency for, the child if reunification is unsuccessful.

(7) The ability of the relative to do the following:

- (A) Provide a safe, secure, and stable environment for the child.
  - (B) Exercise proper and effective care and control of the child.
  - (C) Provide a home and the necessities of life for the child.
  - (D) Protect the child from his or her parents.
  - (E) Facilitate court-ordered reunification efforts with the parents.
  - (F) Facilitate visitation with the child's other relatives.
  - (G) Facilitate implementation of all elements of the case plan.
  - (H)
    - (i) Provide legal permanence for the child if reunification fails.
    - (ii) However, any finding made with respect to the factor considered pursuant to this subparagraph and pursuant to subparagraph (G) shall not be the sole basis for precluding preferential placement with a relative.
  - (I) Arrange for appropriate and safe child care, as necessary.
- (8)
- (A) The safety of the relative's home. For a relative to be considered appropriate to receive placement of a child under this section on an emergency basis, the relative's home shall first be assessed pursuant to the process and standards described in Section 361.4.
  - (B) In this regard, the Legislature declares that a physical disability, such as blindness or deafness, is no bar to the raising of children, and a county social worker's determination as to the ability of a disabled relative to exercise care and control should center upon whether the relative's disability prevents him or her from exercising care and control. The court shall order the parent to disclose to the county social worker the names, residences, and any other known identifying information of any maternal or paternal relatives of the child. This inquiry shall not be construed, however, to guarantee that the child will be placed with any person so identified. The county social worker shall initially contact the relatives given preferential consideration for placement to determine if they desire the child to be placed with them. Those desiring placement shall be assessed according to the factors enumerated in this subdivision. The county social worker shall document these efforts in the social study prepared pursuant to Section 358.1. The court shall authorize the county social worker, while assessing these relatives for the possibility of placement, to disclose to the relative, as appropriate, the fact that the child is in custody, the alleged reasons for the custody, and the projected likely date for the child's return home or placement for adoption or legal guardianship. However, this investigation shall not be construed as good cause for continuance of the dispositional hearing conducted pursuant to Section 358.

(b) In any case in which more than one relative requests preferential consideration pursuant to this section, each relative shall be considered under the factors enumerated in subdivision (a). Consistent with the legislative intent for children to be placed immediately with a relative, this section does not limit the county social worker's ability to place a child in the home of a relative or a nonrelative extended family member pending the consideration of other relatives who have requested preferential consideration.

(c) For purposes of this section:

(1) "Preferential consideration" means that the relative seeking placement shall be the first placement to be considered and investigated.

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

(d) Subsequent to the hearing conducted pursuant to Section 358, whenever a new placement of the child must be made, consideration for placement shall again be given as described in this section to relatives who have not been found to be unsuitable and who will fulfill the child's reunification or permanent plan requirements. In addition to the factors described in subdivision (a), the county social worker shall consider whether the relative has established and maintained a relationship with the child.

(e) If the court does not place the child with a relative who has been considered for placement pursuant to this section, the court shall state for the record the reasons placement with that relative was denied.

(f)

(1) With respect to a child who satisfies the criteria set forth in paragraph (2), the department and any licensed adoption agency may search for a relative and furnish identifying information relating to the child to that relative if it is believed the child's welfare will be promoted thereby.

(2) Paragraph (1) shall apply if both of the following conditions are satisfied:

(A) The child was previously a dependent of the court.

(B) The child was previously adopted and the adoption has been disrupted, set aside pursuant to **Section 9100 or 9102 of the Family Code**, or the child has been released into the custody of the department or a licensed adoption agency by the adoptive parent or parents.

(3) As used in this subdivision, "relative" includes a member of the child's birth family and nonrelative extended family members, regardless of whether the parental rights were terminated, provided that both of the following are true:

(A) No appropriate potential caretaker is known to exist from the child's adoptive family, including nonrelative extended family members of the adoptive family.

(B) The child was not the subject of a voluntary relinquishment by the birth parents pursuant to **Section 8700 of the Family Code or Section 1255.7 of the Health and Safety Code**.

**Leg.H.**

Added Stats 1986 ch 640 § 1; Amended Stats 1987 ch 56 § 182; Stats 1989 ch 913 § 9; Stats 1992 ch 495 § 1 (AB 3441); Stats 1993 ch 451 § 1 (SB 270), ch 892 § 2.5 (SB 426); Stats 1997 ch 268 § 1 (AB 1196), ch 793 § 16 (AB 1544); Stats 1998 ch 949 § 3 (SB 645), ch 1056 § 11.1 (AB 2773); Stats 2001 ch 653 § 11 (AB 1695), effective October 10, 2001; Stats 2003 ch 812 § 3 (SB 591); Stats 2007 ch 108 § 2 (AB 714), effective January 1, 2008; Stats 2012 ch 845 § 7 (SB 1064), effective January 1, 2013; Stats 2014 ch 765 § 2 (AB 1761), effective January 1, 2015; Stats 2016 ch 612 § 71 (AB 1997), effective January 1, 2017; Stats 2017 ch 732 § 47 (AB 404), effective January 1, 2018.

## **§ 361.31. Placement of Indian Child.**

(a) In any case in which an Indian child is removed from the physical custody of his or her parents or Indian custodian pursuant to Section 361, the child's placement shall comply with this section.

(b) Any foster care or guardianship placement of an Indian child, or any emergency removal of a child who is known to be, or there is reason to know that the child is, an Indian child shall be in the least restrictive setting which most approximates a family situation and in which the child's special needs, if any, may be met. The child shall also be placed within reasonable proximity to the child's home, taking into account any special needs of the child. Preference shall be given to the child's placement with one of the following, in descending priority order:

(1) A member of the child's extended family, as defined in Section 1903 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(2) A foster home licensed, approved, or specified by the child's tribe.

(3) An Indian foster home licensed or approved by an authorized non-Indian licensing authority.

(4) An institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(c) In any adoptive placement of an Indian child, preference shall be given to a placement with one of the following, in descending priority order:

(1) A member of the child's extended family, as defined in Section 1903 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(2) Other members of the child's tribe.

(3) Another Indian family.

(d) Notwithstanding the placement preferences listed in subdivisions (b) and (c), if a different order of placement preference is established by the child's tribe, the court or agency effecting the placement shall follow the order of preference established by the tribe, so long as the placement is the least restrictive setting appropriate to the particular needs of the child as provided in subdivision (b).

(e) Where appropriate, the placement preference of the Indian child, when of sufficient age, or parent shall be considered. In applying the preferences, a consenting parent's request for anonymity shall also be given weight by the court or agency effecting the placement.

(f) The prevailing social and cultural standards of the Indian community in which the parent or extended family members of an Indian child reside, or with which the parent or extended family members maintain social and cultural ties, or the prevailing social and cultural standards of the Indian child's tribe shall be applied in meeting the placement preferences under this section. A determination of the applicable prevailing social and cultural standards may be confirmed by the Indian child's tribe or by the testimony or other documented support of a qualified expert witness, as defined in subdivision (c) of Section 224.6, who is knowledgeable regarding the social and cultural standards of the Indian child's tribe.

(g) Any person or court involved in the placement of an Indian child shall use the services of the Indian child's tribe, whenever available through the tribe, in seeking to secure placement within the order of placement preference established in this section and in the supervision of the placement.

(h) The court may determine that good cause exists not to follow placement preferences applicable under subdivision (b), (c), or (d) in accordance with subdivision (e).

(i) When no preferred placement under subdivision (b), (c), or (d) is available, active efforts shall be made to place the child with a family committed to enabling the child to have extended family visitation and participation in the cultural and ceremonial events of the child's tribe.

(j) The burden of establishing the existence of good cause not to follow placement preferences applicable under subdivision (b), (c), or (d) shall be on the party requesting that the preferences not be followed.

(k) A record of each foster care placement or adoptive placement of an Indian child shall be maintained in perpetuity by the State Department of Social Services. The record shall document the active efforts to comply with the applicable order of preference specified in this section.

**Leg.H.**

Added Stats 2006 ch 838 § 49 (SB 678), effective January 1, 2007.

## **§ 361.4. Duties of County Welfare Department Prior to Making Emergency Placement of Child.**

(a) Prior to making the emergency placement of a child pursuant to subdivision (d) of Section 309 or Section 361.45, the county welfare department shall do all of the following:

(1) Conduct an in-home inspection to assess the safety of the home and the ability of the relative or nonrelative extended family member to care for the child's needs.

(2) Cause a state-level criminal records check to be conducted by an appropriate government agency through the California Law Enforcement Telecommunications System (CLETS) pursuant to Section 16504.5 for all of the following:

(A) All persons over 18 years of age living in the home of the relative or nonrelative extended family member seeking emergency placement of the child, excluding any person who is a nonminor dependent, as defined in subdivision (v) of Section 11400.

(B) At the discretion of the county welfare department, any other person over 18 years of age known to the department to be regularly present in the home, other than professionals providing professional services to the child.

(C) At the discretion of the county welfare department, any person over 14 years of age living in the home who the department believes may have a criminal record. This subparagraph shall not apply to a child under the jurisdiction of the juvenile court.

(3) Conduct a check of allegations of prior child abuse or neglect concerning the relative or nonrelative extended family member and other adults in the home.

**(b)**

(1) If CLETS information obtained pursuant to paragraph (2) of subdivision (a) indicates that the person has no criminal record, the child may be placed in the home on an emergency basis.

(2) If the CLETS information obtained pursuant to paragraph (2) of subdivision (a) indicates that the person has been convicted of an offense described in subparagraph (B) or (D) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, the child shall not be placed in the home unless a criminal record exemption has been granted using the exemption criteria specified in paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code.

(3) Notwithstanding paragraph (2), a child may be placed on an emergency basis if the CLETS information obtained pursuant to paragraph (2) of subdivision (a) indicates that the person has been convicted of an offense not described in subclause (II) of clause (i) of subparagraph (B) of paragraph (2) of

subdivision (g) of Section 1522 of the Health and Safety Code, pending a criminal record exemption decision based on live scan fingerprint results if all of the following conditions are met:

(A) The conviction does not involve an offense against a child.

(B) The deputy director or director of the county welfare department, or their designee, determines that the placement is in the best interests of the child.

(C) No party to the case objects to the placement.

(4) If the CLETS information obtained pursuant to paragraph (2) of subdivision (a) indicates that the person has been arrested for any offense described in paragraph (2) of subdivision (e) of Section 1522 of the Health and Safety Code, the child shall not be placed on an emergency basis in the home until the investigation required by paragraph (1) of subdivision (e) of Section 1522 of the Health and Safety Code has been completed and the deputy director or director of the county welfare department, or their designee, and the court have considered the investigation results when determining whether the placement is in the best interests of the child.

(5) If the CLETS information obtained pursuant to paragraph (2) of subdivision (a) indicates that the person has been convicted of an offense described in subparagraph (A) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, the child shall not be placed in the home on an emergency basis.

(6) Notwithstanding paragraphs (2) and (5), or the placement recommendation of the county placing agency, the court may authorize the placement of a child on an emergency basis in the home of a relative, regardless of the status of any criminal record exemption or resource family approval, if the court finds that the placement does not pose a risk to the health and safety of the child.

(c) Within 10 calendar days following the criminal records check conducted through the CLETS or five business days of making the emergency placement, whichever is sooner, the social worker shall ensure that a fingerprint clearance check of the relative or nonrelative extended family member and any other person whose criminal record was obtained pursuant to this section is initiated through the Department of Justice to ensure the accuracy of the criminal records check conducted through the CLETS and ensure criminal record clearance of the relative or nonrelative extended family member and all adults in the home pursuant to subparagraph (A) of paragraph (2) of subdivision (d) of Section 16519.5 and any associated written directives or regulations.

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

**Leg.H.**

Added Stats 2017 ch 733 § 3.2 (SB 213), effective January 1, 2018. Amended Stats 2018 ch 910 § 24 (AB 1930), effective January 1, 2019; Stats 2021 ch 687 § 9 (SB 354), effective January 1, 2022.

## **§ 361.45. Assessment of Relative or Nonrelative Extended Family Member for Placement on Emergency Basis.**

(a) Notwithstanding any other law, when the sudden unavailability of a foster caregiver requires a change in placement for a child who is under the jurisdiction of the juvenile court pursuant to Section 300, if a relative, as defined in Section 319, or a nonrelative extended family member, as defined in Section 362.7, is available and requests temporary placement of the child, the county welfare department shall initiate an assessment of the relative's or nonrelative extended family member's suitability pursuant to Section 361.4.

(b) Upon completion of the assessment pursuant to Section 361.4, the child may be placed in the home on an emergency basis. Following the emergency placement of the child, the county welfare department shall require the relative or nonrelative extended family member to submit an application for approval as a resource family and initiate the home environment assessment no later than five business days after the placement. Thereafter, the county welfare department shall evaluate and approve or deny the home pursuant to Section 16519.5.

(c)

(1) On and after January 1, 2012, if a nonminor dependent, as defined in subdivision (v) of Section 11400, is placed in the home of a relative or nonrelative extended family member, the home shall be approved using the same standards set forth in regulations as described in **Section 1502.7 of the Health and Safety Code**.

(2) On or before July 1, 2012, the department, in consultation with representatives of the Legislature, the County Welfare Directors Association, the Chief Probation Officers of California, the California Youth Connection, the Judicial Council, former foster youth, child advocacy organizations, dependency counsel for children, juvenile justice advocacy organizations, foster caregiver organizations, labor organizations, and representatives of Indian tribes, shall revise regulations regarding health and safety standards for approving relative homes in which nonminor dependents, as defined in subdivision (v) of Section 11400, of the juvenile court are placed under the responsibility of the county welfare or probation department, or an Indian tribe that entered into an agreement pursuant to Section 10553.1.

(3) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department, in consultation with the stakeholders listed in paragraph (2), shall prepare for implementation of the applicable provisions of this section by publishing all-county letters or similar instructions from the department by October 1, 2011, to be effective January 1, 2012. Emergency regulations to implement this section may be adopted by the director in accordance with the Administrative Procedure Act. The initial adoption of the emergency regulations and one readoption of the initial regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the first readoption of those emergency regulations shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days.

**Leg.H.**

Added Stats 2006 ch 383 § 1 (AB 2195), effective January 1, 2007; Amended Stats 2010 ch 559 § 12 (AB 12), effective January 1, 2011; Stats 2016 ch 612 § 73 (AB 1997), effective January 1, 2017; Stats 2017 ch 732 § 50 (AB 404), effective January 1, 2018.

## § 361.49. Entry into Foster Care.

Regardless of his or her age, a child shall be deemed to have entered foster care on the earlier of the date of the jurisdictional hearing held pursuant to Section 356 or the date that is 60 days after the date on which the child was initially removed from the physical custody of his or her parent or guardian.

**Leg.H.**

Added Stats 2009 ch 120 § 1 (AB 706), effective August 6, 2009.

## § 361.5. Family Reunification Services.

**(a)** Except as provided in subdivision (b), or when the parent has voluntarily relinquished the child and the relinquishment has been filed with the State Department of Social Services, or upon the establishment of an order of guardianship pursuant to Section 360, or when a court adjudicates a petition under Section 329 to modify the court's jurisdiction from delinquency jurisdiction to dependency jurisdiction pursuant to subparagraph (A) of paragraph (2) of subdivision (b) of Section 607.2 and the parents or guardian of the ward have had reunification services terminated under the delinquency jurisdiction, whenever a child is removed from a parent's or guardian's custody, the juvenile court shall order the social worker to provide child welfare services to the child and the child's mother and statutorily presumed father or guardians. Upon a finding and declaration of paternity by the juvenile court or proof of a prior declaration of paternity by any court of competent jurisdiction, the juvenile court may order services for the child and the biological father, if the court determines that the services will benefit the child.

**(1)** Family reunification services, when provided, shall be provided as follows:

**(A)** Except as otherwise provided in subparagraph (C), for a child who, on the date of initial removal from the physical custody of the child's parent or guardian, was three years of age or older, court-ordered services shall be provided beginning with the dispositional hearing and ending 12 months after the date the child entered foster care as provided in Section 361.49, unless the child is returned to the home of the parent or guardian.

**(B)** For a child who, on the date of initial removal from the physical custody of the child's parent or guardian, was under three years of age, court-ordered services shall be provided for a period of 6 months from the dispositional hearing as provided in subdivision (e) of Section 366.21, but no longer than 12 months from the date the child entered foster care, as provided in Section 361.49, unless the child is returned to the home of the parent or guardian.

**(C)** For the purpose of placing and maintaining a sibling group together in a permanent home should reunification efforts fail, for a child in a sibling group whose members were removed from parental custody at the same time, and in which one member of the sibling group was under three years of age on the date of initial removal from the physical custody of the child's parent or guardian, court-ordered services for some or all of the sibling group may be limited as set forth in subparagraph (B). For the purposes of this paragraph, "a sibling group" shall mean two or more children who are related to each other as full or half siblings.

**(2)** Any motion to terminate court-ordered reunification services prior to the hearing set pursuant to subdivision (f) of Section 366.21 for a child described by subparagraph (A) of paragraph (1), or prior to the hearing set pursuant to subdivision (e) of Section 366.21 for a child described by subparagraph (B) or (C) of paragraph (1), shall be made pursuant to the requirements set forth in subdivision (c) of Section 388. A motion to terminate court-ordered reunification services shall not be required at the hearing set pursuant to subdivision (e) of Section 366.21 if the court finds by clear and convincing evidence one of the following:

**(A)** That the child was removed initially under subdivision (g) of Section 300 and the whereabouts of the parent are still unknown.

**(B)** That the parent has failed to contact and visit the child.

**(C)** That the parent has been convicted of a felony indicating parental unfitness.

**(3)**

**(A)** Notwithstanding subparagraphs (A), (B), and (C) of paragraph (1), court-ordered services may be extended up to a maximum time period not to exceed 18 months after the date the child was originally removed from physical custody of the child's parent or guardian if it can be shown, at the

hearing held pursuant to subdivision (f) of Section 366.21, that the permanent plan for the child is that the child will be returned and safely maintained in the home within the extended time period. The court shall extend the time period only if it finds that there is a substantial probability that the child will be returned to the physical custody of the child's parent or guardian within the extended time period or that reasonable services have not been provided to the parent or guardian. In determining whether court-ordered services may be extended, the court shall consider the special circumstances of an incarcerated or institutionalized parent or parents, parent or parents court-ordered to a residential substance abuse treatment program, or a parent who has been arrested and issued an immigration hold, detained by the United States Department of Homeland Security, or deported to the parent's country of origin, including, but not limited to, barriers to the parent's or guardian's access to services and ability to maintain contact with their child. The court shall also consider, among other factors, good faith efforts that the parent or guardian has made to maintain contact with the child. If the court extends the time period, the court shall specify the factual basis for its conclusion that there is a substantial probability that the child will be returned to the physical custody of the child's parent or guardian within the extended time period. The court also shall make findings pursuant to subdivision (a) of Section 366 and subdivision (e) of Section 358.1.

**(B)** When counseling or other treatment services are ordered, the parent or guardian shall be ordered to participate in those services, unless the parent's or guardian's participation is deemed by the court to be inappropriate or potentially detrimental to the child, or unless a parent or guardian is incarcerated or detained by the United States Department of Homeland Security and the corrections facility in which the parent or guardian is incarcerated does not provide access to the treatment services ordered by the court, or has been deported to their country of origin and services ordered by the court are not accessible in that country. Physical custody of the child by the parents or guardians during the applicable time period under subparagraph (A), (B), or (C) of paragraph (1) shall not serve to interrupt the running of the time period. If at the end of the applicable time period, a child cannot be safely returned to the care and custody of a parent or guardian without court supervision, but the child clearly desires contact with the parent or guardian, the court shall take the child's desire into account in devising a permanency plan.

**(C)** In cases where the child was under three years of age on the date of the initial removal from the physical custody of the child's parent or guardian or is a member of a sibling group as described in subparagraph (C) of paragraph (1), the court shall inform the parent or guardian that the failure of the parent or guardian to participate regularly in any court-ordered treatment programs or to cooperate or avail themselves of services provided as part of the child welfare services case plan may result in a termination of efforts to reunify the family after six months. The court shall inform the parent or guardian of the factors used in subdivision (e) of Section 366.21 to determine whether to limit services to six months for some or all members of a sibling group as described in subparagraph (C) of paragraph (1).

#### **(4)**

**(A)** Notwithstanding paragraph (3), court-ordered services may be extended up to a maximum time period not to exceed 24 months after the date the child was originally removed from physical custody of the child's parent or guardian if it is shown, at the hearing held pursuant to subdivision (b) of Section 366.22, that the permanent plan for the child is that the child will be returned and safely maintained in the home within the extended time period. The court shall extend the time period only if it finds that it is in the child's best interest to have the time period extended and that there is a substantial probability that the child will be returned to the physical custody of the child's parent or guardian who is described in subdivision (b) of Section 366.22 within the extended time period, or that reasonable services have not been provided to the parent or guardian. If the court extends the time period, the court shall specify the factual basis for its conclusion that there is a substantial probability

that the child will be returned to the physical custody of the child's parent or guardian within the extended time period. The court also shall make findings pursuant to subdivision (a) of Section 366 and subdivision (e) of Section 358.1.

**(B)** When counseling or other treatment services are ordered, the parent or guardian shall be ordered to participate in those services, in order for substantial probability to be found. Physical custody of the child by the parents or guardians during the applicable time period under subparagraph (A), (B), or (C) of paragraph (1) shall not serve to interrupt the running of the time period. If at the end of the applicable time period, the child cannot be safely returned to the care and custody of a parent or guardian without court supervision, but the child clearly desires contact with the parent or guardian, the court shall take the child's desire into account in devising a permanency plan.

**(C)** Except in cases where, pursuant to subdivision (b), the court does not order reunification services, the court shall inform the parent or parents of Section 366.26 and shall specify that the parent's or parents' parental rights may be terminated.

**(b)** Reunification services need not be provided to a parent or guardian described in this subdivision when the court finds, by clear and convincing evidence, any of the following:

**(1)** That the whereabouts of the parent or guardian are unknown. A finding pursuant to this paragraph shall be supported by an affidavit or by proof that a reasonably diligent search has failed to locate the parent or guardian. The posting or publication of notices is not required in that search.

**(2)** That the parent or guardian is suffering from a mental disability that is described in Chapter 2 (commencing with Section 7820) of Part 4 of Division 12 of the Family Code and that renders the parent or guardian incapable of utilizing those services.

**(3)** That the child or a sibling of the child has been previously adjudicated a dependent pursuant to any subdivision of Section 300 as a result of physical or sexual abuse, that following that adjudication the child had been removed from the custody of the child's parent or guardian pursuant to Section 361, that the child has been returned to the custody of the parent or guardian from whom the child had been taken originally, and that the child is being removed pursuant to Section 361, due to additional physical or sexual abuse.

**(4)** That the parent or guardian of the child has caused the death of another child through abuse or neglect.

**(5)** That the child was brought within the jurisdiction of the court under subdivision (e) of Section 300 because of the conduct of that parent or guardian.

**(6)**

**(A)** That the child has been adjudicated a dependent pursuant to any subdivision of Section 300 as a result of severe sexual abuse or the infliction of severe physical harm to the child, a sibling, or a half sibling by a parent or guardian, as defined in this subdivision, and the court makes a factual finding that it would not benefit the child to pursue reunification services with the offending parent or guardian.

**(B)** A finding of severe sexual abuse, for the purposes of this subdivision, may be based on, but is not limited to, sexual intercourse, or stimulation involving genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between the parent or guardian and the child or a sibling or half sibling of the child, or between the child or a sibling or half sibling of the child and another person or animal with the actual or implied consent of the parent or guardian; or the penetration or manipulation of the

child's, sibling's, or half sibling's genital organs or rectum by any animate or inanimate object for the sexual gratification of the parent or guardian, or for the sexual gratification of another person with the actual or implied consent of the parent or guardian.

**(C)** A finding of the infliction of severe physical harm, for the purposes of this subdivision, may be based on, but is not limited to, deliberate and serious injury inflicted to or on a child's body or the body of a sibling or half sibling of the child by an act or omission of the parent or guardian, or of another individual or animal with the consent of the parent or guardian; deliberate and torturous confinement of the child, sibling, or half sibling in a closed space; or any other torturous act or omission that would be reasonably understood to cause serious emotional damage.

**(7)** That the parent is not receiving reunification services for a sibling or a half sibling of the child pursuant to paragraph (3), (5), or (6).

**(8)** That the child was conceived by means of the commission of an offense listed in **Section 288** or **288.5 of the Penal Code**, or by an act committed outside of this state that, if committed in this state, would constitute one of those offenses. This paragraph only applies to the parent who committed the offense or act.

**(9)** That the child has been found to be a child described in subdivision (g) of Section 300; that the parent or guardian of the child willfully abandoned the child, and the court finds that the abandonment itself constituted a serious danger to the child; or that the parent or other person having custody of the child voluntarily surrendered physical custody of the child pursuant to **Section 1255.7 of the Health and Safety Code**. For the purposes of this paragraph, "serious danger" means that without the intervention of another person or agency, the child would have sustained severe or permanent disability, injury, illness, or death. For purposes of this paragraph, "willful abandonment" shall not be construed as actions taken in good faith by the parent without the intent of placing the child in serious danger.

**(10)**

**(A)** That the court ordered termination of reunification services for any siblings or half siblings of the child because the parent or guardian failed to reunify with the sibling or half sibling after the sibling or half sibling had been removed from that parent or guardian pursuant to Section 361 and that parent or guardian is the same parent or guardian described in subdivision (a) and that, according to the findings of the court, this parent or guardian has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling or half sibling of that child from that parent or guardian.

**(B)** This paragraph does not apply if the only times the court ordered termination of reunification services for any siblings or half siblings of the child were when the parent was a minor parent, a nonminor dependent parent, or adjudged a ward of the juvenile court pursuant to Section 601 or 602. For purposes of this subparagraph, "minor parent" and "nonminor dependent parent" have the same meaning as in Section 16002.5.

**(11)**

**(A)** That the parental rights of a parent over any sibling or half sibling of the child had been permanently severed, and this parent is the same parent described in subdivision (a), and that, according to the findings of the court, this parent has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling or half sibling of that child from the parent.

**(B)** This paragraph does not apply if the only times the court permanently severed parental rights over any siblings or half siblings of the child were when the parent was a minor parent, a nonminor

dependent parent, or adjudged a ward of the juvenile court pursuant to Section 601 or 602. For purposes of this subparagraph, “minor parent” and “nonminor dependent parent” have the same meaning as in Section 16002.5.

(12) That the parent or guardian of the child has been convicted of a violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code.

(13) That the parent or guardian of the child has a history of extensive, abusive, and chronic use of drugs or alcohol and has resisted prior court-ordered treatment for this problem during a three-year period immediately prior to the filing of the petition that brought that child to the court’s attention, or has failed or refused to comply with a program of drug or alcohol treatment described in the case plan required by Section 358.1 on at least two prior occasions, even though the programs identified were available and accessible. For purposes of this paragraph, “resisted” means the parent or guardian refused to participate meaningfully in a prior court-ordered drug or alcohol treatment program and does not include “passive resistance,” as described in *In re B.E. (2020) 46 Cal.App.5th 932*.

(14)

(A) That the parent or guardian of the child has advised the court that the parent or guardian is not interested in receiving family maintenance or family reunification services or having the child returned to or placed in the parent’s or guardian’s custody and does not wish to receive family maintenance or reunification services.

(B) The parent or guardian shall be represented by counsel and shall execute a waiver of services form to be adopted by the Judicial Council. The court shall advise the parent or guardian of any right to services and of the possible consequences of a waiver of services, including the termination of parental rights and placement of the child for adoption. The court shall not accept the waiver of services unless it states on the record its finding that the parent or guardian has knowingly and intelligently waived the right to services.

(15) That the parent or guardian has on one or more occasions willfully abducted the child or child’s sibling or half sibling from their placement and refused to disclose the child’s or child’s sibling’s or half sibling’s whereabouts, refused to return physical custody of the child or child’s sibling or half sibling to their placement, or refused to return physical custody of the child or child’s sibling or half sibling to the social worker.

(16) That the parent or guardian has been required by the court to be registered on a sex offender registry under the federal Adam Walsh Child Protection and Safety Act of 2006 (*42 U.S.C. Sec. 16913(a)*), as required in Section 106(b)(2)(B)(xvi)(VI) of the federal Child Abuse Prevention and Treatment Act (*42 U.S.C. Sec. 5106a(2)(B)(xvi)(VI)*).

(17) That the parent or guardian knowingly participated in, or permitted, the sexual exploitation, as described in subdivision (c) or (d) of Section 11165.1 of, or subdivision (c) of Section 236.1 of, the Penal Code, of the child. This shall not include instances in which the parent or guardian demonstrated by a preponderance of the evidence that the parent or guardian was coerced into permitting, or participating in, the sexual exploitation of the child.

(c)

(1) In deciding whether to order reunification in any case in which this section applies, the court shall hold a dispositional hearing. The social worker shall prepare a report that discusses whether reunification services shall be provided. When it is alleged, pursuant to paragraph (2) of subdivision (b), that the parent is incapable of utilizing services due to mental disability, the court shall order reunification services unless

competent evidence from mental health professionals establishes that, even with the provision of services, the parent is unlikely to be capable of adequately caring for the child within the time limits specified in subdivision (a).

(2) The court shall not order reunification for a parent or guardian described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), or (17) of subdivision (b) unless the court finds, by clear and convincing evidence, that reunification is in the best interest of the child.

(3) In addition, the court shall not order reunification in any situation described in paragraph (5) of subdivision (b) unless it finds that, based on competent evidence, those services are likely to prevent reabuse or continued neglect of the child or that failure to try reunification will be detrimental to the child because the child is closely and positively attached to that parent. The social worker shall investigate the circumstances leading to the removal of the child and advise the court whether there are circumstances that indicate that reunification is likely to be successful or unsuccessful and whether failure to order reunification is likely to be detrimental to the child.

(4) The failure of the parent to respond to previous services, the fact that the child was abused while the parent was under the influence of drugs or alcohol, a past history of violent behavior, or testimony by a competent professional that the parent's behavior is unlikely to be changed by services are among the factors indicating that reunification services are unlikely to be successful. The fact that a parent or guardian is no longer living with an individual who severely abused the child may be considered in deciding that reunification services are likely to be successful, provided that the court shall consider any pattern of behavior on the part of the parent that has exposed the child to repeated abuse.

(d) If reunification services are not ordered pursuant to paragraph (1) of subdivision (b) and the whereabouts of a parent become known within six months of the out-of-home placement of the child, the court shall order the social worker to provide family reunification services in accordance with this subdivision.

(e)

(1) If the parent or guardian is incarcerated, institutionalized, or detained by the United States Department of Homeland Security, or has been deported to the parent's or guardian's country of origin, the court shall order reasonable services unless the court determines, by clear and convincing evidence, those services would be detrimental to the child. In determining detriment, the court shall consider the age of the child, the degree of parent-child bonding, the length of the sentence, the length and nature of the treatment, the nature of the crime or illness, the degree of detriment to the child if services are not offered and, for children 10 years of age or older, the child's attitude toward the implementation of family reunification services, the likelihood of the parent's discharge from incarceration, institutionalization, or detention within the reunification time limitations described in subdivision (a), and any other appropriate factors. In determining the content of reasonable services, the court shall consider the particular barriers to an incarcerated, institutionalized, detained, or deported parent's access to those court-mandated services and ability to maintain contact with the child, and shall document this information in the child's case plan. Reunification services are subject to the applicable time limitations imposed in subdivision (a). Services may include, but shall not be limited to, all of the following:

(A) Maintaining contact between the parent and child through collect telephone calls.

(B) Transportation services, when appropriate.

(C) Visitation services, when appropriate.

(D)

(i) Reasonable services to extended family members or foster parents providing care for the child if the services are not detrimental to the child.

(ii) An incarcerated or detained parent may be required to attend counseling, parenting classes, or vocational training programs as part of the reunification service plan if actual access to these services is provided. The social worker shall document in the child's case plan the particular barriers to an incarcerated, institutionalized, or detained parent's access to those court-mandated services and ability to maintain contact with the child.

(E) Reasonable efforts to assist parents who have been deported to contact child welfare authorities in their country of origin, to identify any available services that would substantially comply with case plan requirements, to document the parents' participation in those services, and to accept reports from local child welfare authorities as to the parents' living situation, progress, and participation in services.

(2) The presiding judge of the juvenile court of each county may convene representatives of the county welfare department, the sheriff's department, and other appropriate entities for the purpose of developing and entering into protocols for ensuring the notification, transportation, and presence of an incarcerated or institutionalized parent at all court hearings involving proceedings affecting the child pursuant to [Section 2625 of the Penal Code](#). The county welfare department shall utilize the prisoner locator system developed by the Department of Corrections and Rehabilitation to facilitate timely and effective notice of hearings for incarcerated parents.

(3) Notwithstanding any other law, if the incarcerated parent is a woman seeking to participate in the community treatment program operated by the Department of Corrections and Rehabilitation pursuant to Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of, Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal Code, the court shall determine whether the parent's participation in a program is in the child's best interest and whether it is suitable to meet the needs of the parent and child.

(f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), or (17) of subdivision (b) or paragraph (1) of subdivision (e), does not order reunification services, it shall, at the dispositional hearing, that shall include a permanency hearing, determine if a hearing under Section 366.26 shall be set in order to determine whether adoption, guardianship, placement with a fit and willing relative, or another planned permanent living arrangement, or, in the case of an Indian child, in consultation with the child's tribe, tribal customary adoption, is the most appropriate plan for the child, and shall consider in-state and out-of-state placement options. If the court so determines, it shall conduct the hearing pursuant to Section 366.26 within 120 days after the dispositional hearing. However, the court shall not schedule a hearing so long as the other parent is being provided reunification services pursuant to subdivision (a). The court may continue to permit the parent to visit the child unless it finds that visitation would be detrimental to the child.

(g)

(1) Whenever a court orders that a hearing shall be held pursuant to Section 366.26, including, when, in consultation with the child's tribe, tribal customary adoption is recommended, it shall direct the agency supervising the child and the county adoption agency, or the State Department of Social Services when it is acting as an adoption agency, to prepare an assessment that shall include:

(A) Current search efforts for an absent parent or parents and notification of a noncustodial parent in the manner provided for in Section 291.

(B) A review of the amount of and nature of any contact between the child and the child's parents and other members of the child's extended family since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case basis, "extended family" for the

purpose of this subparagraph shall include, but not be limited to, the child's siblings, grandparents, aunts, and uncles.

**(C)**

**(i)** An evaluation of the child's medical, developmental, scholastic, mental, and emotional status.

**(ii)** The evaluation pursuant to clause (i) shall include, but is not limited to, providing a copy of the complete health and education summary as required under Section 16010, including the name and contact information of the person or persons currently holding the right to make educational decisions for the child.

**(iii)** In instances where it is determined that disclosure pursuant to clause (ii) of the contact information of the person or persons currently holding the right to make educational decisions for the child poses a threat to the health and safety of that individual or those individuals, that contact information shall be redacted or withheld from the evaluation.

**(D)** A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, including a prospective tribal customary adoptive parent, particularly the caretaker, to include a social history, including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and in Section 361.4. As used in this subparagraph, "relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, "relative" as used in this section has the same meaning as "relative" as defined in subdivision (c) of Section 11391.

**(E)** The relationship of the child to any identified prospective adoptive parent or guardian, including a prospective tribal customary parent, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative's or adoptive parent's strong commitment to caring permanently for the child, the motivation for seeking adoption or guardianship, a statement from the child concerning placement and the adoption or guardianship, and whether the child over 12 years of age has been consulted about the proposed relative guardianship arrangements, unless the child's age or physical, emotional, or other condition precludes the child's meaningful response, and if so, a description of the condition.

**(F)** An analysis of the likelihood that the child will be adopted if parental rights are terminated.

**(G)** In the case of an Indian child, in addition to subparagraphs (A) to (F), inclusive, an assessment of the likelihood that the child will be adopted, when, in consultation with the child's tribe, a tribal customary adoption, as defined in Section 366.24, is recommended. If tribal customary adoption is recommended, the assessment shall include an analysis of both of the following:

**(i)** Whether tribal customary adoption would or would not be detrimental to the Indian child and the reasons for reaching that conclusion.

**(ii)** Whether the Indian child cannot or should not be returned to the home of the Indian parent or Indian custodian and the reasons for reaching that conclusion.

(2)

(A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) Regardless of a relative caregiver's immigration status, a relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, the relative caregiver shall be informed about the terms and conditions of the negotiated agreement pursuant to Section 11387 and shall agree to its execution prior to the hearing held pursuant to Section 366.26. A copy of the executed negotiated agreement shall be attached to the assessment.

(h) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with an approved relative caregiver and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

(i) In determining whether reunification services will benefit the child pursuant to paragraph (6) or (7) of subdivision (b), the court shall consider any information it deems relevant, including the following factors:

(1) The specific act or omission comprising the severe sexual abuse or the severe physical harm inflicted on the child or the child's sibling or half sibling.

(2) The circumstances under which the abuse or harm was inflicted on the child or the child's sibling or half sibling.

(3) The severity of the emotional trauma suffered by the child or the child's sibling or half sibling.

(4) Any history of abuse of other children by the offending parent or guardian.

(5) The likelihood that the child may be safely returned to the care of the offending parent or guardian within 12 months with no continuing supervision.

(6) Whether or not the child desires to be reunified with the offending parent or guardian.

(j) When the court determines that reunification services will not be ordered, it shall order that the child's caregiver receive the child's birth certificate in accordance with Sections 16010.4 and 16010.5. Additionally, when the court determines that reunification services will not be ordered, it shall order, when appropriate, that a child who is 16 years of age or older receive the child's birth certificate.

(k) The court shall read into the record the basis for a finding of severe sexual abuse or the infliction of severe physical harm under paragraph (6) of subdivision (b), and shall also specify the factual findings used to determine that the provision of reunification services to the offending parent or guardian would not benefit the child.

#### Leg.H.

Added Stats 1996 ch 1083 § 2.7 (AB 1524). Amended Stats 1997 ch 793 § 18 (AB 1544); Stats 1998 ch 75 § 1 (SB 2091), ch 1054 § 25 (AB 1091), ch 1055 § 2 (SB 1901), ch 1056 § 12.5 (AB 2773); Stats 1999 ch 399 § 1 (SB 1226), ch 805 § 1.2 (AB 740); Stats 2000 ch 135 § 165 (AB 2539), ch 824 § 5 (SB 1368) (ch 824 prevails), operative until January 1, 2006; Stats 2001 ch 653 § 11.3 (AB 1695), effective

October 10, 2001; Stats 2002 ch 918 § 7 (AB 1694), repealed January 1, 2006; Stats 2003 ch 28 § 1 (AB 353), repealed January 1, 2006; Stats 2005 ch 625 § 5 (SB 116), effective January 1, 2006; Stats 2007 ch 565 § 1 (AB 298), ch 583 § 25.5 (SB 703), effective January 1, 2008; Stats 2008 ch 457 § 1 (AB 2341), effective January 1, 2009, ch 482 § 1.7 (AB 2070), effective January 1, 2009; Stats 2009 ch 120 § 2 (AB 706), effective August 6, 2009, ch 287 § 6 (AB 1325), effective January 1, 2010, operative July 1, 2010, repealed January 1, 2014; Stats 2010 ch 559 § 13 (AB 12), effective January 1, 2011, repealed January 1, 2014; Stats 2011 ch 59 § 1 (AB 791), effective January 1, 2012, repealed January 1, 2014; Stats 2012 ch 35 § 48 (SB 1013), effective June 27, 2012, ch 845 § 9 (SB 1064), effective January 1, 2013, ch 846 § 15 (AB 1712), effective January 1, 2013, ch 847 § 1.3 (SB 1521), effective January 1, 2013; Stats 2016 ch 124 § 1 (AB 1702), effective January 1, 2017; Stats 2016 ch 612 § 74.5 (AB 1997), effective January 1, 2017; Stats 2017 ch 829 § 5 (SB 233), effective January 1, 2018; Stats 2020 ch 356 § 1 (AB 2805), effective January 1, 2021; Stats 2021 ch 201 § 1 (AB 788), effective January 1, 2022; Stat 2021 ch 585 § 2.5 (AB 670), effective January 1, 2022 (ch 585 prevails).

## § 361.6. When Family Reunification Services for Nonminor Dependent are to Continue.

(a) Notwithstanding any other law, the court may order family reunification services to continue for a nonminor dependent, as defined in subdivision (v) of Section 11400, if the nonminor dependent and parent, parents, or legal guardian are in agreement and the court finds that the continued provision of court-ordered family reunification services is in the best interests of the nonminor dependent and there is a substantial probability that the nonminor dependent will be able to safely reside in the home of the parent or guardian by the next review hearing. The continuation of the court-ordered reunification services shall not exceed the timeframes as set forth in Section 361.5. If the nonminor dependent or parent, parents, or legal guardian are not in agreement, or the court finds there is not a substantial probability that the nonminor will be able to safely reside in the home of the parent or guardian, the court shall terminate family reunification services to the parents or guardian. The nonminor dependent's legal status as an adult is, in and of itself, a compelling reason not to hold a hearing pursuant to Section 366.26. The court may order that a nonminor dependent who is otherwise eligible for AFDC-FC benefits pursuant to Section 11403 remain in a planned, permanent living arrangement.

(b) Any motion to terminate court-ordered family reunification services for a nonminor dependent prior to the hearing set pursuant to Section 366.31 shall be made pursuant to subdivision (c) of Section 388.

(c) An order terminating court-ordered family reunification services under this section shall not be considered evidence of a condition required for the filing of a petition to terminate a parent's or legal guardian's court-ordered family reunification services with the nonminor dependent's sibling or half-sibling under subdivision (c) of Section 388.

(d) An order terminating court-ordered family reunification services under this section shall not be used to deny family reunification services to a parent or legal guardian for a nonminor dependent's sibling or half-sibling under subdivision (b) of Section 361.5.

(e) The continuation of court-ordered family reunification services under this section does not affect the nonminor's eligibility for extended foster care benefits as a nonminor dependent as defined in subdivision (v) of Section 11400. The reviews conducted for any nonminor dependent shall be held pursuant to Section 366.31.

**Leg.H.**

Added Stats 2012 ch 846 § 16 (AB 1712), effective January 1, 2013.

## § 361.7. Involuntary Foster Care Placement of or Termination of Parental Rights Over Indian Child.

(a) Notwithstanding Section 361.5, a party seeking an involuntary foster care placement of, or termination of parental rights over, an Indian child shall provide evidence to the court that active efforts have been made to

provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful. The active efforts shall be documented in detail in the record.

**(b)** What constitutes active efforts shall be assessed on a case-by-case basis. The active efforts shall be made in a manner that takes into account the prevailing social and cultural values, conditions, and way of life of the Indian child's tribe. Active efforts shall utilize the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers.

**(c)** A foster care placement or guardianship shall not be ordered in the proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of a qualified expert witness, as defined in Section 224.6, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

**Leg.H.**

Added Stats 2006 ch 838 § 50 (SB 678), effective January 1, 2007; Amended Stats 2018 ch 833 § 30 (AB 3176), effective January 1, 2019.

## **§ 361.8. Risk of Abuse or Neglect of Child of Minor Parent or Nonminor Dependent Parent; Reunification and Remedial Services In Case of Child of One or More Dependent Minor Parents.**

**(a)** The Legislature declares that a child of a minor parent or nonminor dependent parent shall not be considered to be at risk of abuse or neglect solely on the basis of information concerning the parent's or parents' placement history, past behaviors, or health or mental health diagnoses occurring prior to the pregnancy, although that information may be taken into account when considering whether other factors exist that place the child at risk of abuse or neglect.

**(b)** In the case of a child for whom one or both parents is a minor parent, a nonminor dependent parent, or adjudged to be a ward of the court pursuant to Section 601 or 602, all of the following shall apply:

**(1)** Paragraphs (10) and (11) of subdivision (b) of Section 361.5 shall not apply, unless one or more of the circumstances described in paragraphs (1) to (9), inclusive, and paragraphs (12) to (17), inclusive, of subdivision (b) of Section 361.5 apply.

**(2)** A party seeking an involuntary foster care placement of, or termination of parental rights over, a child born to a parent or parents who were minors or nonminor dependents at the time of the child's birth shall demonstrate to the court that reasonable efforts were made to provide remedial services designed to prevent the removal of the child from the minor or nonminor dependent parent or parents, and that these efforts have proved unsuccessful.

**(3)** The efforts made pursuant to paragraph (2) shall utilize the available resources of the child and the child's minor or nonminor dependent parent's or parents' extended family, social services agencies, caregivers, and other available service providers.

**(4)** Consistent with the intent of the Legislature, as described in Section 16002.5, a social worker or probation officer shall use a strengths-based approach to supporting a minor or nonminor dependent parent in providing a safe and permanent home for their child, including when the social worker or probation officer is conducting an investigation. An investigation shall not be conducted for the child of a minor parent or nonminor dependent parent unless a report has been made pursuant to **Section 11166 of the Penal Code**.

**(c)** Except as provided in Section 301, prior to a social worker or probation officer arranging any informal or formal custody agreement that includes a temporary or permanent voluntary relinquishment of custody by a parent who is a ward of the juvenile court or a dependent or nonminor dependent parent, or recommending that a nonparent seek legal guardianship of the child of a ward, dependent, or nonminor dependent parent, the parent shall be advised of the right and have the opportunity to consult with their legal counsel. The social worker or probation officer shall note in the case file whether the dependent, nonminor dependent, or ward consulted with legal counsel, or if the opportunity for consultation was provided and the consultation did not occur, the reason that the consultation did not occur.

**(d)** For purposes of this section, “child,” “minor parent,” and “nonminor dependent parent” have the same meaning as in Section 16002.5.

**Leg.H.**

Added Stats 2015 ch 511 § 1 (AB 260), effective January 1, 2016. Amended Stats 2017 ch 666 § 2 (AB 1371), effective January 1, 2018; Stats 2021 ch 585 § 3 (AB 670), effective January 1, 2022.

## **§ 362. Orders for Care, Supervision and Support; Governmental Agencies Joined as Party; Participation in Child Welfare Services.**

(a) If a child is adjudged a dependent child of the court on the ground that the child is a person described by Section 300, the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child, including medical treatment, subject to further order of the court.

(b)

(1) To facilitate coordination and cooperation among agencies, the court may, at any time after a petition has been filed, after giving notice and an opportunity to be heard, join in the juvenile court proceedings any agency that the court determines has failed to meet a legal obligation to provide services to a child for whom a petition has been filed under Section 300, to a nonminor, as described in Section 303, or to a nonminor dependent, as defined in subdivision (v) of Section 11400, regardless of the status of the adjudication. In any proceeding in which an agency is joined, the court shall not impose duties upon the agency beyond those mandated by law. Nothing in this section shall prohibit agencies that have received notice of the hearing on joinder from meeting prior to the hearing to coordinate services.

(2) The court has no authority to order services unless it has been determined through the administrative process of an agency that has been joined as a party, that the child, nonminor, or nonminor dependent is eligible for those services. With respect to mental health assessment, treatment, and case management services pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, the court’s determination shall be limited to whether the agency has complied with that chapter.

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

(c) If a child is adjudged a dependent child of the court, on the ground that the child is a person described by Section 300, and the court orders that a parent or guardian shall retain custody of the child subject to the supervision of the social worker, the parents or guardians shall be required to participate in child welfare services or services provided by an appropriate agency designated by the court.

(d) The juvenile court may direct any reasonable orders to the parents or guardians of the child who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out this section,

including orders to appear before a county financial evaluation officer. That order may include a direction to participate in a counseling or education program, including, but not limited to, a parent education and parenting program operated by a community college, school district, or other appropriate agency designated by the court. A foster parent or relative with whom the child is placed may be directed to participate in such a program in cases in which the court deems participation is appropriate and in the child's best interest. The program in which a parent or guardian is required to participate shall be designed to eliminate those conditions that led to the court's finding that the child is a person described by Section 300.

(e) If a child is adjudged a dependent child of the court, the juvenile court may direct any reasonable orders to the parents or guardians of the child who is the subject of any proceedings under this chapter, to ensure the child's regular school attendance and to make reasonable efforts to obtain educational services necessary to meet the specific needs of the child.

**Leg.H.**

Added Stats 1976 ch 1070 § 3.7, effective September 21, 1976, operative January 1, 1977. Amended Stats 1977 ch 21 § 8, effective April 6, 1977; Stats 1978 ch 429 § 176, effective July 17, 1978, operative July 1, 1978; Stats 1982 ch 978 § 21, effective September 13, 1982, operative July 1, 1982; Stats 1983 ch 467 § 1, ch 1170 § 2.5; Stats 1984 ch 162 § 1, ch 867 § 3; Stats 1985 ch 1485 § 10; Stats 1986 ch 1120 § 9, effective September 24, 1986, ch 1122 § 14; Stats 1992 ch 1307 § 1 (AB 3553); Stats 1996 ch 1139 § 9 (AB 2647); Stats 1998 ch 1054 § 26 (AB 1091); Stats 2000 ch 908 § 2 (SB 1611), ch 910 § 8.5 (AB 2921), ch 911 § 1.5 (AB 686); Stats 2012 ch 130 § 1 (SB 1048), effective January 1, 2013.

## § 362.04. Use of Short-Term Babysitters.

(a) For purposes of this section:

(1) "Caregiver" means any licensed certified foster parent, approved relative caregiver, or approved nonrelative extended family member, or approved resource family.

(2) "Reasonable and prudent parent" or "reasonable and prudent parent standard" has the meaning set forth in subdivision (c) of Section 362.05.

(3) "Short term" means no more than 24 consecutive hours.

(b) Every caregiver may arrange for occasional short-term babysitting of their foster child and allow individuals to supervise the foster child for the purposes set forth in Section 362.05, or on occasions, including, but not limited to, when the foster parent has a medical or other health care appointment, grocery or other shopping, personal grooming appointments, special occasions for the foster parents, foster parent training classes, school-related meetings (such as parent-teacher conferences), business meetings, adult social gatherings, or an occasional evening out by the foster parent.

(c) Caregivers shall use a reasonable and prudent parent standard in determining and selecting appropriate babysitters for occasional short-term use.

(d) The caregiver shall endeavor to provide the babysitter with the following information before leaving the child for purposes of short-term care:

(1) Information about the child's emotional, behavioral, medical, or physical conditions, if any, necessary to provide care for the child during the time the foster child is being supervised by the babysitter.

(2) Any medication that should be administered to the foster child during the time the foster child is being supervised by the babysitter.

(3) Emergency contact information that is valid during the time the foster child is being supervised by the babysitter.

**(e)** Babysitters selected by the caregiver to provide occasional short-term care to a foster child under the provisions of this section shall be exempt from any department regulation requiring health screening or cardiopulmonary resuscitation certification or training.

**(f)** Each state and local entity shall ensure that private agencies that provide foster care services to dependent children have policies consistent with this section. Policies that are not consistent with this section include those that are incompatible with, contradictory to, or more restrictive than this section.

**Leg.H.**

2005 ch. 628 (SB 358) § 3. Amended Stats 2014 ch 772 § 11 (SB 1460), effective January 1, 2015; Stats 2015 ch 425 § 6 (SB 794), effective January 1, 2016.

## **§ 362.05. Participation in Age-Appropriate Extracurricular, Enrichment, and Social Activities by Dependent Child; Use of Reasonable and Prudent Parent Standard to Determine Appropriateness of Participation by Child.**

**(a)**

**(1)** Every child adjudged a dependent child of the juvenile court shall be entitled to participate in age-appropriate extracurricular, enrichment, and social activities, including, but not limited to, access to computer technology and the Internet. A state or local regulation or policy shall not prevent, or create barriers to, participation in those activities. Each state and local entity shall ensure that private agencies that provide foster care services to dependent children have policies consistent with this section and that those agencies promote and protect the ability of dependent children to participate in age-appropriate extracurricular, enrichment, and social activities, including, but not limited to, access to computer technology and the Internet. A short-term residential therapeutic program or a group home administrator, a facility manager, or his or her responsible designee, and a caregiver, as defined in paragraph (1) of subdivision (a) of Section 362.04, shall use a reasonable and prudent parent standard in determining whether to give permission for a child residing in foster care to participate in extracurricular, enrichment, and social activities, including, but not limited to, access to computer technology and the Internet. A short-term residential therapeutic program or a group home administrator, a facility manager, or his or her responsible designee, and a caregiver shall take reasonable steps to determine the appropriateness of the activity in consideration of the child's age, maturity, and developmental level.

**(2)** Training for caregivers shall include knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities, consistent with this section and [Section 671\(a\)\(24\) of Title 42 of the United States Code](#).

**(b)** A short-term residential therapeutic program or a group home administrator, a facility manager, or his or her responsible designee, is encouraged to consult with social work or treatment staff members who are most familiar with the child at the group home in applying and using the reasonable and prudent parent standard.

**(c)**

**(1)** "Reasonable and prudent parent" or "reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the

state to participate in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities.

(2) The term “age or developmentally appropriate” means both of the following:

(A) Activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group.

(B) In the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

**Leg.H.**

Added Stats 2003 ch 813 § 2 (AB 408); Amended Stats 2005 ch 628 § 4 (SB 358), effective January 1, 2006; Stats 2008 ch 483 § 1 (AB 2096), effective January 1, 2009; Stats 2015 ch 425 § 7 (SB 794), effective January 1, 2016; Stats 2017 ch 732 § 51 (AB 404), effective January 1, 2018.; Stats 2018 ch 997 § 1 (AB 2448), effective January 1, 2019.

## **§ 362.1. Visitation Between Family and Child.**

(a) In order to maintain ties between the parent or guardian and any siblings and the child, and to provide information relevant to deciding if, and when, to return a child to the custody of his or her parent or guardian, or to encourage or suspend sibling interaction, any order placing a child in foster care, and ordering reunification services, shall provide as follows:

(1)

(A) Subject to subparagraph (B), for visitation between the parent or guardian and the child. Visitation shall be as frequent as possible, consistent with the well-being of the child.

(B) No visitation order shall jeopardize the safety of the child. To protect the safety of the child, the court may keep the child’s address confidential. If the parent of the child has been convicted of murder in the first degree, as defined in [Section 189 of the Penal Code](#), and the victim of the murder was the other parent of the child, the court shall order visitation between the child and the parent only if that order would be consistent with [Section 3030 of the Family Code](#).

(2) Pursuant to subdivision (b) of Section 16002, for visitation between the child and any siblings, unless the court finds by clear and convincing evidence that sibling interaction is contrary to the safety or well-being of either child.

(3) Pursuant to subdivision (c) of Section 16002, for review of the reasons for any suspension of sibling interaction at each periodic review hearing pursuant to Section 366, and for a requirement that, in order for a suspension to continue, the court shall make a renewed finding that sibling interaction is contrary to the safety or well-being of either child.

(4) If the child is a teen parent who has custody of his or her child and that child is not a dependent of the court pursuant to this chapter, for visitation among the teen parent, the child’s noncustodial parent, and appropriate family members, unless the court finds by clear and convincing evidence that visitation would be detrimental to the teen parent.

(b) When reunification services are not ordered pursuant to Section 361.5, the child’s plan for legal permanency shall include consideration of the existence of and the relationship with any sibling pursuant to

Section 16002, including their impact on placement and visitation.

(c) As used in this section, “sibling” means a person related to the identified child by blood, adoption, or affinity through a common legal or biological parent.

**Leg.H.**

Added Stats 1986 ch 1122 § 15; Amended Stats 1994 ch 663 § 1 (SB 17); Stats 1996 ch 1139 § 10 (AB 2647); Stats 1998 ch 704 § 2 (AB 2745), ch 705 § 2 (AB 2386); Stats 2000 ch 909 § 3 (AB 1987); Stats 2005 ch 630 § 2 (SB 500), effective January 1, 2006; Stats 2010 ch 560 § 1 (AB 743), effective January 1, 2011; Stats 2014 ch 773 § 3 (SB 1099), effective January 1, 2015; Stats 2015 ch 425 § 8 (SB 794), effective January 1, 2016.

## § 362.2. Placement Out-of-Home.

It is the intent of the Legislature that if a placement out-of-home is necessary pursuant to an individualized education program, that this placement be as near the child’s home as possible, unless it is not in the best interest of the child. When the court determines that it is the best interest of the child to be placed out-of-state, the court shall read into the record that in-state alternatives have been explored and that they cannot meet the needs of the child, and the court shall state on the record the reasons for the out-of-state placement.

**Leg.H.**

1994 ch. 1128.

## § 362.3. Citation to Appear May Be Directed to Parent, Guardian, or Foster Parent.

In addition to the notice provided in Sections 297 and 332, the juvenile court may issue its citation directing any parent, guardian, or foster parent of the person concerning whom a petition has been filed to appear at the time and place set for any hearing under the provisions of this chapter, and directing any person having custody or control of the child concerning whom the petition has been filed to bring the child with him or her. The citation shall, in addition, state that a parent, guardian, or foster parent may be required to participate in a counseling or education program with the child concerning whom the petition has been filed. Personal service of the citation shall be made at least 24 hours before the time stated therein for the appearance.

**Leg.H.**

1984 ch. 162, 2002 ch. 416 (SB 1956).

## § 362.4. Juvenile Court’s Authorization to Issue Orders After Jurisdiction Termination.

(a) If the juvenile court terminates its jurisdiction over a minor who has been adjudged a dependent child of the juvenile court prior to the minor’s attainment of the age of 18 years, and proceedings for dissolution of marriage, for nullity of marriage, or for legal separation, of the minor’s parents, or proceedings to establish the paternity of the minor child brought under the Uniform Parentage Act, Part 3 (commencing with Section 7600) of Division 12 of the Family Code, are pending in the superior court of any county, or an order has been entered with regard to the custody of that minor, the juvenile court on its own motion, may issue a protective order as provided for in Section 213.5 or as defined in [Section 6218 of the Family Code](#), and an order determining the custody of, or visitation with, the child.

**(b)** Any order issued pursuant to this section shall continue until modified or terminated by a subsequent order of the superior court. The order of the juvenile court shall be filed in the proceeding for nullity, dissolution, or legal separation, or in the proceeding to establish paternity, at the time the juvenile court terminates its jurisdiction over the minor, and shall become a part thereof.

**(c)** If no action is filed or pending relating to the custody of the minor in the superior court of any county, the juvenile court order may be used as the sole basis for opening a file in the superior court of the county in which the parent, who has been given custody, resides. The court may direct the parent or the clerk of the juvenile court to transmit the order to the clerk of the superior court of the county in which the order is to be filed. The clerk of the superior court shall, immediately upon receipt, open a file, without a filing fee, and assign a case number.

**(d)** The clerk of the superior court shall, upon the filing of any juvenile court custody order, send a copy of the order with the case number by first-class mail or by electronic means pursuant to Section 212.5 to the juvenile court and to the parents at the address listed on the order.

**(e)** The Judicial Council shall adopt forms for any custody or restraining order issued under this section. These form orders shall not be confidential.

**Leg.H.**

Added Stats 1984 ch 813 § 1, as W & I C § 362.3; Amended and renumbered Stats 1986 ch 248 § 246; Stats 1989 ch 137 § 2; Stats 1992 ch 163 § 137 (AB 2641), operative January 1, 1994; Stats 1993 ch 219 § 226.5 (AB 1500); Stats 1996 ch 1138 § 3 (AB 2154), ch 1139 § 11 (AB 2647); Stats 2017 ch 319 § 130 (AB 976), effective January 1, 2018.

## **§ 362.5. Access to Nonminor Dependent Court File.**

(a) The clerk of the superior court shall open a separate court file for nonminor dependents under the dependency, delinquency, or transition jurisdiction of the court.

(b) Access to the nonminor dependent court file shall be limited to all of the following:

(1) Court personnel.

(2) The district attorney, if the nonminor dependent is also a delinquent ward.

(3) The nonminor dependent.

(4) The attorney for the nonminor dependent.

(5) Judges, referees, and other hearing officers actively participating in juvenile proceedings involving the nonminor dependent.

(6) The social services agency or probation department.

(7) The State Department of Social Services, to carry out its duties pursuant to Division 9 (commencing with Section 10000), and Part 5 (commencing with Section 7900) of Division 12 of the Family Code, to oversee and monitor county child welfare agencies, children in foster care or receiving foster care assistance; and out-of-state placements, Section 10850.4, and pursuant to Section 2.

(8) The county counsel.

(9) Authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary for the performance of their duties to inspect, license, and investigate community care facilities, to ensure that the standards of

care and services provided in those facilities are adequate and appropriate, and to ascertain compliance with the rules and regulations to which the facilities are subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 3 (commencing with Section 1500) and Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names that are confidential shall be listed in attachments separate from the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and may not subsequently be released, except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Social Services may not contain the name of the nonminor dependent.

(c) The nonminor dependent's parent and the parent's attorney may only access the file if the parent is still receiving reunification services.

(d) All other individuals requesting access to the court file must be designated by court order of the judge of the juvenile court upon filing a petition, which shall be determined pursuant to Section 827.

**Leg.H.**

Added Stats 2012 ch 846 § 17 (AB 1712), effective January 1, 2013.

## **§ 362.6. Visitation Between Person Incarcerated for Sex Crime and Child Victim—Hearing.**

(a) When a hearing is requested pursuant to [Section 1202.05 of the Penal Code](#), the sentencing court shall forward a copy of the request to the child protective services agency (CPS), or the appropriate entity, in the county in which any related dependency matters as to the affected child victim have been heard or to the county in which the child victim resides. CPS, or the appropriate entity, shall initiate a hearing to determine whether visitation between the child victim and the incarcerated person would be in the best interests of the child victim. If the court determines that visitation with the incarcerated person is in the best interests of the child victim, CPS, or the appropriate entity, shall notify the Department of Corrections to provide for contact or visitation, or both, as ordered by the court.

(b) The court, if visitation is allowed, may impose whatever safeguards or restrictions it deems appropriate to protect the child victim.

(c) The court's order shall be transmitted to all parties and to the Department of Corrections.

(d) Any party may return to the juvenile court at any time prior to the child victim's 18th birthday and request modification of the court's order based on a change of circumstances. For these purposes, the juvenile court shall retain jurisdiction over the matter until the child victim reaches the age of 18 years.

**Leg.H.**

1992 ch. 1008.

## **§ 362.7. Evaluation of Home for Placement with Nonrelative Extended Family Member; “Nonrelative Extended Family Member”.**

When the home of a nonrelative extended family member is being considered for placement of a child, the home shall be evaluated, and approval of that home shall be granted or denied, pursuant to the same standards set forth in the regulations for the licensing of foster family homes that prescribe standards of safety and sanitation for the physical plant and standards for basic personal care, supervision, and services provided by the caregiver.

A “nonrelative extended family member” is defined as an adult caregiver who has an established familial relationship with a relative of the child, as defined in paragraph (2) of subdivision (c) of Section 361.3, or a familial or mentoring relationship with the child. The county welfare department shall verify the existence of a relationship through interviews with the parent and child or with one or more third parties. The parties may include relatives of the child, teachers, medical professionals, clergy, neighbors, and family friends.

**Leg.H.**

Added Stats 2001 ch 653 § 12 (AB 1695), effective October 10, 2001. Amended Stats 2013 ch 294 § 1 (AB 545), effective January 1, 2014.

## **§ 363. Reduction of Public Assistance to Parent of Dependent Minor.**

If the parent or person legally responsible for the care of any minor who is found to be a person described in Section 300 receives public assistance or care, any portion of which is attributable to the minor, a copy of the order of the court providing for the removal of the minor from his or her home shall be furnished to the appropriate social services official, who shall reduce the public assistance and care furnished the parent or other person by the amount attributable to the minor.

**Leg.H.**

1976 ch. 1068, 1988 ch. 701, effective August 29, 1988.

## **§ 364. Hearing Placing Child Under Supervision of Juvenile Court—Continuance and Procedure.**

(a) Every hearing in which an order is made placing a child under the supervision of the juvenile court pursuant to Section 300 and in which the child is not removed from the physical custody of his or her parent or guardian shall be continued to a specific future date not to exceed six months after the date of the original dispositional hearing. The continued hearing shall be placed on the appearance calendar. The court shall advise all persons present of the date of the future hearings, of their rights to be present, and to be represented by counsel.

(b) At least 10 calendar days prior to the hearing, the social worker shall file a supplemental report with the court describing the services offered to the family and the progress made by the family in eliminating the conditions or factors requiring court supervision. The social worker shall also make a recommendation regarding the necessity of continued supervision. A copy of this report shall be furnished to all parties at least 10 calendar days prior to the hearing.

(c) After hearing any evidence presented by the social worker, the parent, the guardian, or the child, the court shall determine whether continued supervision is necessary. The court shall terminate its jurisdiction unless the social worker or his or her department establishes by a preponderance of evidence that the conditions still exist which would justify initial assumption of jurisdiction under Section 300, or that those conditions are likely

to exist if supervision is withdrawn. Failure of the parent or guardian to participate regularly in any court ordered treatment program shall constitute *prima facie* evidence that the conditions which justified initial assumption of jurisdiction still exist and that continued supervision is necessary.

(d) If the court retains jurisdiction it shall continue the matter to a specified date, not more than six months from the time of the hearing, at which point the court shall again follow the procedure specified in subdivision (c).

(e) In any case in which the court has ordered that a parent or guardian shall retain physical custody of a child subject to supervision by a social worker, and the social worker subsequently receives a report of acts or circumstances which indicate that there is reasonable cause to believe that the child is a person described in subdivision (a), (d), or (e) of Section 300, the social worker shall commence proceedings under this chapter. If, as a result of the proceedings required, the court finds that the child is a person described in subdivision (a), (d), or (e) of Section 300, the court shall remove the child from the care, custody, and control of the child's parent or guardian and shall commit the child to the care, custody, and control of the social worker pursuant to Section 361.

**Leg.H.**

1976 ch. 1068, 1982 ch. 978, effective September 13, 1982, operative July 1, 1982, 1986 ch. 1122, 1987 ch. 1485, operative January 1, 1989, 1989 ch. 913, 1998 ch. 1054.

## **§ 364.05. Los Angeles County—Timely Service of Supplemental Report Prior to Hearing.**

Notwithstanding Section 364, in a county of the first class, a copy of the report required pursuant to subdivision (b) of Section 364 shall be provided to all parties at least 10 calendar days before the hearing. This may be accomplished by electronically serving the report pursuant to Section 212.5 or by mailing the report at least 15 calendar days before the hearing to a party whose address is within the State of California, or at least 20 calendar days before the hearing to a party whose address is outside the State of California. The court shall grant a reasonable continuance, not to exceed 10 calendar days, upon request by any party or his or her counsel on the ground that the report was not provided at least 10 calendar days before the hearing as required by this section, unless the party or his or her counsel has expressly waived the requirement that the report be provided within the 10-day period or the court finds that the party's ability to proceed at the hearing is not prejudiced by the lack of timely service of the report. In making this determination, the court shall presume that a party is prejudiced by the lack of timely service of the report, and may find that the party is not prejudiced only by clear and convincing evidence to the contrary.

**Leg.H.**

Added Stats 2003 ch 516 § 1 (AB 1469); Amended Stats 2017 ch 319 § 131 (AB 976), effective January 1, 2018.

## **§ 365. Periodic Reports Concerning Children Committed to Court's Care.**

The court may require the social worker or any other agency to render any periodic reports concerning children committed to its care, custody, and control under the provisions of Section 362 that the court deems necessary or desirable. The court may require that the social worker, or any other public agency organized to provide care for needy or neglected children, shall perform the visitation and make the periodic reports to the courts concerning children committed under those provisions that the court deems necessary or desirable.

**Leg.H.**

## § 366. Dependency Status Review Hearing of Child in Foster Care; Placement of Child Outside United States; Issuance of Order; Supervised Independent Living Setting.

### (a)

**(1)** The status of every dependent child in foster care shall be reviewed periodically as determined by the court but no less frequently than once every six months, as calculated from the date of the original dispositional hearing, until the hearing described in Section 366.26 is completed. The court shall consider the safety of the child and shall determine all of the following:

**(A)** The continuing necessity for and appropriateness of the placement. If the child or nonminor dependent is placed in a short-term residential therapeutic program on or after October 1, 2021, the court shall consider the evidence and documentation submitted pursuant to subdivision (l) of Section 366.1 in making this determination.

**(B)** The extent of the agency's compliance with the case plan in making reasonable efforts, or, in the case of a child 16 years of age or older with another planned permanent living arrangement, the ongoing and intensive efforts, to return the child to a safe home and to complete any steps necessary to finalize the permanent placement of the child, including efforts to maintain relationships between a child who is 10 years of age or older and who has been in an out-of-home placement for six months or longer, and individuals other than the child's siblings who are important to the child, consistent with the child's best interests. Where it is known or there is reason to know that the child is an Indian child, as defined by Section 224.1, the court shall also determine whether the agency has made active efforts, as defined in Section 224.1 and as described in Section 361.7, to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family.

**(C)** Whether there should be any limitation on the right of the parent, guardian, or Indian custodian to make educational decisions or developmental services decisions for the child. That limitation shall be specifically addressed in the court order and shall not exceed those necessary to protect the child. Whenever the court specifically limits the right of the parent, guardian, or Indian custodian to make educational decisions or developmental services decisions for the child, the court shall at the same time appoint a responsible adult to make educational decisions or developmental services decisions for the child pursuant to Section 361.

### (D)

**(i)** Whether the child has other siblings under the court's jurisdiction, and, if any siblings exist, all of the following:

**(I)** The nature of the relationship between the child and the child's siblings.

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

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

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

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

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

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

**(id)** Any plan to increase visitation between the siblings.

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

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

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

**(E)** The extent of progress that has been made toward alleviating or mitigating the causes necessitating placement in foster care.

**(F)**

**(i)** For a child who is 10 years of age or older, is in junior high, middle, or high school, and has been under the jurisdiction of the juvenile court for a year or longer, or a nonminor dependent, whether the social worker or probation officer has verified that the child or nonminor dependent has received comprehensive sexual health education that meets the requirements of Chapter 5.6 (commencing with Section 51930) of Part 28 of Division 4 of Title 2 of the Education Code through the school system or has ensured that the child will receive the instruction.

**(ii)** For a child or nonminor dependent described in clause (i), whether the social worker or probation officer has done all of the following:

**(I)** Informed the child or nonminor dependent that they may access age-appropriate, medically accurate information about reproductive and sexual health care, including, but not limited to, unplanned pregnancy prevention, abstinence, use of birth control, abortion, and the prevention and treatment of sexually transmitted infections.

**(II)** Informed the child or nonminor dependent, in an age and developmentally appropriate manner, of the child's right to consent to sexual and reproductive health services and the child's confidentiality rights regarding those services.

**(III)** Informed the child or nonminor dependent how to access reproductive and sexual health care services and facilitated access to that care, including by assisting with any identified barriers to care, as needed.

**(iii)** This subparagraph does not affect any applicable confidentiality law.

**(iv)** On or before January 1, 2023, the Judicial Council shall amend and adopt rules of court and develop appropriate forms for the implementation of this subparagraph.

**(G)**

**(i)** For a child who is 16 years of age or older or for a nonminor dependent, whether the social worker or probation officer has, pursuant to the requirements of paragraph (22) of subdivision (g) of Section 16501.1, identified the person or persons who shall be responsible for assisting the child or nonminor dependent with applications for postsecondary education and related financial aid, or that the child or nonminor dependent stated that they do not want to pursue postsecondary education, including career or technical education.

**(ii)** On or before January 1, 2023, the Judicial Council shall amend and adopt rules of court and develop appropriate forms for the implementation of this subparagraph.

**(H)** If the review hearing is the last review hearing to be held before the child attains 18 years of age, the court shall conduct the hearing pursuant to Section 366.31 or 366.32.

**(2)** The court shall project a likely date by which the child may be returned to and safely maintained in the home or placed for adoption, tribal customary adoption in the case of an Indian child, legal guardianship, placed with a fit and willing relative, or in another planned permanent living arrangement.

**(b)** Subsequent to the hearing, periodic reviews of each child in foster care shall be conducted pursuant to the requirements of Sections 366.3 and 16503.

**(c)** If the child has been placed out of state, each review described in subdivision (a) and any reviews conducted pursuant to Sections 366.3 and 16503 shall also address whether the out-of-state placement continues to be the most appropriate placement selection and in the best interests of the child.

**(d)**

**(1)** A review described in subdivision (a) and any reviews conducted pursuant to Sections 366.3 and 16503 shall not result in a placement of a child outside the United States prior to a judicial finding that the placement is in the best interest of the child, except as required by federal law or treaty.

**(2)** The party or agency requesting placement of the child outside the United States shall carry the burden of proof and must show, by clear and convincing evidence, that a placement outside the United States is in the best interest of the child.

**(3)** In determining the best interest of the child, the court shall consider, but not be limited to, the following factors:

**(A)** Placement with a relative.

**(B)** Placement of siblings in the same home.

**(C)** Amount and nature of any contact between the child and the potential guardian or caretaker.

**(D)** Physical and medical needs of the dependent child.

**(E)** Psychological and emotional needs of the dependent child.

**(F)** Social, cultural, and educational needs of the dependent child.

**(G)** Specific desires of any dependent child who is 12 years of age or older.

(4) If the court finds that a placement outside the United States is, by clear and convincing evidence, in the best interest of the child, the court may issue an order authorizing the social worker or placing agency to make a placement outside the United States. A child subject to this subdivision shall not leave the United States prior to the issuance of the order described in this paragraph.

(5) For purposes of this subdivision, “outside the United States” shall not include the lands of any federally recognized American Indian tribe or Alaskan Natives.

(6) This section shall not apply to the placement of a dependent child with a parent.

(e)

(1) On and after July 1, 2021, a child shall not be placed or remain in an out-of-state residential facility, as defined in subdivision (b) of Section 7910 of the Family Code, unless the placement is ordered or approved pursuant to Section 361.21.

(2) Notwithstanding any other law, on and after July 1, 2022, a child shall not be placed by a county child welfare agency in an out-of-state residential facility, as defined in subdivision (b) of Section 7910 of the Family Code, except for placements described in subdivision (h) of Section 7911.1 of the Family Code.

(3) Notwithstanding any other law, a child who is placed in an out-of-state residential facility by a county child welfare agency shall not remain in an out-of-state residential facility, as defined in subdivision (b) of Section 7910 of the Family Code, after January 1, 2023.

(f) The status review of every nonminor dependent, as defined in subdivision (v) of Section 11400, shall be conducted pursuant to the requirements of Sections 366.3, 366.31, or 366.32, and 16503 until dependency jurisdiction is terminated pursuant to Section 391.

**Leg.H.**

Added Stats 1982 ch 978 § 25, effective September 13, 1982, operative July 1, 1982. Amended Stats 1984 ch 1246 § 5, ch 1608 § 5, effective September 30, 1984, ch 1608 § 13, effective September 30, 1984, operative January 1, 1985; Stats 1986 ch 1122 § 17; Stats 1989 ch 913 § 12; Stats 1994 ch 663 § 2 (SB 17); Stats 1997 ch 793 § 19 (AB 1544); Stats 1998 ch 311 § 53 (SB 933), effective August 19, 1998, ch 1056 § 13 (AB 2773); Stats 1999 ch 887 § 1 (SB 1270); Stats 2000 ch 909 § 4 (AB 1987); Stats 2001 ch 111 § 25 (AB 429), effective July 30, 2001; Stats 2001 ch 653 § 12.3 (AB 1695), effective October 10, 2001; Stats 2002 ch 785 § 3 (SB 1677); Stats 2003 ch 813 § 3 (AB 408); Stats 2004 ch 810 § 1 (AB 2807); Stats 2005 ch 640 § 2 (AB 1412), effective January 1, 2006; Stats 2006 ch 838 § 51 (SB 678), effective January 1, 2007; Stats 2010 ch 559 § 15 (AB 12), effective January 1, 2011; Stats 2012 ch 144 § 2 (AB 2209), effective January 1, 2013, ch 846 § 18.5 (AB 1712), effective January 1, 2013; Stats 2014 ch 773 § 4 (SB 1099), effective January 1, 2015; Stats 2015 ch 425 § 9 (SB 794), effective January 1, 2016; Stats 2018 ch 833 § 31 (AB 3176), effective January 1, 2019; Stats 2021 ch 86 § 21 (AB 153), effective July 16, 2021.

## **§ 366.05. Los Angeles County—Timely Service of Supplemental Report Prior to Hearing.**

Notwithstanding subdivision (c) of Section 366.21, in a county of the first class, any supplemental report filed in connection with a status review hearing held pursuant to subdivision (a) of Section 366 shall be provided to the parent or legal guardian and to counsel for the child at least 10 calendar days before the hearing. This may be accomplished by electronically serving the report pursuant to Section 212.5 or by mailing the report at least 15 calendar days before the hearing to a party whose address is within the State of California, or at least 20 calendar days before the hearing to a party whose address is outside the State of California. The court shall grant a reasonable continuance, not to exceed 10 calendar days, upon request by any party or his or her counsel on the ground that the report was not provided at least 10 calendar days before the hearing as required by this section, unless the party or his or her counsel has expressly waived the requirement that the report be provided within the 10-day period or the court finds that the party's ability to proceed at the hearing is not prejudiced by the lack of

timely service of the report. In making this determination, the court shall presume that a party is prejudiced by the lack of timely service of the report, and may find that the party is not prejudiced only by clear and convincing evidence to the contrary.

**Leg.H.**

Added Stats 2003 ch 516 § 2 (AB 1469); Amended Stats 2017 ch 319 § 132 (AB 976), effective January 1, 2018.

## **§ 366.1. Review of Status—Contents of Report.**

Each supplemental report required to be filed pursuant to Section 366 shall include, but not be limited to, a factual discussion of each of the following subjects:

**(a)** Whether the county welfare department social worker has considered either of the following:

**(1)** Child protective services, as defined in Chapter 5 (commencing with Section 16500) of Part 4 of Division 9, as a possible solution to the problems at hand, and has offered those services to qualified parents, if appropriate under the circumstances.

**(2)** Whether the child can be returned to the custody of the child's parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with the child's parent.

**(b)** What plan, if any, for the return and maintenance of the child in a safe home is recommended to the court by the county welfare department social worker.

**(c)** Whether the subject child appears to be a person who is eligible to be considered for further court action to free the child from parental custody and control.

**(d)** What actions, if any, have been taken by the parent to correct the problems that caused the child to be made a dependent child of the court.

**(e)** If the parent or guardian is unwilling or unable to participate in making an educational decision for their child, or if other circumstances exist that compromise the ability of the parent or guardian to make educational decisions for the child, the county welfare department or social worker shall consider whether the right of the parent or guardian to make educational decisions for the child should be limited. If the supplemental report makes that recommendation, the report shall identify whether there is a responsible adult available to make educational decisions for the child pursuant to Section 361.

**(f)**

**(1)** The health and education of the minor, including a copy of the complete health and education summary, as required under Section 16010, including the name and contact information of the person or persons currently holding the right to make educational decisions for the child.

**(2)** In instances in which it is determined that disclosure pursuant to paragraph (1) of the contact information of the person or persons currently holding the right to make educational decisions for the child poses a threat to the health and safety of that individual or those individuals, that contact information shall be redacted or withheld from the health and education summary within the supplemental report described in this section.

**(g)**

**(1)** Whether the child has any siblings under the court's jurisdiction, and, if any siblings exist, all of the following:

**(A)** The nature of the relationship between the child and the child's siblings.

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

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

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

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

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

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

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

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

**(2)** The factual discussion shall include a discussion of indicators of the nature of the child's sibling relationships, including, but not limited to, whether the siblings were raised together in the same home, whether the siblings have shared significant common experiences or have existing close and strong bonds, whether either sibling expresses a desire to visit or live with their sibling, as applicable, and whether ongoing contact is in the child's best emotional interests.

**(h)**

**(1)** For a child who is 10 years of age or older and has been under the jurisdiction of the juvenile court for a year or longer, or a nonminor dependent, either of the following:

**(A)** For a child in junior high or middle school, either that the child has already received comprehensive sexual health education that meets the requirements of Chapter 5.6 (commencing with Section 51930) of Part 28 of Division 4 of Title 2 of the Education Code through the school system while in junior high or middle school or how the county will ensure that the child receives that instruction at least once before completing junior high or middle school if the child remains under the jurisdiction of the juvenile court during that timeframe.

**(B)** For a child in high school or a nonminor dependent, either that the child has received comprehensive sexual health education that meets the requirements of Chapter 5.6 (commencing with Section 51930) of Part 28 of Division 4 of Title 2 of the Education Code through the school system while in high school, or how the county will ensure that the child or nonminor dependent receives that instruction at least once before completing high school if the child remains under the jurisdiction of the juvenile court during that timeframe.

**(2)** For a child who is 10 years of age or older or a nonminor dependent, whether the social worker or probation officer has done all of the following:

(A) Informed the child or nonminor dependent that they may access age-appropriate, medically accurate information about reproductive and sexual health care, including, but not limited to, unplanned pregnancy prevention, abstinence, use of birth control, abortion, and the prevention and treatment of sexually transmitted infections.

(B) Informed the child or nonminor dependent, in an age and developmentally appropriate manner, of the child's right to consent to sexual and reproductive health services and the child's confidentiality rights regarding those services.

(C) Informed the child or nonminor dependent how to access reproductive and sexual health care services and facilitated access to that care, including by assisting with any identified barriers to care, as needed.

(3) This subdivision does not affect any applicable confidentiality law.

(4) On or before January 1, 2023, the Judicial Council shall amend and adopt rules of court and develop appropriate forms for the implementation of this subdivision.

(i)

(1) For a child who is 16 years of age or older or for a nonminor dependent, whether the social worker or probation officer has, pursuant to the requirements of paragraph (22) of subdivision (g) of Section 16501.1, identified the person or persons who shall be responsible for assisting the child or nonminor dependent with applications for postsecondary education and related financial aid, or that the child or nonminor dependent stated that they do not want to pursue postsecondary education, including career or technical education.

(2) On or before January 1, 2023, the Judicial Council shall amend and adopt rules of court and develop appropriate forms for the implementation of this subdivision.

(j) Whether a child who is 10 years of age or older and who has been in an out-of-home placement for six months or longer has relationships with individuals other than the child's siblings who are important to the child, consistent with the child's best interests, and actions taken to maintain those relationships. The social worker shall ask every child who is 10 years of age or older and who has been in an out-of-home placement for six months or longer to identify any individuals other than the child's siblings who are important to the child, consistent with the child's best interest. The social worker may ask any other child to provide that information, as appropriate.

(k) The implementation and operation of the amendments to subdivision (j) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

(l) On and after October 1, 2021, for a child whose placement in a short-term residential therapeutic program has been reviewed and approved pursuant to Section 361.22, the supplemental report shall include evidence of all of the following:

(1) Ongoing assessment of the strengths and needs of the child that continues to support the determination that the needs of the child cannot be met by family members or in another family-based setting, placement in a short-term residential therapeutic program continues to provide the most effective and appropriate care setting in the least restrictive environment, and placement is consistent with the short- and long-term mental and behavioral health goals and permanency plan for the child.

(2) Documentation of the child's specific treatment or service needs that will be met in the placement and the length of time the child is expected to need the treatment or services. For a Medi-

Cal beneficiary, the determination of services and expected length of time for those services funded by Medi-Cal shall be based upon medical necessity and on all other state and federal Medi-Cal requirements, and shall be reflected in the documentation.

(3) Documentation of the intensive and ongoing efforts made by the child welfare department, consistent with the child's permanency plan, to prepare the child to return home or to be placed with a fit and willing relative, a legal guardian, an adoptive parent, in a resource family home or tribally approved home, or in another appropriate family-based setting.

**Leg.H.**

Added Stats 1980 ch 716 § 2. Amended Stats 1987 ch 1485 § 41; Stats 1998 ch 1054 § 31 (AB 1091), ch 1056 § 14 (AB 2773); Stats 2000 ch 909 § 5 (AB 1987); Stats 2001 ch 111 § 26 (AB 429), effective July 30, 2001; Stats 2001 ch 653 § 12.6 (AB 1695), effective October 10, 2001; Stats 2002 ch 785 § 4 (SB 1677); Stats 2003 ch 813 § 4 (AB 408); Stats 2004 ch 810 § 2 (AB 2807); Stats 2005 ch 640 § 3 (AB 1412), effective January 1, 2006; Stats 2014 ch 219 § 5 (SB 977), effective January 1, 2015, ch 773 § 5.5 (SB 1099), effective January 1, 2015; Stats 2017 ch 829 § 6 (SB 233), effective January 1, 2018; Stats 2021 ch 86 § 22 (AB 153), effective July 16, 2021.

## **§ 366.21. Dependency Status Review Hearing; Notice; Reports and Recommendations; Criteria for Returning Child to Parent or Guardian; Sibling Groups; Orders; Reunification Services; Permanency Hearing; Hearing Under Section 322.26; Kin-Gap Aid.**

(a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing and of their right to be present and represented by counsel.

(b) Except as provided in Sections 294 and 295, notice of the hearing shall be provided pursuant to Section 293.

(c) At least 10 calendar days before the hearing, the social worker shall file a supplemental report with the court regarding the services provided or offered to the parent or legal guardian to enable him or her to assume custody and the efforts made to achieve legal permanence for the child if efforts to reunify fail, including, but not limited to, efforts to maintain relationships between a child who is 10 years of age or older and has been in out-of-home placement for six months or longer and individuals who are important to the child, consistent with the child's best interests; the progress made; and, where relevant, the prognosis for return of the child to the physical custody of his or her parent or legal guardian; and shall make his or her recommendation for disposition. If the child is a member of a sibling group described in subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, the report and recommendation may also take into account those factors described in subdivision (e) relating to the child's sibling group. If the recommendation is not to return the child to a parent or legal guardian, the report shall specify why the return of the child would be detrimental to the child. The social worker shall provide the parent or legal guardian, counsel for the child, and any court-appointed child advocate with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days before the hearing. The report may be served pursuant to Section 212.5. In the case of a child removed from the physical custody of his or her parent or legal guardian, the social worker shall, at least 10 calendar days before the hearing, provide a summary of his or her recommendation for disposition to any foster parents, relative caregivers, and certified foster parents who have been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, community care facility, or foster family agency having the physical custody of the child. The social worker shall include a copy of the Judicial Council Caregiver Information Form (JV-290) with the summary of his or her recommendation to the child's foster parents, relative caregivers, or foster parents approved for adoption, in the caregiver's primary language when available, along

with information on how to file the form with the court. The form and summary of the recommendation may be served electronically pursuant to Section 212.5.

**(d)** Prior to any hearing involving a child in the physical custody of a community care facility or a foster family agency that may result in the return of the child to the physical custody of his or her parent or legal guardian, or in adoption or the creation of a legal guardianship, or in the case of an Indian child, in consultation with the child's tribe, tribal customary adoption, the facility or agency shall file with the court a report, or a Judicial Council Caregiver Information Form (JV-290), containing its recommendation for disposition. Prior to the hearing involving a child in the physical custody of a foster parent, a relative caregiver, or a certified foster parent who has been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, the foster parent, relative caregiver, or the certified foster parent who has been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, may file with the court a report containing his or her recommendation for disposition. The court shall consider the report and recommendation filed pursuant to this subdivision prior to determining any disposition.

**(e)**

**(1)** At the review hearing held 6 months after the initial dispositional hearing, but no later than 12 months after the date the child entered foster care as determined in Section 361.49, whichever occurs earlier, after considering the admissible and relevant evidence, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal to the extent that the criminal record is substantially related to the welfare of the child or the parent's or guardian's ability to exercise custody and control regarding his or her child, provided the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The court shall also consider whether the child can be returned to the custody of his or her parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent. The fact that the parent is enrolled in a certified substance abuse treatment facility shall not be, for that reason alone, *prima facie* evidence of detriment. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be *prima facie* evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; and shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided, taking into account the particular barriers to a minor parent or a nonminor dependent parent, or an incarcerated, institutionalized, detained, or deported parent's or legal guardian's access to those court-mandated services and ability to maintain contact with his or her child.

**(2)** Regardless of whether the child is returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental or would not be detrimental. The court also shall make appropriate findings pursuant to subdivision (a) of Section 366; and, when relevant, shall order any additional services reasonably believed to facilitate the return of the child to the custody of his or her parent or legal guardian. The court shall also inform the parent or legal guardian that if the child cannot be returned home by the 12-month permanency hearing, a proceeding pursuant to Section 366.26 may be instituted. This section does not apply in a case in which, pursuant to Section 361.5, the court has ordered that reunification services shall not be provided.

**(3)** If the child was under three years of age on the date of the initial removal, or is a member of a sibling group described in subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, and the court finds by clear and convincing evidence that the parent failed to participate regularly and make substantive progress in a court-ordered treatment plan, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If, however, the court finds there is a substantial probability that the child, who was under three years of age on the date of initial removal or is a member of a sibling group described in subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, may be returned to his or her parent or legal guardian within six months or that reasonable services have not been provided, the court shall continue the case to the 12-month permanency hearing.

**(4)** For the purpose of placing and maintaining a sibling group together in a permanent home, the court, in making its determination to schedule a hearing pursuant to Section 366.26 for some or all members of a sibling group, as described in subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, shall review and consider the social worker's report and recommendations. Factors the report shall address, and the court shall consider, may include, but need not be limited to, whether the sibling group was removed from parental care as a group, the closeness and strength of the sibling bond, the ages of the siblings, the appropriateness of maintaining the sibling group together, the detriment to the child if sibling ties are not maintained, the likelihood of finding a permanent home for the sibling group, whether the sibling group is currently placed together in a preadoptive home or has a concurrent plan goal of legal permanency in the same home, the wishes of each child whose age and physical and emotional condition permits a meaningful response, and the best interests of each child in the sibling group. The court shall specify the factual basis for its finding that it is in the best interests of each child to schedule a hearing pursuant to Section 366.26 within 120 days for some or all of the members of the sibling group.

**(5)** If the child was removed initially under subdivision (g) of Section 300 and the court finds by clear and convincing evidence that the whereabouts of the parent are still unknown, or the parent has failed to contact and visit the child, the court may schedule a hearing pursuant to Section 366.26 within 120 days. The court shall take into account any particular barriers to a parent's ability to maintain contact with his or her child due to the parent's incarceration, institutionalization, detention by the United States Department of Homeland Security, or deportation. If the court finds by clear and convincing evidence that the parent has been convicted of a felony indicating parental unfitness, the court may schedule a hearing pursuant to Section 366.26 within 120 days.

**(6)** If the child had been placed under court supervision with a previously noncustodial parent pursuant to Section 361.2, the court shall determine whether supervision is still necessary. The court may terminate supervision and transfer permanent custody to that parent, as provided for by paragraph (1) of subdivision (b) of Section 361.2.

**(7)** In all other cases, the court shall direct that any reunification services previously ordered shall continue to be offered to the parent or legal guardian pursuant to the time periods set forth in subdivision (a) of Section 361.5, provided that the court may modify the terms and conditions of those services.

**(8)** If the child is not returned to his or her parent or legal guardian, the court shall determine whether reasonable services that were designed to aid the parent or legal guardian in overcoming the problems that led to the initial removal and the continued custody of the child have been provided or offered to the parent or legal guardian. The court shall order that those services be initiated, continued, or terminated.

**(f)**

**(1)** The permanency hearing shall be held no later than 12 months after the date the child entered foster care, as that date is determined pursuant to Section 361.49. At the permanency hearing, the court shall determine the permanent plan for the child, which shall include a determination of whether the child

will be returned to the child's home and, if so, when, within the time limits of subdivision (a) of Section 361.5. After considering the relevant and admissible evidence, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment.

**(A)** At the permanency hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal to the extent that the criminal record is substantially related to the welfare of the child or the parent's or legal guardian's ability to exercise custody and control regarding his or her child, provided that the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The court shall also determine whether reasonable services that were designed to aid the parent or legal guardian to overcome the problems that led to the initial removal and continued custody of the child have been provided or offered to the parent or legal guardian.

**(B)** The court shall also consider whether the child can be returned to the custody of his or her parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent. The fact that the parent is enrolled in a certified substance abuse treatment facility shall not be, for that reason alone, *prima facie* evidence of detriment. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be *prima facie* evidence that return would be detrimental.

**(C)** In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5, shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided, taking into account the particular barriers to a minor parent or a nonminor dependent parent, or an incarcerated, institutionalized, detained, or deported parent's or legal guardian's access to those court-mandated services and ability to maintain contact with his or her child, and shall make appropriate findings pursuant to subdivision (a) of Section 366.

**(D)** For each youth 16 years of age and older, the court shall also determine whether services have been made available to assist him or her in making the transition from foster care to successful adulthood.

**(2)** Regardless of whether the child is returned to his or her parent or legal guardian, the court shall specify the factual basis for its decision. If the child is not returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental. The court also shall make a finding pursuant to subdivision (a) of Section 366. If the child is not returned to his or her parent or legal guardian, the court shall consider, and state for the record, in-state and out-of-state placement options. If the child is placed out of the state, the court shall make a determination whether the out-of-state placement continues to be appropriate and in the best interests of the child.

**(g)** If the time period in which the court-ordered services were provided has met or exceeded the time period set forth in subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a) of Section 361.5, as appropriate, and a child is not returned to the custody of a parent or legal guardian at the permanency hearing held pursuant to subdivision (f), the court shall do one of the following:

**(1)** Continue the case for up to six months for a permanency review hearing, provided that the hearing shall occur within 18 months of the date the child was originally taken from the physical custody of his or

her parent or legal guardian. The court shall continue the case only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent or legal guardian. For purposes of this section, in order to find a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time, the court shall be required to find all of the following:

(A) That the parent or legal guardian has consistently and regularly contacted and visited with the child.

(B) That the parent or legal guardian has made significant progress in resolving problems that led to the child's removal from the home.

(C) The parent or legal guardian has demonstrated the capacity and ability both to complete the objectives of his or her treatment plan and to provide for the child's safety, protection, physical and emotional well-being, and special needs.

(i) For purposes of this subdivision, the court's decision to continue the case based on a finding or substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interests of the child.

(ii) The court shall inform the parent or legal guardian that if the child cannot be returned home by the next permanency review hearing, a proceeding pursuant to Section 366.26 may be instituted. The court shall not order that a hearing pursuant to Section 366.26 be held unless there is clear and convincing evidence that reasonable services have been provided or offered to the parent or legal guardian.

(2) Continue the case for up to six months for a permanency review hearing, provided that the hearing shall occur within 18 months of the date the child was originally taken from the physical custody of his or her parent or legal guardian, if the parent has been arrested and issued an immigration hold, detained by the United States Department of Homeland Security, or deported to his or her country of origin, and the court determines either that there is a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent or legal guardian.

(3) For purposes of paragraph (2), in order to find a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time, the court shall find all of the following:

(A) The parent or legal guardian has consistently and regularly contacted and visited with the child, taking into account any particular barriers to a parent's ability to maintain contact with his or her child due to the parent's arrest and receipt of an immigration hold, detention by the United States Department of Homeland Security, or deportation.

(B) The parent or legal guardian has made significant progress in resolving the problems that led to the child's removal from the home.

(C) The parent or legal guardian has demonstrated the capacity or ability both to complete the objectives of his or her treatment plan and to provide for the child's safety, protection, physical and emotional well-being, and special needs.

**(4)** Order that a hearing be held within 120 days, pursuant to Section 366.26, but only if the court does not continue the case to the permanency planning review hearing and there is clear and convincing evidence that reasonable services have been provided or offered to the parents or legal guardians. On and after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent, unless the nonminor dependent is an Indian child and tribal customary adoption is recommended as the permanent plan.

**(5)** Order that the child remain in foster care, but only if the court finds by clear and convincing evidence, based upon the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, that there is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interests of the child because the child is not a proper subject for adoption and has no one willing to accept legal guardianship as of the hearing date. For purposes of this section, a recommendation by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency that adoption is not in the best interests of the child shall constitute a compelling reason for the court's determination. That recommendation shall be based on the present circumstances of the child and shall not preclude a different recommendation at a later date if the child's circumstances change. On and after January 1, 2012, the nonminor dependent's legal status as an adult is in and of itself a compelling reason not to hold a hearing pursuant to Section 366.26. The court may order that a nonminor dependent who otherwise is eligible pursuant to Section 11403 remain in a planned, permanent living arrangement.

**(A)** The court shall make factual findings identifying any barriers to achieving the permanent plan as of the hearing date. When the child is under 16 years of age, the court shall order a permanent plan of return home, adoption, tribal customary adoption in the case of an Indian child, legal guardianship, or placement with a fit and willing relative, as appropriate. When the child is 16 years of age or older, or is a nonminor dependent, and no other permanent plan is appropriate at the time of the hearing, the court may order another planned permanent living arrangement, as described in paragraph (2) of subdivision (i) of Section 16501.

**(B)** If the court orders that a child who is 10 years of age or older remain in foster care, the court shall determine whether the agency has made reasonable efforts to maintain the child's relationships with individuals other than the child's siblings who are important to the child, consistent with the child's best interests, and may make any appropriate order to ensure that those relationships are maintained.

**(C)** If the child is not returned to his or her parent or legal guardian, the court shall consider, and state for the record, in-state and out-of-state options for permanent placement. If the child is placed out of the state, the court shall make a determination whether the out-of-state placement continues to be appropriate and in the best interests of the child.

**(h)** In any case in which the court orders that a hearing pursuant to Section 366.26 shall be held, it shall also order the termination of reunification services to the parent or legal guardian. The court shall continue to permit the parent or legal guardian to visit the child pending the hearing unless it finds that visitation would be detrimental to the child. The court shall make any other appropriate orders to enable the child to maintain relationships with individuals, other than the child's siblings, who are important to the child, consistent with the child's best interests. When the court orders a termination of reunification services to the parent or legal guardian, it shall also order that the child's caregiver receive the child's birth certificate in accordance with Sections 16010.4 and 16010.5. Additionally, when the court orders a termination of reunification services to the parent or legal guardian, it shall order, when appropriate, that a child who is 16 years of age or older receive his or her birth certificate.

**(i)**

**(1)** Whenever a court orders that a hearing pursuant to Section 366.26, including, when, in consultation with the child's tribe, tribal customary adoption is recommended, shall be held, it shall direct the agency supervising the child and the county adoption agency, or the State Department of Social Services when it is acting as an adoption agency, to prepare an assessment that shall include:

**(A)** Current search efforts for an absent parent or parents or legal guardians.

**(B)** A review of the amount of and nature of any contact between the child and his or her parents or legal guardians and other members of his or her extended family since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case basis, extended family for the purpose of this subparagraph shall include, but not be limited to, the child's siblings, grandparents, aunts, and uncles.

**(C)**

**(i)** An evaluation of the child's medical, developmental, scholastic, mental, and emotional status.

**(ii)** The evaluation pursuant to clause (i) shall include, but is not limited to, providing a copy of the complete health and education summary as required under Section 16010, including the name and contact information of the person or persons currently holding the right to make educational decisions for the child.

**(iii)** In instances where it is determined that disclosure pursuant to clause (ii) of the contact information of the person or persons currently holding the right to make educational decisions for the child poses a threat to the health and safety of that individual or those individuals, that contact information shall be redacted or withheld from the evaluation.

**(D)** A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, including the prospective tribal customary adoptive parent, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and in Section 361.4.

**(E)** The relationship of the child to any identified prospective adoptive parent or legal guardian, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative's or adoptive parent's strong commitment to caring permanently for the child, the motivation for seeking adoption or guardianship, a statement from the child concerning placement and the adoption or guardianship, and whether the child, if over 12 years of age, has been consulted about the proposed relative guardianship arrangements, unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

**(F)** A description of efforts to be made to identify a prospective adoptive parent or legal guardian, including, but not limited to, child-specific recruitment and listing on an adoption exchange within the state or out of the state.

**(G)** An analysis of the likelihood that the child will be adopted if parental rights are terminated.

**(H)** In the case of an Indian child, in addition to subparagraphs (A) to (G), inclusive, an assessment of the likelihood that the child will be adopted, when, in consultation with the child's

tribe, a tribal customary adoption, as defined in Section 366.24, is recommended. If tribal customary adoption is recommended, the assessment shall include an analysis of both of the following:

(i) Whether tribal customary adoption would or would not be detrimental to the Indian child and the reasons for reaching that conclusion.

(ii) Whether the Indian child cannot or should not be returned to the home of the Indian parent or Indian custodian and the reasons for reaching that conclusion.

(2)

(A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) Regardless of his or her immigration status, a relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, the relative caregiver shall be informed about the terms and conditions of the negotiated agreement pursuant to Section 11387 and shall agree to its execution prior to the hearing held pursuant to Section 366.26. A copy of the executed negotiated agreement shall be attached to the assessment.

(j) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with an approved relative caregiver, and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

(k) As used in this section, relative means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words great, great-great, or grand, or the spouse of any of those persons even if the marriage was terminated by death or dissolution. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, relative as used in this section has the same meaning as relative as defined in subdivision (c) of Section 11391.

(l) For purposes of this section, evidence of any of the following circumstances shall not, in and of itself, be deemed a failure to provide or offer reasonable services:

(1) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(2) The case plan includes services to make and finalize a permanent placement for the child if efforts to reunify fail.

(3) Services to make and finalize a permanent placement for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

#### Leg.H.

Added Stats 1995 ch 540 § 3 (AB 1523), operative January 1, 1999; Amended Stats 1996 ch 1028 § 2 (AB 3088), operative January 1, 1999, ch 1082 § 4 (AB 2679), operative January 1, 1999, ch 1083 § 4 (AB 1524), ch 1084 § 7.9 (SB 1516), operative January 1, 1999; Stats

1997 ch 17 § 149 (SB 947), operative January 1, 1999, ch 793 § 21 (AB 1544), operative January 1, 1999 (ch 793 prevails); Stats 1998 ch 1054 § 33 (AB 1091), operative January 1, 1999, ch 1055 § 3 (SB 1901), ch 1056 § 15.1 (AB 2773); Stats 1999 ch 399 § 2 (SB 1226), ch 805 § 2.2 (AB 740); Stats 2000 ch 108 § 19 (AB 2876), effective July 10, 2000, ch 910 § 9 (AB 2921); Stats 2001 ch 747 § 2 (AB 705); Stats 2002 ch 416 § 10 (SB 1956), ch 918 § 9 (AB 1694); Stats 2003 ch 558 § 8 (AB 579), ch 813 § 5.5 (AB 408); Stats 2004 ch 810 § 3 (AB 2807), ch 811 § 14.5 (AB 3079); Stats 2005 ch 22 § 214 (SB 1108), effective January 1, 2006 (ch 640 prevails), ch 640 § 4 (AB 1412), effective January 1, 2006; Stats 2006 ch 75 § 26 (AB 1808), effective July 12, 2006, ch 389 § 2 (SB 1667), effective January 1, 2007; ch 726 § 3 (AB 1774), effective September 29, 2006, operative until January 1, 2007, ch 726 § 3.5 (AB 1774), effective September 29, 2006, operative January 1, 2007; Stats 2007 ch 177 § 14 (SB 84), effective August 24, 2007, ch 565 § 2 (AB 298), ch 583 § 26.5 (SB 703), effective January 1, 2008; Stats 2008 ch 482 § 2 (AB 2070), effective January 1, 2009; Stats 2009 ch 120 § 3 (AB 706), effective August 6, 2009, ch 287 § 8 (AB 1325), effective January 1, 2010, operative July 1, 2010, repealed January 1, 2014; Stats 2010 ch 559 § 16 (AB 12), effective January 1, 2011, repealed January 1, 2014; Stats 2011 ch 59 § 3 (AB 791), effective January 1, 2012, repealed January 1, 2014; Stats 2012 ch 35 § 50 (SB 1013), effective June 27, 2012, ch 162 § 188 (SB 1171), effective January 1, 2013, ch 208 § 1 (AB 2292), effective January 1, 2013, ch 845 § 10, effective January 1, 2013, ch 846 § 19.3 (AB 1712), effective January 1, 2013 (ch 846 prevails); Stats 2013 ch 76 § 200 (AB 383), effective January 1, 2014; Stats 2014 ch 219 § 6 (SB 977), effective January 1, 2015; Stats 2015 ch 284 § 1 (SB 68), effective January 1, 2016, ch 425 § 10.5 (SB 794), effective January 1, 2016; Stats 2016 ch 86 § 311 (SB 1171), effective January 1, 2017; Stats 2017 ch 319 § 133 (AB 976), effective January 1, 2018, ch 829 § 7.5 (SB 233), effective January 1, 2018 (ch 829 prevails).

## **§ 366.215. Hearing; Infant Child or Member of Sibling Group; Consideration of Barriers to Parent's Ability to Maintain Contact with Child.**

With respect to a hearing held pursuant to subdivision (e) of Section 366.21, if the child in question was under three years of age on the date of the initial removal, or is a member of a sibling group described in subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, the court, in determining whether to schedule a hearing pursuant to Section 366.26, shall take into account any particular barriers to a parent's ability to maintain contact with his or her child due to the parent's incarceration, institutionalization, detention by the United States Department of Homeland Security, or deportation.

**Leg.H.**

Added Stats 2009 ch 339 § 3 (SB 597), effective January 1, 2010. Amended Stats 2012 ch 845 § 11 (SB 1064), effective January 1, 2013.

## **§ 366.22. Permanency Review Hearing Following Continuance; Criteria for Returning to Parent or Guardian; Continuation; When Hearing Under Section 322.26 to Be Held; Assessment; Eligibility for Kin-GAP Aid.**

**(a)**

**(1)** When a case has been continued pursuant to paragraph (1) or (2) of subdivision (g) of Section 366.21, the permanency review hearing shall occur within 18 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. After considering the admissible and relevant evidence, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the permanency review hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal, to the extent that the criminal record is substantially related to the welfare of the child or the parent's or legal guardian's ability to exercise custody and control regarding his

or her child, provided that the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The court shall also consider whether the child can be returned to the custody of his or her parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent. The fact that the parent is enrolled in a certified substance abuse treatment facility shall not be, for that reason alone, *prima facie* evidence of detriment. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be *prima facie* evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided, taking into account the particular barriers of a minor parent or a nonminor dependent parent, or an incarcerated or institutionalized parent's or legal guardian's access to those court-mandated services and ability to maintain contact with his or her child; and shall make appropriate findings pursuant to subdivision (a) of Section 366.

(2) Whether or not the child is returned to his or her parent or legal guardian, the court shall specify the factual basis for its decision. If the child is not returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that return would be detrimental. If the child is not returned to his or her parent or legal guardian, the court shall consider, and state for the record, in-state and out-of-state options for the child's permanent placement. If the child is placed out of the state, the court shall make a determination whether the out-of-state placement continues to be appropriate and in the best interests of the child.

(3) Unless the conditions in subdivision (b) are met and the child is not returned to a parent or legal guardian at the permanency review hearing, the court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, or, in the case of an Indian child, in consultation with the child's tribe, tribal customary adoption, guardianship, or continued placement in foster care is the most appropriate plan for the child. On and after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent, unless the nonminor dependent is an Indian child, and tribal customary adoption is recommended as the permanent plan. However, if the court finds by clear and convincing evidence, based on the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, that there is a compelling reason, as described in paragraph (5) of subdivision (g) of Section 366.21, for determining that a hearing held under Section 366.26 is not in the best interests of the child because the child is not a proper subject for adoption and has no one willing to accept legal guardianship as of the hearing date, the court may, only under these circumstances, order that the child remain in foster care with a permanent plan of return home, adoption, tribal customary adoption in the case of an Indian child, legal guardianship, or placement with a fit and willing relative, as appropriate. If the child is 16 years of age or older or is a nonminor dependent, and no other permanent plan is appropriate at the time of the hearing, the court may order another planned permanent living arrangement, as described in paragraph (2) of subdivision (i) of Section 16501. The court shall make factual findings identifying any barriers to achieving the permanent plan as of the hearing date. On and after January 1, 2012, the nonminor dependent's legal status as an adult is in and of itself a compelling reason not to hold a hearing pursuant to Section 366.26. The court may order that a nonminor dependent who otherwise is eligible pursuant to Section 11403 remain in a planned, permanent living arrangement. If the court orders that a child who is 10 years of age or older remain in foster care, the court shall determine whether the agency has made reasonable efforts to maintain the child's relationships with individuals other than the child's siblings who are important to the child, consistent with the child's best interests, and may make any appropriate order to ensure that those relationships are maintained. The hearing shall be held no later than 120 days from the date of the permanency review hearing. The court shall also order termination of reunification services to the parent or legal guardian. The court shall continue to permit the parent or legal guardian to visit the child

unless it finds that visitation would be detrimental to the child. The court shall determine whether reasonable services have been offered or provided to the parent or legal guardian. For purposes of this subdivision, evidence of any of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

(A) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(B) The case plan includes services to make and finalize a permanent placement for the child if efforts to reunify fail.

(C) Services to make and finalize a permanent placement for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

(b) If the child is not returned to a parent or legal guardian at the permanency review hearing and the court determines by clear and convincing evidence that the best interests of the child would be met by the provision of additional reunification services to a parent or legal guardian who is making significant and consistent progress in a court-ordered residential substance abuse treatment program, a parent who was either a minor parent or a nonminor dependent parent at the time of the initial hearing making significant and consistent progress in establishing a safe home for the child's return, or a parent recently discharged from incarceration, institutionalization, or the custody of the United States Department of Homeland Security and making significant and consistent progress in establishing a safe home for the child's return, the court may continue the case for up to six months for a subsequent permanency review hearing, provided that the hearing shall occur within 24 months of the date the child was originally taken from the physical custody of his or her parent or legal guardian. The court shall continue the case only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent or legal guardian. For the purposes of this section, in order to find a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time, the court shall be required to find all of the following:

(1) That the parent or legal guardian has consistently and regularly contacted and visited with the child.

(2) That the parent or legal guardian has made significant and consistent progress in the prior 18 months in resolving problems that led to the child's removal from the home.

(3)

(A) The parent or legal guardian has demonstrated the capacity and ability both to complete the objectives of his or her substance abuse treatment plan as evidenced by reports from a substance abuse provider as applicable, or complete a treatment plan postdischarge from incarceration, institutionalization, or detention, or following deportation to his or her country of origin and his or her return to the United States, and to provide for the child's safety, protection, physical and emotional well-being, and special needs.

(B) For purposes of this subdivision, the court's decision to continue the case based on a finding or substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interests of the child.

(C) The court shall inform the parent or legal guardian that if the child cannot be returned home by the subsequent permanency review hearing, a proceeding pursuant to Section 366.26 may be

instituted. The court shall not order that a hearing pursuant to Section 366.26 be held unless there is clear and convincing evidence that reasonable services have been provided or offered to the parent or legal guardian

**(c)**

**(1)** Whenever a court orders that a hearing pursuant to Section 366.26, including when a tribal customary adoption is recommended, shall be held, it shall direct the agency supervising the child and the county adoption agency, or the State Department of Social Services when it is acting as an adoption agency, to prepare an assessment that shall include:

**(A)** Current search efforts for an absent parent or parents.

**(B)** A review of the amount of and nature of any contact between the child and his or her parents and other members of his or her extended family since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case basis, “extended family” for the purposes of this subparagraph shall include, but not be limited to, the child’s siblings, grandparents, aunts, and uncles.

**(C)**

**(i)** An evaluation of the child’s medical, developmental, scholastic, mental, and emotional status.

**(ii)** The evaluation pursuant to clause (i) shall include, but is not limited to, providing a copy of the complete health and education summary as required under Section 16010, including the name and contact information of the person or persons currently holding the right to make educational decisions for the child.

**(iii)** In instances where it is determined that disclosure pursuant to clause (ii) of the contact information of the person or persons currently holding the right to make educational decisions for the child poses a threat to the health and safety of that individual or those individuals, that contact information shall be redacted or withheld from the evaluation.

**(D)** A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child’s needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed legal guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and Section 361.4.

**(E)** The relationship of the child to any identified prospective adoptive parent or legal guardian, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative’s or adoptive parent’s strong commitment to caring permanently for the child, the motivation for seeking adoption or legal guardianship, a statement from the child concerning placement and the adoption or legal guardianship, and whether the child, if over 12 years of age, has been consulted about the proposed relative guardianship arrangements, unless the child’s age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

**(F)** An analysis of the likelihood that the child will be adopted if parental rights are terminated.

**(G)** In the case of an Indian child, in addition to subparagraphs (A) to (F), inclusive, an assessment of the likelihood that the child will be adopted, when, in consultation with the child’s tribe, a tribal customary

adoption, as defined in Section 366.24, is recommended. If tribal customary adoption is recommended, the assessment shall include an analysis of both of the following:

(i) Whether tribal customary adoption would or would not be detrimental to the Indian child and the reasons for reaching that conclusion.

(ii) Whether the Indian child cannot or should not be returned to the home of the Indian parent or Indian custodian and the reasons for reaching that conclusion.

(2)

(A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) Regardless of his or her immigration status, a relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, the relative caregiver shall be informed about the terms and conditions of the negotiated agreement pursuant to Section 11387 and shall agree to its execution prior to the hearing held pursuant to Section 366.26. A copy of the executed negotiated agreement shall be attached to the assessment.

(d) This section shall become operative January 1, 1999. If at any hearing held pursuant to Section 366.26, a legal guardianship is established for the minor with an approved relative caregiver, and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

(e) As used in this section, "relative" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, "relative" as used in this section has the same meaning as "relative" as defined in subdivision (c) of Section 11391.

#### Leg. H.

Added Stats 1995 ch 540 § 5 (AB 1523), operative January 1, 1999; Amended Stats 1996 ch 1028 § 4 (AB 3088), operative January 1, 1999, ch 1084 § 9 (SB 1516), operative January 1, 1999; Stats 1997 ch 793 § 23 (AB 1544), operative January 1, 1999; Stats 1998 ch 1054 § 34 (AB 1091), operative January 1, 1999, ch 1055 § 4 (SB 1901), ch 1056 § 16.1 (AB 2773); Stats 1999 ch 399 § 3 (SB 1226); Stats 2000 ch 108 § 20 (AB 2876), effective July 10, 2000, ch 910 § 10 (AB 2921); Stats 2003 ch 813 § 6 (AB 408); Stats 2004 ch 810 § 4 (AB 2807); Stats 2005 ch 640 § 5 (AB 1412), effective January 1, 2006; Stats 2006 ch 75 § 27 (AB 1808), effective July 12, 2006, ch 726 § 4 (AB 1774), effective September 29, 2006; Stats 2007 ch 177 § 15 (SB 84), effective August 24, 2007, ch 565 § 3 (AB 298), ch 583 § 27.5 (SB 703), effective January 1, 2008; Stats 2008 ch 482 § 3 (AB 2070), effective January 1, 2009; Stats 2009 ch 287 § 10 (AB 1325), effective January 1, 2010, operative July 1, 2010, repealed January 1, 2014; Stats 2010 ch 559 § 18 (AB 12), effective January 1, 2011, repealed January 1, 2014; Stats 2012 ch 35 § 52 (SB 1013), effective June 27, 2012, ch 208 § 2 (AB 2292), effective January 1, 2013, ch 845 § 12 (SB 1064), effective January 1, 2013, ch 846 § 20.3 (AB 1712), effective January 1, 2013; Stats 2013 ch 76 § 201 (AB 383), effective January 1, 2014; Stats 2014 ch 219 § 7 (SB 977), effective January 1, 2015; Stats 2015 ch 284 § 2 (SB 68), effective January 1, 2016 ch 425 § 11.5 (SB 794), effective January 1, 2016; Stats 2017 ch 829 § 8 (SB 233), effective January 1, 2018.

## **§ 366.23. Caregiver Information Form to be Used When Noncustodial Parent Seeks Placement or Custody of Child.**

If a noncustodial parent is seeking placement or custody of a child, the social worker shall inform the caretaker that he or she has the right to provide the court with input regarding the placement of the child. The social worker shall provide the “Caregiver Information Form” to the caretaker to complete and request that the caregiver provide any particular information the caregiver might have regarding the noncustodial parent now seeking custody. If a report is required or otherwise due, the completed form shall be attached to the social worker’s report to be filed with the court. If not, the social worker shall ensure that, if the foster parent completes the form, the completed form is returned to the court for review and consideration before the child is placed with the noncustodial parent.

### **Leg.H.**

2005 ch. 632 (SB 726) § 3.

#### **2005 Note:**

This act shall be known and may be cited as “Adam’s Law.” Stats. 2005 ch. 632 (SB 726) § 1.

(Operative term contingent)

## **§ 366.24. Tribal Customary Adoption to be Considered as Option When Assessing Children.**

(a)

(1) For purposes of this section, “tribal customary adoption” means adoption by and through the tribal custom, traditions, or law of an Indian child’s tribe. Termination of parental rights is not required to effect the tribal customary adoption.

(2) For purposes of this section, “Indian child” also includes a nonminor dependent as described in subdivision (v) of Section 11400, unless the nonminor dependent has elected not to be considered an Indian child pursuant to subdivision (b) of Section 224.1.

(b) Whenever an assessment is ordered pursuant to Section 361.5, 366.21, 366.22, 366.25, or 366.26 for Indian children, the assessment shall address the option of tribal customary adoption.

(c) For purposes of Section 366.26, in the case of tribal customary adoptions, all of the following apply:

(1) The child’s tribe or the tribe’s designee shall conduct a tribal customary adoptive home study prior to final approval of the tribal customary adoptive placement.

(A) If a tribal designee is conducting the home study, the designee shall do so in consultation with the Indian child’s tribe. The designee may include a county adoption agency, the State Department of Social Services when it is acting as an adoption agency, or a California-licensed adoption agency. Any tribal designee must be an entity that is authorized to request a search of the Child Abuse Central Index and, if necessary, a check of any other state’s child abuse and neglect registry, and must be an entity that is authorized to request a search for state and federal level criminal offender records information through the Department of Justice.

(B) The standard for the evaluation of the prospective adoptive parents’ home shall be the prevailing social and cultural standard of the child’s tribe. The home study shall include an evaluation

of the background, safety, and health information of the adoptive home, including the biological, psychological, and social factors of the prospective adoptive parent or parents, and an assessment of the commitment, capability, and suitability of the prospective adoptive parent or parents to meet the child's needs.

(2) In all cases, an in-state check of the Child Abuse Central Index and, if necessary, a check of any other state's child abuse and neglect registry shall be conducted. If the tribe chooses a designee to conduct the home study, the designee shall perform a check of the Child Abuse Central Index pursuant to [Section 1522.1 of the Health and Safety Code](#) as it applies to prospective adoptive parents and persons over 18 years of age residing in their household. If the tribe conducts its own home study, the agency that has the placement and care responsibility of the child shall perform the check.

(3)

(A) In all cases prior to final approval of the tribal customary adoptive placement, a state and federal criminal background check through the Department of Justice shall be conducted on the prospective tribal customary adoptive parents and on persons over 18 years of age residing in their household.

(B) If the tribe chooses a designee to conduct the home study, the designee shall perform the state and federal criminal background check required pursuant to subparagraph (A) through the Department of Justice prior to final approval of the adoptive placement.

(C) If the tribe conducts its own home study, the public adoption agency that is otherwise authorized to obtain criminal background information for the purpose of adoption shall perform the state and federal criminal background check required pursuant to subparagraph (A) through the Department of Justice prior to final approval of the adoptive placement.

(D) An individual who is the subject of a background check conducted pursuant to this paragraph may be provided by the entity performing the background check with a copy of his or her state or federal level criminal offender record information search response as provided to that entity by the Department of Justice if the entity has denied a criminal background clearance based on this information and the individual makes a written request to the entity for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in his or her written request. The entity shall retain a copy of the individual's written request and the response and date provided.

(4) If federal or state law provides that tribes may conduct all required background checks for prospective adoptive parents, the tribally administered background checks shall satisfy the requirements of this section, so long as the standards for the background checks are the same as those applied to all other prospective adoptive parents in the State of California.

(5) Under no circumstances shall final approval be granted for an adoptive placement in any home if the prospective adoptive parent or any adult living in the prospective tribal customary adoptive home has any of the following:

(A) A felony conviction for child abuse or neglect, spousal abuse, crimes against a child, including child pornography, or a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault and battery. For purposes of this subdivision, crimes involving violence means those violent crimes contained in clause (i) of subparagraph (A) and subparagraph (B), or paragraph (1) of, [subdivision \(g\) of Section 1522 of the Health and Safety Code](#).

(B) A felony conviction that occurred within the last five years for physical assault, battery, or a drug-related offense.

(6) If the tribe identifies tribal customary adoption as the permanent placement plan for the Indian child, the court may continue the selection and implementation hearing governed by Section 366.26 for a period not to exceed 120 days to permit the tribe to complete the process for tribal customary adoption and file with the court a tribal customary adoption order evidencing that a tribal customary adoption has been completed. The tribe shall file with the court the tribal customary adoption order no less than 20 days prior to the date set by the court for the continued selection and implementation hearing. The department shall file with the court the addendum selection and implementation hearing court report no less than seven days prior to the date set by the court for the continued selection and implementation hearing. The court shall have discretion to grant an additional continuance to the tribe for filing a tribal customary adoption order up to, but not exceeding, 60 days. If the child's tribe does not file the tribal customary adoption order within the designated time period, the court shall make new findings and orders pursuant to subdivision (b) of Section 366.26 and this subdivision to determine the best permanent plan for the child.

(7) The child, birth parents, or Indian custodian and the tribal customary adoptive parents and their counsel, if applicable, may present evidence to the tribe regarding the tribal customary adoption and the child's best interest.

(8) Upon the court affording full faith and credit to the tribal customary adoption order and the tribe's approval of the home study, the child shall be eligible for tribal customary adoptive placement. The agency that has placement and care responsibility of the child shall be authorized to make a tribal customary adoptive placement and sign a tribal customary adoptive placement agreement and, thereafter, shall sign the adoption assistance agreement pursuant to subdivision (g) of Section 16120. The prospective adoptive parent or parents desiring to adopt the child may then file the petition for adoption. The agency shall supervise the adoptive placement for a period of six months unless either of the following circumstances exists:

(A) The child to be adopted is a foster child of the prospective adoptive parents whose foster care placement has been supervised by an agency before the signing of the adoptive placement agreement in which case the supervisory period may be shortened by one month for each full month that the child has been in foster care with the family.

(B) The child to be adopted is placed with a relative with whom he or she has an established relationship.

(9) All licensed public adoption agencies shall cooperate with and assist the department in devising a plan that will effectuate the effective and discreet transmission to tribal customary adoptees or prospective tribal customary adoptive parents of pertinent medical information reported to the department or the licensed public adoption agency, upon the request of the person reporting the medical information.

(A) A licensed public adoption agency may not place a child for tribal customary adoption unless a written report on the child's medical background and, if available, the medical background on the child's biological parents, so far as ascertainable, has been submitted to the prospective tribal customary adoptive parents and they have acknowledged in writing the receipt of the report.

(B) The report on the child's background shall contain all known diagnostic information, including current medical reports on the child, psychological evaluations, and scholastic information, as well as all known information regarding the child's developmental history.

(10) The tribal customary adoption order shall include, but not be limited to, a description of (A) the modification of the legal relationship of the birth parents or Indian custodian and the child, including

contact, if any, between the child and the birth parents or Indian custodian, responsibilities of the birth parents or Indian custodian, and the rights of inheritance of the child and (B) the child's legal relationship with the tribe. The order shall not include any child support obligation from the birth parents or Indian custodian. There shall be a conclusive presumption that any parental rights or obligations not specified in the tribal customary adoption order shall vest in the tribal customary adoptive parents.

(11) Prior consent to a permanent plan of tribal customary adoption of an Indian child shall not be required of an Indian parent or Indian custodian whose parental relationship to the child will be modified by the tribal customary adoption.

(12) After the prospective adoptive parent or parents desiring to adopt the child have filed the adoption petition, the agency that has placement, care, and responsibility for the child shall submit to the court, a full and final report of the facts of the proposed tribal customary adoption. The requisite elements of the final court report shall be those specified for court reports in the department's regulations governing agency adoptions.

(13) Notwithstanding any other provision of law, after the tribal customary adoption order has been issued and afforded full faith and credit by the state court, supervision of the adoptive placement has been completed, and the state court has issued a final decree of adoption, the tribal customary adoptive parents shall have all of the rights and privileges afforded to, and are subject to all the duties of, any other adoptive parent or parents pursuant to the laws of this state.

(14) Consistent with Section 366.3, after the tribal customary adoption has been afforded full faith and credit and a final adoption decree has been issued, the court shall terminate its jurisdiction over the Indian child.

(15) Nothing in this section is intended to prevent the transfer of those proceedings to a tribal court where transfer is otherwise permitted under applicable law.

(d) The following disclosure provisions shall apply to tribal customary adoptions:

(1) The petition, agreement, order, report to the court from any investigating agency, and any power of attorney filed in a tribal customary adoption proceeding is not open to inspection by any person other than the parties to the proceeding and their attorneys and the department, except upon the written authority of the judge of the juvenile court. A judge may not authorize anyone to inspect the petition, agreement, order, report to the court from any investigating agency, and any power of attorney except in exceptional circumstances and for good cause approaching the necessitous.

(2) Except as otherwise permitted or required by statute, neither the department, county adoption agency, nor any licensed adoption agency shall release information that would identify persons who receive, or have received, tribal customary adoption services. However, employees of the department, county adoption agencies, and licensed adoption agencies shall release to the State Department of Social Services any requested information, including identifying information, for the purpose of recordkeeping and monitoring, evaluation, and regulation of the provision of tribal customary adoption services.

(3) The department, county adoption agency, or licensed adoption agency may, upon written authorization for the release of specified information by the subject of that information, share information regarding a prospective tribal customary adoptive parent or birth parent with other social service agencies, including the department, county adoption agencies, and other licensed adoption agencies, or providers of health care as defined in **Section 56.05 of the Civil Code**.

(4) Notwithstanding any other law, the department, county adoption agency, or licensed adoption agency may furnish information relating to a tribal customary adoption petition or to a child in the custody

of the department or any public adoption agency to the juvenile court, county welfare department, public welfare agency, private welfare agency licensed by the department, provider of foster care services, potential adoptive parents, or provider of health care as defined in **Section 56.05 of the Civil Code**, if it is believed the child's welfare will be promoted thereby.

(5) The department, county adoption agency, or licensed adoption agency may make tribal customary adoption case records, including identifying information, available for research purposes, provided that the research will not result in the disclosure of the identity of the child or the parties to the tribal customary adoption to anyone other than the entity conducting the research.

(e) This section shall remain operative only to the extent that compliance with its provisions does not conflict with federal law as a condition of receiving funding under Title IV-E or the federal Social Security Act (**42 U.S.C. Sec. 670 et seq.**).

(f) The Judicial Council shall adopt rules of court and necessary forms required to implement tribal customary adoption as a permanent plan for dependent Indian children. The Judicial Council shall study California's tribal customary adoption provisions and their effects on children, birth parents, adoptive parents, Indian custodians, tribes, and the court, and shall report all of its findings to the Legislature on or before January 1, 2013. The report shall include, but not be limited to, the following:

(1) The number of families served and the number of completed tribal customary adoptions.

(2) The length of time it takes to complete a tribal customary adoption.

(3) The challenges faced by social workers, court, and tribes in completing tribal customary adoptions.

(4) The benefits or detriments to Indian children from a tribal customary adoption.

**Leg.H.**

Added Stats 2009 ch 287 § 12 (AB 1325), effective January 1, 2010, operative July 1, 2010, repealed January 1, 2014. Amended Stats 2010 ch 467 § 1 (AB 2417), effective January 1, 2011, repealed January 1, 2014; Stats 2011 ch 296 § 318 (AB 1023), effective January 1, 2012, repealed January 1, 2014; Stats 2012 ch 35 § 54 (SB 1013), effective June 27, 2012, ch 846 § 21 (AB 1712), effective January 1, 2013.

## **§ 366.25. Subsequent Permanency Review Hearing; Criteria for Returning Child to Parent or Guardian; When Hearing Under Section 366.26 to be Held; Assessment; Eligibility for Kin-Gap Aid.**

**(a)**

(1) When a case has been continued pursuant to subdivision (b) of Section 366.22, the subsequent permanency review hearing shall occur within 24 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. After considering the relevant and admissible evidence, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the subsequent permanency review hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal to the extent that the criminal record is substantially related to the welfare of the child or parent's or legal guardian's ability to exercise custody and control regarding his or

her child provided that the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The court shall also consider whether the child can be returned to the custody of a parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent. The fact that the parent is enrolled in a certified substance abuse treatment facility shall not be, for that reason alone, *prima facie* evidence of detriment. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be *prima facie* evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided; and shall make appropriate findings pursuant to subdivision (a) of Section 366.

(2) Whether or not the child is returned to his or her parent or legal guardian, the court shall specify the factual basis for its decision. If the child is not returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that return would be detrimental. If the child is not returned to his or her parent or legal guardian, the court shall consider and state for the record, in-state and out-of-state options for the child's permanent placement. If the child is placed out of the state, the court shall make a determination whether the out-of-state placement continues to be appropriate and in the best interests of the child.

(3) If the child is not returned to a parent or legal guardian at the subsequent permanency review hearing, the court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, or, in the case of an Indian child, tribal customary adoption, guardianship, or, in the case of a child 16 years of age or older when no other permanent plan is appropriate, another planned permanent living arrangement is the most appropriate plan for the child. On and after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent, unless the nonminor dependent is an Indian child and tribal customary adoption is recommended as the permanent plan. However, if the court finds by clear and convincing evidence, based on the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, that there is a compelling reason, as described in paragraph (5) of subdivision (g) of Section 366.21, for determining that a hearing held under Section 366.26 is not in the best interest of the child because the child is not a proper subject for adoption or, in the case of an Indian child, tribal customary adoption, and has no one willing to accept legal guardianship as of the hearing date, then the court may, only under these circumstances, order that the child remain in foster care with a permanent plan of return home, adoption, tribal customary adoption in the case of an Indian child, legal guardianship, or placement with a fit and willing relative, as appropriate. If the child is 16 years of age or older or is a nonminor dependent, and no other permanent plan is appropriate at the time of the hearing, the court may order another planned permanent living arrangement, as described in paragraph (2) of subdivision (i) of Section 16501. The court shall make factual findings identifying any barriers to achieving the permanent plan as of the hearing date. On and after January 1, 2012, the nonminor dependent's legal status as an adult is in and of itself a compelling reason not to hold a hearing pursuant to Section 366.26. The court may order that a nonminor dependent who otherwise is eligible pursuant to Section 11403 remain in a planned, permanent living arrangement. If the court orders that a child who is 10 years of age or older remain in foster care, the court shall determine whether the agency has made reasonable efforts to maintain the child's relationships with individuals other than the child's siblings who are important to the child, consistent with the child's best interests, and may make any appropriate order to ensure that those relationships are maintained. The hearing shall be held no later than 120 days from the date of the subsequent permanency review hearing. The court shall also order termination of reunification services to the parent or legal guardian. The court shall continue to permit the parent or legal guardian to visit the child unless it finds that visitation would be detrimental to the child. The court shall determine whether

reasonable services have been offered or provided to the parent or legal guardian. For purposes of this paragraph, evidence of any of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

- (A) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.
- (B) The case plan includes services to make and finalize a permanent placement for the child if efforts to reunify fail.
- (C) Services to make and finalize a permanent placement for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

**(b)**

(1) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the county adoption agency, or the State Department of Social Services when it is acting as an adoption agency, to prepare an assessment that shall include:

- (A) Current search efforts for an absent parent or parents.
- (B) A review of the amount of, and nature of, any contact between the child and his or her parents and other members of his or her extended family since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case basis, "extended family" for the purposes of this paragraph shall include, but not be limited to, the child's siblings, grandparents, aunts, and uncles.
- (C) An evaluation of the child's medical, developmental, scholastic, mental, and emotional status.
- (D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, including a prospective tribal customary adoptive parent, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed legal guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and in Section 361.4.
- (E) The relationship of the child to any identified prospective adoptive parent or legal guardian, including a prospective tribal customary adoptive parent, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative's or adoptive parent's strong commitment to caring permanently for the child, the motivation for seeking adoption or legal guardianship, a statement from the child concerning placement and the adoption or legal guardianship, and whether the child, if over 12 years of age, has been consulted about the proposed relative guardianship arrangements, unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.
- (F) An analysis of the likelihood that the child will be adopted if parental rights are terminated.
- (G) In the case of an Indian child, in addition to subparagraphs (A) to (F), inclusive, an assessment of the likelihood that the child will be adopted, when, in consultation with the child's tribe, a tribal customary adoption, as defined in Section 366.24, is recommended. If tribal customary adoption is recommended, the assessment shall include an analysis of both of the following:

- (i) Whether tribal customary adoption would or would not be detrimental to the Indian child and the reasons for reaching that conclusion.
  - (ii) Whether the Indian child cannot or should not be returned to the home of the Indian parent or Indian custodian and the reasons for reaching that conclusion.
- (2)

(A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) Regardless of his or her immigration status, a relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, the relative caregiver shall be informed about the terms and conditions of the negotiated agreement pursuant to Section 11387 and shall agree to its execution prior to the hearing held pursuant to Section 366.26. A copy of the executed negotiated agreement shall be attached to the assessment.

(c) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with an approved relative caregiver, and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

(d) As used in this section, "relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, "relative" as used in this section has the same meaning as "relative" as defined in subdivision (c) of Section 11391.

#### **Leg.H.**

Added Stats 2008 ch 482 § 4 (AB 2070), effective January 1, 2009. Amended Stats 2009 ch 287 § 13 (AB 1325), effective January 1, 2010, operative July 1, 2010, repealed January 1, 2014; Stats 2010 ch 559 § 20 (AB 12), effective January 1, 2011, repealed January 1, 2014; Stats 2012 ch 35 § 55 (SB 1013), effective June 27, 2012, ch 208 § 3 (AB 2292), effective January 1, 2013, ch 845 § 13 (SB 1064), effective January 1, 2013, ch 846 § 22.3 (AB 1712), effective January 1, 2013; Stats 2013 ch 76 § 202 (AB 383), effective January 1, 2014; Stats 2014 ch 219 § 8 (SB 977), effective January 1, 2015; Stats 2015 ch 425 § 12 (SB 794), effective January 1, 2016.

## **§ 366.26. Procedures for Conducting Hearings to Terminate Parental Rights, Determine Adoption of, or Guardianship of, Children Adjudged Dependent Children of Juvenile Court.**

(a) This section applies to children who are adjudged dependent children of the juvenile court pursuant to subdivision (d) of Section 360. The procedures specified in this section are the exclusive procedures for conducting these hearings. The procedures in Part 2 (commencing with Section 3020) of Division 8 of the Family Code are not applicable to these proceedings. **Section 8616.5 of the Family Code** is applicable and available to all dependent children meeting the requirements of that section, if the postadoption contact

agreement has been entered into voluntarily. For children who are adjudged dependent children of the juvenile court pursuant to subdivision (d) of Section 360, this section, and Sections 8604, 8605, 8606, and 8700 of the Family Code and Chapter 5 (commencing with Section 7660) of Part 3 of Division 12 of the Family Code specify the exclusive procedures for permanently terminating parental rights with regard to, or establishing legal guardianship of, the child while the child is a dependent child of the juvenile court.

**(b)** At the hearing, which shall be held in juvenile court for all children who are dependents of the juvenile court, the court, in order to provide stable, permanent homes for these children, shall review the report as specified in Section 361.5, 366.21, 366.22, or 366.25, shall indicate that the court has read and considered it, shall receive other evidence that the parties may present, and then shall make findings and orders in the following order of preference:

**(1)** Terminate the rights of the parent or parents and order that the child be placed for adoption and, upon the filing of a petition for adoption in the juvenile court, order that a hearing be set. The court shall proceed with the adoption after the appellate rights of the natural parents have been exhausted.

**(2)** Order, without termination of parental rights, the plan of tribal customary adoption, as described in Section 366.24, through tribal custom, traditions, or law of the Indian child's tribe, and upon the court affording the tribal customary adoption order full faith and credit at the continued selection and implementation hearing, order that a hearing be set pursuant to paragraph (2) of subdivision (e).

**(3)** Appoint a relative or relatives with whom the child is currently residing as legal guardian or guardians for the child, and order that letters of guardianship issue.

**(4)** On making a finding under paragraph (3) of subdivision (c), identify adoption or tribal customary adoption as the permanent placement goal and order that efforts be made to locate an appropriate adoptive family for the child within a period not to exceed 180 days.

**(5)** Appoint a nonrelative legal guardian for the child and order that letters of guardianship issue.

**(6)** Order that the child be permanently placed with a fit and willing relative, subject to the periodic review of the juvenile court under Section 366.3.

**(7)** Order that the child remain in foster care, subject to the conditions described in paragraph (4) of subdivision (c) and the periodic review of the juvenile court under Section 366.3.

In choosing among the alternatives in this subdivision, the court shall proceed pursuant to subdivision (c).

**(c)**

**(1)** If the court determines, based on the assessment provided as ordered under subdivision (i) of Section 366.21, subdivision (b) of Section 366.22, or subdivision (b) of Section 366.25, and any other relevant evidence, by a clear and convincing standard, that it is likely the child will be adopted, the court shall terminate parental rights and order the child placed for adoption. The fact that the child is not yet placed in a preadoptive home nor with a relative or foster family who is prepared to adopt the child, shall not constitute a basis for the court to conclude that it is not likely the child will be adopted. A finding under subdivision (b) or paragraph (1) of subdivision (e) of Section 361.5 that reunification services shall not be offered, under subdivision (e) of Section 366.21 that the whereabouts of a parent have been unknown for six months or that the parent has failed to visit or contact the child for six months, or that the parent has been convicted of a felony indicating parental unfitness, or, under Section 366.21 or 366.22, that the court has continued to remove the child from the custody of the parent or guardian and has terminated reunification services, shall constitute a sufficient basis for termination of parental rights. Under these circumstances, the court shall terminate parental rights unless either of the following applies:

**(A)** The child is living with a relative who is unable or unwilling to adopt the child because of circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of providing the child with a stable and permanent environment through legal guardianship, and the removal of the child from the custody of his or her relative would be detrimental to the emotional well-being of the child. For purposes of an Indian child, “relative” shall include an “extended family member,” as defined in the federal Indian Child Welfare Act of 1978 ([25 U.S.C. Sec. 1903\(2\)](#)).

**(B)** The court finds a compelling reason for determining that termination would be detrimental to the child due to one or more of the following circumstances:

**(i)** The parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.

**(ii)** A child 12 years of age or older objects to termination of parental rights.

**(iii)** The child is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent finding the child a permanent family placement if the parents cannot resume custody when residential care is no longer needed.

**(iv)** The child is living with a foster parent or Indian custodian who is unable or unwilling to adopt the child because of exceptional circumstances, that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of providing the child with a stable and permanent environment and the removal of the child from the physical custody of his or her foster parent or Indian custodian would be detrimental to the emotional well-being of the child. This clause does not apply to any child who is either (I) under six years of age or (II) a member of a sibling group where at least one child is under six years of age and the siblings are, or should be, permanently placed together.

**(v)** There would be substantial interference with a child’s sibling relationship, taking into consideration the nature and extent of the relationship, including, but not limited to, whether the child was raised with a sibling in the same home, whether the child shared significant common experiences or has existing close and strong bonds with a sibling, and whether ongoing contact is in the child’s best interest, including the child’s long-term emotional interest, as compared to the benefit of legal permanence through adoption.

**(vi)** The child is an Indian child and there is a compelling reason for determining that termination of parental rights would not be in the best interest of the child, including, but not limited to:

**(I)** Termination of parental rights would substantially interfere with the child’s connection to his or her tribal community or the child’s tribal membership rights.

**(II)** The child’s tribe has identified guardianship, foster care with a fit and willing relative, tribal customary adoption, or another planned permanent living arrangement for the child.

**(III)** The child is a nonminor dependent, and the nonminor and the nonminor’s tribe have identified tribal customary adoption for the nonminor.

**(C)** For purposes of subparagraph (B), in the case of tribal customary adoptions, Section 366.24 shall apply.

(D) If the court finds that termination of parental rights would be detrimental to the child pursuant to clause (i), (ii), (iii), (iv), (v), or (vi), it shall state its reasons in writing or on the record.

(2) The court shall not terminate parental rights if:

(A) At each hearing at which the court was required to consider reasonable efforts or services, the court has found that reasonable efforts were not made or that reasonable services were not offered or provided.

(B) In the case of an Indian child:

(i) At the hearing terminating parental rights, the court has found that active efforts were not made as required in Section 361.7.

(ii) The court does not make a determination at the hearing terminating parental rights, supported by evidence beyond a reasonable doubt, including testimony of one or more "qualified expert witnesses" as defined in Section 224.6, that the continued custody of the child by the parent is likely to result in serious emotional or physical damage to the child.

(iii) The court has ordered tribal customary adoption pursuant to Section 366.24.

(3) If the court finds that termination of parental rights would not be detrimental to the child pursuant to paragraph (1) and that the child has a probability for adoption but is difficult to place for adoption and there is no identified or available prospective adoptive parent, the court may identify adoption as the permanent placement goal and, without terminating parental rights, order that efforts be made to locate an appropriate adoptive family for the child, within the state or out of the state, within a period not to exceed 180 days. During this 180-day period, the public agency responsible for seeking adoptive parents for each child shall, to the extent possible, ask each child who is 10 years of age or older to identify any individuals, other than the child's siblings, who are important to the child, in order to identify potential adoptive parents. The public agency may ask any other child to provide that information, as appropriate. During the 180-day period, the public agency shall, to the extent possible, contact other private and public adoption agencies regarding the availability of the child for adoption. During the 180-day period, the public agency shall conduct the search for adoptive parents in the same manner as prescribed for children in [Sections 8708 and 8709 of the Family Code](#). At the expiration of this period, another hearing shall be held and the court shall proceed pursuant to paragraph (1), (2), (3), (5), or (6) of subdivision (b). For purposes of this section, a child may only be found to be difficult to place for adoption if there is no identified or available prospective adoptive parent for the child because of the child's membership in a sibling group, or the presence of a diagnosed medical, physical, or mental handicap, or the child is seven years of age or older.

(4)

(A) If the court finds that adoption of the child or termination of parental rights is not in the best interest of the child, because one of the conditions in clause (i), (ii), (iii), (iv), (v), or (vi) of subparagraph (B) of paragraph (1) or in paragraph (2) applies, the court shall order that the present caretakers or other appropriate persons shall become legal guardians of the child, or, in the case of an Indian child, consider a tribal customary adoption pursuant to Section 366.24. Legal guardianship shall be considered before continuing the child in foster care under any other permanent plan, if it is in the best interests of the child and if a suitable guardian can be found. If the child continues in foster care, the court shall make factual findings identifying any barriers to achieving adoption, tribal customary adoption in the case of an Indian child, legal guardianship, or placement with a fit and willing relative as of the date of the hearing. A child who is 10 years of age or older, shall be asked to identify any individuals, other than the child's siblings, who are important to the child, in order to

identify potential guardians or, in the case of an Indian child, prospective tribal customary adoptive parents. The agency may ask any other child to provide that information, as appropriate.

**(B)**

**(i)** If the child is living with an approved relative who is willing and capable of providing a stable and permanent environment, but not willing to become a legal guardian as of the hearing date, the court shall order a permanent plan of placement with a fit and willing relative, and the child shall not be removed from the home if the court finds the removal would be seriously detrimental to the emotional well-being of the child because the child has substantial psychological ties to the relative caretaker.

**(ii)** If the child is living with a nonrelative caregiver who is willing and capable of providing a stable and permanent environment, but not willing to become a legal guardian as of the hearing date, the court shall order that the child remain in foster care with a permanent plan of return home, adoption, legal guardianship, or placement with a fit and willing relative, as appropriate. If the child is 16 years of age or older, or a nonminor dependent, and no other permanent plan is appropriate at the time of the hearing, the court may order another planned permanent living arrangement, as described in paragraph (2) of subdivision (i) of Section 16501. Regardless of the age of the child, the child shall not be removed from the home if the court finds the removal would be seriously detrimental to the emotional well-being of the child because the child has substantial psychological ties to the caregiver.

**(iii)** If the child is living in a group home or, on or after January 1, 2017, a short-term residential therapeutic program, the court shall order that the child remain in foster care with a permanent plan of return home, adoption, tribal customary adoption in the case of an Indian child, legal guardianship, or placement with a fit and willing relative, as appropriate. If the child is 16 years of age or older, or a nonminor dependent, and no other permanent plan is appropriate at the time of the hearing, the court may order another planned permanent living arrangement, as described in paragraph (2) of subdivision (i) of Section 16501.

**(C)** The court shall also make an order for visitation with the parents or guardians unless the court finds by a preponderance of the evidence that the visitation would be detrimental to the physical or emotional well-being of the child.

**(5)** If the court finds that the child should not be placed for adoption, that legal guardianship shall not be established, that placement with a fit and willing relative is not appropriate as of the hearing date, and that there are no suitable foster parents except certified family homes or resource families of a foster family agency available to provide the child with a stable and permanent environment, the court may order the care, custody, and control of the child transferred from the county welfare department to a licensed foster family agency. The court shall consider the written recommendation of the county welfare director regarding the suitability of the transfer. The transfer shall be subject to further court orders.

The licensed foster family agency shall place the child in a suitable licensed or certified family home that has been certified by the agency as meeting licensing standards or with a resource family approved by the agency. The licensed foster family agency shall be responsible for supporting the child and providing appropriate services to the child, including those services ordered by the court. Responsibility for the support of the child shall not, in and of itself, create liability on the part of the foster family agency to third persons injured by the child. Those children whose care, custody, and control are transferred to a foster family agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

**(d)** The proceeding for the appointment of a guardian for a child who is a dependent of the juvenile court shall be conducted in the juvenile court. If the court finds pursuant to this section that legal guardianship is the appropriate permanent plan, it shall appoint the legal guardian and issue letters of guardianship. The assessment prepared pursuant to subdivision (g) of Section 361.5, subdivision (i) of Section 366.21, subdivision (c) of Section 366.22, and subdivision (b) of Section 366.25 shall be read and considered by the court prior to the appointment, and this shall be reflected in the minutes of the court. The assessment may also include the naming of a prospective successor guardian, if one is identified. In the event of the incapacity or death of the appointed guardian, the named successor guardian may be assessed and appointed pursuant to this section. The person preparing the assessment may be called and examined by any party to the proceeding.

**(e)**

**(1)** The proceeding for the adoption of a child who is a dependent of the juvenile court shall be conducted in the juvenile court if the court finds pursuant to this section that adoption is the appropriate permanent plan and the petition for adoption is filed in the juvenile court. Upon the filing of a petition for adoption, the juvenile court shall order that an adoption hearing be set. The court shall proceed with the adoption after the appellate rights of the natural parents have been exhausted. The full report required by **Section 8715 of the Family Code** shall be read and considered by the court prior to the adoption and this shall be reflected in the minutes of the court. The person preparing the report may be called and examined by any party to the proceeding. It is the intent of the Legislature, pursuant to this subdivision, to give potential adoptive parents the option of filing in the juvenile court the petition for the adoption of a child who is a dependent of the juvenile court. Nothing in this section is intended to prevent the filing of a petition for adoption in any other court as permitted by law, instead of in the juvenile court.

**(2)** In the case of an Indian child, if the Indian child's tribe has elected a permanent plan of tribal customary adoption, the court, upon receiving the tribal customary adoption order will afford the tribal customary adoption order full faith and credit to the same extent that the court would afford full faith and credit to the public acts, records, judicial proceedings, and judgments of any other entity. Upon a determination that the tribal customary adoption order may be afforded full faith and credit, consistent with Section 224.5, the court shall thereafter order a hearing to finalize the adoption be set upon the filing of the adoption petition. The prospective tribal customary adoptive parents and the child who is the subject of the tribal customary adoption petition shall appear before the court for the finalization hearing. The court shall thereafter issue an order of adoption pursuant to Section 366.24.

**(3)** If a child who is the subject of a finalized tribal customary adoption shows evidence of a developmental disability or mental illness as a result of conditions existing before the tribal customary adoption to the extent that the child cannot be relinquished to a licensed adoption agency on the grounds that the child is considered unadoptable, and of which condition the tribal customary adoptive parent or parents had no knowledge or notice before the entry of the tribal customary adoption order, a petition setting forth those facts may be filed by the tribal customary adoptive parent or parents with the juvenile court that granted the tribal customary adoption petition. If these facts are proved to the satisfaction of the juvenile court, it may make an order setting aside the tribal customary adoption order. The set-aside petition shall be filed within five years of the issuance of the tribal customary adoption order. The court clerk shall immediately notify the child's tribe and the department in Sacramento of the petition within 60 days after the notice of filing of the petition. The department shall file a full report with the court and shall appear before the court for the purpose of representing the child. Whenever a final decree of tribal customary adoption has been vacated or set aside, the child shall be returned to the custody of the county in which the proceeding for tribal customary adoption was finalized. The biological parent or parents of the child may petition for return of custody. The disposition of the child after the court has entered an order to set aside a tribal customary adoption shall include consultation with the child's tribe.

**(f)** At the beginning of any proceeding pursuant to this section, if the child or the parents are not being represented by previously retained or appointed counsel, the court shall proceed as follows:

**(1)** In accordance with subdivision (c) of Section 317, if a child before the court is without counsel, the court shall appoint counsel unless the court finds that the child would not benefit from the appointment of counsel. The court shall state on the record its reasons for that finding.

**(2)** If a parent appears without counsel and is unable to afford counsel, the court shall appoint counsel for the parent, unless this representation is knowingly and intelligently waived. The same counsel shall not be appointed to represent both the child and his or her parent. The public defender or private counsel may be appointed as counsel for the parent.

**(3)** Private counsel appointed under this section shall receive a reasonable sum for compensation and expenses, the amount of which shall be determined by the court. The amount shall be paid by the real parties in interest, other than the child, in any proportions the court deems just. However, if the court finds that any of the real parties in interest are unable to afford counsel, the amount shall be paid out of the general fund of the county.

**(g)** The court may continue the proceeding for a period of time not to exceed 30 days as necessary to appoint counsel, and to enable counsel to become acquainted with the case.

**(h)**

**(1)** At all proceedings under this section, the court shall consider the wishes of the child and shall act in the best interests of the child.

**(2)** In accordance with Section 349, the child shall be present in court if the child or the child's counsel so requests or the court so orders. If the child is 10 years of age or older and is not present at a hearing held pursuant to this section, the court shall determine whether the minor was properly notified of his or her right to attend the hearing and inquire as to the reason why the child is not present.

**(3)**

**(A)** The testimony of the child may be taken in chambers and outside the presence of the child's parent or parents, if the child's parent or parents are represented by counsel, the counsel is present, and any of the following circumstances exist:

- (i)** The court determines that testimony in chambers is necessary to ensure truthful testimony.
- (ii)** The child is likely to be intimidated by a formal courtroom setting.
- (iii)** The child is afraid to testify in front of his or her parent or parents.

**(B)** After testimony in chambers, the parent or parents of the child may elect to have the court reporter read back the testimony or have the testimony summarized by counsel for the parent or parents.

**(C)** The testimony of a child also may be taken in chambers and outside the presence of the guardian or guardians of a child under the circumstances specified in this subdivision.

**(i)**

**(1)** Any order of the court permanently terminating parental rights under this section shall be conclusive and binding upon the child, upon the parent or parents and, upon all other persons who have

been served with citation by publication or otherwise as provided in this chapter. After making the order, the juvenile court shall have no power to set aside, change, or modify it, except as provided in paragraph (2), but nothing in this section shall be construed to limit the right to appeal the order.

(2) A tribal customary adoption order evidencing that the Indian child has been the subject of a tribal customary adoption shall be afforded full faith and credit and shall have the same force and effect as an order of adoption authorized by this section. The rights and obligations of the parties as to the matters determined by the Indian child's tribe shall be binding on all parties. A court shall not order compliance with the order absent a finding that the party seeking the enforcement participated, or attempted to participate, in good faith, in family mediation services of the court or dispute resolution through the tribe regarding the conflict, prior to the filing of the enforcement action.

(3) A child who has not been adopted after the passage of at least three years from the date the court terminated parental rights and for whom the court has determined that adoption is no longer the permanent plan may petition the juvenile court to reinstate parental rights pursuant to the procedure prescribed by Section 388. The child may file the petition prior to the expiration of this three-year period if the State Department of Social Services, county adoption agency, or licensed adoption agency that is responsible for custody and supervision of the child as described in subdivision (j) and the child stipulate that the child is no longer likely to be adopted. A child over 12 years of age shall sign the petition in the absence of a showing of good cause as to why the child could not do so. If it appears that the best interests of the child may be promoted by reinstatement of parental rights, the court shall order that a hearing be held and shall give prior notice, or cause prior notice to be given, to the social worker or probation officer and to the child's attorney of record, or, if there is no attorney of record for the child, to the child, and the child's tribe, if applicable, by means prescribed by subdivision (c) of Section 297. The court shall order the child or the social worker or probation officer to give prior notice of the hearing to the child's former parent or parents whose parental rights were terminated in the manner prescribed by subdivision (f) of Section 294 where the recommendation is adoption. The juvenile court shall grant the petition if it finds by clear and convincing evidence that the child is no longer likely to be adopted and that reinstatement of parental rights is in the child's best interest. If the court reinstates parental rights over a child who is under 12 years of age and for whom the new permanent plan will not be reunification with a parent or legal guardian, the court shall specify the factual basis for its findings that it is in the best interest of the child to reinstate parental rights. This subdivision is intended to be retroactive and applies to any child who is under the jurisdiction of the juvenile court at the time of the hearing regardless of the date parental rights were terminated.

(j) If the court, by order or judgment, declares the child free from the custody and control of both parents, or one parent if the other does not have custody and control, or declares the child eligible for tribal customary adoption, the court shall at the same time order the child referred to the State Department of Social Services, county adoption agency, or licensed adoption agency for adoptive placement by the agency. However, except in the case of a tribal customary adoption where there is no termination of parental rights, a petition for adoption may not be granted until the appellate rights of the natural parents have been exhausted. The State Department of Social Services, county adoption agency, or licensed adoption agency shall be responsible for the custody and supervision of the child and shall be entitled to the exclusive care and control of the child at all times until a petition for adoption or tribal customary adoption is granted, except as specified in subdivision (n). With the consent of the agency, the court may appoint a guardian of the child, who shall serve until the child is adopted.

(k)

(1) Notwithstanding any other law, the application of any person who, as a relative caretaker or foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has

substantial emotional ties to the relative caretaker or foster parent and removal from the relative caretaker or foster parent would be seriously detrimental to the child's emotional well-being.

(2) As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

(I)

(1) An order by the court that a hearing pursuant to this section be held is not appealable at any time unless all of the following apply:

(A) A petition for extraordinary writ review was filed in a timely manner.

(B) The petition substantively addressed the specific issues to be challenged and supported that challenge by an adequate record.

(C) The petition for extraordinary writ review was summarily denied or otherwise not decided on the merits.

(2) Failure to file a petition for extraordinary writ review within the period specified by rule, to substantively address the specific issues challenged, or to support that challenge by an adequate record shall preclude subsequent review by appeal of the findings and orders made pursuant to this section.

(3) The Judicial Council shall adopt rules of court, effective January 1, 1995, to ensure all of the following:

(A) A trial court, after issuance of an order directing a hearing pursuant to this section be held, shall advise all parties of the requirement of filing a petition for extraordinary writ review as set forth in this subdivision in order to preserve any right to appeal in these issues.

(i) If a party is present at the time of the making of the order, the notice shall be made orally to the party.

(ii) If the party is not present at the time of making the order, the notice shall be made by the clerk of the court by first-class mail to the last known address of a party or by electronic service pursuant to Section 212.5. If the notice is for a hearing at which the social worker will recommend the termination of parental rights, the notice may be electronically served pursuant to Section 212.5, but only in addition to service of the notice by first-class mail.

(B) The prompt transmittal of the records from the trial court to the appellate court.

(C) That adequate time requirements for counsel and court personnel exist to implement the objective of this subdivision.

(D) That the parent or guardian, or their trial counsel or other counsel, is charged with the responsibility of filing a petition for extraordinary writ relief pursuant to this subdivision.

(4) The intent of this subdivision is to do both of the following:

(A) Make every reasonable attempt to achieve a substantive and meritorious review by the appellate court within the time specified in Sections 366.21, 366.22, and 366.25 for holding a hearing pursuant to this section.

**(B)** Encourage the appellate court to determine all writ petitions filed pursuant to this subdivision on their merits.

**(5)** This subdivision shall only apply to cases in which an order to set a hearing pursuant to this section is issued on or after January 1, 1995.

**(m)** Except for subdivision (j), this section shall also apply to minors adjudged wards pursuant to Section 727.31.

**(n)**

**(1)** Notwithstanding **Section 8704 of the Family Code** or any other law, the court, at a hearing held pursuant to this section or anytime thereafter, may designate a current caretaker as a prospective adoptive parent if the child has lived with the caretaker for at least six months, the caretaker currently expresses a commitment to adopt the child, and the caretaker has taken at least one step to facilitate the adoption process. In determining whether to make that designation, the court may take into consideration whether the caretaker is listed in the preliminary assessment prepared by the county department in accordance with subdivision (i) of Section 366.21 as an appropriate person to be considered as an adoptive parent for the child and the recommendation of the State Department of Social Services, county adoption agency, or licensed adoption agency.

**(2)** For purposes of this subdivision, steps to facilitate the adoption process include, but are not limited to, the following:

**(A)** Applying for an adoption homestudy.

**(B)** Cooperating with an adoption homestudy.

**(C)** Being designated by the court or the adoption agency as the adoptive family.

**(D)** Requesting de facto parent status.

**(E)** Signing an adoptive placement agreement.

**(F)** Engaging in discussions regarding a postadoption contact agreement.

**(G)** Working to overcome any impediments that have been identified by the State Department of Social Services, county adoption agency, or licensed adoption agency.

**(H)** Attending classes required of prospective adoptive parents.

**(3)** Prior to a change in placement and as soon as possible after a decision is made to remove a child from the home of a designated prospective adoptive parent, the agency shall notify the court, the designated prospective adoptive parent or the current caretaker, if that caretaker would have met the threshold criteria to be designated as a prospective adoptive parent pursuant to paragraph (1) on the date of service of this notice, the child's attorney, the child, if the child is 10 years of age or older, and, where it is known or there is reason to know that the child is an Indian child, as defined by Section 224.1, the child's tribe, of the proposal in the manner described in Section 16010.6.

**(A)** Within five court days or seven calendar days, whichever is longer, of the date of notification, the child, the child's attorney, the child's tribe, or the designated prospective adoptive parent may file a petition with the court objecting to the proposal to remove the child, or the court, upon its own motion, may set a hearing regarding the proposal. The court may, for good cause, extend the filing period. A caretaker who would have met the threshold criteria to be designated as a prospective adoptive parent pursuant to paragraph (1) on the date of service of the notice of proposed

removal of the child may file, together with the petition under this subparagraph, a petition for an order designating the caretaker as a prospective adoptive parent for purposes of this subdivision.

**(B)** A hearing ordered pursuant to this paragraph shall be held as soon as possible and not later than five court days after the petition is filed with the court or the court sets a hearing upon its own motion, unless the court for good cause is unable to set the matter for hearing five court days after the petition is filed, in which case the court shall set the matter for hearing as soon as possible. At the hearing, the court shall determine whether the caretaker has met the threshold criteria to be designated as a prospective adoptive parent pursuant to paragraph (1), and whether the proposed removal of the child from the home of the designated prospective adoptive parent is in the child's best interest, and the child may not be removed from the home of the designated prospective adoptive parent unless the court finds that removal is in the child's best interest. If the court determines that the caretaker did not meet the threshold criteria to be designated as a prospective adoptive parent on the date of service of the notice of proposed removal of the child, the petition objecting to the proposed removal filed by the caretaker shall be dismissed. If the caretaker was designated as a prospective adoptive parent prior to this hearing, the court shall inquire into any progress made by the caretaker towards the adoption of the child since the caretaker was designated as a prospective adoptive parent.

**(C)** A determination by the court that the caretaker is a designated prospective adoptive parent pursuant to paragraph (1) or subparagraph (B) does not make the caretaker a party to the dependency proceeding nor does it confer on the caretaker any standing to object to any other action of the department, county adoption agency, or licensed adoption agency, unless the caretaker has been declared a de facto parent by the court prior to the notice of removal served pursuant to paragraph (3).

**(D)** If a petition objecting to the proposal to remove the child is not filed, and the court, upon its own motion, does not set a hearing, the child may be removed from the home of the designated prospective adoptive parent without a hearing.

**(4)** Notwithstanding paragraph (3), if the State Department of Social Services, county adoption agency, or licensed adoption agency determines that the child must be removed from the home of the caretaker who is or may be a designated prospective adoptive parent immediately, due to a risk of physical or emotional harm, the agency may remove the child from that home and is not required to provide notice prior to the removal. However, as soon as possible and not longer than two court days after the removal, the agency shall notify the court, the caretaker who is or may be a designated prospective adoptive parent, the child's attorney, and the child, if the child is 10 years of age or older, of the removal. Within five court days or seven calendar days, whichever is longer, of the date of notification of the removal, the child, the child's attorney, or the caretaker who is or may be a designated prospective adoptive parent may petition for, or the court on its own motion may set, a noticed hearing pursuant to paragraph (3). The court may, for good cause, extend the filing period.

**(5)** Except as provided in subdivision (b) of Section 366.28, an order by the court issued after a hearing pursuant to this subdivision shall not be appealable.

**(6)** Nothing in this section shall preclude a county child protective services agency from fully investigating and responding to alleged abuse or neglect of a child pursuant to [Section 11165.5 of the Penal Code](#).

**(7)** When an Indian child is removed from the home of a prospective adoptive parent pursuant to this section, the placement preferences contained in Section 361.31 and the federal Indian Child Welfare Act of 1978 ([25 U.S.C. Sec. 1901 et seq.](#)) apply to the subsequent placement of the child.

**(8)** The Judicial Council shall prepare forms to facilitate the filing of the petitions described in this subdivision, which shall become effective on January 1, 2006.

**Leg.H.**

Added Stats 1995 ch 540 § 7 (AB 1523), operative January 1, 1999; Amended Stats 1996 ch 1082 § 6 (AB 2679), operative January 1, 1999, ch 1083 § 6.5 (AB 1524), operative January 1, 1999; Stats 1997 ch 510 § 4 (AB 329), operative January 1, 1999, ch 793 § 26 (AB 1544), operative January 1, 1999; Stats 1998 ch 572 § 1 (AB 2310), ch 1054 § 36 (AB 1091), operative January 1, 1999, ch 1056 § 17.1 (AB 2773); Stats 1999 ch 83 § 193 (SB 966), ch 997 § 3 (AB 575); Stats 2000 ch 910 § 13 (AB 2921); Stats 2001 ch 747 § 3 (AB 705); Stats 2003 ch 813 § 7 (AB 408); Stats 2004 ch 810 § 5 (AB 2807); Stats 2005 ch 626 § 1 (SB 218), effective January 1, 2006, ch 634 § 2 (AB 519), effective January 1, 2006, ch 640 § 6.5 (AB 1412), effective January 1, 2006; Stats 2006 ch 838 § 52 (SB 678), effective January 1, 2007; Stats 2007 ch 565 § 4 (AB 298), ch 583 § 28.5 (SB 703), effective January 1, 2008; Stats 2008 ch 482 § 5 (AB 2070), effective January 1, 2009; Stats 2009 ch 287 § 15 (AB 1325), effective January 1, 2010, operative July 1, 2010, repealed January 1, 2014; Stats 2012 ch 35 § 57 (SB 1013), effective June 27, 2012, ch 846 § 23 (AB 1712), effective January 1, 2013; Stats 2015 ch 425 § 13 (SB 794), effective January 1, 2016; Stats 2016 ch 612 § 75 (AB 1997), effective January 1, 2017; Stats 2017 ch 307 § 1 (SB 438), effective January 1, 2018, ch 319 § 134.5 (AB 976), effective January 1, 2018 (ch 319 prevails); Stats 2018 ch 833 § 32 (AB 3176), effective January 1, 2019.

## **§ 366.27. Placement of Minor in Planned Permanent Living Arrangement; Authority to Provide Legal Consent for Medical, Surgical or Dental Care; Educational Consent Duties.**

(a) If a court, pursuant to paragraph (5) of subdivision (g) of Section 366.21, Section 366.22, Section 366.25, or Section 366.26, orders the placement of a minor in a planned permanent living arrangement with a relative, the court may authorize the relative to provide the same legal consent for the minor's medical, surgical, and dental care as the custodial parent of the minor.

(b) If a court orders the placement of a minor in a planned permanent living arrangement with a foster parent, relative caretaker, or nonrelative extended family member as defined in Section 362.7, the court may limit the right of the minor's parent or guardian to make educational decisions on the minor's behalf, so that the foster parent, relative caretaker, or nonrelative extended family member may exercise the educational consent duties pursuant to [Section 56055 of the Education Code](#).

(c) If a court orders the placement of a minor in a planned permanent living arrangement, for purposes of this section, a foster parent shall include a person, relative caretaker, or a nonrelative extended family member as defined in Section 362.7, who has been licensed or approved by the county welfare department, county probation department, or the State Department of Social Services, or has been designated by the court as a specified placement.

**Leg.H.**

Added Stats 1993 ch 1089 § 6 (AB 2129). Amended Stats 2003 ch 862 § 11 (AB 490); Stats 2008 ch 482 § 6 (AB 2070), effective January 1, 2009; Stats 2012 ch 845 § 14 (SB 1064), effective January 1, 2013.

## **§ 366.28. [See Subsection (d) for Operative Information] Terminated Parental Rights—Order of Specific Placement of Dependent Child Not Appealable; Exceptions.**

(a) The Legislature finds and declares that delays caused by appeals from court orders designating the specific placement of a dependent child after parental rights have been terminated may cause a substantial detriment to the child. The Legislature recognizes that the juvenile court intervenes in placement decisions after parental rights have been terminated only in exceptional circumstances, and this section is not intended to place additional authority or responsibility on the juvenile court.

(b)

(1) After parental rights have been terminated pursuant to Section 366.26, an order by the court that a dependent child is to reside in, be retained in, or be removed from a specific placement, is not appealable at any time unless all of the following apply:

(A) A petition for extraordinary writ review was filed in a timely manner.

(B) The petition substantively addressed the specific issues to be challenged and supported that challenge by an adequate record.

(C) The petition was summarily denied or otherwise not decided on the merits.

(2) Failure to file a petition for extraordinary writ review within the period specified by rule of court, to substantively address the specific placement order that is challenged, or to support that challenge by an adequate record shall preclude subsequent review by appeal of the findings and orders made pursuant to this section.

(c) This section does not affect the right of a parent, a legal guardian, or the child to appeal any order that is otherwise appealable and that is issued at a hearing held pursuant to Section 366.26.

(d) The Judicial Council shall adopt a rule of court on or before January 1, 2005, to implement this section. This section shall become operative after the rule of court is adopted.

**Leg.H.**

2003 ch. 247 (SB 59), 2004 ch. 249 (SB 749), effective August 23, 2004.

## **§ 366.29. Adoption Order May Include Provision for Postadoptive Sibling Contact with Parent's Consent; Cause for Termination of Contact.**

(a) When a court, pursuant to Section 366.26, orders that a dependent child be placed for adoption, nothing in the adoption laws of this state shall be construed to prevent the prospective adoptive parent or parents of the child from expressing a willingness to facilitate postadoptive sibling contact. With the consent of the adoptive parent or parents, the court may include in the final adoption order provisions for the adoptive parent or parents to facilitate postadoptive sibling contact. In no event shall the continuing validity of the adoption be contingent upon the postadoptive contact, nor shall the ability of the adoptive parent or parents and the child to change residence within or outside the state be impaired by the order for contact.

(b) If, following entry of an order for sibling contact pursuant to subdivision (a), it is determined by the adoptive parent or parents that sibling contact poses a threat to the health, safety, or well-being of the adopted child, the adoptive parent or parents may terminate the sibling contact, provided that the adoptive parent or parents shall submit written notification to the court within 10 days after terminating the contact, which notification shall specify to the court the reasons why the health, safety, or well-being of the adopted child would be threatened by continued sibling contact.

(c) Upon the granting of the adoption petition and the issuing of the order of adoption of a child who is a dependent of the juvenile court, the jurisdiction of the juvenile court with respect to the dependency proceedings of that child shall be terminated. Nonetheless, the court granting the petition of adoption shall maintain jurisdiction over the child for enforcement of the postadoption contact agreement. The court may only order compliance with the postadoption contact agreement upon a finding of both of the following:

(1) The party seeking the enforcement participated, in good faith, in mediation or other appropriate alternative dispute resolution proceedings regarding the conflict, prior to the filing of the enforcement action.

(2) The enforcement is in the best interest of the child.

**Leg.H.**

1998 ch. 1072, 2001 ch. 747.

### **§ 366.3. Jurisdiction Following Order for Permanent Plan; Notice of Revocation or Termination of Guardianship; Status Review; Notice to Parents; Report.**

**(a)**

(1) If a juvenile court orders a permanent plan of adoption, tribal customary adoption, adoption of a nonminor dependent pursuant to subdivision (f) of Section 366.31, or legal guardianship pursuant to Section 360 or 366.26, the court shall retain jurisdiction over the child or nonminor dependent until the child or nonminor dependent is adopted or the legal guardianship is established, except as provided for in Section 366.29 or, on and after January 1, 2012, Section 366.32. The status of the child or nonminor dependent shall be reviewed every six months to ensure that the adoption or legal guardianship is completed as expeditiously as possible. Following a termination of parental rights, the parent or parents shall not be a party to, or receive notice of, any subsequent proceedings regarding the child.

(2) When the adoption of the child or nonminor dependent has been granted, or in the case of a tribal customary adoption, when the tribal customary adoption order has been afforded full faith and credit and the petition for adoption has been granted, the court shall terminate its jurisdiction over the child or nonminor dependent.

(3) Following establishment of a legal guardianship, the court may continue jurisdiction over the child as a dependent child of the juvenile court or may terminate its dependency jurisdiction and retain jurisdiction over the child as a ward of the legal guardianship, as authorized by Section 366.4. If, however, a relative or nonrelative extended family member of the child is appointed the legal guardian of the child and the guardian's home has been approved pursuant to Section 16519.5 for at least six months, the court shall, except if the relative or nonrelative extended family member guardian objects, or upon a finding of exceptional circumstances, terminate its dependency jurisdiction and retain jurisdiction over the child as a ward of the guardianship, as authorized by Section 366.4.

**(b)**

(1) If the court has dismissed dependency jurisdiction following the establishment of a legal guardianship, or no dependency jurisdiction attached because of the granting of a legal guardianship pursuant to Section 360, and the legal guardianship is subsequently revoked or otherwise terminated, the county welfare department shall notify the juvenile court of this fact. The court may vacate its previous order dismissing dependency jurisdiction over the child.

(2) Notwithstanding **Section 1601 of the Probate Code**, the proceedings to terminate a legal guardianship that has been granted pursuant to Section 360 or 366.26 shall be held either in the juvenile court that retains jurisdiction over the guardianship, as authorized by Section 366.4, or the juvenile court in the county where the guardian and child currently reside, based on the best interests of the child, unless the termination is due to the emancipation or adoption of the child. The juvenile court having jurisdiction over

the guardianship shall receive notice from the court in which the petition is filed within five calendar days of the filing. Prior to the hearing on a petition to terminate legal guardianship pursuant to this subdivision, the court shall order the county welfare department having jurisdiction or jointly with the county department where the guardian and child currently reside to prepare a report, for the court's consideration, that shall include an evaluation of whether the child could safely remain in, or be returned to, the legal guardian's home, without terminating the legal guardianship, if services were provided to the child or legal guardian. If applicable, the report shall also identify recommended family maintenance or reunification services to maintain the legal guardianship and set forth a plan for providing those services. If the petition to terminate legal guardianship is granted, either juvenile court may resume dependency jurisdiction over the child, and may order the county welfare department to develop a new permanent plan, which shall be presented to the court within 60 days of the termination. If no dependency jurisdiction has attached, the social worker shall make any investigation the social worker deems necessary to determine whether the child may be within the jurisdiction of the juvenile court, as provided in Section 328.

**(3)** Unless the parental rights of the child's parent or parents have been terminated, they shall be notified that the legal guardianship has been revoked or terminated and shall be entitled to participate in the new permanency planning hearing. The court shall try to place the child in another permanent placement. At the hearing, the parents may be considered as custodians but the child shall not be returned to the parent or parents unless they prove, by a preponderance of the evidence, that reunification is the best alternative for the child. The court may, if it is in the best interests of the child, order that reunification services again be provided to the parent or parents.

**(c)** If, following the establishment of a legal guardianship, the county welfare department becomes aware of changed circumstances that indicate adoption or, for an Indian child, tribal customary adoption, may be an appropriate plan for the child, the department shall so notify the court. The court may vacate its previous order dismissing dependency jurisdiction over the child and order that a hearing be held pursuant to Section 366.26 to determine whether adoption or continued legal guardianship is the most appropriate plan for the child. The hearing shall be held no later than 120 days from the date of the order. If the court orders that a hearing shall be held pursuant to Section 366.26, the court shall direct the agency supervising the child and the county adoption agency, or the State Department of Social Services if it is acting as an adoption agency, to prepare an assessment under subdivision (b) of Section 366.22.

**(d)**

**(1)** If the child or nonminor dependent is in a placement other than the home of a legal guardian and jurisdiction has not been dismissed, the status of the child shall be reviewed at least every six months. The review of the status of a child for whom the court has ordered parental rights terminated and who has been ordered placed for adoption shall be conducted by the court. The review of the status of a child or nonminor dependent for whom the court has not ordered parental rights terminated and who has not been ordered placed for adoption may be conducted by the court or an appropriate local agency. The court shall conduct the review under the following circumstances:

**(A)** Upon the request of the child's parents or legal guardians.

**(B)** Upon the request of the child or nonminor dependent.

**(C)** It has been 12 months since a hearing held pursuant to Section 366.26 or an order that the child remain in foster care pursuant to Section 366.21, 366.22, 366.25, 366.26, or subdivision (h).

**(D)** It has been 12 months since a review was conducted by the court.

**(2)** The court shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.

**(e)** Except as provided in subdivision (g), at the review held every six months pursuant to subdivision (d), the reviewing body shall inquire about the progress being made to provide a permanent home for the child, shall consider the safety of the child, and shall determine all of the following:

**(1)** The continuing necessity for, and appropriateness of, the placement. If the child is placed in a short-term residential therapeutic program on or after October 1, 2021, the court shall consider the evidence and documentation submitted pursuant to subdivision (l) of Section 366.1 in making this determination.

**(2)** Identification of individuals other than the child's siblings who are important to a child who is 10 years of age or older and has been in out-of-home placement for six months or longer, and actions necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The social worker shall ask every child who is 10 years of age or older and who has been in out-of-home placement for six months or longer to identify individuals other than the child's siblings who are important to the child, and may ask any other child to provide that information, as appropriate. The social worker shall make efforts to identify other individuals who are important to the child, consistent with the child's best interests.

**(3)** The continuing appropriateness and extent of compliance with the permanent plan for the child, including efforts to maintain relationships between a child who is 10 years of age or older and who has been in out-of-home placement for six months or longer and individuals who are important to the child and efforts to identify a prospective adoptive parent or legal guardian, including, but not limited to, child-specific recruitment efforts and listing on an adoption exchange.

**(4)** The extent of the agency's compliance with the child welfare services case plan in making reasonable efforts either to return the child to the safe home of the parent or to complete whatever steps are necessary to finalize the permanent placement of the child. If the reviewing body determines that a second period of reunification services is in the child's best interests, and that there is a significant likelihood of the child's return to a safe home due to changed circumstances of the parent, pursuant to subdivision (f), the specific reunification services required to effect the child's return to a safe home shall be described.

**(5)** Whether there should be any limitation on the right of the parent or guardian to make educational decisions or developmental services decisions for the child. That limitation shall be specifically addressed in the court order and may not exceed what is necessary to protect the child. If the court specifically limits the right of the parent or guardian to make educational decisions or developmental services decisions for the child, the court shall at the same time appoint a responsible adult to make educational decisions or developmental services decisions for the child pursuant to Section 361.

**(6)** The adequacy of services provided to the child. The court shall consider the progress in providing the information and documents to the child, as described in Section 391. The court shall also consider the need for, and progress in providing, the assistance and services described in Section 391.

**(7)** The extent of progress the parents or legal guardians have made toward alleviating or mitigating the causes necessitating placement in foster care.

**(8)** The likely date by which the child may be returned to, and safely maintained in, the home, placed for adoption, legal guardianship, placed with a fit and willing relative, or, for an Indian child, in consultation with the child's tribe, placed for tribal customary adoption, or, if the child is 16 years of age or older, and no other permanent plan is appropriate at the time of the hearing, in another planned permanent living arrangement.

**(9)**

**(A)** Whether the child has any siblings under the court's jurisdiction, and, if any siblings exist, all of the following:

**(i)** The nature of the relationship between the child and their siblings.

**(ii)** The appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002. At the first review conducted for a child for whom the court has ordered parental rights terminated and who has been ordered placed for adoption, the court shall inquire into the status of the development of a voluntary postadoption sibling contact agreement pursuant to subdivision (e) of Section 16002.

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

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

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

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

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

**(IV)** Any plan to increase visitation between the siblings.

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

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

**(10)** For a child who is 14 years of age or older and for a nonminor dependent, the services needed to assist the child or nonminor dependent to make the transition from foster care to successful adulthood.

**(11)** Whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.

Each licensed foster family agency shall submit reports for each child in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the child's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the child.

**(f)** Unless their parental rights have been permanently terminated, the parent or parents of the child are entitled to receive notice of, and participate in, those hearings. It shall be presumed that continued care is in the best interests of the child, unless the parent or parents prove, by a preponderance of the evidence, that further efforts at reunification are the best alternative for the child. In those cases, the court may order that further reunification services to return the child to a safe home environment be provided to the parent or parents up to a period of six months, and family maintenance services, as needed for an additional six months in order to return the child to a safe home environment. This subdivision shall not apply to the parents of a nonminor dependent.

(g) At the review conducted by the court and held at least every six months, regarding a child for whom the court has ordered parental rights terminated and who has been ordered placed for adoption, or, for an Indian child for whom parental rights are not being terminated and a tribal customary adoption is being considered, the county welfare department shall prepare and present to the court a report describing the following:

(1) The child's present placement.

(2) The child's current physical, mental, emotional, and educational status.

(3) If the child has not been placed with a prospective adoptive parent or guardian, identification of individuals, other than the child's siblings, who are important to the child and actions necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The agency shall ask every child who is 10 years of age or older to identify any individuals who are important to the child, consistent with the child's best interest, and may ask any child who is younger than 10 years of age to provide that information as appropriate. The agency shall make efforts to identify other individuals who are important to the child.

(4) Whether the child has been placed with a prospective adoptive parent or parents.

(5) Whether an adoptive placement agreement has been signed and filed.

(6) If the child has not been placed with a prospective adoptive parent or parents, the efforts made to identify an appropriate prospective adoptive parent or legal guardian, including, but not limited to, child-specific recruitment efforts and listing on an adoption exchange.

(7) Whether the final adoption order should include provisions for postadoptive sibling contact pursuant to Section 366.29.

(8) The progress of the search for an adoptive placement if one has not been identified.

(9) Any impediments to the adoption or the adoptive placement.

(10) The anticipated date by which the child will be adopted or placed in an adoptive home.

(11) The anticipated date by which an adoptive placement agreement will be signed.

(12) Recommendations for court orders that will assist in the placement of the child for adoption or in the finalization of the adoption.

The court shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.

The court shall make appropriate orders to protect the stability of the child and to facilitate and expedite the permanent placement and adoption of the child.

(h)

(1) At the review held pursuant to subdivision (d) for a child in foster care, the court shall consider all permanency planning options for the child including whether the child should be returned to the home of the parent, placed for adoption, or, for an Indian child, in consultation with the child's tribe, placed for tribal customary adoption, or appointed a legal guardian, placed with a fit and willing relative, or, if compelling reasons exist for finding that none of the foregoing options are in the best interest of the child and the child is 16 years of age or older, whether the child should be placed in another planned permanent living arrangement. The court shall order that a hearing be held pursuant to Section 366.26, unless it determines by clear and convincing evidence that there is a compelling reason for determining that a

hearing held pursuant to Section 366.26 is not in the best interest of the child because the child is being returned to the home of the parent, the child is not a proper subject for adoption, or no one is willing to accept legal guardianship as of the hearing date. If the county adoption agency, or the department when it is acting as an adoption agency, has determined it is unlikely that the child will be adopted or one of the conditions described in paragraph (1) of subdivision (c) of Section 366.26 applies, that fact shall constitute a compelling reason for purposes of this subdivision. Only upon that determination may the court order that the child remain in foster care, without holding a hearing pursuant to Section 366.26. The court shall make factual findings identifying any barriers to achieving the permanent plan as of the hearing date. The nonminor dependent's legal status as an adult is in and of itself a compelling reason not to hold a hearing pursuant to Section 366.26.

(2) When the child is 16 years of age or older and in another planned permanent living arrangement, the court shall do all of the following:

(A) Ask the child about their desired permanency outcome.

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

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

(3) When the child is 16 years of age or older and is in another planned permanent living arrangement, the social study prepared for the hearing shall include a description of all of the following:

(A) The intensive and ongoing efforts to return the child to the home of the parent, place the child for adoption, or establish a legal guardianship, as appropriate.

(B) The steps taken to do both of the following:

(i) Ensure that the child's care provider is following the reasonable and prudent parent standard.

(ii) Determine whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities, including consulting with the child about opportunities for the child to participate in those activities.

(4) When the child is under 16 years of age and has a permanent plan of return home, adoption, legal guardianship, or placement with a fit and willing relative, the social study shall include a description of any barriers to achieving the permanent plan and the efforts made by the agency to address those barriers.

(i) If, as authorized by subdivision (h), the court orders a hearing pursuant to Section 366.26, the court shall direct the agency supervising the child and the county adoption agency, or the State Department of Social Services when it is acting as an adoption agency, to prepare an assessment, as provided for in subdivision (i) of Section 366.21 or subdivision (b) of Section 366.22. A hearing held pursuant to Section 366.26 shall be held no later than 120 days from the date of the 12-month review at which it is ordered, and at that hearing the court shall determine whether adoption, tribal customary adoption, legal guardianship, placement with a fit and willing relative, or, for a child 16 years of age or older, another planned permanent living arrangement is the most appropriate plan for the child. On and after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent, unless the nonminor dependent is an Indian child and tribal customary adoption is recommended as the permanent plan. The court may order that a nonminor dependent who otherwise is eligible pursuant to Section 11403 remain in a planned, permanent living arrangement. At the

request of the nonminor dependent who has an established relationship with an adult determined to be the nonminor dependent's permanent connection, the court may order adoption of the nonminor dependent pursuant to subdivision (f) of Section 366.31.

(j) The reviews conducted pursuant to subdivision (a) or (d) may be conducted earlier than every six months if the court determines that an earlier review is in the best interests of the child or as court rules prescribe.

(k) On and after October 1, 2021, for reviews conducted pursuant to subdivisions (a) or (d) for the child whose placement in a short-term residential therapeutic program has been reviewed and approved pursuant to Section 361.22, the report prepared for the review shall include evidence of all of the following:

(1) Ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child cannot be met by family members or in another family-based setting, placement in a short-term residential therapeutic program continues to provide the most effective and appropriate care setting in the least restrictive environment, and the placement is consistent with the short- and long-term mental and behavioral health goals and permanency plan for the child.

(2) Documentation of the child's specific treatment or service needs that will be met in the placement and the length of time the child is expected to need the treatment or services. For a Medi-Cal beneficiary, the determination of services and expected length of time for those services funded by Medi-Cal shall be based upon medical necessity and on all other state and federal Medi-Cal requirements, and shall be reflected in the documentation.

(3) Documentation of the intensive and ongoing efforts made by the child welfare department, consistent with the child's permanency plan, to prepare the child to return home or to be placed with a fit and willing relative, a legal guardian, an adoptive parent, in a resource family home or tribally approved home, or in another appropriate family-based setting.

**Leg.H.**

Added Stats 1987 ch 1485 § 49, operative January 1, 1989. Amended Stats 1989 ch 913 § 18; Stats 1990 ch 1530 § 8 (SB 2232); Stats 1994 ch 900 § 3 (SB 1407); Stats 1995 ch 540 § 9 (AB 1523); Stats 1996 ch 1138 § 5 (AB 2154); Stats 1997 ch 793 § 27 (AB 1544); Stats 1998 ch 355 § 1 (SB 1482), ch 1054 § 37 (AB 1091), ch 1055 § 5 (SB 1901), ch 1056 § 18.7 (AB 2773); Stats 1999 ch 887 § 2 (SB 1270); Stats 2000 ch 108 § 21 (AB 2876), effective July 10, 2000; Stats 2000 ch 909 § 6 (AB 1987), ch 910 § 14.1 (AB 2921), ch 911 § 2.3 (AB 686); Stats 2001 ch 747 § 5 (AB 705); Stats 2002 ch 785 § 5 (SB 1677); Stats 2003 ch 813 § 8 (AB 408); Stats 2004 ch 810 § 6 (AB 2807); Stats 2005 ch 640 § 7 (AB 1412), effective January 1, 2006; Stats 2006 ch 567 § 26 (AB 2303), effective January 1, 2007; Stats 2007 ch 565 § 5 (AB 298), effective January 1, 2008; Stats 2008 ch 482 § 7 (AB 2070), effective January 1, 2009; Stats 2009 ch 287 § 17 (AB 1325), effective January 1, 2010, operative July 1, 2010, repealed January 1, 2014; Stats 2010 ch 559 § 22 (AB 12), effective January 1, 2011, repealed January 1, 2014; Stats 2012 ch 35 § 59 (SB 1013), effective June 27, 2012, ch 846 § 24 (AB 1712), effective January 1, 2013; Stats 2014 ch 773 § 6 (SB 1099), effective January 1, 2015; Stats 2015 ch 425 § 14 (SB 794), effective January 1, 2016; Stats 2016 ch 719 § 2 (SB 1060), effective January 1, 2017; Stats 2017 ch 561 § 265 (AB 1516), effective January 1, 2018; Stats 2017 ch 732 § 52 (AB 404), effective January 1, 2018 (ch 732 prevails); Stats 2019 ch 777 § 18 (AB 819), effective January 1, 2020; Stats 2021 ch 86 § 23 (AB 153), effective July 16, 2021.

## **§ 366.31. Review Hearings in Period Leading Up to Minor's Attaining 18 Years of Age; Review Hearings for Nonminor Dependents.**

(a) If a review hearing is the last review hearing to be held before the child attains 18 years of age, the court shall ensure all of the following:

(1) The child's case plan includes a plan for the child to satisfy one or more of the participation conditions described in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403, so that the child is eligible to remain in foster care as a nonminor dependent.

**(2)** The child has been informed of their right to seek termination of dependency jurisdiction pursuant to Section 391, and understands the potential benefits of continued dependency.

**(3)** The child is informed of their right to have dependency reinstated pursuant to subdivision (e) of Section 388, and understands the potential benefits of continued dependency.

**(b)** At the review hearing that occurs in the six-month period before the child attains 18 years of age, and at every subsequent review hearing for the nonminor dependent, as described in subdivision (v) of Section 11400, the report shall describe all of the following:

**(1)** The child's and nonminor dependent's plans to remain in foster care and plans to meet one or more of the participation conditions as described in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403 to continue to receive AFDC-FC benefits as a nonminor dependent.

**(2)** The efforts made and assistance provided to the child and nonminor dependent by the social worker or the probation officer so that the child and nonminor dependent will be able to meet the participation conditions.

**(3)** Efforts toward completing the items described in paragraph (2) of subdivision (e) of Section 391.

**(4)** On and after October 1, 2021, for a child or nonminor dependent whose placement in a short-term residential therapeutic program has been reviewed and approved pursuant to Section 361.22, the report prepared for the review shall include evidence of all of the following:

**(A)** Ongoing assessment of the strengths and needs of the child or nonminor dependent continues to support the determination that the needs of the child or nonminor dependent cannot be met by family members or in another family-based setting, placement in a short-term residential therapeutic program continues to provide the most effective and appropriate care setting in the least restrictive environment, and placement is consistent with the short- and long-term mental and behavioral health goals and permanency plan for the child or nonminor dependent.

**(B)** Documentation of the child or nonminor dependent's specific treatment or service needs that will be met in the placement and the length of time the child or nonminor dependent is expected to need the treatment or services. For a Medi-Cal beneficiary, the determination of services and expected length of time for those services funded by Medi-Cal shall be based upon medical necessity and on all other state and federal Medi-Cal requirements, and shall be reflected in the documentation.

**(C)** Documentation of the intensive and ongoing efforts made by the child welfare department, consistent with the child or nonminor dependent's permanency plan, to prepare the child or nonminor dependent to return home or to be placed with a fit and willing relative, a legal guardian, an adoptive parent, in a resource family home, a tribally approved home, or in another appropriate family-based setting, or, in the case of a nonminor dependent, in a supervised independent living setting.

**(5)**

**(A)** For a child or nonminor dependent in high school who has been under the jurisdiction of the juvenile court for a year or longer, the information in subparagraph (B) of paragraph (1) of subdivision (h) of Section 366.1.

**(B)**

**(i)** Whether the social worker or probation officer has informed the minor or nonminor dependent of the information in paragraph (2) of subdivision (h) of Section 366.1.

**(ii)** This paragraph does not affect any applicable confidentiality law.

**(6)** Whether the social worker or probation officer has, pursuant to the requirements of paragraph (22) of subdivision (g) of Section 16501.1, identified the person or persons who shall be responsible for assisting the child or nonminor dependent with applications for postsecondary education and related financial aid, or that the child or nonminor dependent stated that they do not want to pursue postsecondary education, including career or technical education.

**(c)** The reviews conducted pursuant to this section for a nonminor dependent shall be conducted in a manner that respects the nonminor's status as a legal adult, focused on the goals and services described in the youth's transitional independent living case plan, as described in subdivision (y) of Section 11400, including efforts made to maintain connections with caring and permanently committed adults, and attended, as appropriate, by additional participants invited by the nonminor dependent.

**(d)** For a nonminor dependent whose case plan is continued court-ordered family reunification services pursuant to Section 361.6, the court shall consider whether the nonminor dependent may safely reside in the home of the parent or guardian. If the nonminor cannot reside safely in the home of the parent or guardian or if it is not in the nonminor dependent's best interest to reside in the home of the parent or guardian, the court must consider whether to continue or terminate reunification services for the parent or legal guardian.

**(1)** The review report shall include a discussion of all of the following:

**(A)** Whether foster care placement continues to be necessary and appropriate.

**(B)** The likely date by which the nonminor dependent may reside safely in the home of the parent or guardian or will achieve independence.

**(C)** Whether the parent or guardian and nonminor dependent were actively involved in the development of the case plan.

**(D)** Whether the social worker or probation officer has provided reasonable services designed to aid the parent or guardian to overcome the problems that led to the initial removal of the nonminor dependent.

**(E)** The extent of progress the parents or guardian have made toward alleviating or mitigating the causes necessitating placement in foster care.

**(F)** Whether the nonminor dependent and parent, parents, or guardian are in agreement with the continuation of reunification services.

**(G)** Whether continued reunification services are in the best interest of the nonminor dependent.

**(H)** Whether there is a substantial probability that the nonminor dependent will be able to safely reside in the home of the parent or guardian by the next review hearing date.

**(I)** The efforts to maintain the nonminor's connections with caring and permanently committed adults.

**(J)** The agency's compliance with the nonminor dependent's transitional independent living case plan, including efforts to finalize the nonminor's permanent plan and prepare the nonminor dependent for independence.

**(K)** The progress in providing the information and documents to the nonminor dependent as described in Section 391.

(L)

(i) For a nonminor dependent in high school who has been under the jurisdiction of the juvenile court for a year or longer, the information in subparagraph (B) of paragraph (1) of subdivision (h) of Section 366.1.

(ii) Whether the social worker or probation officer has informed the nonminor dependent of the information in paragraph (2) of subdivision (h) of Section 366.1.

(iii) This subparagraph does not affect any applicable confidentiality law.

(M) Whether the social worker or probation officer has, pursuant to the requirements of paragraph (22) of subdivision (g) of Section 16501.1, identified the person or persons who shall be responsible for assisting the child or nonminor dependent with applications for postsecondary education and related financial aid, or that the child or nonminor dependent stated that they do not want to pursue postsecondary education including career or technical education.

(2) The court shall inquire about the progress being made to provide a permanent home for the nonminor, shall consider the safety of the nonminor dependent, and shall determine all of the following:

(A) The continuing necessity for, and appropriateness of, the placement. If the child or nonminor dependent is placed in a short-term residential therapeutic program on or after October 1, 2021, the court shall consider the evidence and documentation submitted pursuant to paragraph (4) of subdivision (b) in making this determination.

(B) Whether the agency has made reasonable efforts to maintain relationships between the nonminor dependent and individuals who are important to the nonminor dependent.

(C) The extent of the agency's compliance with the case plan in making reasonable efforts or, in the case of an Indian child, active efforts, as described in Section 361.7, to create a safe home of the parent or guardian for the nonminor to reside in or to complete whatever steps are necessary to finalize the permanent placement of the nonminor dependent.

(D) The extent of the agency's compliance with the nonminor dependent's transitional independent living case plan, including efforts to finalize the youth's permanent plan and prepare the nonminor dependent for independence.

(E) The adequacy of services provided to the parent or guardian and to the nonminor dependent. The court shall consider the progress in providing the information and documents to the nonminor dependent as described in Section 391. The court shall also consider the need for, and progress in providing, the assistance and services described in Section 391.

(F) The extent of progress the parents or legal guardians have made toward alleviating or mitigating the causes necessitating placement in foster care.

(G) The likely date by which the nonminor dependent may safely reside in the home of the parent or guardian or, if the court is terminating reunification services, the likely date by which it is anticipated the nonminor dependent will achieve independence, or, for an Indian child, in consultation with the child's tribe, placed for tribal customary adoption.

(H) Whether the agency has made reasonable efforts as required in subparagraph (D) of paragraph (1) of subdivision (a) of Section 366 to establish or maintain the nonminor dependent's relationship with their siblings who are under the juvenile court's jurisdiction.

(I) The services needed to assist the nonminor dependent to make the transition from foster care to successful adulthood.

(J) Whether or not reasonable efforts to make and finalize a permanent placement for the nonminor dependent have been made.

(K)

(i) If the nonminor dependent is in high school and has been under the jurisdiction of the juvenile court for a year or longer, whether the social worker or probation officer has taken the actions described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 366.

(ii) On or before January 1, 2023, the Judicial Council shall amend and adopt rules of court and develop appropriate forms for the implementation of this subparagraph.

(L)

(i) Whether the social worker or probation officer has, pursuant to the requirements of paragraph (22) of subdivision (g) of Section 16501.1, identified the person or persons who shall be responsible for assisting the child or nonminor dependent with applications for postsecondary education and related financial aid, or that the child or nonminor dependent stated that they do not want to pursue postsecondary education, including career or technical education.

(ii) On or before January 1, 2023, the Judicial Council shall amend and adopt rules of court and develop appropriate forms for the implementation of this subparagraph.

(3) If the court determines that a nonminor dependent may safely reside in the home of the parent or former guardian, the court may order the nonminor dependent to return to the family home. After the nonminor dependent returns to the family home, the court may terminate jurisdiction and proceed under applicable provisions of Section 391 or continue jurisdiction as a nonminor under subdivision (a) of Section 303 and hold hearings as follows:

(A) At every hearing for a nonminor dependent residing in the home of the parent or guardian, the court shall set a hearing within six months of the previous hearing. The court shall advise the parties of their right to be present. At least 10 calendar days before the hearing, the social worker or probation officer shall file a report with the court describing the services offered to the family and the progress made by the family in eliminating the conditions or factors requiring court supervision. The report shall address all of the following:

(i) Whether the parent or guardian and the nonminor dependent were actively involved in the development of the case plan.

(ii) Whether the social worker or probation officer has provided reasonable services to eliminate the need for court supervision.

(iii) The progress of providing information and documents to the nonminor dependent as described in Section 391.

(B) The court shall inquire about progress being made, shall consider the safety of the nonminor dependent, and shall determine all of the following:

(i) The continuing need for court supervision.

(ii) The extent of the agency's compliance with the case plan in making reasonable efforts to maintain a safe family home for the nonminor dependent.

(C) If the court finds that court supervision is no longer necessary, the court shall terminate jurisdiction under applicable provisions of Section 391.

(e) For a nonminor dependent who is no longer receiving court-ordered family reunification services and is in a permanent plan of another planned permanent living arrangement, at the review hearing held every six months pursuant to subdivision (d) of Section 366.3, the reviewing body shall inquire about the progress being made to provide permanent connections with caring, committed adults for the nonminor dependent, shall consider the safety of the nonminor, shall consider the transitional independent living case plan, and shall determine all of the following:

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

(2) The continuing appropriateness and extent of compliance with the permanent plan for the nonminor dependent, including efforts to identify and maintain relationships with individuals who are important to the nonminor dependent.

(3) The extent of the agency's compliance with the nonminor dependent's transitional independent living case plan, including whether or not reasonable efforts have been made to make and finalize the youth's permanent plan and prepare the nonminor dependent for independence.

(4) Whether a prospective adoptive parent has been identified and assessed as appropriate for the nonminor dependent's adoption under this section, whether the prospective adoptive parent has been informed about the terms of the written negotiated adoption assistance agreement pursuant to Section 16120, and whether adoption should be ordered as the nonminor dependent's permanent plan. If nonminor dependent adoption is ordered as the nonminor dependent's permanent plan, a hearing pursuant to subdivision (f) shall be held within 60 days. When the court orders a hearing pursuant to subdivision (f), it shall direct the agency to prepare a report that shall include the provisions of paragraph (5) of subdivision (f).

(5) For the nonminor dependent who is an Indian child, whether, in consultation with the nonminor's tribe, the nonminor should be placed for tribal customary adoption.

(6) The adequacy of services provided to the nonminor dependent. The court shall consider the progress in providing the information and documents to the nonminor dependent as described in Section 391. The court shall also consider the need for, and progress in providing, the assistance and services described in Section 391.

(7) The likely date by which it is anticipated the nonminor dependent will achieve adoption or independence.

(8) Whether the agency has made reasonable efforts as required in subparagraph (D) of paragraph (1) of subdivision (a) of Section 366 to establish or maintain the nonminor dependent's relationship with their siblings who are under the juvenile court's jurisdiction.

(9) The services needed to assist the nonminor dependent to make the transition from foster care to successful adulthood.

(10) When the hearing described in this subdivision is held pursuant to paragraph (3) or (4) of subdivision (d) of Section 366.3, and the nonminor dependent has a permanent plan of another planned permanent living arrangement, the court shall do all of the following:

(A) Ask the nonminor dependent about their desired permanency outcome.

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

**(C)** State for the record the compelling reason or reasons why it continues not to be in the best interest of the nonminor dependent to return home, be placed for adoption, be placed for tribal customary adoption in the case of an Indian child, be placed with a legal guardian, or be placed with a fit and willing relative.

**(11)**

**(A)** If the nonminor dependent is in high school and has been under the jurisdiction of the juvenile court for a year or longer, whether the social worker or probation officer has taken the actions described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 366.

**(B)** On or before January 1, 2023, the Judicial Council shall amend and adopt rules of court and develop appropriate forms for the implementation of this paragraph.

**(12)**

**(A)** Whether the social worker or probation officer has, pursuant to the requirements of paragraph (22) of subdivision (g) of Section 16501.1, identified the person or persons who shall be responsible for assisting the child or nonminor dependent with applications for postsecondary education and related financial aid, or that the child or nonminor dependent stated that they do not want to pursue postsecondary education, including career or technical education.

**(B)** On or before January 1, 2023, the Judicial Council shall amend and adopt rules of court and develop appropriate forms for the implementation of this subparagraph.

**(f)**

**(1)** At a hearing to consider a permanent plan of adoption for a nonminor dependent, the court shall read and consider the report in paragraph (5) and receive other evidence that the parties may present. A copy of the executed negotiated agreement shall be attached to the report. If the court finds pursuant to this section that nonminor dependent adoption is the appropriate permanent plan, it shall make findings and orders to do the following:

**(A)** Approve the adoption agreement and declare the nonminor dependent is the adopted child of the adoptive parent, and that the nonminor dependent and adoptive parents agree to assume toward each other the legal relationship of parents and child and to have all of the rights and be subject to all of the duties and responsibilities of that relationship.

**(B)** Declare that the birth parents of the nonminor dependent are, from the time of the adoption, relieved of all parental duties toward, and responsibility for, the adopted nonminor dependent and have no rights over the adopted nonminor dependent.

**(2)** If the court finds that the nonminor dependent and the prospective adoptive parent have mutually consented to the adoption, the court may enter the adoption order after it determines all of the following:

**(A)** Whether the notice was given as required by law.

**(B)** Whether the nonminor dependent and prospective adoptive parent are present for the hearing.

**(C)** Whether the court has read and considered the assessment prepared by the social worker or probation officer.

**(D)** Whether the court considered the wishes of the nonminor dependent.

**(E)** If the nonminor dependent is eligible, the prospective adoptive parent has signed the negotiated adoption assistance agreement pursuant to subdivision (g) of Section 16120, and whether a copy of the executed negotiated agreement is attached to the report.

**(F)** Whether the adoption is in the best interest of the nonminor dependent.

**(3)** If the court orders the establishment of the nonminor dependent adoption, it shall dismiss dependency or transitional jurisdiction.

**(4)** If the court does not order the establishment of the nonminor dependent adoption, the nonminor dependent shall remain in a planned permanent living arrangement subject to periodic review of the juvenile court pursuant to this section.

**(5)** At least 10 calendar days before the hearing, the social worker or probation officer shall file a report with the court and provide a copy of the report to all parties. The report shall describe the following:

**(A)** Whether or not the nonminor dependent has any developmental disability and whether the proposed adoptive parent is suitable to meet the needs of the nonminor dependent.

**(B)** The length and nature of the relationship between the prospective adoptive parent and the nonminor dependent, including whether the prospective adoptive parent has been determined to have been established as the nonminor's permanent connection.

**(C)** Whether the nonminor dependent has been determined to be eligible for the adoption assistance program and, if so, whether the prospective adoptive parent has signed the negotiated adoption assistance agreement pursuant to subdivision (g) of Section 16120.

**(D)** Whether a copy of the executed negotiated agreement is attached to the report.

**(E)** Whether criminal background clearances were completed for the prospective adoptive parent as required by [Section 671\(a\)\(20\)\(A\) and \(a\)\(20\)\(C\) of Title 42 of the United States Code](#).

**(F)** Whether the prospective adoptive parent who is married and not legally separated from that spouse has the consent of the spouse, provided that the spouse is capable of giving that consent.

**(G)** Whether the adoption of the nonminor dependent is in the best interests of the nonminor dependent and the prospective adoptive parent.

**(H)** Whether the nonminor dependent and the prospective adoptive parent have mutually consented to the adoption.

**(6)** The social worker or probation officer shall serve written notice of the hearing in the manner and to the persons set forth in Section 295, including the prospective adoptive parent or parents, except that notice to the nonminor's birth parents is not required.

**(7)** Nothing in this section shall prevent a nonminor dependent from filing an adoption petition pursuant to [Section 9300 of the Family Code](#).

**(g)** Each licensed foster family agency shall submit reports for each nonminor dependent in its care to the court concerning the continuing appropriateness and extent of compliance with the nonminor dependent's permanent plan, the extent of compliance with the transitional independent living case plan, and the type and adequacy of services provided to the nonminor dependent. The report shall document that the nonminor has received all the information and documentation described in paragraph (2) of subdivision (e) of Section 391. If

the court is considering terminating dependency jurisdiction for a nonminor dependent it shall first hold a hearing pursuant to Section 391.

(h) When the nonminor dependent is in another planned permanent living arrangement, the social study prepared for the hearing held under subdivision (e) shall include a description of all of the following:

(1) The intensive and ongoing efforts to return the nonminor dependent to the home of the parent, place the nonminor dependent for adoption, or place the nonminor dependent with a fit and willing relative, as appropriate.

(2) The steps taken to do both of the following:

(A) Ensure that the nonminor dependent's care provider is following the reasonable and prudent parent standard.

(B) Determine whether the nonminor dependent has regular, ongoing opportunities to engage in age or developmentally appropriate activities, including consulting with the nonminor dependent about opportunities for the nonminor dependent to participate in those activities.

**Leg.H.**

Added Stats 2012 ch 846 § 26 (AB 1712), effective January 1, 2013. Amended Stats 2013 ch 487 § 1 (AB 787), effective January 1, 2014; Stats 2014 ch 71 § 182 (SB 1304), effective January 1, 2015; Stats 2015 ch 425 § 15 (SB 794), effective January 1, 2016; Stats 2021 ch 86 § 24 (AB 153), effective July 16, 2021.

## **§ 366.32. Jurisdiction with Respect to Nonminor Dependent Who has Permanent Plan of Long-Term Foster Care; Development of Planned Permanent Living Arrangement; Termination of Dependency Jurisdiction.**

(a) With respect to a nonminor dependent, as defined in subdivision (v) of Section 11400, who has a permanent plan of long-term foster care that was ordered pursuant to Section 366.21, 366.22, 366.25, or 366.26, the court may continue jurisdiction of the nonminor as a nonminor dependent of the juvenile court or may dismiss dependency jurisdiction pursuant to Section 391.

(b) If the court continues dependency jurisdiction of the nonminor as a nonminor dependent of the juvenile court, the court shall order the development of a planned permanent living arrangement under a mutual agreement, as described in subdivision (u) of Section 11400, which may include continued placement with the current caregiver or another licensed or approved caregiver or in a supervised independent living placement, as defined in subdivision (w) of Section 11400, consistent with the youth's Transitional Independent Living Case Plan. At the request of the nonminor dependent who has an established relationship with an adult determined to be the nonminor dependent's permanent connection, the court may order nonminor dependent adoption pursuant to subdivision (f) of Section 366.31 as the nonminor dependent's permanent plan.

(c) If the court terminates its dependency jurisdiction over a nonminor dependent pursuant to subdivision (a), it shall retain general jurisdiction over the youth pursuant to Section 303. If the court has dismissed dependency jurisdiction pursuant to subdivision (d) of Section 391, the nonminor, who has not attained 21 years of age, may subsequently file a petition pursuant to subdivision (e) of Section 388 to have dependency jurisdiction resumed and the court may vacate its previous order dismissing dependency jurisdiction over the nonminor dependent.

**Leg.H.**

Added Stats 2012 ch 846 § 27 (AB 1712), effective January 1, 2013.

## § 366.35. Phases of Expansion.

(a) The implementation and operation of the amendments to subparagraph (B) of paragraph (1) of subdivision (a) of Section 366, subdivision (g) of Section 366.1, subdivisions (c) and (g) of Section 366.21, subdivision (a) of Section 366.22, subdivision (a) of Section 366.25, paragraph (3) of, and subparagraph (A) of paragraph (4) of, subdivision (c) of Section 366.26, paragraphs (2) and (3) of subdivision (e) of Section 366.3, and subdivision (i) of Section 16501.1 enacted at the 2005-06 Regular Session shall be phased in, consistent with the child's best interests, as follows:

(1) The first phase of expansion shall apply to a child who is 10 years of age or older and placed with a nonrelative for six months or longer.

(2) The second phase of expansion shall apply to a child who is 10 years of age or older and placed with a nonrelative or in permanent placement relative care for six months or longer.

(3) The final phase of expansion shall apply to a child who is 10 years of age or older and who has been in out-of-home placement for six months or longer.

(b) All phases of subdivision (a) shall be subject to appropriation through the budget process. Those appropriations shall apply only to the state's share of costs. Counties shall remain responsible for their nonfederal share of costs.

**Leg.H.**

Added Stats 2005 ch 640 § 8 (AB 1412), effective January 1, 2006. Amended Stats 2008 ch 482 § 8 (AB 2070), effective January 1, 2009.

## § 366.4. Jurisdiction Over Minors for Whom Guardianship Has Been Established as Result of Selection or Implementation of Permanent Plan, Minors for Whom Related Guardianship Has Been Established, Nonminor Who is Receiving Kin-GAP Payments, or Nonminor Former Dependent Child of Juvenile Court.

(a) Any minor for whom a guardianship has been established resulting from the selection or implementation of a permanency plan pursuant to Section 366.26, or for whom a related guardianship has been established pursuant to Section 360, or, on and after the date that the director executes a declaration pursuant to Section 11217, a nonminor who is receiving Kin-GAP payments pursuant to Section 11363 or 11386, or, on or after January 1, 2012, a nonminor former dependent child of the juvenile court who is receiving AFDC-FC benefits pursuant to Section 11405, is within the jurisdiction of the juvenile court. For those minors, Part 2 (commencing with Section 1500) of Division 4 of the Probate Code, relating to guardianship, shall not apply. If no specific provision of this code or the California Rules of Court is applicable, the provisions applicable to the administration of estates under Part 4 (commencing with Section 2100) of Division 4 of the Probate Code govern so far as they are applicable to like situations.

(b) Nonrelated legal guardians of the person of a guardianship pursuant to Section 360 or 366.26 shall be exempt from the provisions of [Sections 2850 and 2851 of the Probate Code](#).

**Leg.H.**

Added Stats 1990 ch 1530 § 9 (SB 2232). Amended Stats 1998 ch 1056 § 19 (AB 2773). Amended Stats 2002 ch 1115 § 5 (AB 3036); Stats 2003 ch 62 § 320 (SB 600); Stats 2010 ch 559 § 25 (AB 12), effective January 1, 2011; Stats 2011 ch 459 § 9 (AB 212), effective October 4, 2011.

## **§ 366.5. Suspension of Dependency Jurisdiction; Termination of Jurisdiction; Resumption of Dependency Jurisdiction.**

The dependency jurisdiction shall be suspended for a child whom the juvenile court declares to be a dual status child based on the joint assessment and recommendation of the county probation department and the child welfare services department pursuant to subparagraph (A) of paragraph (5) of subdivision (e) of Section 241.1. The suspension shall be in effect while the child is a ward of the court. If the jurisdiction established pursuant to Section 601 or 602 is terminated without the need for continued dependency proceedings concerning the child, the juvenile court shall terminate the child's dual status. If the termination of the Section 601 or 602 jurisdiction is likely and reunification of the child with his or her parent or guardian would be detrimental to the child, the county probation department and child welfare services department shall jointly assess and produce a recommendation regarding whether the court's dependency jurisdiction shall be resumed.

**Leg.H.**

2004 ch. 468 (AB 129).

## **§ 367. Detention of Dependent Child; Review of Case.**

(a) Whenever a person has been adjudged a dependent child of the juvenile court and has been committed or otherwise disposed of as provided in this chapter for the care of dependent children of the juvenile court, the court may order that the dependent child be detained in a suitable place designated as the court deems fit until the execution of the order of commitment or of other disposition.

(b) In any case in which a child is detained for more than 15 days pending the execution of the order of commitment or of any other disposition, the court shall periodically review the case to determine whether the delay is reasonable. These periodic reviews shall be held at least every 15 days, commencing from the time the child was initially detained pending the execution of the order of commitment or of any other disposition, and during the course of each review the court shall inquire regarding the action taken by the social worker to carry out its order, the reasons for the delay, and the effect of the delay upon the child.

**Leg.H.**

1976 ch. 1068, 1978 ch. 1168, 1998 ch. 1054, 2001 ch. 854.

## **§ 368. Nonresident Dependent Child; Nonresident Parent or Guardian.**

In a case where the residence of a dependent child of the juvenile court is out of the state and in another state or foreign country, or in a case where that child is a resident of this state but his or her parents, relatives, guardian, or person charged with his or her custody is in another state, the court may order that child sent to his or her parents, relatives, or guardian, or to the person charged with his or her custody, or, if the child is a resident of a foreign country, to an official of a juvenile court of that foreign country or an agency of a country authorized to accept the child, and in that case may order transportation and accommodation furnished, with or without an attendant, as the court deems necessary. If the court deems an attendant necessary, the court may order the social worker or other suitable person to serve as the attendant. The social worker shall authorize the necessary

expenses of the child and of the attendant and claims therefor shall be audited, allowed and paid in the same manner as other county claims.

**Leg.H.**

1976 ch. 1068, 1998 ch. 1054.

## **§ 369. Remedial Care; Recommendation of Attending Physician; Release of Information; Right of Parent to Authorize Designated Care; Notice to Other Parent in Nonemergency Situations; Rights of Dependent Children To Enumerated Services.**

(a) Whenever a person is taken into temporary custody under Article 7 (commencing with Section 305) and is in need of medical, surgical, dental, or other remedial care, the social worker may, upon the recommendation of the attending physician and surgeon or, if the person needs dental care and there is an attending dentist, the attending dentist, authorize the performance of the medical, surgical, dental, or other remedial care. The social worker shall notify the parent, guardian, or person standing in loco parentis of the person, if any, of the care found to be needed before that care is provided, and if the parent, guardian, or person standing in loco parentis objects, that care shall be given only upon order of the court in the exercise of its discretion.

(b) Whenever it appears to the juvenile court that a person concerning whom a petition has been filed with the court is in need of medical, surgical, dental, or other remedial care, and that there is no parent, guardian, or person standing in loco parentis capable of authorizing or willing to authorize the remedial care or treatment for that person, the court, upon the written recommendation of a licensed physician and surgeon or, if the person needs dental care, a licensed dentist, and after due notice to the parent, guardian, or person standing in loco parentis, if any, may make an order authorizing the performance of the necessary medical, surgical, dental, or other remedial care for that person.

(c) Whenever a dependent child of the juvenile court is placed by order of the court within the care and custody or under the supervision of a social worker of the county where the dependent child resides and it appears to the court that there is no parent, guardian, or person standing in loco parentis capable of authorizing or willing to authorize medical, surgical, dental, or other remedial care or treatment for the dependent child, the court may, after due notice to the parent, guardian, or person standing in loco parentis, if any, order that the social worker may authorize the medical, surgical, dental, or other remedial care for the dependent child, by licensed practitioners, as necessary.

(d) Whenever it appears that a child otherwise within subdivision (a), (b), or (c) requires immediate emergency medical, surgical, or other remedial care in an emergency situation, that care may be provided by a licensed physician and surgeon or, if the child needs dental care in an emergency situation, by a licensed dentist, without a court order and upon authorization of a social worker. The social worker shall make reasonable efforts to obtain the consent of, or to notify, the parent, guardian, or person standing in loco parentis prior to authorizing emergency medical, surgical, dental, or other remedial care. "Emergency situation," for the purposes of this subdivision means a child requires immediate treatment for the alleviation of severe pain or an immediate diagnosis and treatment of an unforeseeable medical, surgical, dental, or other remedial condition or contagious disease which if not immediately diagnosed and treated, would lead to serious disability or death.

(e) In any case in which the court orders the performance of any medical, surgical, dental, or other remedial care pursuant to this section, the court may also make an order authorizing the release of information concerning that care to social workers, parole officers, or any other qualified individuals or agencies caring for or acting in the interest and welfare of the child under order, commitment, or approval of the court.

(f) Nothing in this section shall be construed as limiting the right of a parent, guardian, or person standing in loco parentis, who has not been deprived of the custody or control of the child by order of the court, in providing any medical, surgical, dental, or other remedial treatment recognized or permitted under the laws of this state.

(g) The parent of a person described in this section may authorize the performance of medical, surgical, dental, or other remedial care provided for in this section notwithstanding his or her age or marital status. In nonemergency situations, the parent authorizing the care shall notify the other parent prior to the administration of that care.

(h) Nothing in this section shall be construed as limiting the rights of dependent children, pursuant to Chapter 3 (commencing with Section 6920) of Part 4 of Division 11 of the Family Code, to consent to, among other things, the diagnosis and treatment of sexual assault, medical care relating to the prevention or treatment of pregnancy, including contraception, abortion, and prenatal care, treatment of infectious, contagious, or communicable diseases, mental health treatment, and treatment for alcohol and drug abuse. If a dependent child is 12 years of age or older, his or her social worker is authorized to inform the child of his or her right as a minor to consent to and receive those health services, as necessary. Social workers are authorized to provide dependent children access to age-appropriate, medically accurate information about sexual development, reproductive health, and prevention of unplanned pregnancies and sexually transmitted infections.

**Leg.H.**

Added Stats 1976 ch 1068 § 10. Amended Stats 1990 ch 566 § 1 (AB 2193); Stats 1998 ch 1054 § 40 (AB 1091); Stats 2013 ch 338 § 1 (SB 528), effective January 1, 2014.

## **§ 369.5. Authority Regarding Psychotropic Medications for Dependent Child Removed from Custody of Parents.**

**(a)**

**(1)** If a child is adjudged a dependent child of the court under Section 300 and the child has been removed from the physical custody of the parent under Section 361, only a juvenile court judicial officer shall have authority to make orders regarding the administration of psychotropic medications for that child. The juvenile court may issue a specific order delegating this authority to a parent upon making findings on the record that the parent poses no danger to the child and has the capacity to authorize psychotropic medications. Court authorization for the administration of psychotropic medication shall be based on a request from a physician, indicating the reasons for the request, a description of the child's diagnosis and behavior, the expected results of the medication, and a description of any side effects of the medication.

**(2)**

**(A)** The Judicial Council shall amend and adopt rules of court and develop appropriate forms for the implementation of this section, in consultation with the State Department of Social Services, the State Department of Health Care Services, and stakeholders, including, but not limited to, the County Welfare Directors Association of California, the County Behavioral Health Directors Association of California, the Chief Probation Officers of California, associations representing current and former foster children, caregivers, and children's attorneys. This effort shall be undertaken in coordination with the updates required under paragraph (2) of subdivision (a) of Section 739.5.

**(B)** The rules of court and forms developed pursuant to subparagraph (A) shall address all of the following:

(i) The child and their caregiver and court-appointed special advocate, if any, have an opportunity to provide input on the medications being prescribed.

(ii) Information regarding the child's overall mental health assessment and treatment plan is provided to the court.

(iii) Information regarding the rationale for the proposed medication, provided in the context of past and current treatment efforts, is provided to the court. This information shall include, but not be limited to, information on other pharmacological and nonpharmacological treatments that have been utilized and the child's response to those treatments, a discussion of symptoms not alleviated or ameliorated by other current or past treatment efforts, and an explanation of how the psychotropic medication being prescribed is expected to improve the child's symptoms.

(iv) Guidance is provided to the court on how to evaluate the request for authorization, including how to proceed if information, otherwise required to be included in a request for authorization under this section, is not included in a request for authorization submitted to the court.

(C) The rules of court and forms developed pursuant to subparagraph (A) shall include a process for periodic oversight by the court of orders regarding the administration of psychotropic medications that includes the caregiver's and child's observations regarding the effectiveness of the medication and side effects, information on medication management appointments and other followup appointments with medical practitioners, and information on the delivery of other mental health treatments that are a part of the child's overall treatment plan. The periodic oversight shall be facilitated by the county social worker, public health nurse, or other appropriate county staff. This oversight process shall be conducted in conjunction with other regularly scheduled court hearings and reports provided to the court by the county child welfare agency.

(D)

(i) By September 1, 2020, the forms developed pursuant to subparagraph (A) shall include a request for authorization by the child or the child's attorney to release the child's medical information to the Medical Board of California in order to ascertain whether there is excessive prescribing of psychotropic medication that is inconsistent with the standard of care described in [Section 2245 of the Business and Professions Code](#). The authorization shall be limited to medical information relevant to the investigation of the prescription of psychotropic medication, and the information may only be used for the purpose set forth in this subparagraph and [Section 2245 of the Business and Professions Code](#).

(ii) The Medical Board of California or its representative shall request the medical information obtained pursuant to this section to be sealed if the medical information is admitted as an exhibit in an administrative hearing pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(iii) In updating the forms, as required by this subparagraph and subparagraph (D) of paragraph (2) of subdivision (a) of Section 739.5, the Judicial Council shall consult with the State Department of Social Services, the Medical Board of California, the County Welfare Directors Association of California, the Chief Probation Officers of California, and groups representing foster children, dependency counsel, and children's advocates to help ensure that the child and the child's attorney are provided with sufficient information to understand the request for authorization to obtain the child's medical information and the reasons for the

request. The Judicial Council may include in the form a requirement that the person completing the form affirm that the child or child's attorney has been asked about the authorization.

**(iv)**

**(I)** By January 1, 2020, the State Department of Social Services shall convene a working group consisting of the Judicial Council, the Medical Board of California, the County Welfare Directors Association of California, the Chief Probation Officers of California, and groups representing foster children, dependency counsel, and children's advocates to consider various options for seeking authorization from a dependent child, a ward, or their attorney, for release of the dependent child's or ward's medical information regarding psychotropic medication prescribed between January 1, 2017, and July 1, 2020, and shall report to the Legislature by April 15, 2020, on those options and on any recommendations to best reach those children and their attorneys to seek authorization.

**(II)**

**(ia)** The requirement for submitting a report imposed under subclause (I) is inoperative on January 1, 2024, pursuant to [Section 10231.5 of the Government Code](#).

**(ib)** A report to be submitted pursuant to subclause (I) shall be submitted in compliance with [Section 9795 of the Government Code](#).

**(b)**

**(1)** In counties in which the county child welfare agency completes the request for authorization for the administration of psychotropic medication, the agency is encouraged to complete the request within three business days of receipt from the physician of the information necessary to fully complete the request.

**(2)** This subdivision does not change current local practice or local court rules with respect to the preparation and submission of requests for authorization for the administration of psychotropic medication.

**(c)**

**(1)** Within seven court days from receipt by the court of a completed request, the juvenile court judicial officer shall either approve or deny in writing a request for authorization for the administration of psychotropic medication to the child, or shall, upon a request by the parent, the legal guardian, or the child's attorney, or upon its own motion, set the matter for hearing.

**(2)** Notwithstanding Section 827 or any other law, upon the approval or denial by the juvenile court judicial officer of a request for authorization for the administration of psychotropic medication, the county child welfare agency or other person or entity who submitted the request shall provide a copy of the court order approving or denying the request to the child's caregiver.

**(d)** Psychotropic medication or psychotropic drugs are those medications administered for the purpose of affecting the central nervous system to treat psychiatric disorders or illnesses. These medications include, but are not limited to, anxiolytic agents, antidepressants, mood stabilizers, antipsychotic medications, anti-Parkinson agents, hypnotics, medications for dementia, and psychostimulants.

**(e)** This section does not supersede local court rules regarding a minor's right to participate in mental health decisions.

**(f)** This section does not apply to nonminor dependents, as defined in subdivision (v) of Section 11400.

**Leg.H.**

Added Stats 1999 ch 552 § 1 (SB 543). Amended Stats 2004 ch 329 § 1 (AB 2502); Stats 2012 ch 846 § 28 (AB 1712), effective January 1, 2013; Stats 2015 ch 534 § 5 (SB 238), effective January 1, 2016; Stats 2019 ch 547 § 1 (SB 377), effective January 1, 2020.

## **§ 370. Psychiatric Examination of Child—Authorization by Juvenile Court.**

The juvenile court may, in any case before it in which a petition has been filed as provided in Article 7 (commencing with Section 305), order that the social worker obtain the services of those psychiatrists, psychologists, or other clinical experts as may be required to assist in determining the appropriate treatment of the child and as may be required in the conduct or implementation of that treatment. Payment for those services shall be a charge against the county.

**Leg.H.**

1976 ch. 1068, 1998 ch. 1054.

## **ARTICLE 11**

### **Dependent Children—Transfer of Cases Between Counties**

#### **§ 375. Filing of Petition; Jurisdiction; Conditions for Transfer.**

(a) Whenever a petition is filed in the juvenile court of a county other than the residence of the person named in the petition, or whenever, subsequent to the filing of a petition in the juvenile court of the county where that minor resides, the residence of the person who would be legally entitled to the custody of the minor were it not for the existence of a court order issued pursuant to this chapter is changed to another county, the entire case may be transferred to the juvenile court of the county where that person then resides at any time after the court has made a finding of the facts upon which it has exercised its jurisdiction over the minor, and the juvenile court of the county where that person then resides shall take jurisdiction of the case upon the receipt and filing of the finding of the facts upon which the court exercised its jurisdiction and an order transferring the case.

(b)

(1) Whenever a minor under the dependency jurisdiction or transition jurisdiction of the juvenile court attains 18 years of age and remains under the court's jurisdiction as a nonminor dependent, as defined in subdivision (v) of Section 11400, the residence of the nonminor dependent may be changed to another county if the court finds that the nonminor dependent meets the conditions of subdivision (f) of Section 17.1. The entire case may be transferred to the juvenile court of the county where the nonminor dependent then resides at any time after the court has made a finding of the facts upon which the court has exercised its jurisdiction over the nonminor. The juvenile court of the county where a nonminor then resides shall take jurisdiction of the case upon the receipt and filing of that finding and an order transferring the case.

(2) Whenever a petition pursuant to subdivision (e) of Section 388 is submitted in the juvenile court of a county other than the county that retained general jurisdiction under subdivision (b) of Section 303 of the nonminor dependent, as defined in subdivision (v) of Section 11400, the residence of the nonminor dependent may be changed to another county if the nonminor dependent meets the conditions of subdivision (g) of Section 17.1. The entire case may be transferred to the juvenile court of the county where the nonminor dependent then resides at any time after the county that retained general jurisdiction has granted the petition and resumed dependency jurisdiction, or has assumed or resumed transition

jurisdiction. The juvenile court of the county where the nonminor then resides shall take jurisdiction of the case upon the receipt and filing of the finding of the facts upon which the court exercised its jurisdiction over the nonminor and an order transferring the case.

**Leg.H.**

Added Stats 1976 ch 1068 § 11. Amended Stats 2012 ch 846 § 29 (AB 1712), effective January 1, 2013.

## **§ 376. Expenses Incurred in Transfer of Case.**

The expense of the transfer and all expenses in connection with the transfer and for the support and maintenance of such person shall be paid from the county treasury of the court ordering the transfer until the receipt and filing of the finding and order of transfer in the juvenile court of the transferee county.

The judge shall inquire into the financial condition of such person and of the parent, parents, guardian, or other person charged with his support and maintenance, and if he finds such person, parent, parents, guardian, or other person able, in whole or in part, to pay the expense of such transfer, he shall make a further order requiring such person, parent, parents, guardian, or other person to repay to the county such part, or all, of such expense of transfer as, in the opinion of the court, is proper. Such repayment shall be made to the probation officer who shall keep suitable accounts of such expenses and repayments and shall deposit all such collections in the county treasury.

**Leg.H.**

1976 ch. 1068.

## **§ 377. Contents and Filing Requirements for Orders of Transfer.**

Whenever a case is transferred as provided in Section 375, the order of transfer shall recite each and all of the findings, orders, or modification of orders that have been made in the case, and shall include the name and address of the legal residence of the parent or guardian of the minor. All papers contained in the file shall be transferred to the county where such person resides. A copy of the order of transfer and of the findings of fact as required in Section 375 shall be kept in the file of the transferring county.

**Leg.H.**

1976 ch. 1068.

## **§ 378. Precedence of Transfer Actions Over Other Actions and Civil Proceedings.**

Whenever an order of transfer from another county is filed with the clerk of any juvenile court, the clerk shall place the transfer order on the calendar of the court, and it shall have precedence over all actions and civil proceedings not specifically given precedence by other provisions of law and shall be heard by the court at the earliest possible moment following the filing of the order.

**Leg.H.**

1976 ch. 1068.

## **§ 379. Right of County to Appeal Court's Determination of Residence of Minor.**

In any action under the provisions of this article in which the residence of a minor person is determined, both the county in which the court is situated and any other county which, as a result of the determination of residence, might be determined to be the county of residence of the minor person, shall be considered to be parties in the action and shall have the right to appeal any order by which residence of the minor person is determined.

**Leg.H.**

1976 ch. 1068.

## **§ 380. Order Allowing Minor to Reside in County Other Than One of Legal Residence.**

Any person adjudged to be a dependent child of the juvenile court may be permitted by order of the court to reside in a county other than the county of his or her legal residence, and the court shall retain jurisdiction over that person.

Whenever a dependent child of the juvenile court is permitted to reside in a county other than the county of his or her legal residence, he or she may be placed under the supervision of the social worker of the county of actual residence, with the consent of the social worker. The dependent child shall comply with the instructions of the social worker and upon failure to do so shall be returned to the county of his or her legal residence for further hearing and order of the court.

**Leg.H.**

1976 ch. 1068, 1998 ch. 1054.

## **§ 381. Transfer from Juvenile Court to Tribe; Order; Precedence.**

(a) If a case is dismissed by a state court because the child is already a ward of a tribal court or the tribe has exclusive jurisdiction over Indian child custody proceedings pursuant to subdivisions (b) and (c) of Section 305.5, the state court shall ensure that all state court records are transmitted to the tribal court pursuant to subdivision (c) of Section 305.5. The state court and the tribe shall each document the finding of the facts supporting jurisdiction over the minor. The state court and the county welfare department shall maintain a copy of the order of dismissal and the findings of fact.

(b) If a case is transferred from a state court to a tribal court pursuant to subdivisions (d) and (e) of Section 305.5, the state court shall issue an order of transfer of the case that states all of the findings, orders, or modification of orders that have been made in the case, and the name and address of the tribe having jurisdiction. All papers contained in the file shall be transferred to the tribe having jurisdiction. The transferring state court and county welfare department shall maintain a copy of the order of transfer and the findings of fact.

(c) If an order of transfer from a state court to a tribe is filed with the clerk of a juvenile court, the clerk shall place the transfer order on the calendar of the court, and, notwithstanding Section 378, that matter shall have precedence over all actions and civil proceedings not specifically given precedence by any other law and shall be heard by the court at the earliest possible moment after the order is filed.

**Leg.H.**

Added Stats 2014 ch 772 § 12 (SB 1460), effective January 1, 2015; Amended Stats 2018 ch 833 § 33 (AB 3176), effective January 1, 2019.

## **ARTICLE 12**

## **Dependent Children—Modification of Juvenile Court Judgments and Orders**

### **§ 385. Authority to Modify.**

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

**Leg.H.**

1976 ch. 1068.

### **§ 386. Notice Requirements of Modification Orders.**

No order changing, modifying, or setting aside a previous order of the juvenile court shall be made either in chambers, or otherwise, unless prior notice of the application therefor has been given by the judge or the clerk of the court to the social worker and to the child's counsel of record, or, if there is no counsel of record, to the child and his or her parent or guardian.

**Leg.H.**

1976 ch. 1068, 1998 ch. 1054.

### **§ 387. Hearing Requirements for Modification Orders Removing Child from Parental Custody.**

(a) An order changing or modifying a previous order by removing a child from the physical custody of a parent, guardian, relative, or friend and directing placement in a foster home, or commitment to a private or county institution, shall be made only after noticed hearing upon a supplemental petition.

(b) The supplemental petition shall be filed by the social worker in the original matter and shall contain a concise statement of facts sufficient to support the conclusion that the previous disposition has not been effective in the rehabilitation or protection of the child or, in the case of a placement with a relative, sufficient to show that the placement is not appropriate in view of the criteria in Section 361.3.

(c) Notwithstanding subdivision (a), dependency jurisdiction shall be resumed for a child as to whom dependency jurisdiction has been suspended pursuant to Section 366.5 if the jurisdiction established pursuant to Section 601 or 602 is terminated and if, after the issuance of a joint assessment pursuant to Section 366.5, the court determines that the court's dependency jurisdiction should be resumed.

(d) Upon the filing of the supplemental petition, the clerk of the juvenile court shall immediately set the same for hearing within 30 days, and the social worker shall cause notice thereof to be served upon the persons and in the manner prescribed by Sections 290.1 and 291, except that service under this subdivision may be delivered by electronic service pursuant to Section 212.5.

(e) An order for the detention of the child pending adjudication of the petition may be made only after a hearing is conducted pursuant to Article 7 (commencing with Section 305).

**Leg.H.**

Added Stats 1976 ch 1068 § 12; Amended Stats 1984 ch 1227 § 2; Stats 1997 ch 268 § 2 (AB 1196), ch 793 § 28 (AB 1544); Stats 1998 ch 1054 § 44 (AB 1091); Stats 2002 ch 416 § 12 (SB 1956); Stats 2003 ch 468 § 32 (SB 851); Stats 2004 ch 468 § 4 (AB 129); Stats 2005 ch 22 § 215 (SB 1108), effective January 1, 2006; Stats 2017 ch 319 § 135 (AB 976), effective January 1, 2018.

## **§ 388. Petition to Change, Modify, or Set Aside Order Previously Made or to Terminate Jurisdiction of Court; Verification and Contents of Petition; Hearing; Petition to Resume Dependency or Delinquency Jurisdiction; Adoption of Rules of Court to Allow for Telephonic Appearances.**

### **(a)**

**(1)** Any parent or other person having an interest in a child who is a dependent child of the juvenile court or a nonminor dependent as defined in subdivision (v) of Section 11400, or the child or the nonminor dependent through a properly appointed guardian may, upon grounds of change of circumstance or new evidence, petition the court in the same action in which the child was found to be a dependent child of the juvenile court or in which a guardianship was ordered pursuant to Section 360 for a hearing to change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court. The petition shall be verified and, if made by a person other than the child or the nonminor dependent, shall state the petitioner's relationship to or interest in the child or the nonminor dependent and shall set forth in concise language any change of circumstance or new evidence that is alleged to require the change of order or termination of jurisdiction.

**(2)** When any party, including a child who is a dependent of the juvenile court, petitions the court prior to an order terminating parental rights, to modify the order that reunification services were not needed pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section 361.5, or to modify any orders related to custody or visitation of the subject child, and the court orders a hearing pursuant to subdivision (d), the court shall modify the order that reunification services were not needed pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section 361.5, or any orders related to the custody or visitation of the child for whom reunification services were not ordered pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section 361.5, only if the court finds by clear and convincing evidence that the proposed change is in the best interests of the child.

### **(b)**

**(1)** Any person, including a child or a nonminor dependent who is a dependent of the juvenile court, may petition the court to assert a relationship as a sibling related by blood, adoption, or affinity through a common legal or biological parent to a child who is, or is the subject of a petition for adjudication as, a dependent of the juvenile court, and may request visitation with the dependent child, placement with or near the dependent child, or consideration when determining or implementing a case plan or permanent plan for the dependent child or make any other request for an order which may be shown to be in the best interest of the dependent child.

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

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

siblings.

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

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

**(c)**

**(1)** Any party, including a child who is a dependent of the juvenile court, may petition the court, prior to the hearing set pursuant to subdivision (f) of Section 366.21 for a child described by subparagraph (A) of paragraph (1) of subdivision (a) of Section 361.5, or prior to the hearing set pursuant to subdivision (e) of Section 366.21 for a child described by subparagraph (B) or (C) of paragraph (1) of subdivision (a) of Section 361.5, to terminate court-ordered reunification services provided under subdivision (a) of Section 361.5 only if one of the following conditions exists:

**(A)** It appears that a change of circumstance or new evidence exists that satisfies a condition set forth in subdivision (b) or (e) of Section 361.5 justifying termination of court-ordered reunification services.

**(B)** The action or inaction of the parent or guardian creates a substantial likelihood that reunification will not occur, including, but not limited to, the parent's or guardian's failure to visit the child, or the failure of the parent or guardian to participate regularly and make substantive progress in a court-ordered treatment plan.

**(2)** In determining whether the parent or guardian has failed to visit the child or participate regularly or make progress in the treatment plan, the court shall consider factors that include, but are not limited to, the parent's or guardian's incarceration, institutionalization, detention by the United States Department of Homeland Security, deportation, or participation in a court-ordered residential substance abuse treatment program.

**(3)** The court shall terminate reunification services during the above-described time periods only upon a finding by a preponderance of evidence that reasonable services have been offered or provided, and upon a finding of clear and convincing evidence that one of the conditions in subparagraph (A) or (B) of paragraph (1) exists.

**(4)** Any party, including a nonminor dependent, as defined in subdivision (v) of Section 11400, may petition the court prior to the review hearing set pursuant to subdivision (d) of Section 366.31 to terminate the continuation of court-ordered family reunification services for a nonminor dependent who has attained 18 years of age. The court shall terminate family reunification services to the parent or guardian if the nonminor dependent or parent or guardian are not in agreement that the continued provision of court-ordered family reunification services is in the best interests of the nonminor dependent.

**(5)** If the court terminates reunification services, it shall order that a hearing pursuant to Section 366.26 be held within 120 days. On and after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent. The court may order a nonminor dependent who is

otherwise eligible for AFDC-FC benefits pursuant to Section 11403 to remain in a planned, permanent living arrangement.

(d) If it appears that the best interests of the child or the nonminor dependent may be promoted by the proposed change of order, modification of reunification services, custody, or visitation orders concerning a child for whom reunification services were not ordered pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section 361.5, recognition of a sibling relationship, termination of jurisdiction, or clear and convincing evidence supports revocation or termination of court-ordered reunification services, the court shall order that a hearing be held and shall give prior notice, or cause prior notice to be given, to the persons and in the manner prescribed by Section 386, and, in those instances in which the manner of giving notice is not prescribed by those sections, then in the manner the court prescribes.

(e)

(1)

(A) A nonminor who attained 18 years of age while subject to an order for foster care placement and who has not attained 21 years of age, or as described in Section 10103.5, for whom the court has dismissed dependency jurisdiction pursuant to Section 391, or delinquency jurisdiction pursuant to Section 607.2, or transition jurisdiction pursuant to Section 452, but has retained general jurisdiction under subdivision (b) of Section 303, or the county child welfare services, probation department, or tribal placing agency on behalf of the nonminor, may petition the court in the same action in which the child was found to be a dependent or delinquent child of the juvenile court, for a hearing to resume the dependency jurisdiction over a former dependent or to assume or resume transition jurisdiction over a former delinquent ward pursuant to Section 450. The petition shall be filed within the period that the nonminor is of the age described in this paragraph. If the nonminor has completed the voluntary reentry agreement, as described in subdivision (z) of Section 11400, with the placing agency, the agency shall file the petition on behalf of the nonminor within 15 judicial days of the date the agreement was signed unless the nonminor elects to file the petition at an earlier date.

(B) The petition may be brought notwithstanding a court order vacating the underlying adjudication pursuant to [Section 236.14 of the Penal Code](#).

(2)

(A) The petition to resume jurisdiction may be filed in the juvenile court that retains general jurisdiction under subdivision (b) of Section 303, or the petition may be submitted to the juvenile court in the county where the youth resides and forwarded to the juvenile court that retained general jurisdiction and filed with that court. The juvenile court having general jurisdiction under Section 303 shall receive the petition from the court where the petition was submitted within five court days of its submission, if the petition is filed in the county of residence. The juvenile court that retained general jurisdiction shall order that a hearing be held within 15 judicial days of the date the petition was filed if there is a prima facie showing that the nonminor satisfies the following criteria:

(i) The nonminor was previously under juvenile court jurisdiction, subject to an order for foster care placement when the nonminor attained 18 years of age, and has not attained 21 years of age.

(ii) The nonminor intends to satisfy at least one of the conditions set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(iii) The nonminor wants assistance either in maintaining or securing appropriate supervised placement, or is in need of immediate placement and agrees to supervised placement pursuant to

the voluntary reentry agreement as described in subdivision (z) of Section 11400.

**(B)** Upon ordering a hearing, the court shall give prior notice, or cause prior notice to be given, to the persons and by the means prescribed by Section 386, except that notice to parents or former guardians shall not be provided unless the nonminor requests, in writing on the face of the petition, notice to the parents or former guardians.

**(3)** The Judicial Council, by January 1, 2012, shall adopt rules of court to allow for telephonic appearances by nonminor former dependents or delinquents in these proceedings, and for telephonic appearances by nonminor dependents in any proceeding in which the nonminor dependent is a party, and the nonminor declines to appear and elects a telephonic appearance.

**(4)** Prior to the hearing on a petition to resume dependency jurisdiction or to assume or resume transition jurisdiction, the court shall order the county child welfare or probation department to prepare a report for the court addressing whether the nonminor intends to satisfy at least one of the criteria set forth in subdivision (b) of Section 11403. When the recommendation is for the nonminor dependent to be placed in a setting where minor dependents also reside, the results of a background check of the petitioning nonminor conducted pursuant to Section 16504.5 may be used by the placing agency to determine appropriate placement options for the nonminor. The existence of a criminal conviction is not a bar to eligibility for reentry or resumption of dependency jurisdiction or the assumption or resumption of transition jurisdiction over a nonminor.

**(5)**

**(A)** The court shall resume dependency jurisdiction over a former dependent or assume or resume transition jurisdiction over a former delinquent ward pursuant to Section 450, and order that the nonminor's placement and care be under the responsibility of the county child welfare services department, the probation department, tribe, consortium of tribes, or tribal organization, if the court finds all of the following:

**(i)** The nonminor was previously under juvenile court jurisdiction, subject to an order for foster care placement when the nonminor attained 18 years of age.

**(ii)** The nonminor has not attained 21 years of age.

**(iii)** Reentry and remaining in foster care are in the nonminor's best interests.

**(iv)** The nonminor intends to satisfy, and agrees to satisfy, at least one of the criteria set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403, and demonstrates their agreement to placement in a supervised setting under the placement and care responsibility of the placing agency and to satisfy the criteria by signing the voluntary reentry agreement as described in subdivision (z) of Section 11400.

**(B)** In no event shall the court grant a continuance that would cause the hearing to resume dependency jurisdiction or to assume or resume transition jurisdiction to be completed more than 120 days after the date the petition was filed.

**(C)** The agency made responsible for the nonminor's placement and care pursuant to subparagraph (A) shall prepare a new transitional independent living case plan within 60 calendar days from the date the nonminor signed the voluntary reentry agreement as described in subdivision (z) of Section 11400 and submit it to the court for the review hearing under Section 366.31, to be held within 70 days of the resumption of dependency jurisdiction or assumption or resumption of transition jurisdiction. In no event shall the review hearing under Section 366.3 be held more than 170 calendar days from the date the nonminor signed the voluntary reentry agreement.

**(f)**

**(1)** For any nonminor dependent who attained 18 years of age while subject to an order for foster care placement and who has not attained 21 years of age, and who, prior to attaining 18 years of age, was not eligible for federal financial participation, as defined in Section 11402.1, the county child welfare, probation, or tribal placing agency may, on behalf of, and with the consent of, the nonminor dependent, petition the court to dismiss its dependency or transition jurisdiction and immediately resume dependency or transition jurisdiction in order to establish the nonminor dependent's eligibility for federal financial participation.

**(2)** A petition filed pursuant to paragraph (1) shall include notice to the nonminor dependent and the nonminor dependent's attorney.

**(3)** If the court grants a petition filed pursuant to paragraph (1), the court shall, upon terminating its dependency or transition jurisdiction, maintain general jurisdiction over the nonminor dependent pursuant to Section 303 and immediately resume dependency or transition jurisdiction. The court may grant the petition without a hearing.

**(4)** Sections 391, 452, and 607.2 do not apply to a petition filed pursuant to paragraph (1).

**(5)** Following the granting of a petition filed pursuant to paragraph (1), a new agreement for extended foster care shall be jointly signed by the agency responsible for the nonminor dependent's placement and care and the nonminor dependent. However, notwithstanding any other law, if the nonminor dependent established a transitional independent living plan prior to the granting of the petition, the agency shall not be required to prepare a new transitional independent living plan as described in subparagraph (C) of paragraph (5) of subdivision (e).

**(6)** The county child welfare, probation, or tribal placing agency shall ensure that a nonminor dependent does not experience a break in services or supports before, during, or after the filing or granting of a petition described in paragraph (1).

**(7)** A county child welfare, probation, or tribal placing agency shall not file a petition described in paragraph (1) if either of the following circumstances is present:

**(A)** The nonminor dependent is categorically ineligible for federal AFDC-FC benefits.

**(B)** The nonminor dependent is a member of a tribe and would likely become ineligible for services or supports, or have benefits disrupted, if the county sought to establish eligibility for federal financial participation pursuant to paragraph (1).

**(8)** By September 1, 2022, the Judicial Council shall develop and implement rules, and develop and adopt appropriate forms, as necessary to implement this subdivision.

**(9)** The director shall, by July 1, 2022, seek any federal approvals necessary for implementation of this subdivision.

**Leg.H.**

Added Stats 1976 ch 1068 § 12. Amended Stats 1994 ch 900 § 4 (SB 1407); Stats 2000 ch 909 § 7 (AB 1987); Stats 2008 ch 457 § 2 (AB 2341), effective January 1, 2009; Stats 2009 ch 120 § 4 (AB 706), effective August 6, 2009; Stats 2010 ch 559 § 26 (AB 12), effective January 1, 2011; Stats 2011 ch 459 § 10 (AB 212), effective October 4, 2011; Stats 2012 ch 179 § 1 (SB 1425), effective August 17, 2012, ch 846 § 30.5 (AB 1712), effective January 1, 2013; Stats 2014 ch 773 § 7 (SB 1099), effective January 1, 2015; Stats 2017 ch 707 § 2 (AB 604), effective January 1, 2018; Stats 2021 ch 622 § 1 (AB 640), effective January 1, 2022.

## § 388.1. Petition to Assume Dependency Jurisdiction Over Nonminor Former Dependent or Delinquent Child of the Court; Hearing.

**(a)** A nonminor who has not attained 21 years of age may petition the court in which he or she was previously found to be a dependent or delinquent child of the juvenile court for a hearing to determine whether to assume dependency jurisdiction over the nonminor, if he or she meets any of the following descriptions:

**(1)** He or she is a nonminor former dependent, as defined in subdivision (aa) of Section 11400, who received or, but for the receipt of Supplemental Security Income benefits or other aid from the federal Social Security Administration, would have received aid after attaining 18 years of age under Kin-GAP pursuant to Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, or AFDC-FC pursuant to subdivision (e) of Section 11405, and whose former guardian or guardians died after the nonminor attained 18 years of age, but before he or she attains 21 years of age.

**(2)** He or she is a nonminor former dependent, as defined in subdivision (aa) of Section 11400, who received or, but for the receipt of Supplemental Security Income benefits or other aid from the federal Social Security Administration, would have received aid after attaining 18 years of age under Kin-GAP pursuant to Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, or AFDC-FC pursuant to subdivision (e) of Section 11405, and whose former guardian or guardians no longer provide ongoing support to, and no longer receive aid on behalf of, the nonminor after the nonminor attained 18 years of age, but before he or she attains 21 years of age.

**(3)** He or she is a nonminor who received adoption assistance payments after attaining 18 years of age pursuant to Chapter 2.1 (commencing with Section 16115) of Part 4 of Division 9 and his or her adoptive parent or parents died after the nonminor attained 18 years of age, but before he or she attains 21 years of age.

**(4)** He or she is a nonminor who received adoption assistance payments after attaining 18 years of age pursuant to Chapter 2.1 (commencing with Section 16115) of Part 4 of Division 9 and his or her adoptive parent or parents no longer provide ongoing support to, and no longer receive benefits on behalf of, the nonminor after the nonminor attained 18 years of age, but before he or she attains 21 years of age.

**(b)**

**(1)** The petition to assume jurisdiction may be filed in either of the following:

**(A)** The juvenile court that established the guardianship pursuant to Section 360, Section 366.26, or subdivision (d) of Section 728.

**(B)** The juvenile court that had jurisdiction over the minor or nonminor dependent when his or her adoption was finalized.

**(2)** A nonminor described in subdivision (a) may submit a petition to assume dependency jurisdiction to the juvenile court in the county where he or she resides. A petition submitted pursuant to this paragraph shall, within five days of submission, be forwarded to the court that had jurisdiction over the child at the time of the guardianship or adoption. The clerk of the court that had jurisdiction over the child at the time of the guardianship or adoption shall file the petition within one judicial day of receipt.

**(c)**

**(1)** The juvenile court in which the petition was filed shall order a hearing to be held within 15 judicial days of the date the petition was filed if there is a prima facie showing that the nonminor satisfies

all of the following criteria:

(A) He or she was a minor under juvenile court jurisdiction at the time of the establishment of a guardianship pursuant to Section 360, Section 366.26, or subdivision (d) of Section 728, or he or she was a minor or nonminor dependent when his or her adoption was finalized.

(B)

(i) His or her guardian or guardians, or adoptive parent or parents, as applicable, died after the nonminor attained 18 years of age, but before he or she attained 21 years of age.

(ii) His or her guardian or guardians, or adoptive parent or parents, as applicable, no longer provide ongoing support to, and no longer receive payment on behalf of, the nonminor after the nonminor attained 18 years of age, but before he or she attained 21 years of age, and it may be in the nonminor's best interest for the court to assume dependency jurisdiction.

(C) He or she intends to satisfy at least one of the conditions set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(D) He or she is requesting assistance in maintaining or securing appropriate supervised placement, or needs immediate placement and agrees to supervised placement pursuant to the voluntary reentry agreement described in subdivision (z) of Section 11400.

(2) Upon ordering a hearing, the court shall give prior notice, or cause prior notice to be given, to the nonminor, the appropriate child welfare agency or probation department, and any other person requested by the nonminor in the petition.

(3) Pursuant to applicable rules of court, the juvenile court shall allow for telephonic appearances by the nonminor in these proceedings and in any proceeding in which the nonminor dependent is a party.

(4) Prior to the hearing, the court shall order the county child welfare or probation department to prepare a report for the court that addresses both of the following:

(A) The nonminor's plans to satisfy at least one of the criteria set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(B) The appropriate placement setting for the nonminor. When the recommendation is for the nonminor to be placed in a setting where minor dependents also reside, the results of a background check of the petitioning nonminor conducted pursuant to Section 16504.5 may be used by the placing agency to determine appropriate placement options for him or her.

(5) The court shall assume dependency jurisdiction over a former dependent or ward, and order his or her placement and care be under the responsibility of the county child welfare services department, the probation department, tribe, consortium of tribes, or tribal organization, if the court finds all of the following:

(A) The nonminor was a minor under juvenile court jurisdiction at the time of the establishment of a guardianship pursuant to Section 360, Section 366.26, or subdivision (d) of Section 728, or he or she was a dependent at the time his or her adoption was finalized.

(B) The nonminor's guardian or guardians, or adoptive parent or parents, as applicable, have died, or no longer provide ongoing support to, and no longer receive payment on behalf of, the nonminor, and it is in the nonminor's best interests for the court to assume dependency jurisdiction.

(C) The nonminor has not attained 21 years of age.

**(D) Reentry and remaining in foster care are in the nonminor's best interests.**

**(E)** The nonminor intends to satisfy, and agrees to satisfy, at least one of the criteria set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403, and demonstrates his or her agreement to placement in a supervised setting under the placement and care responsibility of the placing agency by signing the voluntary reentry agreement described in subdivision (z) of Section 11400.

**(6)** The existence of a criminal conviction is not a bar to eligibility for reentry to foster care or assumption of dependency jurisdiction over a nonminor.

**(7)** The court shall not grant a continuance that would cause the hearing to be completed more than 120 days after the date the petition is filed.

**(d)** The agency made responsible for the nonminor's placement and care pursuant to paragraph (5) of subdivision (c) shall prepare a new transitional independent living case plan within 60 calendar days of the date the nonminor signs the voluntary reentry agreement and shall submit the plan to the court for the review hearing specified in Section 366.31, to be held within 70 days of the assumption of dependency jurisdiction. The review hearing under Section 366.31 shall not be held more than 170 calendar days from the date the nonminor signs the voluntary reentry agreement.

**(e)**

**(1)** A nonminor described in subdivision (a) may enter into a voluntary reentry agreement as defined in subdivision (z) of Section 11400 in order to establish eligibility for foster care benefits under subdivision (e) of Section 11401 before or after filing a petition to assume dependency jurisdiction. If the nonminor enters into a voluntary reentry agreement prior to filing the petition, the nonminor is entitled to placement and supervision pending the court's assumption of jurisdiction.

**(2)** If the nonminor completes a voluntary reentry agreement with a placing agency, the placing agency shall file the petition to assume dependency jurisdiction on behalf of the nonminor within 15 judicial days of the date the agreement is signed, unless the nonminor elects to file the petition at an earlier date.

**Leg.H.**

Added Stats 2013 ch 487 § 2 (AB 787), effective January 1, 2014; Amended Stats 2014 ch 769 § 1 (AB 2454), effective January 1, 2015; Amended Stats 2018 ch 539 § 1 (AB 2337), effective January 1, 2019.

## **§ 389. Petition to Seal Records—Procedure and Effect.**

**(a)** In any case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a dependent child of the court, in any case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to Section 307, or in any case in which a minor is taken before any officer of a law enforcement agency, the person or the county probation officer may, five years or more after the jurisdiction of the juvenile court has terminated as to the person, or, in a case in which no petition is filed, five years or more after the person was cited to appear before a probation officer or was taken before a probation officer pursuant to Section 307 or was taken before any officer of a law enforcement agency, or, in any case, at any time after the person has reached the age of 18 years, petition the court for sealing of the records, including records of arrest, relating to the person's case, in the custody of the juvenile court and probation officer and any other agencies, including law enforcement agencies, and public officials as petitioner alleges, in his petition, to have custody of such records. The court shall notify the district attorney of the county and the county probation officer, if he is not the petitioner of the petition, and such district attorney or probation officer or any of their

deputies or any other person having relevant evidence may testify at the hearing on the petition. If, after hearing, the court finds that since such termination of jurisdiction or action pursuant to Section 307, as the case may be, he has not been convicted of a felony or of any misdemeanor involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court, it shall order sealed all records, papers, and exhibits in the person's case in the custody of the juvenile court, including the juvenile court record, minute book entries, and entries on dockets, and other records relating to the case in the custody of such other agencies and officials as are named in the order. Thereafter, the proceedings in such case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, records of which are ordered sealed. The court shall send a copy of the order to each agency and official named therein directing the agency to seal its records and five years thereafter to destroy the sealed records. Each such agency and official shall seal records in its custody as directed by the order, shall advise the court of its compliance, and thereupon shall seal the copy of the court's order for sealing of records that it or he received. The person who is the subject of records sealed pursuant to this section may petition the superior court to permit inspection of the records by persons named in the petition, and the superior court may so order. Otherwise, except as provided in subdivision (b), such records shall not be open to inspection.

(b) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

(c) Five years after a juvenile court record has been sealed, the court shall order the destruction of the sealed juvenile court record unless for good cause the court determines that the juvenile court record shall be retained. Any other agency in possession of sealed records shall destroy their records five years after the records were ordered sealed.

**Leg.H.**

1976 ch. 1068, 1980 ch. 1095.

## **§ 390. Dismissal of Petition Before Minor Reaches Majority.**

A judge of the juvenile court in which a petition was filed, at any time before the minor reaches the age of 21 years, may dismiss the petition or may set aside the findings and dismiss the petition if the court finds that the interests of justice and the welfare of the minor require the dismissal, and that the parent or guardian of the minor is not in need of treatment or rehabilitation.

**Leg.H.**

1976 ch. 1068, 1987 ch. 1485.

## **§ 391. County Welfare Department Reports; Dependency Court Jurisdiction.**

**(a)**

**(1)** At the first regularly scheduled review hearing held pursuant to subdivision (d) of Section 366.3 after a dependent child has attained 16 years of age, the county welfare department shall submit a report verifying that the following information, documents, and services have been provided to the child:

**(A)** Social security card, if provided to the child pursuant to paragraph (2).

**(B)** Copy of the birth certificate.

**(C)** Driver's license, as described in [Section 12500 of the Vehicle Code](#), or identification card, as described in [Section 13000 of the Vehicle Code](#).

**(D)** Assistance in obtaining employment, if applicable.

**(E)** Assistance in applying for, or preparing to apply for, admission to college or to a vocational training program or other educational institution and in obtaining financial aid, where applicable.

**(F)** Written information notifying the child that current or former dependent children who are or have been in foster care are granted a preference for student assistant or internship positions with state agencies pursuant to [Section 18220 of the Government Code](#), or with participating county agencies pursuant to [Section 31000.11 of the Government Code](#), until the child attains 26 years of age.

**(G)** Written information notifying the child of any financial literacy programs or other available resources provided through the county or other community organizations to help the youth obtain financial literacy skills, including, but not limited to, banking, credit card debt, student loan debt, credit scores, credit history, and personal savings.

**(2)** Except as required by subdivision (b), the child's social security card may only be provided temporarily to the dependent child for the following purposes:

**(A)** To enable the child to obtain employment.

**(B)** To apply for admission to an institution of postsecondary education or a vocational training program.

**(C)** To apply for financial aid.

**(D)** To apply for or access public benefits.

**(E)** As otherwise determined by the child's caseworker, including, but not limited to, in response to a request from the child.

**(3)** For purposes of this subdivision, a certified copy of the dependent child's birth certificate shall be provided upon request of the child.

**(b)** At the last regularly scheduled review hearing held pursuant to subdivision (d) of Section 366.3 before a dependent child attains 18 years of age, the county welfare department shall submit a report verifying that the following information, documents, and services have been provided to the minor or nonminor:

**(1)** Social security card.

**(2)** Certified copy of the birth certificate.

**(3)** Driver's license, as described in [Section 12500 of the Vehicle Code](#), or identification card, as described in [Section 13000 of the Vehicle Code](#).

**(4)** Medi-Cal Benefits Identification Card.

**(5)** A letter prepared by the county welfare department that includes the following information:

**(A)** The minor's or nonminor's name and date of birth.

**(B)** The dates during which the minor or nonminor was within the jurisdiction of the juvenile court.

**(C)** A statement that the minor or nonminor was a foster youth in compliance with state and federal financial aid documentation requirements.

**(6)** If applicable, the death certificate of the parent or parents.

**(7)** If applicable, proof of the minor's or nonminor's citizenship or legal residence.

**(8)** An advance health care directive form.

**(9)** The Judicial Council form that the minor or nonminor would use to file a petition pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction.

**(10)** Written information notifying the minor or nonminor that they may be eligible to receive CalFresh benefits, and where the minor or nonminor can apply for CalFresh benefits.

**(c)** At the last regularly scheduled review hearing held pursuant to subdivision (d) of Section 366.3 before a dependent child attains 18 years of age, and at every regularly scheduled review hearing thereafter, the county welfare department shall submit a report describing efforts toward providing the following information, documents, and services to the minor or nonminor:

**(1)** Assistance in obtaining employment, if applicable.

**(2)** Assistance in applying for, or preparing to apply for, admission to college or to a vocational training program or other educational institution and in obtaining financial aid, where applicable.

**(3)** Written information notifying the child that a current or former dependent child who is or has been in foster care is granted a preference for student assistant or internship positions with state agencies pursuant to [Section 18220 of the Government Code](#), or with participating county agencies pursuant to [Section 31000.11 of the Government Code](#), until the child attains 26 years of age.

**(4)** Written information notifying the child that youth exiting foster care at 18 years of age or older are eligible for Medi-Cal until they reach 26 years of age, regardless of income, and are not required to submit an application.

**(5)** Written information notifying the child of any financial literacy programs or other available resources provided through the county or other community organizations to help the youth obtain financial literacy skills, including, but not limited to, banking, credit card debt, student loan debt, credit scores, credit history, and personal savings.

**(6)**

**(A)** If applicable, referrals to transitional housing, if available, or assistance in securing other housing.

**(B)** Whether the referrals or assistance as described in subparagraph (A) have resulted in housing being secured for the minor or nonminor, and, if not, what, if any, different or additional referrals or assistance the department has provided that are intended to secure housing.

**(C)** The duration of the housing, if known to the department.

**(D)** If applicable, information, including summaries, describing additional referrals, assistance, or services provided by county departments or agencies other than the county welfare department that

are intended to prevent the minor or nonminor from becoming homeless if jurisdiction is terminated pursuant to this section.

**(E)** The information described in subparagraphs (B) to (D), inclusive, is required only for reports submitted at the last regularly scheduled review hearing held pursuant to subdivision (d) of Section 366.3 before a dependent child attains 18 years of age.

**(7)** Assistance in maintaining relationships with individuals who are important to a minor or nonminor who has been in out-of-home placement for six months or longer from the date the minor or nonminor entered foster care, based on the minor's or nonminor's best interests.

**(8)** The whereabouts of any siblings under the jurisdiction of the juvenile court, unless the court determines that sibling contact would jeopardize the safety or welfare of either sibling.

**(d)** The dependency court shall not terminate jurisdiction over a nonminor unless a hearing is conducted pursuant to this section. At any hearing at which the court is considering terminating jurisdiction over a nonminor, the county welfare department shall do all of the following:

**(1)** Ensure that the dependent nonminor is present in court, unless the nonminor does not wish to appear in court and elects a telephonic appearance, or document reasonable efforts made by the county welfare department to locate the nonminor when the nonminor is not available.

**(2)** Submit a report describing whether it is in the nonminor's best interests to remain under the court's dependency jurisdiction, which includes a recommended transitional independent living case plan for the nonminor when the report describes continuing dependency jurisdiction as being in the nonminor's best interest.

**(3)** If the county welfare department recommends termination of the court's dependency jurisdiction, submit documentation of the reasonable efforts made by the department to provide the nonminor with the assistance needed to meet or maintain eligibility as a nonminor dependent, as defined in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

**(4)** If the nonminor has indicated that they do not want dependency jurisdiction to continue, the report shall address the manner in which the nonminor was advised of their options, including the benefits of remaining in foster care, and of their right to reenter foster care and to file a petition pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction prior to attaining 21 years of age.

**(e)**

**(1)** The court shall continue dependency jurisdiction over a nonminor who meets the definition of a nonminor dependent as described in subdivision (v) of Section 11400 unless the court finds either of the following:

**(A)** That the nonminor does not wish to remain subject to dependency jurisdiction.

**(B)** That the nonminor is not participating in a reasonable and appropriate transitional independent living case plan.

**(2)** In making the findings pursuant to paragraph (1), the court shall also find that the nonminor has been informed of their options including the benefits of remaining in foster care and the right to reenter foster care by filing a petition pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction and by completing a voluntary reentry agreement pursuant to subdivision (z) of Section 11400, and has had an opportunity to confer with their counsel if counsel has been appointed pursuant to Section 317.

**(f)** The court may terminate its jurisdiction over a nonminor if the court finds after reasonable and documented efforts the nonminor cannot be located.

**(g)** When terminating dependency jurisdiction, the court shall maintain general jurisdiction over the nonminor to allow for the filing of a petition to resume dependency jurisdiction under subdivision (e) of Section 388 until the nonminor attains 21 years of age, although no review proceedings shall be required. A nonminor may petition the court pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction at any time before attaining 21 years of age.

**(h)** The court shall not terminate dependency jurisdiction over a nonminor dependent who has attained 18 years of age until a hearing is conducted pursuant to this section. Jurisdiction shall not be terminated until the department has submitted a report verifying that the information, documents, and services required under subdivisions (a) and (b), as well as the following information, documents, and services, have been provided to the nonminor, or in the case of a nonminor who, after reasonable efforts by the county welfare department, cannot be located, verifying the efforts made to make the following available to the nonminor:

**(1)** Assistance in accessing the Independent Living Aftercare Program in the nonminor's county of residence, and, upon the nonminor's request, assistance in completing a voluntary reentry agreement for care and placement pursuant to subdivision (z) of Section 11400 and in filing a petition pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction.

**(2)** Written information concerning the nonminor's dependency case, including, but not limited to, all of the following:

**(A)** Any known information regarding the nonminor's Indian heritage or tribal connections.

**(B)** The nonminor's family history and placement history.

**(C)** Any photographs of the nonminor or the family of the nonminor in the possession of the county welfare department, other than forensic photographs.

**(D)** Directions on how to access the documents the nonminor is entitled to inspect under Section 827.

**(E)** The written 90-day transition plan prepared pursuant to Section 16501.1.

**(F)** The date on which the jurisdiction of the juvenile court would be terminated.

**(3)** The health and education summary described in subdivision (a) of Section 16010.

**(4)** The Judicial Council form that the nonminor would use to file a petition pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction.

**(5)** Written verification that the eligible nonminor is enrolled in Medi-Cal and the nonminor's Medi-Cal Benefits Identification Card.

**(6)** Continued and uninterrupted enrollment in Medi-Cal for eligible nonminors pursuant to Section 14005.28 or 14005.285.

**(7)** Assistance with the following:

**(A)** Referrals to transitional housing, if available, or assistance in securing other housing.

**(B)** Obtaining employment or other financial support, if applicable.

(8) The report described in this subdivision, as it relates to the assistance described in subparagraph (A) of paragraph (7), shall include the following:

(A) Whether the referral or assistance has resulted in housing being secured for the minor or nonminor, and, if not, what, if any, different or additional assistance the department has provided that is intended to secure housing.

(B) The duration of the housing, if known to the department.

(C) If applicable, information, including summaries, describing additional referrals, assistance, or services provided by county departments or agencies other than the county welfare department that are intended to prevent the minor or nonminor from becoming homeless if jurisdiction is terminated pursuant to this section.

**Leg.H.**

Added Stats 2019 ch 438 § 2 (AB 718), effective January 1, 2020. Amended Stats 2021 ch 519 § 1 (AB 546), effective January 1, 2022; Stats 2021 ch 524 § 1.5 (AB 674), effective January 1, 2022 (ch 524 prevails).

## **ARTICLE 13**

### **Dependent Children—Appeals**

#### **§ 395. Appeals.**

(a)

(1) A judgment in a proceeding under Section 300 may be appealed in the same manner as any final judgment, and any subsequent order may be appealed as an order after judgment. However, that order or judgment shall not be stayed by the appeal, unless, pending the appeal, suitable provision is made for the maintenance, care, and custody of the person alleged or found to come within the provisions of Section 300, and unless the provision is approved by an order of the juvenile court. The appeal shall have precedence over all other cases in the court to which the appeal is taken.

(2) A judgment or subsequent order entered by a referee shall become appealable whenever proceedings pursuant to Section 252, 253, or 254 have become completed or, if proceedings pursuant to Section 252, 253, or 254 are not initiated, when the time for initiating the proceedings has expired.

(3) An appellant unable to afford counsel, shall be provided a free copy of the transcript in any appeal.

(4) The record shall be prepared and transmitted immediately after filing of the notice of appeal, without advance payment of fees. If the appellant is able to afford counsel, the county may seek reimbursement for the cost of the transcripts under subdivision (d) of Section 68511.3 of the Government Code as though the appellant had been granted permission to proceed in forma pauperis.

(b)

(1) In any appellate proceeding in which the child is an appellant, the court of appeal shall appoint separate counsel for the child. If the child is not an appellant, the court of appeal shall appoint separate counsel for the child if the court of appeal determines, after considering the recommendation of the trial counsel or guardian ad litem appointed for the child pursuant to subdivision (e) of Section 317, Section

326.5, and California Rule of Court 5.662, that appointment of counsel would benefit the child. In order to assist the court of appeal in making its determination under this subdivision, the trial counsel or guardian ad litem shall make a recommendation to the court of appeal that separate counsel be appointed in any case in which the trial counsel or guardian ad litem determines that, for the purposes of the appeal, the child's best interests cannot be protected without the appointment of separate counsel, and shall set forth the reasons why the appointment is in the child's best interests. The court of appeal shall consider that recommendation when determining whether the child would benefit from the appointment of counsel. The Judicial Council shall implement this provision by adopting a rule of court on or before July 1, 2007, to set forth the procedures by which the trial counsel or guardian ad litem may participate in an appeal, as well as the factors to be considered by the trial counsel or guardian ad litem in making a recommendation to the court of appeal, including, but not limited to, the extent to which there exists a potential conflict between the interests of the child and the interests of any respondent.

(2) The Judicial Council shall report to the Legislature on or before July 1, 2008, information regarding the status of appellate representation of dependent children, the results of implementing this subdivision, any recommendations regarding the representation of dependent children in appellate proceedings made by the California Judicial Council's Blue Ribbon Commission on Children in Foster Care, any actions taken, including rules of court proposed or adopted, in response to those recommendations or taken in order to comply with the Child Abuse Prevention and Treatment Act, as well as any recommendations for legislative change that are deemed necessary to protect the best interests of dependent children in appellate proceedings or ensure compliance with the Child Abuse Prevention and Treatment Act.

**Leg.H.**

Added Stats 1976 ch 1068 § 13. Amended Stats 1980 ch 1095 § 1; Stats 1986 ch 823 § 4; Stats 2006 ch 385 § 2 (AB 2480), effective January 1, 2007; Stats 2007 ch 738 § 55 (AB 1248), effective January 1, 2008; Stats 2019 ch 497 § 293 (AB 991), effective January 1, 2020.

## **ARTICLE 13.5**

### **Foster Care of Children**

#### **§ 396. Legislative Policy.**

It is the policy of the Legislature that foster care should be a temporary method of care for the children of this state, that children have a right to a normal home life free from abuse, that reunification with the natural parent or parents or another alternate permanent living situation such as adoption or guardianship is more suitable to a child's well-being than is foster care, that this state has a responsibility to attempt to ensure that children are given the chance to have happy and healthy lives, and that, to the extent possible, the current practice of moving children receiving foster care services from one foster home to another until they reach the age of majority should be discontinued.

**Leg.H.**

1980 ch. 1229 § 4, 1999 ch. 620.

#### **§ 397. Reporting Requirement for County Welfare and Probation Departments.**

In order to carry out the policy stated in Section 396, each county welfare department or probation department shall report to the State Department of Social Services, in the frequency and format determined by the department, foster care characteristic data and care information deemed essential by the department to establish a foster care information system. The report shall include, but not be limited to, elements that identify the factors necessitating foster care placement, the appropriateness of the placement, and the case goal or objective such as reunification, adoption, guardianship, or long-term foster care placement.

**Leg.H.**

1980 ch. 1229 § 4.

## **§ 399. Continuing Right of Minor to Make Statement to Court.**

Any minor being considered for placement in a foster home shall have the right to make a brief statement to the court making a decision on placement. The court may disregard any preferences expressed by the minor. The minor's right to make a statement shall not be limited to the initial placement, but shall continue for any proceedings concerning continued placement or a decision to return to parental custody.

**Leg.H.**

1984 ch. 317 § 2.

## **§ 450. Minor or Nonminor Within Transition Jurisdiction of Juvenile Court; Criteria.**

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

(1)

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

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

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

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

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

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

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

(4)

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

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

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

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

**Leg.H.**

Added Stats 2011 ch 459 § 12 (AB 212), effective October 4, 2011. Amended Stats 2012 ch 35 § 61 (SB 1013), effective June 27, 2012; Stats 2013 ch 485 § 5 (AB 346), effective January 1, 2014; Stats 2017 ch 707 § 3 (AB 604), effective January 1, 2018.; Stats 2019 ch 341 § 14 (AB 1235), effective January 1, 2020.

## **§ 451. Court's Transition Jurisdiction.**

(a) At a hearing during which termination of jurisdiction over a ward is considered, the court may, as an alternative to termination of jurisdiction, modify its order of jurisdiction and assume transition jurisdiction over the ward pursuant to Section 450. The court may also assume transition jurisdiction over a ward, transition dependent, or nonminor dependent whose underlying adjudication is vacated pursuant to [Section 236.14 of the Penal Code](#).

(b) A minor or a nonminor who is subject to the court's transition jurisdiction shall not be subject to any terms or conditions of probation, and his or her case shall be managed as a dependent child of the court or as a nonminor dependent of the court.

(c) Each county shall modify its protocol for Section 241.1 to include a provision to determine whether the child welfare services department or the probation department shall supervise persons subject to the court's transition jurisdiction, including persons who obtained a court order vacating the underlying adjudication pursuant to [Section 236.14 of the Penal Code](#). For a minor, this supervision shall comply with the requirements and procedures set forth in this code for dependent children. For a nonminor, this supervision shall comply with the provisions set forth in this code that specifically apply to nonminor dependents.

(d) The court shall appoint counsel, pursuant to Section 317, for minors and nonminors subject to the court's transition jurisdiction. The court shall, to the extent feasible given local court circumstances, provide for

continuity of representation for the minor or nonminor from delinquency jurisdiction to transition jurisdiction pursuant to Section 450 by the attorney appointed to represent the minor or nonminor pursuant to Section 634.

**Leg.H.**

Added Stats 2011 ch 459 § 13 (AB 212), effective October 4, 2011; Amended Stats 2017 ch 707 § 4 (AB 604), effective January 1, 2018.

## **§ 452. Hearing to Terminate Transition Jurisdiction Over a Nonminor Dependent.**

(a) The court shall hold a hearing prior to terminating transition jurisdiction over a nonminor dependent.

(b) At a hearing during which termination of transition jurisdiction over a nonminor dependent is being considered, the court shall continue its jurisdiction to allow a nonminor dependent who is eligible for foster care placement pursuant to Section 11403 to remain in foster care, unless the court finds that after reasonable and documented efforts, the nonminor dependent cannot be located or does not wish to remain a nonminor dependent. In making this finding, the court shall ensure that the nonminor dependent has had an opportunity to confer with his or her counsel and has been informed of his or her options, including the right to reenter foster care placement by completing a voluntary reentry agreement, as described in subdivision (z) of Section 11400, and the right to file a petition pursuant to subdivision (e) of Section 388 to resume transition jurisdiction pursuant to Section 450.

(c) The agency responsible under the county protocol for supervising a nonminor dependent subject to the court's transition jurisdiction shall complete all of the following actions for a hearing during which termination of transition jurisdiction over a nonminor dependent is being considered:

(1) Ensure that the nonminor dependent is present in court for the hearing, unless the nonminor dependent has waived his or her right to appear in court and elects to appear by telephone instead or document the reasonable efforts it made to locate the nonminor dependent when the nonminor dependent is not available to appear at the hearing.

(2) Submit a report describing whether it is in the nonminor dependent's best interests to remain under the court's jurisdiction.

(3) Submit the completed 90-day transition plan.

(4) The placing agency's report shall address the manner in which the nonminor was informed of his or her right to reenter foster care prior to attaining 21 years of age, if the nonminor dependent has indicated that he or she does not want juvenile court transition jurisdiction to continue.

(5) Submit written verification that the information, documents, and services set forth in paragraphs 1 to 8, inclusive, of subdivision (e) of Section 391 have been provided to the nonminor dependent.

(6) Certify that the requirements set forth in Section 607.5 have been completed.

(d) If the court terminates transition jurisdiction, the nonminor shall remain within the general jurisdiction of the court until the nonminor attains 21 years of age to allow for the filing of a petition to resume juvenile court transition jurisdiction under subdivision (e) of Section 388, although no review proceedings shall be required.

**Leg.H.**

Added Stats 2011 ch 459 § 14 (AB 212), effective October 4, 2011.

## ARTICLE 13.6

### **Serious Habitual Offenders**

#### **§ 500. Legislative Findings and Intent.**

The Legislature hereby finds that a substantial and disproportionate amount of serious crime is committed by a relatively small number of chronic juvenile offenders commonly known as serious habitual offenders. In enacting this article, the Legislature intends to support increased efforts by the juvenile justice system comprised of law enforcement, district attorneys, probation departments, juvenile courts, and schools to identify these offenders early in their careers, and to work cooperatively together to investigate and record their activities, prosecute them aggressively by using vertical prosecution techniques, sentence them appropriately, and to supervise them intensively in institutions and in the community. The Legislature further supports increased interagency efforts to gather comprehensive data and actively disseminate it to the agencies in the juvenile justice system, to produce more informed decisions by all agencies in that system, through organizational and operational techniques that have already proven their effectiveness in selected counties in this and other states.

**Leg.H.**

1986 ch. 1441.

#### **§ 501. Establishment of Serious Habitual Offender Program; Funding of Local Programs.**

(a) There is hereby established in the Office of Criminal Justice Planning a program of financial assistance for law enforcement, district attorneys, probation departments, juvenile courts, and schools, designated the Serious Habitual Offender Program. All funds appropriated to the Office of Criminal Justice Planning for the purposes of this article shall be administered and disbursed by the executive director of that office, and shall, to the greatest extent feasible, be coordinated or consolidated with federal funds that may be made available for these purposes.

(b) From moneys appropriated therefor, the Executive Director of the Office of Criminal Justice Planning may allocate and award funds to agencies in which programs are established in substantial compliance with the policies and criteria set forth in this article. Awards made to individual agencies shall not exceed three years in duration. An agency receiving an award shall provide matching funds at an increasing rate each year; the rate shall be as determined by the Office of Criminal Justice Planning for that agency.

(c) Allocation and award of funds for the purposes of this article shall be made upon application by a district attorney, a local law enforcement agency, a probation department, or a school district, that has been approved by the appropriate governing board of the particular agency. The applicant agency shall use the funds to create an information gathering and analysis unit responsible for the identification of serious habitual offenders and for the dissemination of information about the activities of those offenders to the juvenile justice system. This unit shall participate in the planning, support, and assistance of activities required in Sections 503 to 506, inclusive. Funds disbursed under this article shall not supplant local funds that would, in absence of the program established by this article, be made available to support the juvenile justice system. Local grant awards made under the program shall not be subject to review as specified in [Section 14780 of the Government Code](#).

**Leg.H.**

1986 ch. 1441, 1989 ch. 1356.

## § 502. Individuals Subject to Programs.

(a) An individual shall be the subject of the efforts of programs established pursuant to this article who has been previously adjudged a ward pursuant to Section 602 and is described in any of the following paragraphs:

(1) Has accumulated five total arrests, three arrests for crimes chargeable as felonies and three arrests within the preceding 12 months.

(2) Has accumulated 10 total arrests, two arrests for crimes chargeable as felonies and three arrests within the preceding 12 months.

(3) Has been arrested once for three or more burglaries, robberies, or sexual assaults within the preceding 12 months.

(4) Has accumulated 10 total arrests, eight or more arrests for misdemeanor crimes of theft, assault, battery, narcotics or controlled substance possession, substance abuse, or use or possession of weapons, and has three arrests within the preceding 12 months.

(b) Arrests for infractions or conduct described in Section 601 shall not be utilized in determining whether an individual is described in subdivision (a). All arrests used in determining eligibility for selection for program participation that did not result in a sustained petition shall be certified by the prosecutor as having been provable.

(c) In applying the selection criteria set forth above, a program may elect to limit its efforts to persons described in one or more of the categories listed in subdivision (a), or specified felonies, if crime statistics demonstrate that the persons identified present a particularly serious problem in the county, or that the incidence of the felonies so specified present a particularly serious problem in the county.

**Leg.H.**

1986 ch. 1441.

## § 503. Functions of Local Programs.

Programs funded under this article shall adopt and pursue the following policies:

(a) Each participating law enforcement agency shall do all of the following:

(1) Gather data on identified serious habitual offenders.

(2) Compile data into a usable format for law enforcement, prosecutors, probation officers, schools, and courts pursuant to an interagency agreement.

(3) Regularly update data and disseminate data to juvenile justice system agencies, as needed.

(4) Establish local policies in cooperation with the prosecutor, the probation officer, schools, and the juvenile court regarding data collection, arrest, and detention of serious habitual offenders.

(5) Provide support and assistance to other agencies engaged in the program.

(b) Each participating district attorney's office shall do all of the following:

(1) File petitions based on the most serious provable offenses of each arrest of a serious habitual offender.

(2) Use all reasonable prosecutorial efforts to resist the release, where appropriate, of the serious habitual offender at all stages of the prosecution.

(3) Seek an admission of guilt on all offenses charged in the petition against the offender. The only cases in which the prosecutor may request the court to reduce or dismiss the charges shall be cases in which the prosecutor decides there is insufficient evidence to prove the people's case, the testimony of a material witness cannot be obtained or a reduction or dismissal will not result in a substantial change in sentence. In those cases, the prosecutor shall file a written declaration with the court stating the specific factual and legal basis for such a reduction or dismissal and the court shall make specific findings on the record of its ruling and the reasons therefor.

(4) Vertically prosecute all cases involving serious habitual offenders, whereby the prosecutor who makes the initial filing decision or appearance on such a case shall perform all subsequent court appearances on that case through its conclusion, including the disposition phase.

(5) Make all reasonable prosecutorial efforts to persuade the court to impose the most appropriate sentence upon such an offender at the time of disposition. As used in this paragraph, "most appropriate sentence" means any disposition available to the juvenile court.

(6) Make all reasonable prosecutorial efforts to reduce the time between arrest and disposition of the charge.

(7) Act as liaison with the court and other criminal justice agencies to establish local policies regarding the program and to ensure interagency cooperation in the planning and implementation of the program.

(8) Provide support and assistance to other agencies engaged in the program.

(c) Each participating probation department shall do all of the following:

(1) Cooperate in gathering data for use by all participating agencies pursuant to interagency agreement.

(2) Detain minors in custody who meet the detention criteria set forth in Section 628.

(3) Consider the data relating to serious habitual offenders when making all decisions regarding the identified individual and include relevant data in written reports to the court.

(4) Use all reasonable efforts to file violations of probation pursuant to Section 777 in a timely manner.

(5) Establish local policies in cooperation with law enforcement, the district attorney, schools, and the juvenile court regarding the program and provide support and assistance to other agencies engaged in the program.

(d) Each participating school district shall do all of the following:

(1) Cooperate in gathering data for use by all participating agencies pursuant to interagency agreement. School district access to records and data shall be limited to that information that is otherwise authorized by law.

(2) Report all crimes that are committed on campus by serious habitual offenders to law enforcement.

- (3) Report all violations of probation committed on campus by serious habitual offenders to the probation officer or his or her designee.
- (4) Provide educational supervision and services appropriate to serious habitual offenders attending schools.

(5) Establish local policies in cooperation with law enforcement, the district attorney, probation and the juvenile court regarding the program and provide support and assistance to other agencies engaged in the program.

**Leg.H.**

1986 ch. 1441, 2004 ch. 193 (SB 111).

## **§ 504. Inspection of Juvenile Records; Compilation of Data.**

The judge of the juvenile court shall authorize the inspection of juvenile court records, probation and protective services records, district attorney records, school records, and law enforcement records by the participating law enforcement agency charged with the compilation of the data relating to serious habitual offenders into the format used by all participating agencies.

**Leg.H.**

1986 ch. 1441.

## **§ 505. Interagency Agreements and Meetings.**

Within three months of implementation of the program, all participating agencies in a county shall execute a written interagency agreement outlining their role in the program, including the duties they will perform, the duties other agencies will perform for and with them, and the categories of information to be collected and the plan for its distribution and use. All participating agencies will meet no less than once each month to plan, implement, and refine the operation of the program and to exchange information about individuals subject to the program or other related topics.

**Leg.H.**

1986 ch. 1441, 1989 ch. 1356.

## **§ 506. Juvenile Criminal History of Adults—Mandatory Check by District Attorney; Consideration in Connection with Charging, Plea, and Sentence.**

Law enforcement agencies and district attorneys participating in programs funded pursuant to this article shall adopt procedures to require a check of juvenile criminal history of all adults whose cases are presented to the district attorney's office for filing. The juvenile criminal history shall be considered by the district attorney in the charging decision and establishing the district attorney's position on the appropriate plea and sentence.

**Leg.H.**

1986 ch. 1441.

# **ARTICLE 14**

## Wards—Jurisdiction

### **§ 601. Jurisdiction to Adjudicate Ward of Court Status—Refusal to Obey Parents; Habitual Truancy.**

**(a)** Any minor between 12 years of age and 17 years of age, inclusive, who persistently or habitually refuses to obey the reasonable and proper orders or directions of the minor's parents, guardian, or custodian, or who is beyond the control of that person, or who is a minor between 12 years of age and 17 years of age, inclusive, when the minor violated any ordinance of any city or county of this state establishing a curfew based solely on age is within the jurisdiction of the juvenile court which may adjudge the minor to be a ward of the court.

**(b)** If a minor between 12 years of age and 17 years of age, inclusive, has four or more truancies within one school year as defined in [Section 48260 of the Education Code](#) or a school attendance review board or probation officer determines that the available public and private services are insufficient or inappropriate to correct the habitual truancy of the minor, or if the minor fails to respond to directives of a school attendance review board or probation officer or to services provided, the minor is then within the jurisdiction of the juvenile court which may adjudge the minor to be a ward of the court pursuant to this section. However, it is the intent of the Legislature that a minor who is described in this subdivision, adjudged a ward of the court pursuant solely to this subdivision, or found in contempt of court for failure to comply with a court order pursuant to this subdivision, shall not be held in a secure facility and shall not be removed from the custody of the parent or guardian except for the purposes of school attendance.

**(c)** To the extent practically feasible, a minor who is adjudged a ward of the court pursuant to this section shall not be permitted to come into or remain in contact with any minor ordered to participate in a truancy program, or the equivalent thereof, pursuant to Section 602.

**(d)** Any peace officer may issue a notice to appear to a minor who is within the jurisdiction of the juvenile court pursuant to this section. Before issuing a notice to appear under this subdivision, a peace officer shall refer a minor who is within the jurisdiction of this section to a community-based resource, the probation department, a health agency, a local educational agency, or other governmental entities that may provide services.

**Leg.H.**

Added Stats 1961 ch 1616 § 2. Amended Stats 1971 ch 1748 § 65; Stats 1974 ch 1215 § 8; Stats 1975 ch 192 § 1, ch 1183 § 2, effective September 30, 1975; Stats 1976 ch 1071 § 11; Stats 1994 ch 1023 § 6 (SB 1728), ch 1024 § 4.2 (AB 2658); Stats 2014 ch 70 § 4 (SB 1296), effective January 1, 2015; Stats 2018 ch 1006 § 1 (SB 439), effective January 1, 2019; Stats 2020 ch 323 § 7 (AB 901), effective January 1, 2021.

### **§ 601.2. Failure to Respond to School Attendance Review Board.**

In the event that a parent or guardian or person in charge of a minor described in [Section 48264.5 of the Education Code](#) fails to respond to directives of the school attendance review board or to services offered on behalf of the minor, the school attendance review board shall direct that the minor be referred to the probation department or to the county welfare department under Section 300, and the school attendance review board may require the school district to file a complaint against the parent, guardian, or other person in charge of such minor as provided in Section 48291 or [Section 48454 of the Education Code](#).

**Leg.H.**

1974 ch. 1215, 1976 ch. 1068, 1978 ch. 380, 1994 ch. 1023.

## § 601.3. Truancy Mediation Program.

(a) If the district attorney or the probation officer receives notice from the school district pursuant to subdivision (b) of Section 48260.6 of the Education Code that a minor continues to be classified as a truant after the parents or guardians have been notified pursuant to subdivision (a) of Section 48260.5 of the Education Code, or if the district attorney or the probation officer receives notice from the school attendance review board, or the district attorney receives notice from the probation officer, pursuant to subdivision (a) of Section 48263.5 of the Education Code that a minor continues to be classified as a truant after review and counseling by the school attendance review board or probation officer, the district attorney or the probation officer, or both, may request the parents or guardians and the child to attend a meeting in the district attorney's office or at the probation department to discuss the possible legal consequences of the minor's truancy.

(b) Notice of a meeting to be held pursuant to this section shall contain all of the following:

(1) The name and address of the person to whom the notice is directed.

(2) The date, time, and place of the meeting.

(3) The name of the minor classified as a truant.

(4) The section pursuant to which the meeting is requested.

(5) Notice that the district attorney may file a criminal complaint against the parents or guardians pursuant to Section 48293 of the Education Code for failure to compel the attendance of the minor at school.

(c) Notice of a meeting to be held pursuant to this section shall be served at least five days prior to the meeting on each person required to attend the meeting. Service shall be made personally or by certified mail with return receipt requested.

(d) At the commencement of the meeting authorized by this section, the district attorney or the probation officer shall advise the parents or guardians and the child that any statements they make could be used against them in subsequent court proceedings.

(e) Upon completion of the meeting authorized by this section, the probation officer or the district attorney, after consultation with the probation officer, may file a petition pursuant to Section 601 if the district attorney or the probation officer determines that available community resources cannot resolve the truancy problem, or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to services provided or to the directives of the school, the school attendance review board, the probation officer, or the district attorney.

(f) The truancy mediation program authorized by this section may be established by the district attorney or by the probation officer. The district attorney and the probation officer shall coordinate their efforts and shall cooperate in determining whether another public agency, a community-based organization, the probation department, or the district attorney is best able to operate a truancy mediation program in their county pursuant to this section.

### Leg.H.

Added Stats 1984 ch 754 § 5. Amended Stats 1991 ch 1202 § 14 (SB 377); Stats 1992 ch 427 § 175 (AB 3355); Stats 1994 ch 1024 § 6 (AB 2658); Stats 2020 ch 323 § 8 (AB 901), effective January 1, 2021.

## § 601.4. Jurisdiction of Cases Involving Violations of School Attendance Provision.

(a) The juvenile court judge may be assigned to sit as a superior court judge to hear any complaint alleging that a parent, guardian, or other person having control or charge of a minor has violated [Section 48293 of the Education Code](#). The jurisdiction of the juvenile court granted by this section shall not be exclusive and the charge may be prosecuted instead in a superior court. However, upon motion, that action shall be transferred to the juvenile court.

(b) Notwithstanding [Section 737 of the Penal Code](#), a violation of [Section 48293 of the Education Code](#) may be prosecuted pursuant to subdivision (a), by written complaint filed in the same manner as an infraction may be prosecuted. The juvenile court judge, sitting as a superior court judge, may coordinate the action involving the minor with any action involving the parent, guardian, or other person having control or charge of the minor. Both matters may be heard and decided at the same time unless the parent, guardian, other person having control or charge of the minor, or any member of the press or public objects to a closed hearing of the proceedings charging violation of [Section 48293 of the Education Code](#).

**Leg.H.**

1985 ch. 120, 1989 ch. 1117, 1998 ch. 931, effective September 28, 1998, 2002 ch. 784 (SB 1316).

## **§ 601.5. At-Risk Youth Early Intervention Program; Referral to Youth Referral Center.**

(a) Any county may, upon adoption of a resolution by the board of supervisors, establish an At-Risk Youth Early Intervention Program designed to assess and serve families with children who have chronic behavioral problems that place the child at risk of becoming a ward of the juvenile court under Section 601 or 602. The purpose of the program is to provide a swift and local service response to youth behavior problems so that future involvement with the justice system may be avoided.

(b) The At-Risk Youth Early Intervention Program shall be designed and developed by a collaborative group which shall include representatives of the juvenile court, the probation department, the district attorney, the public defender, the county department of social services, the county education department, county health and mental health agencies, and local and community-based youth and family service providers.

(c) The At-Risk Youth Early Intervention Program shall include one or more neighborhood-based Youth Referral Centers for at-risk youth and their families. These Youth Referral Centers shall be flexibly designed by each participating county to serve the local at-risk youth population with family assessments, onsite services, and referrals to offsite services. The operator of a Youth Referral Center may be a private nonprofit community-based agency or a public agency, or both. A center shall be staffed by youth and family service counselors who may be public or private employees and who shall be experienced in dealing with at-risk youth who are eligible for the program, as described in subdivision (d). The center may also be staffed as a collaborative service model involving onsite youth and family counselors, probation officers, school representatives, health and mental health practitioners, or other service providers. A center shall be located at one or more community sites that are generally accessible to at-risk youth and families and shall be open during daytime, evening, and weekend hours, as appropriate, based upon local service demand and resources available to the program.

(d) A minor may be referred to a Youth Referral Center by a parent or guardian, a law enforcement officer, a probation officer, a child welfare agency, or a school, or a minor may self-refer. A minor may be referred to the program if the minor is at least 10 years of age and is believed by the referring source to be at risk of justice system involvement due to chronic disobedience to parents, curfew violations, repeat truancy, incidents of running away from home, experimentation with drugs or alcohol, or other serious behavior problems. Whenever a minor is referred to the program, the Youth Referral Center shall make an initial determination as to whether the minor is engaged in a pattern of at-risk behavior likely to result in future justice system involvement, and, if satisfied that the minor is significantly at risk, the center shall initiate a family assessment. The family

assessment shall identify the minor's behavioral problem, the family's circumstances and relationship to the problem, and the needs of the minor or the family in relation to the behavioral problem. The assessment shall be performed using a risk and needs assessment instrument, based on national models of successful youth risk and needs assessment instruments and utilizing objective assessment criteria, as appropriate for the clientele served by the program. At a minimum, the assessment shall include information drawn from interviews with the minor and with the parents or other adults having custody of the minor, and it shall include information on the minor's probation, school, health, and mental health status to the extent such information may be available and accessible.

(e) If the Youth Referral Center confirms upon assessment that the minor is at significant risk of future justice system involvement and that the minor may benefit from referral to services, the Youth Referral Center staff shall work with the minor and the parents to produce a written service plan to be implemented over a period of up to six months. The plan shall identify specific programs or services that are recommended by the center and are locally available to the minor and the family as a means of addressing the behavior problems that led to the referral. The plan may include a requirement that the minor obey reasonable rules of conduct at home or in school including reasonable home curfew and school attendance rules, while the service plan is being implemented. The plan may also require, as a condition of further participation in the program, that a parent or other family member engage in counseling, parenting classes, or other relevant activities. To the extent possible given available resources, the staff at the Youth Referral Center shall facilitate compliance with the service plan by assisting the minor and the family in making appointments with service providers, by responding to requests for help by the minor or the parent as they seek to comply with the plan, and by monitoring compliance until the plan is completed.

(f)

(1) The caseworker at the Youth Referral Center shall explain the service plan to the minor and the parents and, prior to any referral to services, the minor and the parents shall agree to the plan. The minor and the parents shall be informed that the minor's failure to accept or to cooperate with the service plan may result in the filing of a petition and a finding of wardship under Section 601.

(2) With the cooperation of the collaborative group described in subdivision (b), the Youth Referral Center shall review youth and family services offered within its local service area and shall identify providers, programs, and services that are available for referral of minors and parents under this section. Providers to which minors and parents may be referred under this section may be public or private agencies or individuals offering counseling, health, educational, parenting, mentoring, community service, skill-building, and other relevant services that are considered likely to resolve the behavioral problems that are referred to the center.

(g)

(1) Unless the probation department is directly operating and staffing the Youth Referral Center, the probation department shall designate one or more probation officers to serve as liaison to a Youth Referral Center for the purpose of facilitating and monitoring compliance with service plans established in individual cases by the center.

(2) If, upon consultation with the minor's parents and with providers designated in the service plan, the supervising caseworker at the center and the liaison probation officer agree that the minor has willfully, significantly, and repeatedly failed to cooperate with the service plan, the minor shall be referred to the probation department which shall verify the failure and, upon verification, shall file a petition seeking to declare the minor a ward of the juvenile court under subdivision (a) of Section 601. No minor shall be referred to the probation department for the filing of a petition under this subdivision until at least 90 days have elapsed after the first attempt to implement the service plan. No minor shall be subject to filing of a

petition under this subdivision for a failure to complete the service plan which is due principally to an inability of the minor or the family to pay for services listed in the service plan.

(3) If, within 180 days of the start of the service plan, the minor and the family have substantially completed the service plan and the minor's behavior problem appears to have been resolved, the center shall notify the probation department that the plan has been successfully completed.

(h) If a petition to declare the minor a ward of the juvenile court under subdivision (a) of Section 601 has been filed by the probation officer under this section, the court shall review the petition and any other facts which the court deems appropriate in relation to the minor's alleged failure to comply with the service plan described in subdivision (e). Based upon this review, the court may continue any hearing on the petition for up to six months so that the minor and the minor's parents may renew their efforts to comply with the service plan under court supervision. During the period in which the hearing is continued, the court may order that the minor and the parent cooperate with the service plan designed by the Youth Referral Center, or the court may modify the service plan or may impose additional conditions upon the minor or the parents as may be appropriate to encourage resolution of the behavior problems that led to the filing of the petition. The court shall, during the period of continuance, periodically review compliance with the extended service plan through reports from the probation officer or by calling the parties back into court, based upon a review schedule deemed appropriate by the court.

(i) The juvenile court of any county participating in the At-Risk Youth Early Intervention Program shall designate a judicial officer to serve as a liaison to the program in order to participate in the development of the program and to coordinate program operations with the juvenile court. The liaison judicial officer may be designated by the juvenile court as the principal judicial officer assigned to review and hear petitions filed under this section, or if the court does not elect to designate a principal judicial officer to hear these cases, the juvenile court shall take steps to train or familiarize other judicial officers reviewing or hearing these cases as to the operations, procedures, and services of the At-Risk Youth Early Intervention Program.

**Leg.H.**

1997 ch. 909.

## **§ 602. Persons Subject to Juvenile Court Jurisdiction and to Adjudication as Ward of Court; Persons Subject to Prosecution in Criminal Court.**

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

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

(1) Murder.

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

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

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

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

**Leg.H.**

Added Stats 1961 ch 1616 § 2; Amended Stats 1971 ch 1748 § 66; Stats 1972 ch 84 § 1, effective May 19, 1972; Stats 1976 ch 1071 § 12; Stats 1999 ch 996 § 12.2 (SB 334). Amendment adopted by voters, Prop. 21 § 18, effective March 8, 2000; Amended Stats 2001 ch 854 § 72 (SB 205); Stats 2014 ch 54 § 18 (SB 1461), effective January 1, 2015; Amendment approved by voters, Prop. 57 § 4.1, effective November 9, 2016 Stats 2018 ch 1006 § 2 (SB 439), effective January 1, 2019.

## **§ 602.3. Placement of Minor Ward for Use of Firearm; Alternative Placement.**

(a) Notwithstanding any other law and pursuant to the provisions of this section, the juvenile court shall commit any minor adjudicated to be a ward of the court for the personal use of a firearm in the commission of a violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code, to placement in a juvenile hall, ranch, camp, or with the Department of the Youth Authority.

(b) A court may impose a treatment-based alternative placement order on any minor subject to this section if the court finds the minor has a mental disorder requiring intensive treatment. Any alternative placement order under this subdivision shall be made on the record, in writing, and in accordance with Article 3 (commencing with Section 6550) of Chapter 2 of Part 2 of Division 6.

**Leg.H.**

1999 ch. 996, 2001 ch. 854 (amended and renumbered from § 602.5).

## **§ 602.1. Least Restrictive Responses; Release Of Minor To Parent. [Effective January 1, 2019; Operative January 1, 2020]**

(a) In order to ensure the safety and well-being of minors who are under 12 years of age and whose behavior would otherwise bring them within the jurisdiction of the juvenile court pursuant to Section 601 or 602, it is the intent of the Legislature that counties pursue appropriate measures to serve and protect a child only as needed, avoiding any intervention whenever possible, and using the least restrictive alternatives through available school-, health-, and community-based services. It is the intent of the Legislature that counties use existing funding for behavioral health, mental health, or other available existing funding sources to provide the alternative services required by this section.

(b) Except as provided in subdivision (b) of Section 602, when a minor under 12 years of age comes to the attention of law enforcement because his or her behavior or actions are as described in Section 601 or 602, the response of the county shall be to release the minor to his or her parent, guardian, or caregiver. Counties shall develop a process for determining the least restrictive responses that may be used instead of, or in addition to, the release of the minor to his or her parent, guardian, or caregiver.

(c) This section shall become operative on January 1, 2020.

**Leg.H.**

Added Stats 2018 ch 1006 § 3 (SB 439), effective January 1, 2019, operative January 1, 2020.

## **§ 602.5. Report by Juvenile Court of Criminal History of Person Adjudged Ward Because of Commission of Felony.**

The juvenile court shall report the complete criminal history of any minor found to be a person adjudged to be a ward of the court under Section 602 because of the commission of any felony offense to the Department of Justice. The Department of Justice shall retain this information and make it available in the same manner as information gathered pursuant to Chapter 2 (commencing with Section 13100) of Title 3 of Part 4 of the Penal Code.

**Leg.H.**

[Adopted by Initiative (Prop. 21) at the March 7, 2000, Primary Election, operative March 8, 2000.]

## **§ 603. Exclusive Preliminary Jurisdiction of Juvenile Court in Criminal Proceedings against Persons Under 18 Years of Age; Exception.**

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

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

**Leg.H.**

1961 ch. 1616, 1996 ch. 481.

## **§ 603.5. Jurisdiction Over Minor for Specified Motor Vehicle Violations; Procedures; Applicability.**

(a) Notwithstanding any other provision of law, in a county that adopts the provisions of this section, jurisdiction over the case of a minor alleged to have committed only a violation of the Vehicle Code classified as an infraction or a violation of a local ordinance involving the driving, parking, or operation of a motor vehicle, is with the superior court, except that the court may refer to the juvenile court for adjudication, cases involving a minor who has been adjudicated a ward of the juvenile court, or who has other matters pending in the juvenile court.

(b) The cases specified in subdivision (a) shall not be governed by the procedures set forth in the juvenile court law.

(c) Any provisions of juvenile court law requiring that confidentiality be observed as to cases and proceedings, prohibiting or restricting the disclosure of juvenile court records, or restricting attendance by the public at juvenile court proceedings shall not apply. The procedures for bail specified in Chapter 1 (commencing with Section 1268) of Title 10 of Part 2 of the Penal Code shall apply.

(d) The provisions of this section shall apply in a county in which the trial courts make the section applicable as to any matters to be heard and the court has determined that there is available funding for any

increased costs.

**Leg.H.**

Added Stats 1980 ch 1299 § 4. Amended Stats 1993 ch 1151 § 1 (AB 1436); Stats 1994 ch 478 § 1 (AB 3115), effective September 10, 1994; Stats 1996 ch 93 § 1 (AB 2686); Stats 1998 ch 931 § 471 (SB 2139), effective September 28, 1998; Stats 2001 ch 824 § 38 (AB 1700); Stats 2008 ch 56 § 11 (SB 1182), effective January 1, 2009.

## **§ 604. Suspension of Criminal Prosecution against Minor and Certification to Juvenile Court.**

(a) Whenever a case is before any court upon an accusatory pleading and it is suggested or appears to the judge before whom the person is brought that the person charged was, at the date the offense is alleged to have been committed, under the age of 18 years, the judge shall immediately suspend all proceedings against the person on the charge. The judge shall examine into the age of the person, and if, from the examination, it appears to his or her satisfaction that the person was at the date the offense is alleged to have been committed under the age of 18 years, he or she shall immediately certify all of the following to the juvenile court of the county:

- (1) That the person (naming him or her) is charged with a crime (briefly stating its nature).
- (2) That the person appears to have been under the age of 18 years at the date the offense is alleged to have been committed, giving the date of birth of the person when known.
- (3) That proceedings have been suspended against the person on the charge by reason of his or her age, with the date of the suspension.

The judge shall attach a copy of the accusatory pleading to the certification.

(b) When a court certifies a case to the juvenile court pursuant to subdivision (a), it shall be deemed that jeopardy has not attached by reason of the proceedings prior to certification, but the court may not resume proceedings in the case, nor may a new proceeding under the general law be commenced in any court with respect to the same matter unless the juvenile court has found that the minor is not a fit subject for consideration under the juvenile court law and has ordered that proceedings under the general law resume or be commenced.

(c) The certification and accusatory pleading shall be promptly transmitted to the clerk of the juvenile court. Upon receipt thereof, the clerk of the juvenile court shall immediately notify the probation officer who shall immediately proceed in accordance with Article 16 (commencing with Section 650).

(d) This section does not apply to any minor who may have a complaint filed directly against him or her in a court of criminal jurisdiction pursuant to Section 707.01.

**Leg.H.**

1982 ch. 1088 § 3, 1984 ch. 1412 § 1, 1996 ch. 481.

## **§ 605. Suspension of Statute of Limitations Pending Juvenile Court Proceedings.**

Whenever a petition is filed in a juvenile court alleging that a minor is a person within the description of Section 602, and while the case is before the juvenile court, the statute of limitations applicable under the general law to the offense alleged to bring the minor within such description is suspended.

**Leg.H.**

## **§ 606. Prohibition against Criminal Prosecution for Facts Underlying Juvenile Court Action; Exception.**

When a petition has been filed in a juvenile court, the minor who is the subject of the petition shall not thereafter be subject to criminal prosecution based on the facts giving rise to the petition unless the juvenile court finds that the minor is not a fit and proper subject to be dealt with under this chapter and orders that criminal proceedings be resumed or instituted against him, or the petition is transferred to a court of criminal jurisdiction pursuant to subdivision (b) of Section 707.01.

**Leg.H.**

1961 ch. 1616, 1999 ch. 996.

## **§ 607. Retention of Jurisdiction.**

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

**(b)** The court may retain jurisdiction over a person who is found to be a person described in Section 602 by reason of the commission of an offense listed in subdivision (b) of Section 707, until that person attains 23 years of age, subject to the provisions of subdivision (c).

**(c)** The court may retain jurisdiction over a person who is found to be a person described in Section 602 by reason of the commission of an offense listed in subdivision (b) of Section 707 until that person attains 25 years of age if the person, at the time of adjudication of a crime or crimes, would, in criminal court, have faced an aggregate sentence of seven years or more.

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

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

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

**(g)** Notwithstanding subdivisions (b), (c), and (e), a person who is committed by the juvenile court to the Department of Corrections and Rehabilitation, Division of Juvenile Justice on or after July 1, 2012, but before July 1, 2018, and who is found to be a person described in Section 602 by reason of the commission of an offense listed in subdivision (b) of Section 707 shall be discharged upon the expiration of a two-year period of control, or when the person attains 23 years of age, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800) of Chapter 1 of Division 2.5. This subdivision does not apply to a person who is committed to the Department of Corrections and Rehabilitation, Division of Juvenile Justice, or to a person who is confined in a state hospital or other

appropriate public or private mental health facility, by a court prior to July 1, 2012, pursuant to subdivisions (b), (c), and (e).

**(h)**

**(1)** Notwithstanding subdivision (g), a person who is committed by the juvenile court to the Department of Corrections and Rehabilitation, Division of Juvenile Justice, on or after July 1, 2018, and who is found to be a person described in Section 602 by reason of the commission of an offense listed in subdivision (c) of Section 290.008 of the Penal Code or subdivision (b) of Section 707 of this code, shall be discharged upon the expiration of a two-year period of control, or when the person attains 23 years of age, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800) of Chapter 1 of Division 2.5.

**(2)** A person who, at the time of adjudication of a crime or crimes, would, in criminal court, have faced an aggregate sentence of seven years or more, shall be discharged upon the expiration of a two-year period of control, or when the person attains 25 years of age, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800) of Chapter 1 of Division 2.5.

**(3)** This subdivision does not apply to a person who is committed to the Department of Corrections and Rehabilitation, Division of Juvenile Justice, or to a person who is confined in a state hospital or other appropriate public or private mental health facility, by a court prior to July 1, 2018, as described in subdivision (g).

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

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

**(k)** This section shall become operative July 1, 2021.

**Leg.H.**

Added Stats 2020 ch 337 § 24 (SB 823), effective September 30, 2020, operative July 1, 2021. Amended Stats 2021 ch 18 § 4 (SB 92), effective May 14, 2021, operative July 1, 2021.

## **§ 607.1. Retention and Termination of Jurisdiction.**

**(a)** This section shall become operative on the 90th day after the enactment of the act adding this section.

**(b)**

**(1)** Notwithstanding Section 607, the court shall retain jurisdiction as described in paragraph (2) over any person who meets both of the following criteria:

(A) The person has been discharged from the physical custody of a facility of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

(B) The person is subject to subdivision (b) of Section 1766 or subdivision (c) of Section 1766.01.

**(2)** The court shall retain jurisdiction over a person who is described in paragraph (1) until one of the following applies:

(A) The person attains the age of 25 years.

- (B) The court terminates jurisdiction pursuant to Section 778 or 779, or any other applicable law.
- (C) Jurisdiction is terminated by operation of any other applicable law.

**Leg.H.**

Added Stats 2010 ch 729 § 10 (AB 1628), effective October 19, 2010, operative January 17, 2011.

## **§ 607.2. Hearing for Terminating Jurisdiction for Certain Wards Required; Criteria; Authority of Court; Construction.**

### **(a)**

**(1)** On and after January 1, 2012, the court shall hold a hearing prior to terminating jurisdiction over a ward who satisfies any of the following criteria:

**(A)** Is a minor subject to an order for foster care placement described in Section 11402 as a ward who has not previously been subject to the jurisdiction of the court as a result of a petition filed pursuant to Section 325.

**(B)** Is a nonminor who was subject to an order for foster care placement described in Section 11402 as a ward on the day he or she attained 18 years of age.

**(C)** Is a ward who was subject to an order for foster care placement described in Section 11402 as a dependent of the court at the time the court adjudged the child to be a ward of the court under Section 725.

**(2)** The notice of hearing under this subdivision may be served electronically pursuant to Section 212.5.

**(b)** At a hearing during which termination of jurisdiction over a ward described in subdivision (a) is being considered, the court shall take one of the following actions:

**(1)** Modify its jurisdiction from delinquency jurisdiction to transition jurisdiction, if the court finds the ward is a person described in Section 450.

### **(2)**

**(A)** For a ward who was not previously subject to the jurisdiction of the court as a result of a petition filed pursuant to Section 325, order the probation department or the ward's attorney to submit an application to the child welfare services department pursuant to Section 329 to declare the minor a dependent of the court and modify the court's jurisdiction from delinquency jurisdiction to dependency jurisdiction, if the court finds all of the following:

**(i)** The ward is a minor.

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

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

**(B)** The court shall set a hearing within 20 judicial days of the date of the order described in subparagraph (A) to review the child welfare services department's decision and may either affirm its

decision not to file a petition pursuant to Section 300 or order the child welfare services department to file a petition pursuant to Section 300. The notice of hearing under this subparagraph may be served electronically pursuant to Section 212.5.

(3) Vacate the order terminating jurisdiction over the minor as a dependent of the court, resume jurisdiction pursuant to Section 300 based on the prior petition filed pursuant to Section 325, and terminate the court's jurisdiction over the minor as a ward, if the minor was subject to an order for foster care placement described in Section 11402 as a dependent of the court at the time the court adjudged the minor to be a ward and assumed jurisdiction over the minor under Section 725.

(4) Continue its delinquency jurisdiction over a ward pursuant to Section 303 as a nonminor dependent, as defined in subdivision (v) of Section 11400, who is eligible to remain in foster care pursuant to Section 11403, if the ward is a nonminor and the court did not modify its jurisdiction as described in Section 450, unless the court finds that after reasonable and documented efforts, the ward cannot be located or does not wish to become a nonminor dependent. In making this finding and prior to entering an order terminating its delinquency jurisdiction, the court shall ensure that the ward has had an opportunity to confer with his or her counsel and has been informed of his or her options, including the right to reenter foster care placement by completing a voluntary reentry agreement as described in subdivision (z) of Section 11400 and to file a petition pursuant to subdivision (e) of Section 388 for the court to assume or resume transition jurisdiction over him or her pursuant to Section 450. The fact that a ward declines to be a nonminor dependent does not restrict the authority of the court to maintain delinquency jurisdiction pursuant to Section 607.

(5) Continue its delinquency jurisdiction.

(6) Terminate its delinquency jurisdiction if the ward does not come within the provisions of paragraphs (1) to (4), inclusive.

(c) If the court modifies jurisdiction, its order shall comply with the requirements of subdivision (f) of Section 241.1.

(d) This section shall not be construed as changing the requirements of Section 727.2 or 727.3 with respect to reunification of minors with their families or the establishment of an alternative permanent plan for minors for whom reunification is not pursued.

**Leg.H.**

Added Stats 2011 ch 459 § 15 (AB 212), effective October 4, 2011; Stats 2017 ch 319 § 136 (AB 976), effective January 1, 2018.

## **§ 607.3. Duties of Probation Department.**

On and after January 1, 2012, at the hearing required under Section 607.2 for a ward who is 18 years of age or older and subject to an order for foster care placement as described in Section 11402, the probation department shall complete all of the following actions:

(a) Ensure that the nonminor has been informed of his or her options, including the right to reenter foster care placement by completing a voluntary reentry agreement as described in subdivision (z) of Section 11400 and the right to file a petition pursuant to subdivision (e) of Section 388 for the court to resume transition jurisdiction pursuant to Section 450.

(b) Ensure that the ward has had an opportunity to confer with his or her counsel.

(c) Ensure that the ward is present in court for the hearing, unless the ward has waived his or her right to appear in court and elects to appear by a telephone instead, or document the efforts it made to locate the ward when the ward is not available to appear at the hearing.

(d) Submit a report to the court describing all of the following:

(1) Whether it is in the ward's best interest for a court to assume or continue transition jurisdiction over the ward as a nonminor dependent pursuant to Section 450.

(2) Whether the ward has indicated that he or she does not want juvenile court jurisdiction to continue.

(3) Whether the ward has been informed of his or her right to reenter foster care by completing the voluntary reentry agreement as described in subdivision (z) of Section 11400.

(e) Submit to the court the completed 90-day transition plan.

(f) Submit to the court written verification that the information, documents, and services set forth in paragraphs (1) to (8), inclusive, of subdivision (e) of Section 391 have been provided to the ward.

(g) Submit to the court written verification that the requirements set forth in Section 607.5 have been completed.

**Leg.H.**

Added Stats 2011 ch 459 § 16 (AB 212), effective October 4, 2011.

## **§ 607.5. Specified Notice and Information to be Provided to Ward Whenever Juvenile Court Terminates Jurisdiction or Upon Release of Ward.**

(a) Notwithstanding any other provision of law, whenever the juvenile court terminates jurisdiction over a ward who has also been designated a dependent of the court, or upon release of a ward from a facility that is not a foster care facility, a probation officer or parole officer shall provide the person with, at a minimum, all of the following:

(1) A written notice stating that the person is a former foster child and may be eligible for the services and benefits that are available to a former foster child through public and private programs, including, but not limited to, any independent living program for former foster children. Providing the proof of dependency and wardship document described in All-County Letter 07-33 and Section 31-525.6 of Chapter 31-500 of Division 31 of the State Department of Social Services Manual of Policies and Procedures, as it existed on January 1, 2010, shall satisfy this requirement.

(2) Existing information described in Section 31-525.61 of Chapter 31-500 of Division 31 of the State Department of Social Services Manual of Policies and Procedures, as it existed on January 1, 2010, that informs the person of the availability of assistance to enable the person to apply for, and gain acceptance into, federal and state programs that provide benefits to former foster children, including, but not limited to, financial assistance, housing, and educational resources for which he or she may be eligible.

(3) Existing information described in Section 31-525.61 of Chapter 31-500 of Division 31 of the State Department of Social Services Manual of Policies and Procedures, as it existed on January 1, 2010, that informs the person of the availability of assistance to enable the person to apply for, and gain acceptance

into, federal and state programs that provide independent living services to youth 16 years of age and over who may be eligible for services.

(b) This section shall apply to any ward who was previously adjudged a dependent child of the court pursuant to Section 300 or a child who at any time has been placed in foster care pursuant to Section 727.

(c) Nothing in this section shall be interpreted to alter or amend the obligations of probation officers under current law.

**Leg.H.**

Added Stats 2010 ch 631 § 2 (SB 945), effective January 1, 2011.

## **ARTICLE 15**

### **Wards—Temporary Custody and Detention**

#### **§ 625. Temporary Custody of Minor by Peace Officer Without Warrant.**

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

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

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

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

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

**Leg.H.**

1961 ch. 1616, 1967 ch. 1355, 1971 chs. 1730, 1748, 1976 ch. 1068.

#### **§ 625.1. Voluntary Chemical Test During Temporary Custody.**

Any minor who is taken into temporary custody pursuant to subdivision (a) of Section 625, when the peace officer has reasonable cause for believing the minor is a person described in Section 602, or pursuant to subdivision (b) or (c) of Section 625, may be requested to submit to voluntary chemical testing of his or her urine for the purpose of determining the presence of alcohol or illegal drugs. The peace officer shall inform the minor that the chemical test is voluntary. The results of this test may be considered by the court in determining the disposition of the minor pursuant to Section 706 or 777. Unless otherwise provided by law, the results of such a

test shall not be the basis of a petition filed by the prosecuting attorney to declare the minor a person described in Section 602, nor shall it be the basis for such a finding by a court pursuant to Section 702.

**Leg.H.**

1989 ch. 1117.

## **§ 625.2. Admonition by Peace Officer Before Administration of Chemical Test.**

(a) Before administering the chemical test pursuant to Section 625.1, the peace officer shall give the following admonition: "I am asking you to take a voluntary urine test to test for the presence of drugs or alcohol in your body. You have the right to refuse to take this test. If you do take the test, it cannot be used as the basis for filing any additional charges against you. It can be used by a court for the purpose of sentencing. You have the right to telephone your parent or guardian before you decide whether or not to take this test."

(b) The admonition in subdivision (a) shall not be given when a chemical test is administered pursuant to Section 23612 of the Vehicle Code.

**Leg.H.**

Added Stats 1989 ch 1117 § 7. Amended Stats 2019 ch 497 § 294 (AB 991), effective January 1, 2020.

## **§ 625.3. Minor in Custody for Personal Use of Firearm in Commission of Felony—Condition of Release.**

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.

**Leg.H.**

1996 ch. 843, 1999 ch. 996, amended by electorate (Prop. 21) at the March 7, 2000, Primary Election, operative March 8, 2000.

## **§ 625.4. DNA; Minors.**

(a) A law enforcement officer, employee of a law enforcement agency, or any agent thereof, shall not request that a voluntary DNA reference sample be collected directly from the person of a minor unless all of the following conditions are met:

(1) The minor consents in writing, after being verbally informed of the purpose and manner of the collection, the right to refuse consent, the right to sample expungement, and the right to consult with an attorney, parent, or legal guardian prior to providing consent.

(2) A specific parent or legal guardian identified by the minor, or an attorney representing the minor, is contacted, is provided the information specified in paragraph (1), is allowed to privately consult by telephone or in person with the minor, and, after that consultation, concurs with the minor's decision to consent.

(3) Local law enforcement provides the minor with a form for requesting expungement of the voluntary DNA buccal swab sample, if a sample is consented to and collected pursuant to this section.

**(b)** Nothing in subdivision (a) is intended to create a right to the appointment of counsel.

**(c)** The detention of a minor that occurs for the purpose of requesting a voluntary DNA reference sample directly from the person of that minor pursuant to this section shall not be unreasonably extended solely for the purpose of contacting a parent, legal guardian, or attorney pursuant to paragraph (2) of subdivision (a), if a parent, legal guardian, or attorney cannot be reached after reasonable attempts have been made.

**(d)** The court shall, in adjudicating the admissibility of a voluntary DNA reference sample taken directly from a minor pursuant to this section, consider the effect of any failure to comply with this section.

**(e)** The law enforcement agency obtaining a voluntary DNA reference sample directly from the person of a minor pursuant to this section shall determine within two years whether the person remains a suspect in a criminal investigation. If, within two years, the voluntary DNA reference sample that is collected pursuant to this section is not found to implicate the minor as a suspect in a criminal offense, the local law enforcement agency shall promptly expunge the sample and the DNA profile information from that voluntary DNA reference sample from the databases or data banks into which they have been entered.

**(f)** If the minor requests expungement of a voluntary DNA reference sample collected directly from the person of a minor pursuant to this section, the local law enforcement agency shall make reasonable efforts to promptly expunge the sample and the DNA profile information from that voluntary DNA reference sample from all DNA databases or data banks unless the voluntary DNA reference sample has implicated the minor as a suspect in a criminal investigation. If expungement occurs, law enforcement shall make reasonable efforts to notify the minor when the minor's DNA sample and DNA profile information have been expunged.

**(g)** A voluntary DNA reference sample taken directly from the person of a minor pursuant to this section and the DNA profile information from that voluntary DNA reference sample shall not be searched, analyzed, or compared to DNA samples or profiles in the investigation of crimes other than the investigation or investigations for which it was taken, unless that additional use is permitted by a court order.

**(h)** Any local law enforcement agency that is found by clear and convincing evidence to maintain a pattern and practice of collecting voluntary DNA reference samples directly from the person of a minor in violation of this section after January 1, 2019, shall be liable to each minor whose sample was inappropriately collected in the amount of five thousand dollars (\$5,000) for each violation, plus attorney's fees and costs.

**(i)** The scope of this section is limited to the collection of voluntary DNA reference samples directly from the person of minors, and, as such, subdivisions (a) to (h), inclusive have no application to the collection and use of DNA under other circumstances, including, but not limited to, any of the following:

**(1)** The sample collection or use is expressly authorized pursuant to the state's DNA Act as set forth in the DNA and Forensic Identification Database and Data Bank Act of 1998, as amended, (Chapter 6 (commencing with Section 295) of Title 9 of Part 1 of the Penal Code.

**(2)** A DNA reference sample collection and analysis that occurs pursuant to a valid search warrant or court order or exigent circumstances.

**(3)** A DNA reference sample collection that occurs in the investigation or identification of a missing or abducted minor.

**(4)** Any DNA reference sample collected from a juvenile victim or suspected perpetrator of a sexual assault or other crime as authorized by law.

**(5)** Any DNA sample that is collected as evidence in a criminal investigation, such as evidence from a crime scene or an abandoned sample.

**Leg.H.**

Added Stats 2018 ch 745 § 1 (AB 1584), effective January 1, 2019.

## **§ 625.5. Detention of Minor in Violation of Curfew Ordinance; Citation; Fee for Costs.**

(a) It is the intent of the Legislature in enacting this section to accomplish the following purposes:

(1) To safeguard the fiscal integrity of cities and counties by enabling them to recoup the law enforcement costs of identifying, detaining, and transporting minors who violate curfew ordinances to their places of residence.

(2) To encourage parents and legal guardians to exercise reasonable care, supervision, and control over their minor children so as to prevent them from committing unlawful acts.

(3) To help eradicate criminal street gang activity.

(b) This section shall only apply to a city, county, or city and county in which the governing body of the city, county, or city and county has enacted an ordinance prohibiting minors from remaining in or upon the public streets unsupervised after hours and has adopted a resolution to implement this section.

(c) Except as provided in subdivision (d), law enforcement personnel are authorized to temporarily detain any minor upon a reasonable suspicion based on articulable facts that the minor is in violation of the ordinance described in subdivision (b) and to transport that minor to his or her place of permanent or temporary residence within the state, whether the place of residence is located within or without the jurisdiction of the governing body, or to the custody of his or her parents or legal guardian. A law enforcement officer may decide not to temporarily detain and transport a minor if he or she determines that the minor has a legitimate reason based on extenuating circumstances for violating the ordinance.

(d) Upon the first violation of the ordinance described in subdivision (b), the law enforcement officer shall issue to the minor a warning citation regarding the consequences of a second violation of the ordinance. A designated representative of the governmental entity issuing the citation shall mail to the parents of the minor or legal guardian a notification that states that upon a second violation, the parents or legal guardian may be held liable for actual administrative and transportation costs, and that requires the parents or legal guardian to sign and return the notification. This notification shall include a space for the explanation of any circumstances relevant to an applicable exemption from the fee as provided by subdivision (e). This explanation shall be reviewed by a designated representative of the governmental entity that issued the citation and notification. If the explanation is found to be insufficient, the representative may request a consultation with the parents or legal guardian for the purpose of discussing the circumstances claimed to be relevant to an applicable exemption.

(e) A fee for the actual costs of administrative and transportation services for the return of the minor to his or her place of residence, or to the custody of his or her parents or legal guardian, may be charged jointly or severally to the minor, his or her parents, or legal guardian, in an amount not to exceed those actual costs. Upon petition of the person required to pay the fee, the governmental entity issuing the citation shall conduct a hearing as to the validity of the fees charged, and may waive payment of the fee by the minor, his or her parents, or legal guardian, upon a finding of good cause. If authorized by the governing body, the city, county, or city and county may charge this fee, in which case the city, county, or city and county may (1) provide for waiver of the payment of the fee by the parents or legal guardian upon a determination that the person has made reasonable efforts to exercise supervision and control over the minor, (2) provide for a determination of the ability to pay the fee and provide that the fee may be waived if neither the minor nor the parents or legal guardian has the ability to pay the fee, (3) provide for the performance of community service in lieu of imposition of the fee, and (4) provide for

waiver of the payment of the fee by the parents or legal guardian upon a determination that the parents or legal guardian has limited physical or legal custody and control of the minor.

(f) In a civil action commenced by a city, county, or city and county to collect the fee, a court may waive payment of the fee by the minor, his or her parents, or legal guardian, upon a finding of good cause.

**Leg.H.**

1994 ch. 810.

## **§ 625.6. Custodial Interrogation of Youth [Repealed effective January 1, 2025].**

(a) Prior to a custodial interrogation, and before the waiver of any Miranda rights, a youth 17 years of age or younger shall consult with legal counsel in person, by telephone, or by video conference. The consultation may not be waived.

(b) The court shall, in adjudicating the admissibility of statements of a youth 17 years of age or younger made during or after a custodial interrogation, consider the effect of failure to comply with subdivision (a) and, additionally, shall consider any willful violation of subdivision (a) in determining the credibility of a law enforcement officer under [Section 780 of the Evidence Code](#).

(c) This section does not apply to the admissibility of statements of a youth 17 years of age or younger if both of the following criteria are met:

(1) The officer who questioned the youth reasonably believed the information the officer sought was necessary to protect life or property from an imminent threat.

(2) The officer's questions were limited to those questions that were reasonably necessary to obtain that information.

(d) This section does not require a probation officer to comply with subdivision (a) in the normal performance of the probation officer's duties under Section 625, 627.5, or 628.

**Leg.H.**

Added Stats 2017 ch 681 § 2 (SB 395), effective January 1, 2018, repealed January 1, 2025. Amended Stats 2020 ch 335 § 2 (SB 203), effective January 1, 2021.

## **§ 626. Alternative Dispositions for Minors in Temporary Custody When Juvenile Court Proceedings Not Required.**

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.

**Leg.H.**

Added Stats 1961 ch 1616 § 2; Amended Stats 1963 ch 1486 § 1; Stats 1976 ch 1068 § 26; Stats 1978 ch 1372 § 2; Stats 1982 ch 461 § 3, ch 1091 § 1; Stats 1984 ch 260 § 4; Stats 1989 ch 878 § 1; Stats 2001 ch 334 § 1 (AB 701); Stats 2013 ch 21 § 10 (AB 74), effective June 27, 2013.

## **§ 626.5. Alternative Dispositions for Minors in Temporary Custody When Juvenile Court Proceedings Required.**

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.

**Leg.H.**

1982 chs. 461, 1091, 1989 ch. 878.

## **§ 626.6. Delivery to Probation Officer of Minor in Custody for Firearm Offense; Written Statement by Peace Officer.**

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.

**Leg.H.**

1996 ch. 843.

## **§ 626.8. Applicability of Penal Code Section 859.5 to Custodial Interrogation of Ward of Juvenile Court.**

(a) Subdivisions (a) to (d), inclusive, paragraphs (1) and (2) of subdivision (e) and subdivision (g) of Section 859.5 of the Penal Code shall apply to any custodial interrogation of a person who is or who may be adjudged a ward of the juvenile court pursuant to Section 602 related to murder, as listed in paragraph (1) of subdivision (b) of Section 707.

(b)

(1) Except as otherwise provided in paragraph (2), Article 22 (commencing with Section 825) shall apply to any electronic recording or other record made pursuant to this section.

(2) The interrogating entity shall maintain an original or exact copy of any electronic recording made of a custodial interrogation until the person is no longer subject to the jurisdiction of the juvenile court, unless the person is transferred to a court of criminal jurisdiction. If the person is transferred to a court of criminal jurisdiction, subdivision (f) of Section 859.5 of the Penal Code shall apply. The interrogating entity may make one or more true, accurate, and complete copies of the electronic recording in a different format.

**Leg.H.**

Added Stats 2013 ch 799 § 3 (SB 569), effective January 1, 2014.

## § 627. Notification to Parents of Minor's Detention or Custody; Telephone Calls.

(a) When an officer takes a minor before a probation officer at a juvenile hall or to any other place of confinement pursuant to this article, he shall take immediate steps to notify the minor's parent, guardian, or a responsible relative that such minor is in custody and the place where he is being held.

(b) Immediately after being taken to a place of confinement pursuant to this article and, except where physically impossible, no later than one hour after he has been taken into custody, the minor shall be advised and has the right to make at least two telephone calls from the place where he is being held, one call completed to his parent or guardian, a responsible relative, or his employer, and another call completed to an attorney. The calls shall be at public expense, if the calls are completed to telephone numbers within the local calling area, and in the presence of a public officer or employee. Any public officer or employee who willfully deprives a minor taken into custody of his right to make such telephone calls is guilty of a misdemeanor.

Leg.H.

1961 ch. 1616, 1971 ch. 1030, 1980 ch. 1092.

## § 627.5. Duty to Advise Minor of Constitutional Rights.

In any case where a minor is taken before a probation officer pursuant to the provisions of Section 626 and it is alleged that such minor is a person described in Section 601 or 602, the probation officer shall immediately advise the minor and his parent or guardian that anything the minor says can be used against him and shall advise them of the minor's 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. If the minor or his parent or guardian requests counsel, the probation officer shall notify the judge of the juvenile court of such request and counsel for the minor shall be appointed pursuant to Section 634.

Leg.H.

1967 ch. 1355.

## § 628. Action of Probation Officer When Minor Taken into Temporary Custody; Investigation; Release or Further Detention; Prerequisites to Further Detention; Compliance with Other Laws; Identification and Notification of Relatives.

(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.

#### Leg.H.

Added Stats 1961 ch 1616 § 2; Amended Stats 1967 ch 1356 § 1; Stats 1971 ch 1389 § 2, ch 1729 § 2.5; Stats 1976 ch 1068 § 27, ch 1071 § 15; Stats 1977 ch 579 § 195; Stats 1999 ch 997 § 4 (AB 575); Stats 2001 ch 831 § 1 (AB 1696); Stats 2009 ch 261 § 2 (AB 938), effective January 1, 2010; Stats 2016 ch 646 § 1 (AB 2813), effective January 1, 2017; Stats 2017 ch 732 § 53 (AB 404), effective January 1, 2018.

## § 628.1. Home Supervision Release of Minors.

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.

**Leg.H.**

1976 ch. 1071, 1999 ch. 996.

## **§ 629. Release Subject to Promise to Appear.**

(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.

**Leg.H.**

1961 ch. 1616, 1999 ch. 996, amended by electorate (Prop. 21) at the March 7, 2000, Primary Election, operative March 8, 2000, 2000 ch. 663.

## **§ 629.1. Probation Officer to Retain Minor in Custody for Firearm Offense Until Detention Hearing with Judicial Officer.**

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.

**Leg.H.**

1996 ch. 843.

## **§ 630. Procedures Necessary to Retain Minor in Custody.**

(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.

**Leg.H.**

Added Stats 1961 ch 1616 § 2; Amended Stats 1967 ch 1355 § 3; Stats 1968 ch 536 § 1; Stats 1972 ch 906 § 2; Stats 1975 ch 82 § 1; Stats 1976 ch 1068 § 28; Stats 1977 ch 1241 § 2, effective October 1, 1977; Stats 2017 ch 319 § 137 (AB 976), effective January 1, 2018.

## **§ 630.1. Notifications to Minor's Counsel.**

Upon reasonable notification by counsel representing the minor, his parents or guardian, the clerk of the court shall notify such counsel of the hearings in the manner provided for notice to the parent or guardian of the minor under this chapter.

**Leg.H.**

1967 ch. 507.

## **§ 631. Maximum Detention Period Prior to Petition.**

(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.

**Leg.H.**

1961 ch. 1616, 1969 ch. 1008, 1971 ch. 1543, 1972 ch. 579, 1976 ch. 1068, 1978 ch. 1372, 1985 ch. 291, 1989 ch. 686.

## **§ 631.1. Effect of Minor's Age Misrepresentation.**

When a minor willfully misrepresents himself to be 18 or more years of age when taken into custody by a peace officer or probation officer, and this misrepresentation effects a material delay in investigation which prevents the filing of a petition pursuant to the provisions of this chapter or the filing of a criminal complaint against him in a court of competent jurisdiction within 48 hours, such petition or complaint shall be filed within 48 hours from the time his true age is determined, excluding nonjudicial days. If, in such cases, the petition or complaint is not filed within the time prescribed by this section the minor shall be immediately released from custody.

**Leg.H.**

1969 ch. 1008, 1972 ch. 579.

## **§ 632. Detention Hearing—Requirement.**

(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.

**Leg.H.**

1961 ch. 1616, 1963 ch. 917, 1978 ch. 1372, 1985 ch. 291, 1989 ch. 686.

## **§ 633. Detention Hearing Procedure—Information to Be Furnished.**

Upon his appearance before the court at the detention hearing, such minor and his parent or guardian, if present, shall first be informed of the reasons why the minor was taken into custody, the nature of the juvenile court proceedings, and the right of such minor and his parent or guardian to be represented at every stage of the proceedings by counsel.

**Leg.H.**

1961 ch. 1616.

## **§ 634. Appointment of Counsel; Compensation.**

When it appears to the court that the minor or his or her parent or guardian desires counsel but is unable to afford and cannot for that reason employ counsel, the court may appoint counsel. In a case in which the minor is alleged to be a person described in Section 601 or 602, the court shall appoint counsel for the minor if he or she appears at the hearing without counsel, whether he or she is unable to afford counsel or not, unless there is an intelligent waiver of the right of counsel by the minor. In any case in which it appears to the court that there is such a conflict of interest between a parent or guardian and child that one attorney could not properly represent both, the court shall appoint counsel, in addition to counsel already employed by a parent or guardian or appointed by the court to represent the minor or parent or guardian. In a county where there is no public defender, the court may fix the compensation to be paid by the county for service of that appointed counsel.

**Leg.H.**

Added Stats 1961 ch 1616 § 2; Amended Stats 1963 ch 2136 § 1; Stats 1967 ch 1355 § 4; Stats 1968 ch 1223 § 1; Stats 1970 ch 625 § 1; Stats 1971 ch 667 § 2; Stats 2017 ch 678 § 7 (SB 190), effective January 1, 2018.

### **§ 634.3 Duties Of Appointed Counsel; Development Of Rules Of Court Relating To Training And Education Of Appointed Counsel.**

**(a)** Counsel appointed pursuant to Section 634 to represent youth in proceedings under Sections 601 and 602 shall do all of the following:

(1) Provide effective, competent, diligent, and conscientious advocacy and make rational and informed decisions founded on adequate investigation and preparation.

(2) Provide legal representation based on the client's expressed interests, and maintain a confidential relationship with the minor.

(3) Confer with the minor prior to each court hearing, and have sufficient contact with the minor to establish and maintain a meaningful and professional attorney-client relationship, including in the postdispositional phase.

(4) When appropriate, delinquency attorneys should consult with social workers, mental health professionals, educators, and other experts reasonably necessary for the preparation of the minor's case, and, when appropriate, seek appointment of those experts pursuant to [Sections 730 and 952 of the Evidence Code](#).

(5) Nothing in this subdivision shall be construed to modify the role of counsel pursuant to subdivision (b) of Section 657.

**(b)** By July 1, 2016, the Judicial Council, in consultation and collaboration with delinquency defense attorneys, judges, and other justice partners including child development experts, shall adopt rules of court to do all of the following:

(1) Establish minimum hours of training and education, or sufficient recent experience in delinquency proceedings in which the attorney has demonstrated competence, necessary in order to be appointed as counsel in delinquency proceedings. Training hours that the State Bar has approved for Minimum Continuing Legal Education (MCLE) credit shall be counted toward the MCLE hours required of all attorneys by the State Bar.

(2) Establish required training areas that may include, but are not limited to, an overview of juvenile delinquency law and procedure, child and adolescent development, special education, competence and mental health issues, counsel's ethical duties, advocacy in the postdispositional phase, appellate issues,

direct and collateral consequences of court involvement for a minor, and securing effective rehabilitative resources.

(3) Encourage public defender offices and agencies that provide representation in proceedings under Sections 601 and 602 to provide training on juvenile delinquency issues that the State Bar has approved for MCLE credit.

(4) Provide that attorneys practicing in juvenile delinquency courts shall be solely responsible for compliance with the training and education requirements adopted pursuant to this section.

**Leg.H.**

Added Stats 2015 ch 369 § 2 (AB 703), effective January 1, 2016.

## **§ 634.6. Continued Representation by Appearing Counsel.**

Any counsel upon entering an appearance on behalf of a minor shall continue to represent that minor unless relieved by the court upon the substitution of other counsel or for cause.

**Leg.H.**

1975 ch. 205.

## **§ 635. Detention Hearing Procedure—Determinations and Release from Custody; Report Required if Minor Is At-Risk of Entering Foster Home.**

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

(b)

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

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

(c)

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

(2) If the court orders release of a minor who is a dependent of the court pursuant to Section 300, the court shall order the child welfare services department either to ensure that the minor's current foster parent

or other caregiver takes physical custody of the minor or to take physical custody of the minor and place the minor in a licensed or approved placement.

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

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

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

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

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

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

**Leg.H.**

1961 ch. 1616, 1976 ch. 1070, effective September 21, 1976, ch. 1071, 1977 ch. 1241, effective October 1, 1977, 1999 ch. 997; Stats 2014 ch 760 § 5 (AB 388), effective January 1, 2015.

## **§ 635.1. Minor in Need of Specialized Mental Health Treatment.**

When the court finds a minor to be a person described by Section 602 and believes the minor may need specialized mental health treatment while the minor is unable to reside in his or her natural home, the court shall notify the director of the county mental health department in the county where the minor resides. The county mental health department shall perform the duties required under Section 5697.5 for all those minors.

Nothing in this section shall restrict the provision of emergency psychiatric services to those minors who have not yet reached the point of adjudication or disposition, nor shall it operate to restrict evaluations at an earlier stage of the proceedings or to restrict the use of [Sections 4011.6 and 4011.8 of the Penal Code](#).

**Leg.H.**

1985 ch. 1286, effective September 30, 1985, 2001 ch. 854.

## **§ 636. Order for Detention and Alternative Dispositions; Determination of Whether Minor Can Be Returned Home.**

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

the court's decision to detain shall not be based on the minor's status as a dependent of the court or the child welfare services department's inability to provide a placement for the minor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) For a placement made on or after October 1, 2021, each placement of the minor in a short-term residential therapeutic program shall comply with the requirements of Section 4096 and be reviewed by the court pursuant to Section 727.12.

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

**Leg.H.**

Added Stats 1961 ch 1616 § 2. Amended Stats 1976 ch 1070 § 2, effective September 21, 1976, ch 1071 § 37; Stats 1999 ch 997 § 6 (AB 575); Stats 2001 ch 831 § 2 (AB 1696); Stats 2004 ch 332 § 1 (AB 2795); Stats 2005 ch 22 § 216 (SB 1108), effective January 1, 2006; Stats 2014 ch 760 § 6 (AB 388), effective January 1, 2015; Stats 2021 ch 86 § 25 (AB 153), effective July 16, 2021.

## **§ 636.1. Case Plan to Identify Strengths and Needs.**

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

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

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

**Leg.H.**

1999 ch. 997, 2001 ch. 831, 2004 ch. 332 (AB 2795).

## **§ 636.2. Nonsecure Detention Facilities—Criteria for Placement.**

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.

**Leg.H.**

1976 ch. 1071, 1977 ch. 1241, effective October 1, 1977.

## **§ 637. Rehearing Upon Showing of Absence of Parental Notice.**

When a hearing is held under the provisions of this article and no parent or guardian of such minor is present and no parent or guardian has had actual notice of the hearing, a parent or guardian of such minor may file his affidavit setting forth such facts with the clerk of the juvenile court and the clerk shall immediately set the matter for rehearing at a time within 24 hours, excluding Sundays and nonjudicial days from the filing of the affidavit. Upon the rehearing, the court shall proceed in the same manner as upon the original hearing.

If the minor or, if the minor is represented by an attorney, the minor's attorney, requests evidence of the prima facie case, a rehearing shall be held within three judicial days to consider evidence of the prima facie case. If the prima facie case is not established, the minor shall be released from detention.

When the court ascertains that the rehearing cannot be held within three judicial days because of the unavailability of a witness, a reasonable continuance may be granted for a period not to exceed five judicial days.

**Leg.H.**

1961 ch. 1616, 1975 ch. 1266.

## **§ 638. Continuances.**

Upon motion of the minor or a parent or guardian of such minor, the court shall continue any hearing or rehearing held under the provisions of this article for one day, excluding Sundays and nonjudicial days.

**Leg.H.**

1961 ch. 1616.

## **§ 639. Order to Reappear.**

Upon any hearing or rehearing under the provisions of this article, the court may order such minor or any parent or guardian of such minor who is present in court to again appear before the court or the probation officer or the county financial evaluation officer at a time and place specified in said order.

**Leg.H.**

1961 ch. 1616, 1985 ch. 1485.

## **§ 641. Procedure When Second County Involved.**

Whenever any minor is taken into temporary custody under the provisions of this article in any county other than the county in which the minor is alleged to be within or to come within the jurisdiction of the juvenile court, which county is referred to herein as the requesting county, the officer who has taken the minor into temporary custody may notify the law enforcement agency in the requesting county of the fact that the minor is in custody. When a law enforcement officer, of such requesting county files a petition pursuant to Section 656

with the clerk of the juvenile court of his respective county and secures a warrant therefrom, he shall forward said warrant, or a telegraphic copy thereof to the officer who has the minor in temporary custody as soon as possible within 48 hours, excluding Sundays and nonjudicial days, from the time said juvenile was taken into temporary custody. Thereafter an officer from said requesting county shall take custody of the minor within five days, in the county in which the minor is in temporary custody, and shall take the minor before the juvenile court judge who issued the warrant, or before some other juvenile court of the same county without unnecessary delay. If the minor is not brought before a judge of the juvenile court within the period prescribed by this section, he must be released from custody.

**Leg.H.**

1961 ch. 1616.

## **ARTICLE 16**

### **Wards—Commencement of Proceedings**

#### **§ 650. Commencement of Proceedings by Petition.**

(a) Juvenile court proceedings to declare a minor a ward of the court pursuant to Section 601 are 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.

**Leg.H.**

1982 ch. 1088 § 6, 1984 ch. 1412 § 3, 1991 ch. 1202.

#### **§ 651. Venue.**

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.

**Leg.H.**

1982 ch. 1088 § 10, effective January 1, 1985, 1984 chs. 260, 1412 § 5.

#### **§ 652. Investigation by Probation Officer to Determine Necessity of Proceedings.**

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.

**Leg.H.**

1961 ch. 1616, 1976 ch. 1068, 1982 ch. 1091, 1984 chs. 260, 1227, 1999 ch. 997.

## **§ 652.5. Disposition of Minor—Service Program; Failure to Initiate Service Program.**

**(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.

**Leg.H.**

Added Stats 1984 ch 1227 § 4; Amended Stats 1990 ch 258 § 1 (AB 3741); Stats 2017 ch 678 § 8 (SB 190), effective January 1, 2018.

## **§ 653. Application to Commence § 601 Proceedings.**

Whenever any person applies to the probation officer or the district attorney in accordance with subdivision (e) of Section 601.3, 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 601 and setting forth facts in support thereof. The probation officer or the district attorney, in consultation with the probation officer, shall immediately make any investigation he or she deems necessary to determine whether proceedings in the juvenile court should be commenced.

**Leg.H.**

1982 ch. 1088 § 12, 1984 ch. 1412 § 7, 1991 ch. 1202, 1992 ch. 427, 1993 ch. 59, effective June 30, 1993, 1994 ch. 450.

## **§ 653.1. When Probation Officer Must Submit Application to Prosecutor Immediately.**

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.

**Leg.H.**

Added Stats 1987 ch 1499 § 4. Amended Stats 1994 ch 453 § 4 (AB 560); Stats 2018 ch 423 § 124 (SB 1494), effective January 1, 2019.

## **§ 653.5. Application to Commence § 602 Proceedings; When Probation Officer Must Submit Affidavit within 48 Hours; Prosecutor's Discretion to File.**

(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.

**Leg.H.**

1993 ch. 1125 § 16, effective October 11, 1993, 1994 chs. 450, 453 § 6.5, 1996 ch. 1077, 1999 ch. 997.

## **§ 653.7. Failure of Probation Officer to Take Action within 21 Days.**

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.

**Leg.H.**

1982 ch. 1088, 1984 ch. 1412.

## **§ 654. Possible Dispositions of Minor in Lieu of Filing Petition.**

(a) In any case in which a probation officer, after investigation of an application for a petition or any other investigation the probation officer is authorized to make, concludes that a minor is within the jurisdiction of the juvenile court, or would come within the jurisdiction of the court if a petition were filed, the probation officer may, in lieu of filing a petition to declare a minor 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, refer the minor to services provided by a health agency, community-based organization, local educational agency, an appropriate non-law-enforcement agency, or the probation department. If the services are provided by the probation department, the probation officer may delineate specific programs of supervision for the minor, not to exceed six

months, and attempt thereby to adjust the situation that brings the minor within the jurisdiction of the court. This section does not prevent the probation officer from 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 participated in the specific programs within 60 days, the probation officer may 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.

**(b)** 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.

**(c)** The program of supervision shall encourage 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.

**(d)** Further, a probation officer with consent of the minor and the minor's parent or guardian may provide the following services in lieu of filing a petition:

**(1)** 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 the minor's family during this period of diversion services. Referrals for sheltered-care diversion may be made by the minor, the minor's family, schools, any law enforcement agency, or any other private or public social service agency.

**(2)** 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 the minor's 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, the minor's family, schools, law enforcement, or any other private or public social service agency.

**(3)** Maintain and operate counseling and educational centers, or contract with community-based organizations or public agencies to provide vocational training or skills, counseling and mental health resources, educational supports, and arts, recreation, and other youth development services. These services may be provided 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 those organizations 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.

**Leg.H.**

Added Stats 1982 ch 1088 § 18, effective January 1, 1985. Repealed Stats 1984 ch 1412 § 12. Amended Stats 1984 ch 1635 § 95; Stats 1989 ch 1117 § 10; Stats 1991 ch 1202 § 17 (SB 377); Stats 2017 ch 678 § 9 (SB 190), effective January 1, 2018; Stats 2020 ch 323 § 11 (AB 901), effective January 1, 2021.

## **§ 654.1. Delineating Program of Supervision for Minor in Lieu of Requesting That Petition Be Filed by Prosecuting Attorney.**

**(a)** Notwithstanding Section 654 or any other provision of law, in any case in which a minor has been charged with a violation of Section 23140 or 23152 of the Vehicle Code, the probation officer may, in lieu of

requesting that a petition be filed by the prosecuting attorney to declare the minor a ward of the court under Section 602, proceed in accordance with Section 654 and delineate a program of supervision for the minor. However, the probation officer shall cause the citation for a violation of [Section 23140 or 23152 of the Vehicle Code](#) to be heard and disposed of by the judge, referee, or juvenile hearing officer pursuant to Sections 257 and 258 as a condition of any program of supervision.

(b) This section may not be construed to prevent the probation officer from requesting the prosecuting attorney to file a petition to declare the minor a ward of the court under Section 602 for a violation of [Section 23140 or 23152 of the Vehicle Code](#). However, if in the judgment of the probation officer, the interest of the minor and the community can be protected by adjudication of a violation of [Section 23140 or 23152 of the Vehicle Code](#) in accordance with subdivision (a), the probation officer shall proceed under subdivision (a).

**Leg.H.**

1988 ch. 1258, 2003 ch. 149 (SB 79).

## **§ 654.2. Order for Minor to Participate in Supervision Program.**

(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.

**Leg.H.**

1989 ch. 1117, 1994 ch. 213.

## **§ 654.3. Exceptions to Eligibility for Supervision Program.**

(a) A minor shall not be eligible for the program of supervision set forth in Section 654 or 654.2 in the following cases, except where the interests of justice would best be served and the court specifies on the record the reasons for its decision:

- (1) A petition alleges that the minor has violated [Section 245.5, 626.9, or 626.10 of the Penal Code](#).
- (2) A petition alleges that the minor has violated [Section 186.22 of the Penal Code](#).
- (3) The minor has previously participated in a program of supervision pursuant to Section 654.
- (4) The minor has previously been adjudged a ward of the court pursuant to Section 602.

(5)

(A) A petition alleges that the minor has violated an offense in which the restitution owed to the victim exceeds one thousand dollars (\$1,000). However, a minor's inability to pay restitution due to the minor's indigence shall not be grounds for finding a minor ineligible for the program of supervision or a finding that the minor has failed to comply with the terms of the program of supervision.

(B) 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.

(b) A minor shall not be eligible for the program of supervision set forth in Section 654 or 654.2 in the case of a petition alleging that the minor has violated an offense listed in subdivision (b) of Section 707, except in unusual cases where the court determines the interests of justice would be best served and the court specified on the record the reason for its decision.

Leg.H.

Added Stats 1989 ch 1117 § 12. Amended Stats 1994 ch 453 § 7 (AB 560); Stats 1996 ch 1077 § 32 (AB 2898). Amendment adopted by voters, Prop. 21 § 22, effective March 8, 2000; Stats 2021 ch 603 § 1 (SB 383), effective January 1, 2022.

## § 654.4. Controlled Substance Offenders in Supervision Program—Additional Participation in Alcohol or Drug Education Program.

Any minor who is placed in a program of supervision set forth in Section 654 or 654.2 for a violation of an offense involving the unlawful possession, use, sale, or other furnishing of a controlled substance, as defined in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, or for violating subdivision (f) of Section 647 of the Penal Code or Section 23140 or 23152 of the Vehicle Code, shall be required to participate in and successfully complete an alcohol or drug education program from a county mental health agency or other appropriate community program.

Leg.H.

1989 ch. 1117.

## § 654.6. Program of Supervision to Include Constructive Assignments.

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.

Leg.H.

Added Stats 1990 ch 258 § 2 (AB 3741); Amended Stats 2017 ch 678 § 10 (SB 190), effective January 1, 2018.

## § 655. Review of Probation Officer's or District Attorney's Decision Not to Commence Proceedings.

(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.

**Leg.H.**

1961 ch. 1616, 1963 ch. 1880, 1976 ch. 1071, 1977 ch. 1241, effective October 1, 1977, 1980 ch. 670, 1991 ch. 1202.

## **§ 655.5. Application by Referring Agency for Review of Referral Agency's Decision.**

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.

**Leg.H.**

1984 ch. 260.

## **§ 656. Verification and Contents of Petition to Commence Proceedings.**

A petition to commence proceedings in the juvenile court to declare a minor a ward of the court shall be verified and shall contain all of the following:

(a) The name of the court to which it is addressed.

(b) The title of the proceeding.

(c) The code section and subdivision under which the proceedings are instituted.

(d) The name, age, and address, if any, of the minor upon whose behalf the petition is brought.

(e) The names and residence addresses, if known to the petitioner, of both of the parents and any guardian of the minor. If there is no parent or guardian residing within the state, or if his or her place of residence is not known to the petitioner, the petition shall also contain the name and residence address, if known, of any adult relative residing within the county, or, if there are none, the adult relative residing nearest to the location of the court.

(f) A concise statement of facts, separately stated, to support the conclusion that the minor upon whose behalf the petition is being brought is a person within the definition of each of the sections and subdivisions under which the proceedings are being instituted.

(g) The fact that the minor upon whose behalf the petition is brought is detained in custody or is not detained in custody, and if he or she is detained in custody, the date and the precise time the minor was taken into custody.

(h) In a proceeding alleging that the minor comes within Section 601, notice to the parent, guardian, or other person having control or charge of the minor that failure to comply with the compulsory school attendance laws is an infraction, which may be charged and prosecuted before the juvenile court judge sitting as a superior court judge. In those cases, the petition shall also include notice that the parent, guardian, or other person having control or charge of the minor has the right to a hearing on the infraction before a judge different than the judge who has heard or is to hear the proceeding pursuant to Section 601. The notice shall explain the provisions of [Section 170.6 of the Code of Civil Procedure](#).

(i) If a proceeding is pending against a minor child for a violation of [Section 594.2, 640.5, 640.6, or 640.7 of the Penal Code](#), a notice to the parent or legal guardian of the minor that if the minor is found to have violated either or both of these provisions that (1) any community service that may be required of the minor may be performed in the presence, and under the direct supervision, of the parent or legal guardian pursuant to either or both of these provisions, and (2) if the minor is personally unable to pay any fine levied for the violation of either or both of these provisions, that the parent or legal guardian of the minor shall be liable for payment of the fine pursuant to those sections.

(j) A notice to the parent or guardian of the minor that if the minor is ordered to make restitution to the victim pursuant to Section 729.6, as operative on or before August 2, 1995, Section 731.1, as operative on or before August 2, 1995, or Section 730.6, or to pay fines or penalty assessments, the parent or guardian may be liable for the payment of restitution, fines, or penalty assessments.

**Leg.H.**

Added Stats 1961 ch 1616 § 2; Amended Stats 1963 ch 917 § 6, ch 1761 § 3; Stats 1976 ch 1068 § 37; Stats 1982 ch 1276 § 4, effective September 22, 1982; Stats 1985 ch 120 § 3; Stats 1990 ch 1530 § 10 (SB 2232); Stats 1994 ch 575 § 2 (AB 2595), ch 836 § 1 (AB 1629); Stats 1995 ch 42 § 2 (AB 1837), ch 313 § 17 (AB 817), effective August 3, 1995, ch 935 § 6 (SB 816); Stats 1996 ch 1077 § 33 (AB 2898); Stats 1998 ch 931 § 472 (SB 2139), effective September 28, 1998; Stats 2002 ch 784 § 613 (SB 1316); Stats 2017 ch 678 § 11 (SB 190), effective January 1, 2018.

## **§ 656.1. Specification as to Misdemeanor or Felony.**

Any petition alleging that the minor is a person described by Section 602 shall specify as to each count whether the crime charged is a felony or a misdemeanor.

**Leg.H.**

1976 ch. 1071.

## **§ 656.2. Duties of Probation Officer Involving Victim; Rights of Victim; Offense of Disseminating Documents Containing Information About Minor.**

(a)

(1) Notwithstanding any other provision of law, a victim shall have the right to present a victim impact statement in all juvenile court hearings concerning petitions filed pursuant to Section 602 alleging the commission of any criminal offense. In any case in which a minor is alleged to have committed a criminal offense, the probation officer shall inform the victim of the rights of victims to submit a victim impact statement. If the victim exercises the right to submit a victim impact statement to the probation officer, the probation officer shall be encouraged to include the statement in his or her social study submitted to the court pursuant to Section 706 and, if applicable, in his or her report submitted to the court pursuant to Section 707. The probation officer also shall advise those persons as to the time and place of the disposition hearing to be conducted pursuant to Sections 702 and 706; any fitness hearing to be conducted pursuant to Section 707, and any other judicial proceeding concerning the case.

(2) The probation officer shall also provide the victim with information concerning the victim's right to an action for civil damages against the minor and his or her parents and the victim's opportunity to be compensated from the restitution fund. The information shall be in the form of written material prepared by the Judicial Council and shall be provided to each victim for whom the probation officer has a current mailing address.

(b) Notwithstanding any other provision of law, the persons from whom the probation officer is required to solicit a statement pursuant to subdivision (a) shall have the right to attend the disposition hearing conducted pursuant to Section 702 and to express their views concerning the offense and disposition of the case pursuant to Section 706, to attend any fitness hearing conducted pursuant to Section 707, and to be present during juvenile proceedings as provided in Section 676.5.

(c)

(1) Notwithstanding any other provision of law, in any case in which a minor is alleged to have committed an act subject to a fitness hearing under Section 707, the victim shall have the right to be informed of all court dates and continuances pertaining to the case, and shall further have the right to obtain copies of the charging petition, the minutes of the proceedings, and orders of adjudications and disposition of the court that are contained in the court file. The arresting agency shall notify the victim in a timely manner of the address and telephone number of the juvenile branch of the district attorney's office that will be responsible for the case and for informing the victim of the victim's right to attend hearings and obtain documents as provided in this section. The district attorney shall, upon request, inform the victim of the date of the fitness hearing, the date of the disposition hearing, and the dates for any continuances of those hearings, and shall inform the court if the victim seeks to exercise his or her right to obtain copies of the documents described in this subdivision.

(2) Where the proceeding against the minor is based on a felony that is not listed in Section 676, a victim who obtains information about the minor under this subdivision shall not disclose or disseminate this information beyond his or her immediate family or support persons authorized by Section 676, unless authorized to do so by a judge of the juvenile court, and the judge may suspend or terminate the right of the victim to access to information under this subdivision if the information is improperly disclosed or disseminated by the victim or any members of his or her immediate family. The intentional dissemination of documents in violation of this subdivision is a misdemeanor and shall be punished by a fine of not more than five hundred dollars (\$500). Documents released by the court to a victim pursuant to this section shall be stamped as confidential and with a statement that the unlawful dissemination of the documents is a misdemeanor punishable by a fine of not more than five hundred dollars (\$500).

(d) Upon application of the district attorney for good cause and a showing of potential danger to the public, the court may redact any information contained in any documents released by the court to a victim pursuant to this section.

(e) For purposes of this section, "victim" means the victim, the parent or guardian of the victim if the victim is a minor, or, if the victim has died, the victim's next of kin.

**Leg.H.**

Added Stats 1989 ch 569 § 3, effective September 20, 1989. Amended Stats 1995 ch 234 § 2 (AB 889); Stats 1997 ch 910 § 1 (SB 1195); Stats 1999 ch 996 § 17.5 (SB 334); Stats 2013 ch 28 § 91 (SB 71), effective June 27, 2013.

## **§ 656.5. Dismissal of Unverified Petition.**

Any petition filed in juvenile court to commence proceedings pursuant to this chapter that is not verified may be dismissed without prejudice by such court.

**Leg.H.**

1972 ch. 897.

## **§ 657. Hearing on Petition—Time for Setting.**

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

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

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

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

**Leg.H.**

1961 ch. 1616, 1971 ch. 1389, 1984 ch. 158.

## **§ 658. Notice of Hearing on Petition.**

(a) Except as provided in subdivision (b), upon the filing of the petition, the clerk of the juvenile court shall issue a notice, to which shall be attached a copy of the petition, and he or she shall cause the same to be served upon the minor, if the minor is eight or more years of age, and upon each of the persons described in subdivision (e) of Section 656 whose residence addresses are set forth in the petition and thereafter before the hearing upon all persons whose residence addresses become known to the clerk. If the court has ordered the care, custody, and control of the minor to be under the supervision of the probation officer for foster care placement pursuant to subdivision (a) of Section 727, the clerk shall also issue a copy of that notice to any foster parents, preadoptive parents, legal guardians, or relatives providing care to the minor. The clerk shall issue a copy of the petition, to the minor's attorney and to the district attorney, if the district attorney has notified the clerk of the court that he or she wishes to receive the petition, containing the time, date, and place of the hearing. Service under this subdivision may be by electronic service pursuant to Section 212.5, except that electronic service is not

authorized if the minor is detained and those persons entitled to notice are not present at the initial detention hearing.

**(b)** Upon the filing of a supplemental petition where the minor has been declared a ward of the court or a probationer under Section 602 in the original matter, the clerk of the juvenile court shall issue a notice, to which shall be attached a copy of the petition, and he or she shall cause the notice to be served upon the minor, if the minor is eight or more years of age, and upon each of the persons described in subdivision (e) of Section 656 whose residence addresses are set forth in the supplemental petition and thereafter known to the clerk. The clerk shall issue a copy of the supplemental petition to the minor's attorney, and to the district attorney if the probation officer is the petitioner, or, to the probation officer if the district attorney is the petitioner, containing the time, date, and place of the hearing. If the court has ordered the care, custody, and control of the minor to be under the supervision of the probation officer for foster care placement pursuant to subdivision (a) of Section 727, the clerk shall also issue a copy of that notice to any foster parents, preadoptive parents, legal guardians, or relatives providing care to the minor. Service under this subdivision may be by electronic service pursuant to Section 212.5.

**Leg.H.**

Added Stats 1961 ch 1616 § 2; Amended Stats 1963 ch 917 § 7; Stats 1965 ch 393 § 2; Stats 1967 ch 506 § 1, ch 1355 § 5; Stats 1972 ch 906 § 3; Stats 1976 ch 1068 § 38; Stats 1986 ch 757 § 4; Stats 1999 ch 997 § 10 (AB 575); Stats 2001 ch 831 § 4 (AB 1696); Stats 2017 ch 319 § 138 (AB 976), effective January 1, 2018.

## § 659. Contents of Notice.

The notice shall contain all of the following:

- (a)** The name and address of the person to whom the notice is directed.
- (b)** The date, time, and place of the hearing on the petition.
- (c)** The name of the minor upon whose behalf the petition has been brought.
- (d)** Each section and subdivision under which the proceeding has been instituted.

**(e)** A statement that the minor and his or her parent or guardian or adult relative, as the case may be, to whom notice is required to be given, are entitled to have an attorney present at the hearing on the petition, and that, if the parent or guardian or the adult relative is indigent and cannot afford an attorney, and the minor or his or her parent or guardian or the adult relative desires to be represented by an attorney, the parent or guardian or adult relative shall promptly notify the clerk of the juvenile court, and that in the event counsel or legal assistance is furnished by the court, the parent or guardian or adult relative shall be liable to the county, to the extent of his, her, or their financial ability, for all or a portion of the cost thereof, but he or she shall not be liable for the cost of counsel or legal assistance furnished by the court for purposes of representing the minor.

**(f)** A statement that the parent or guardian of the minor may be liable for the payment of restitution, fines, or penalty assessments if the minor is ordered to make restitution to the victim or to pay fines or penalty assessments.

**Leg.H.**

Added Stats 1961 ch 1616 § 2; Amended Stats 1963 ch 917 § 8; Stats 1985 ch 1485 § 12; Stats 1994 ch 836 § 2 (AB 1629); Stats 1995 ch 313 § 18 (AB 817), effective August 3, 1995; Stats 2017 ch 678 § 12 (SB 190), effective January 1, 2018.

## § 660. Service of Petition.

**(a)** Except as provided in subdivision (b), if the minor is detained, the clerk of the juvenile court shall cause the notice and copy of the petition to be served on all persons required to receive that notice and copy of the petition pursuant to subdivision (e) of Section 656 and Section 658, either personally or by certified mail with request for return receipt, as soon as possible after filing of the petition and at least five days before the time set for hearing, unless the hearing is set less than five days from the filing of the petition, in which case, the notice and copy of the petition shall be served at least 24 hours before the time set for hearing. Service under this subdivision shall not be made by electronic service.

**(b)** If the minor is detained, and all persons entitled to notice pursuant to subdivision (e) of Section 656 and Section 658 were present at the detention hearing, the clerk of the juvenile court shall cause the notice and copy of the petition to be served on all persons required to receive the notice and copy of the petition, by personal service, by first-class mail, or by electronic service pursuant to Section 212.5, as soon as possible after the filing of the petition and at least five days before the time set for hearing, unless the hearing is set less than five days from the filing of the petition, in which case the notice and copy of the petition shall be served at least 24 hours before the time set for the hearing. Service under this subdivision may be by electronic service pursuant to Section 212.5 except that electronic service is not authorized if the minor is detained and those persons entitled to notice are not present at the detention hearing.

**(c)** If the minor is not detained, the clerk of the juvenile court shall cause the notice and copy of the petition to be served on all persons required to receive the notice and copy of the petition, by personal service, by first-class mail, or by electronic service pursuant to Section 212.5 at least 10 days before the time set for hearing. If that person is known to reside outside of the county, the clerk of the juvenile court shall serve the notice and copy of the petition, by first-class mail or by electronic service pursuant to Section 212.5, to that person, as soon as possible after the filing of the petition and at least 10 days before the time set for hearing. Failure to respond to the notice shall in no way result in arrest or detention. In the instance of failure to appear after notice by first-class mail or by electronic service pursuant to Section 212.5, the court shall direct that the notice and copy of the petition is to be personally served on all persons required to receive the notice and a copy of the petition. However, if the whereabouts of the minor are unknown, personal service of the notice and a copy of the petition is not required and a warrant for the arrest of the minor may be issued pursuant to Section 663. Personal service of the notice and copy of the petition outside of the county at least 10 days before the time set for hearing is equivalent to service by first-class mail or electronic service. Service may be waived by any person by a voluntary appearance entered in the minutes of the court or by a written waiver of service filed with the clerk of the court at or prior to the hearing.

**(d)** For purposes of this section, service on the minor's attorney shall constitute service on the minor's parent or legal guardian.

**Leg.H.**

Added Stats 1967 ch 1355 § 7; Amended Stats 1969 ch 664 § 1; Stats 1972 ch 906 § 4; Stats 1974 ch 726 § 1; Stats 1976 ch 1068 § 39; Stats 1984 ch 481 § 6; Stats 1997 ch 447 § 1 (AB 1325); Stats 1999 ch 997 § 11 (AB 575). Amendment adopted by voters, Prop. 21 § 23, effective March 8, 2000; Amended Stats 2017 ch 319 § 139 (AB 976), effective January 1, 2018.

## **§ 660.5. “Expedited Youth Accountability Program”; Applicability of Program to Los Angeles County Superior Court and Other Electing Counties; Establishment of Time Deadlines; Provisions of Program.**

**(a)** This section shall be known as the Expedited Youth Accountability Program. It shall be operative in the superior court in Los Angeles County. It shall also be operative in any other county in which a committee

consisting of the sheriff, the chief probation officer, the district attorney, the public defender, and the presiding judge of the superior court votes to participate in the program, upon approval by the board of supervisors.

(b) It is the intent of the Legislature to hold nondetained, delinquent youth accountable for their crimes in a swift and certain manner.

(c) Each county participating in the Expedited Youth Accountability Program shall establish agreed upon time deadlines for law enforcement, probation, district attorney, and court functions which shall assure that a case which is to proceed pursuant to this section shall be ready to be heard within 60 calendar days after the minor is cited to the court.

(d)

(1) Notwithstanding Sections 658, 659, and 660, if a minor is not detained for any misdemeanor or felony offense and is not cited to Informal Juvenile and Traffic Court pursuant to paragraphs (1) to (15), inclusive, of Section 256 and [Section 853.6a of the Penal Code](#), the peace officer or probation officer releasing the minor shall issue a citation and obtain a written promise to appear in juvenile court, or record the minor's refusal to sign the promise to appear and serve a notice to appear in juvenile court. The appearance shall not be set for more than 60 calendar days nor less than 10 calendar days from the issuance of the citation. If the 60th day falls on a court holiday, the appearance date shall be on the next date that the court is in session. The date set for the appearance of the minor shall allow for sufficient time for the probation department to evaluate eligible minors for informal handling under Section 654 or any other disposition provided by law. However, nothing in this section shall be construed to limit or conflict with Sections 653.1 and 653.5.

(2) Upon receipt of the citation and petition, but in no event less than 72 hours, excluding nonjudicial days and holidays prior to the hearing, the clerk of the juvenile court shall issue a copy of the citation and petition to the public defender or the minor's attorney of record. If a copy of the citation and petition is not provided at least 72 hours, excluding nonjudicial days and holidays prior to the hearing, it shall be grounds to request a continuance pursuant to Sections 682 and 700. At a hearing conducted under Section 700, the minor and minor's parent or guardian shall be furnished a copy of the petition and any other material required to be provided under Section 659.

(3) The original citation and promise or notice to appear shall be retained by the court if a petition is filed. In addition, there shall be three copies of the citation and promise or notice to appear, which shall be distributed as follows:

(A) One copy shall be provided to the person to whom the citation is issued.

(B) One copy shall be provided to the probation department.

(C) If a petition is requested, the second copy of the citation shall go to the district attorney along with the petition request, and the third copy shall be retained by the agency issuing the citation.

(4) The original citation shall include a copy of all police reports relating to the citation and a petition request. The citation shall contain the following information:

(A) Date, time, and location of the issuance of the citation.

(B) The name, address, telephone number if known, driver's license number, age, date of birth, sex, race, height, weight, hair color, and color of eyes of the person to whom the citation is issued.

(C) A list of the offenses and the location where the offense or offenses were committed.

(D) Date and time of the required court appearance.

(E) Address of the juvenile court where the person to whom the citation is issued is to appear.

(F) A preprinted promise to appear which is signed by the person to whom the citation is issued, or where the person refused to sign the written promise, the notice to appear.

(G) A preprinted declaration under penalty of perjury that the above information is true and correct, signed by the peace officer or probation officer issuing the citation.

(H) A statement that the failure to appear is punishable as a misdemeanor.

(e) The minor's parent or guardian shall be issued a citation in the same manner as described in subdivision (b).

(f) The willful failure to appear in court pursuant to a citation or notice issued as required pursuant to this section is a misdemeanor.

(g)

(1) Notwithstanding Section 662, if a parent or guardian to whom a citation has been issued pursuant to this section fails to appear, a warrant of arrest may issue for that person. A warrant of arrest may also issue for a parent or guardian who is not personally served where efforts to effect personal service have been unsuccessful, upon an affidavit, under penalty of perjury, signed by a peace officer stating facts sufficient to establish that all reasonable efforts to locate the person have failed or that the person has willfully evaded service of process.

(2) Notwithstanding Section 663, if a minor to whom a citation has been issued pursuant to this section fails to appear, and the minor's parent or guardian has either appeared or the prerequisite conditions for issuing a warrant against the minor's parent or guardian under paragraph (1) have been met, a warrant of arrest may issue for the minor.

(3) A warrant of arrest may also issue for a minor who is not personally served where each of the following occur:

(A) Efforts to effect personal service have been unsuccessful.

(B) An affidavit is submitted under penalty of perjury, signed by a peace officer, stating facts sufficient to establish that all reasonable efforts to locate the minor have failed or that minor has willfully evaded service of process.

(C) The minor's parent or guardian has either appeared or the prerequisite conditions for issuing a warrant against the minor's parent or guardian under paragraph (1) have been met.

(h)

(1) Notwithstanding Section 654 or any other provision of law, a probation officer in a county in which this subdivision is applicable may, in lieu of filing a petition or proceeding under Section 654, issue a citation in the form described in subdivision (d) to the Informal Juvenile and Traffic Court pursuant to Section 256 for any misdemeanor except the following:

(A) Any crime involving a firearm.

(B) Any crime involving violence.

- (C) Any crime involving a sex-related offense.
- (D) Any minor who has previously been declared a ward of the court.
- (E) Any minor who has previously been referred to juvenile traffic court pursuant to this section.

(2) This subdivision shall apply only if the case will be heard by a juvenile hearing officer who meets the minimum qualifications of a juvenile court referee and only in those counties in which a committee consisting of the sheriff, the chief probation officer, the district attorney, the public defender, and the presiding judge of the superior court vote for this subdivision to apply and then only upon approval of the board of supervisors. This approval shall be required in Los Angeles and all other counties participating in the program, and shall be in addition to that required by subdivision (a) for participation in the Expedited Youth Accountability Program.

(3) In counties in which this subdivision is applicable, the probation department shall conduct a risk and needs assessment for each minor eligible for citation to the Informal Juvenile and Traffic Court pursuant to paragraph (1). The risk and needs assessment shall consider the best interest of the minor and the protection of the community. It shall also include an assessment of whether the child has any significant problems in the home, school, or community, whether the matter appears to have arisen from a temporary problem within the family which has been or can be resolved, and whether any agency or other resource in the community is better suited to serve the needs of the child, the parent or guardian, or both.

(i) In the event that the probation officer places a minor on informal probation or cites the minor to Informal Juvenile and Traffic Court, or elects some other lawful disposition not requiring the hearing set forth in subdivision (b), the probation officer shall so inform the minor and his or her parent or guardian no later than 72 hours, excluding nonjudicial days and holidays, prior to the hearing, that a court appearance is not required.

(j) Except as modified by this section, the requirements of this chapter shall remain in full force and effect.

(k) This section shall be operative on January 1, 1998, and shall be implemented in all branches of the juvenile court in Los Angeles County on or before July 1, 1998.

(l) It is the intent of the Legislature that an interim hearing be conducted by appropriate policy committees in the Legislature prior to January 1, 2002, to examine the success of the program in expediting punishment for juvenile offenses, reducing delinquent behavior, and promoting greater accountability on the part of juvenile offenders.

**Leg.H.**

1997 ch. 679, 2002 ch. 110 (AB 2154).

## **§ 661. Additional Citation to Parent, Guardian, or Foster Parent.**

(a) In addition to the notice provided in Sections 658 and 659, the juvenile court may issue a citation directing any parent, guardian, or foster parent of the person concerning whom a petition has been filed to appear at the time and place set for any hearing or financial evaluation under the provisions of this chapter, including a hearing under the provisions of Section 257, and directing any person having custody or control of the minor concerning whom the petition has been filed to bring the minor with him or her.

(b) The notice shall in addition state that a parent, guardian, or foster parent may be required to participate in a counseling or education program with the minor concerning whom the petition has been filed.

(c) If the proceeding is one alleging that the minor comes within the provisions of Section 601, the notice shall in addition contain notice to the parent, guardian, or other person having control or charge of the minor that

failure to comply with the compulsory school attendance laws is an infraction, which may be charged and prosecuted before the juvenile court judge sitting as a superior court judge. In those cases, the notice shall also include notice that the parent, guardian, or other person having control or charge of the minor has the right to a hearing on the infraction before a judge different than the judge who has heard or is to hear the proceeding pursuant to Section 601. The notice shall also explain the provisions of [Section 170.6 of the Code of Civil Procedure](#).

**(d)** Personal service of the citation shall be made at least 24 hours before the time stated therein for the appearance. The citation may also be electronically served pursuant to Section 212.5, but only in addition to service by other forms of service required by law.

**Leg.H.**

Added Stats 1961 ch 1616 § 2; Amended Stats 1975 ch 1266 § 2; Stats 1976 ch 1068 § 40; Stats 1984 ch 162 § 3; Stats 1985 ch 120 § 4, ch 1485 § 14; Stats 1998 ch 931 § 473 (SB 2139), effective September 28, 1998; Stats 2002 ch 784 § 614 (SB 1316); Stats 2017 ch 319 § 140 (AB 976), effective January 1, 2018.

## **§ 662. Warrant of Arrest against Parent or Guardian.**

In case such citation cannot be served, or the person served fails to obey it, or in any case in which it appears to the court that the citation will probably be ineffective, a warrant of arrest may issue on the order of the court either against the parent, or guardian, or the person having the custody of the minor, or with whom the minor is.

**Leg.H.**

1961 ch. 1616.

## **§ 663. Warrant of Arrest against Minor.**

(a) Whenever a petition has been filed in the juvenile court alleging that a minor comes within the provisions of Section 601 or 602 of this code and praying for a hearing thereon, or whenever any subsequent petition has been filed praying for a hearing in the matter of the minor, a warrant of arrest may be issued immediately for the minor upon a showing that any one of the following conditions are satisfied:

(1) It appears to the court that the conduct and behavior of the minor may endanger the health, person, welfare, or property of himself or herself, or others, or that the circumstances of his or her home environment may endanger the health, person, welfare, or property of the minor.

(2) It appears to the court that either personal service upon the minor has been unsuccessful, or the whereabouts of the minor are unknown.

(3) It appears to the court that the minor has willfully evaded service of process.

(b) Nothing in this section shall be construed to limit the right of parents or guardians to receive the notice and a copy of the petition pursuant to Section 660.

**Leg.H.**

1961 ch. 1616, 1963 ch. 1761, 1976 ch. 1068, 1997 ch. 447, amended by electorate (Prop. 21) at the March 7, 2000, Primary Election, operative March 8, 2000.

## **§ 664. Subpoenas.**

(a) The district attorney or the attorney of record for the minor may issue, and upon request of the probation officer, the minor, or the minor's parent, guardian, or custodian, the court or the clerk of the court shall issue, and, on the court's own motion, the court may issue, subpoenas requiring attendance and testimony of witnesses and production of papers at any hearing regarding a minor who is alleged or determined by the court to be a person described by Section 601 or 602.

(b) When a person attends a juvenile court hearing as a witness upon a subpoena, in its discretion, the court may by an order on its minutes, direct the county auditor to draw his or her warrant upon the county treasurer in favor of the witness for witness fees in the amount and manner prescribed by **Section 68093 of the Government Code**. The fees are county charges.

(c)

(1) The court shall use whatever means are appropriate, including, but not limited to, the issuance of a subpoena, if appropriate, to require the presence of the parent, parents, or guardian of a child at the detention, jurisdictional, and disposition hearings regarding a minor who is alleged or determined by the court to be a person described by Section 601 or 602 unless the court determines that it would be in the best interests of the child for the parent to not attend or the court finds that it would impose a hardship upon the parent or guardian to attend. Any parent or guardian who does not attend a hearing pursuant to a subpoena under this section is guilty of contempt unless the court excuses, for good cause, the parent or guardian from attending the hearing or the court finds that the parent or guardian has a satisfactory excuse for not attending.

(2) For purposes of this subdivision, the term "parent" includes a foster parent.

**Leg.H.**

1961 ch. 1616, 1967 ch. 507, 1996 ch. 90, 1997 ch. 903.

## **ARTICLE 17**

### **Wards—Hearings**

#### **§ 675. Separate Sessions and Restricted Entrance.**

(a) All cases under the provisions of this chapter shall be heard at a special or separate session of the court, and no other matter shall be heard at that session. Except as provided in subdivision (b), no person on trial, awaiting trial, or under accusation of crime, other than a parent, guardian, or relative of the minor, shall be permitted to be present at any such session, except as a witness.

(b) Hearings for two or more minors may be heard upon the same rules of joinder, consolidation, and severance as apply to trials in a court of criminal jurisdiction.

**Leg.H.**

1961 ch. 1616, 1969 ch. 185, 1976 ch. 1068, 1983 ch. 390.

#### **§ 676. Exclusion of Public; Confidentiality Regarding Minor's Name.**

(a) Unless requested by the minor concerning whom the petition has been filed and any parent or guardian present, the public shall not be admitted to a juvenile court hearing. Nothing in this section shall preclude the attendance of up to two family members of a prosecuting witness for the support of that witness, as authorized

by [Section 868.5 of the Penal Code](#). The judge or referee may nevertheless admit those persons he or she deems to have a direct and legitimate interest in the particular case or the work of the court. However, except as provided in subdivision (b), members of the public shall be admitted, on the same basis as they may be admitted to trials in a court of criminal jurisdiction, to hearings concerning petitions filed pursuant to Section 602 alleging that a minor is a person described in Section 602 by reason of the violation of any one of the following offenses:

(1) Murder.

(2) Arson of an inhabited building.

(3) Robbery while armed with a dangerous or deadly weapon.

(4) Rape with force or violence, threat of great bodily harm, or when the person is prevented from resisting due to being rendered unconscious by any intoxicating, anesthetizing, or controlled substance, or when the victim is at the time incapable, because of a disability, of giving consent, and this is known or reasonably should be known to the person committing the offense.

(5) Sodomy by force, violence, duress, menace, threat of great bodily harm, or when the person is prevented from resisting due to being rendered unconscious by any intoxicating, anesthetizing, or controlled substance, or when the victim is at the time incapable, because of a disability, of giving consent, and this is known or reasonably should be known to the person committing the offense.

(6) Oral copulation by force, violence, duress, menace, threat of great bodily harm, or when the person is prevented from resisting due to being rendered unconscious by any intoxicating, anesthetizing, or controlled substance, or when the victim is at the time incapable, because of a disability, of giving consent, and this is known or reasonably should be known to the person committing the offense.

(7) Any offense specified in subdivision (a) or (e) of [Section 289 of the Penal Code](#).

(8) Kidnapping for ransom.

(9) Kidnapping for purpose of robbery.

(10) Kidnapping with bodily harm.

(11) Assault with intent to murder or attempted murder.

(12) Assault with a firearm or destructive device.

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

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

(15) Any offense described in [Section 1203.09 of the Penal Code](#).

(16) Any offense described in [Section 12022.5 or 12022.53 of the Penal Code](#).

(17) Any felony offense in which a minor personally used a weapon described in any provision listed in [Section 16590 of the Penal Code](#).

(18) Burglary of an inhabited dwelling house or trailer coach, as defined in [Section 635 of the Vehicle Code](#), or the inhabited portion of any other building, if the minor previously has been adjudged a ward of the court by reason of the commission of any offense listed in this section, including an offense listed in this paragraph.

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

(20) Any offense as specified in **Sections 11351, 11351.5, 11352, 11378, 11378.5, 11379, and 11379.5 of the Health and Safety Code.**

(21) Criminal street gang activity which constitutes a felony pursuant to **Section 186.22 of the Penal Code.**

(22) Manslaughter as specified in **Section 192 of the Penal Code.**

(23) Driveby shooting or discharge of a weapon from or at a motor vehicle as specified in **Sections 246, 247, and 26100 of the Penal Code.**

(24) Any crime committed with an assault weapon, as defined in **Section 30510 of the Penal Code**, including possession of an assault weapon as specified in **Section 30605 of the Penal Code.**

(25) Carjacking, while armed with a dangerous or deadly weapon.

(26) Kidnapping, in violation of **Section 209.5 of the Penal Code.**

(27) Torture, as described in **Sections 206 and 206.1 of the Penal Code.**

(28) Aggravated mayhem, in violation of **Section 205 of the Penal Code.**

(b) Where the petition filed alleges that the minor is a person described in Section 602 by reason of the commission of rape with force or violence or great bodily harm; sodomy by force, violence, duress, menace, threat of great bodily harm, or when the person is prevented from resisting by any intoxicating, anesthetizing, or controlled substance, or when the victim is at the time incapable, because of mental disorder or developmental or physical disability, of giving consent, and this is known or reasonably should be known to the person committing the offense; oral copulation by force, violence, duress, menace, threat of great bodily harm, or when the person is prevented from resisting by any intoxicating, anesthetizing, or controlled substance, or when the victim is at the time incapable, because of mental disorder or developmental or physical disability, of giving consent, and this is known or reasonably should be known to the person committing the offense; any offense specified in **Section 289 of the Penal Code**, members of the public shall not be admitted to the hearing in either of the following instances:

(1) Upon a motion for a closed hearing by the district attorney, who shall make the motion if so requested by the victim.

(2) During the victim's testimony, if, at the time of the offense the victim was under 16 years of age.

(c) The name of a minor found to have committed one of the offenses listed in subdivision (a) shall not be confidential, unless the court, for good cause, so orders. As used in this subdivision, "good cause" shall be limited to protecting the personal safety of the minor, a victim, or a member of the public. The court shall make a written finding, on the record, explaining why good cause exists to make the name of the minor confidential.

(d) Notwithstanding Sections 827 and 828 and subject to subdivisions (e) and (f), when a petition is sustained for any offense listed in subdivision (a), the charging petition, the minutes of the proceeding, and the orders of adjudication and disposition of the court that are contained in the court file shall be available for public inspection. Nothing in this subdivision shall be construed to authorize public access to any other documents in the court file.

(e) The probation officer or any party may petition the juvenile court to prohibit disclosure to the public of any file or record. The juvenile court shall prohibit the disclosure if it appears that the harm to the minor, victims,

witnesses, or public from the public disclosure outweighs the benefit of public knowledge. However, the court shall not prohibit disclosure for the benefit of the minor unless the court makes a written finding that the reason for the prohibition is to protect the safety of the minor.

(f) Nothing in this section shall be applied to limit the disclosure of information as otherwise provided for by law.

(g) The juvenile court shall for each day that the court is in session, post in a conspicuous place which is accessible to the general public, a written list of hearings that are open to the general public pursuant to this section, the location of those hearings, and the time when the hearings will be held.

**Leg.H.**

Added Stats 1961 ch 1616 § 2. Amended Stats 1980 ch 322 § 1; Stats 1981 ch 140 § 1; Stats 1982 ch 283 § 1, effective June 21, 1982, ch 1295 § 1; Stats 1984 ch 398 § 1; Stats 1987 ch 828 § 169 (ch 704 prevails), ch 704 § 2; Stats 1990 ch 246 § 2 (AB 2638); Stats 1993 ch 610 § 29 (AB 6), effective September 30, 1993, ch 611 § 33 (SB 60), effective September 30, 1993; Stats 1994 ch 453 § 8 (AB 560); Stats 1998 ch 925 § 6 (AB 1290), ch 936 § 20.5 (AB 105), effective September 28, 1998; Stats 1999 ch 996 § 18 (SB 334). Amendment adopted by voters, Prop 21 § 25, effective March 8, 2000; Stats 2010 ch 178 § 96 (SB 1115), effective January 1, 2011, operative January 1, 2012; Stats 2014 ch 919 § 2 (SB 838), effective January 1, 2015.

## **§ 676.5. Victim of Juvenile Offense—Right to Attend Juvenile Proceeding; Exclusions.**

The right of victims of juvenile offenses to be present during juvenile proceedings, as specified in subdivision (a), shall be secured as follows:

(a) Notwithstanding any other law, and except as provided in subdivision (d), a victim and up to two support persons of the victim's choosing shall be entitled to be admitted, on the same basis as he or she may be admitted to trials in a court of criminal jurisdiction, to juvenile court hearings concerning petitions filed pursuant to Section 602 alleging the commission of any criminal offense, and shall be so notified by the probation officer in person or by registered mail, return receipt requested, together with a notice explaining all other rights and services available to the victim with respect to the case.

(b) A victim or his or her support person may be excluded from a juvenile court hearing described in subdivision (a) only if each of the following criteria are met:

(1) Any movant, including the minor defendant, who seeks to exclude the victim or his or her support person from a hearing demonstrates that there is a substantial probability that overriding interests will be prejudiced by the presence of the victim or his or her support person.

(2) The court considers reasonable alternatives to exclusion of the victim or his or her support person from the hearing.

(3) The exclusion of the victim or his or her support person from a hearing, or any limitation on his or her presence at a hearing, is narrowly tailored to serve the overriding interests identified by the movant.

(4) Following a hearing at which any person who is to be excluded from a juvenile court hearing is afforded an opportunity to be heard, the court makes specific factual findings that support the exclusion of the victim or his or her support person from, or any limitation on his or her presence at, the juvenile court hearing.

(c) As used in this section, "victim" means (1) the alleged victim of the offense and one person of his or her choosing or however many more the court may allow under the particular circumstances surrounding

the proceeding, (2) in the event that the victim is unable to attend the proceeding, two persons designated by the victim or however many more the court may allow under the particular circumstances surrounding the proceeding, or (3) if the victim is no longer living, two members of the victim's immediate family or however many more the court may allow under the particular circumstances surrounding the proceeding.

(d) Nothing in this section shall prevent a court from excluding a victim or his or her support person from a hearing, pursuant to [Section 777 of the Evidence Code](#), when the victim is subpoenaed as a witness. An order of exclusion shall be consistent with the objectives of paragraphs (1) to (4), inclusive, of subdivision (b) to allow the victim to be present, whenever possible, at all hearings.

**Leg.H.**

1995 ch. 332, 1999 ch. 996.

## **§ 677. Hearing Records and Transcripts.**

At any juvenile court hearing conducted by a juvenile court judge, an official court reporter shall, and at any such hearing conducted by a juvenile court referee, the official reporter, as directed by the court, may take down in shorthand all the testimony and all of the statements and remarks of the judge and all persons appearing at the hearing; and, if directed by the judge, or requested by the person on whose behalf the petition was brought, or by his parent or legal guardian, or the attorneys of such persons, he must, within such reasonable time after the hearing of the petition as the court may designate, write out the same or such specific portions thereof as may be requested in plain and legible longhand or by typewriter or other printing machine and certify to the same as being correctly reported and transcribed, and when directed by the court, file the same with the clerk of the court. Unless otherwise directed by the judge, the costs of writing out and transcribing all or any portion of the reporter's shorthand notes shall be paid in advance at the rates fixed for transcriptions in a civil action by the person requesting the same.

**Leg.H.**

1961 ch. 1616.

## **§ 678. Variances and Amendment of Pleadings.**

The provisions of Chapter 8 (commencing with Section 469) of Title 6 of Part 2 of the Code of Civil Procedure relating to variance and amendment of pleadings in civil actions shall apply to petitions and proceedings under this chapter, to the same extent and with the same effect as if proceedings under this chapter were civil actions.

**Leg.H.**

1961 ch. 1616.

## **§ 679. Parties Rightfully Present; Representation by Counsel.**

A minor who is the subject of a juvenile court hearing and any person entitled to notice of the hearing under the provisions of Section 658, is entitled to be present at such hearing. Any such minor and any such person has the right to be represented at such hearing by counsel of his own choice or, if unable to afford counsel, has the right to be represented by counsel appointed by the court.

**Leg.H.**

1961 ch. 1616, 1967 ch. 1355, 1976 ch. 1068.

## § 680. Nature and Conduct of Proceedings.

The judge of the juvenile court shall control all proceedings during the hearings with a view to the expeditious and effective ascertainment of the jurisdictional facts and the ascertainment of all information relative to the present condition and future welfare of the person upon whose behalf the petition is brought. Except where there is a contested issue of fact or law, the proceedings shall be conducted in an informal nonadversary atmosphere with a view to obtaining the maximum cooperation of the minor upon whose behalf the petition is brought and all persons interested in his welfare with such provisions as the court may make for the disposition and care of such minor.

**Leg.H.**

1961 ch. 1616.

## § 681. Appearance by Prosecuting Attorney.

(a) In a juvenile court hearing which is based upon a petition that alleges that the minor upon whose behalf the petition is being brought is a person within the description of Section 602, the prosecuting attorney shall appear on behalf of the people of the State of California.

(b) In a juvenile court hearing which is based upon a petition that alleges that the minor upon whose behalf the petition is being brought is a person within the description of Section 601 and the minor who is the subject of the hearing is represented by counsel, the prosecuting attorney may, with the consent or at the request of the juvenile court judge, or at the request of the probation officer with the consent of the juvenile court judge, appear and participate in the hearing to assist in the ascertaining and presenting of the evidence. Where the petition in a juvenile court proceeding alleges that a minor is a person described in subdivision (a), (b), or (d) of Section 300, and either of the parents, or the guardian, or other person having care or custody of the minor, or who resides in the home of the minor, is charged in a pending criminal prosecution based upon unlawful acts committed against the minor, the prosecuting attorney shall, with the consent or at the request of the juvenile court judge, represent the minor in the interest of the state at the juvenile court proceeding. The terms and conditions of such representation shall be with the consent or approval of the judge of the juvenile court.

**Leg.H.**

1976 ch. 1071, 1978 ch. 380.

## § 681.5. Representation of Minor by Prosecuting Attorney Who Appeared for State.

If a prosecuting attorney has appeared on behalf of the people of the State of California in any juvenile court hearing which is based upon a petition that alleges that a minor is a person within the description of Section 602, neither that prosecuting attorney nor any attorney from the office of that prosecuting attorney shall represent the minor in a juvenile court proceeding alleging that a minor is a person described in Section 300.

**Leg.H.**

Added Stats 1992 ch 1327 § 2 (AB 3663), as W & I C § 618.5. Renumbered by Stats 2009 ch 140 § 188 (AB 1164).

## § 682. Continuances.

(a) To continue any hearing relating to proceedings pursuant to Section 601 or 602, regardless of the custody status of the minor, beyond the time limit within which the hearing is otherwise required to be heard, a

written notice shall be filed and served on all parties to the proceeding at least two court days before the hearing sought to be continued, together with affidavits or declarations detailing specific facts showing good cause for the continuance.

(b) A continuance shall be granted only upon a showing of good cause and only for that period of time shown to be necessary by the moving party at the hearing on the motion. Neither stipulation of the parties nor convenience of the parties is, in and of itself, good cause. Whenever any continuance is granted, the facts which require the continuance shall be entered into the minutes.

(c) Notwithstanding subdivision (a), a party may make a motion for a continuance without complying with the requirements of that subdivision. However, unless the moving party shows good cause for failure to comply with those requirements, the court shall deny the motion.

(d) In any case in which the minor is represented by counsel and no objection is made to an order continuing any such hearing beyond the time limit within which the hearing is otherwise required to be held, the absence of such an objection shall be deemed a consent to the continuance.

(e) When any hearing is continued pursuant to this section, the hearing shall commence on the date to which it was continued or within seven days thereafter whenever the court is satisfied that good cause exists and the moving party will be prepared to proceed within that time.

**Leg.H.**

1971 ch. 698, 1990 ch. 1508, 1992 ch. 126, effective July 7, 1992.

## **§ 700. Procedure at Commencement of Hearing—Explanation of Allegations and Right of Legal Representation.**

At the beginning of the hearing on a petition filed pursuant to Article 16 (commencing with Section 650) of this chapter, the judge or clerk shall first read the petition to those present and upon request of the minor upon whose behalf the petition has been brought or upon the request of any parent, relative or guardian, the judge shall explain any term of allegation contained therein and the nature of the hearing, its procedures, and possible consequences. The judge shall advise those present that if the petition or petitions are sustained and the minor is ordered to make restitution to the victim, or to pay fines or penalty assessments, the parent or guardian may be liable for the payment of restitution, fines, or penalty assessments. The judge shall ascertain whether the minor and his or her parent or guardian or adult relative, as the case may be, has been informed of the right of the minor to be represented by counsel, and if not, the judge shall advise the minor and that person, if present, of the right to have counsel present and where applicable, of the right to appointed counsel. The court shall appoint counsel to represent the minor if he or she appears at the hearing without counsel, whether he or she is unable to afford counsel or not, unless there is an intelligent waiver of the right of counsel by the minor. The court shall continue the hearing for not to exceed seven days, as necessary to make an appointment of counsel, or to enable counsel to acquaint himself or herself with the case, and shall continue the hearing as necessary to provide reasonable opportunity for the minor and the parent or guardian or adult relative to prepare for the hearing.

**Leg.H.**

Added Stats 1961 ch 1616 § 2; Amended Stats 1963 ch 917 § 9; Stats 1967 ch 1355 § 10; Stats 1968 ch 1223 § 2; Stats 1970 ch 625 § 2; Stats 1976 ch 1068 § 46; Stats 1994 ch 836 § 3 (AB 1629); Stats 1995 ch 313 § 19 (AB 817), effective August 3, 1995; Stats 2017 ch 678 § 13 (SB 190), effective January 1, 2018.

## **§ 700.1. Motion to Suppress Evidence.**

Any motion to suppress as evidence any tangible or intangible thing obtained as a result of an unlawful search or seizure shall be heard prior to the attachment of jeopardy and shall be heard at least five judicial days after receipt of notice by the people unless the people are willing to waive a portion of this time.

If the court grants a motion to suppress prior to the attachment of jeopardy over the objection of the people, the court shall enter a judgment of dismissal as to all counts of the petition except those counts on which the prosecuting attorney elects to proceed pursuant to Section 701.

If, prior to the attachment of jeopardy, opportunity for this motion did not exist or the person alleged to come within the provisions of the juvenile court law was not aware of the grounds for the motion, that person shall have the right to make this motion during the course of the proceeding under Section 701.

**Leg.H.**

1980 ch. 1095.

## **§ 700.2. Rights to Open Hearing and Different Judge for Accused Violators of Education Code § 48293.**

Upon his or her appearance before the juvenile court on a complaint charging violation of **Section 48293 of the Education Code**, the juvenile court shall inform the parent, guardian, or other person having control or charge of the minor of the right to an open hearing and of the right to have a hearing on the complaint before a judge different than the judge who has heard or is to hear the proceeding pursuant to Section 601. The provisions of **Section 170.6 of the Code of Civil Procedure** shall be explained to the parent, guardian, or other person having control or charge of the minor.

**Leg.H.**

1985 ch. 120.

## **§ 701. Preliminary Determination—Evidence; Proof; Procedure Upon Minor's Denial of Extrajudicial Confession.**

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

**Leg.H.**

1961 ch. 1616, 1971 ch. 934, 1976 chs. 1068, 1071, 1977 ch. 579.

## **§ 701.1. Dismissal After Presentation of Petitioner's Evidence.**

At the hearing, the court, on motion of the minor or on its own motion, shall order that the petition be dismissed and that the minor be discharged from any detention or restriction therefore ordered, after the

presentation of evidence on behalf of the petitioner has been closed, if the court, upon weighing the evidence then before it, finds that the minor is not a person described by Section 601 or 602. If such a motion at the close of evidence offered by the petitioner is not granted, the minor may offer evidence without first having reserved that right.

**Leg.H.**

1980 ch. 266.

## **§ 702. Findings; Orders; Disposition; Continuance to Determine Proper Disposition; Declaration of Status of Offense.**

After hearing the evidence, the court shall make a finding, noted in the minutes of the court, whether or not the minor is a person described by Section 300, 601, or 602. If it finds that the minor is not such a person, it shall order that the petition be dismissed and the minor be discharged from any detention or restriction theretofore ordered. If the court finds that the minor is such a person, it shall make and enter its findings and order accordingly, and shall then proceed to hear evidence on the question of the proper disposition to be made of the minor. Prior to doing so, it may continue the hearing, if necessary, to receive the social study of the probation officer, to refer the minor to a juvenile justice community resource program as defined in Article 5.2 (commencing with Section 1784) of Chapter 1 of Division 2.5, or to receive other evidence on its own motion or the motion of a parent or guardian for not to exceed 10 judicial days if the minor is detained during the continuance. If the minor is not detained, it may continue the hearing to a date not later than 30 days after the date of filing of the petition. The court may, for good cause shown continue the hearing for an additional 15 days, if the minor is not detained. The court may make such order for detention of the minor or his or her release from detention, during the period of the continuance, as is appropriate.

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

**Leg.H.**

1961 ch. 1616, 1963 ch. 917, 1968 ch. 536, 1976 chs. 1068, 1071, 1977 ch. 579, 1984 ch. 1752.

## **§ 702.3. Procedure Upon Minor's Entry of Insanity Plea.**

Notwithstanding any other provision of law:

(a) When a minor denies, by a plea of not guilty by reason of insanity, the allegations of a petition filed pursuant to [Section 602 of the Welfare and Institutions Code](#), and also joins with that denial a general denial of the conduct alleged in the petition, he or she shall first be subject to a hearing as if he or she had made no allegation of insanity. If the petition is sustained or if the minor denies the allegations only by reason of insanity, then a hearing shall be held on the question of whether the minor was insane at the time the offense was committed.

(b) If the court finds that the minor was insane at the time the offense was committed, the court, unless it appears to the court that the minor has fully recovered his or her sanity, shall direct that the minor be confined in a state hospital for the care and treatment of the mentally disordered or any other appropriate public or private mental health facility approved by the community program director, or the court may order the minor to undergo outpatient treatment as specified in Title 15 (commencing with Section 1600) of Part 2 of the Penal Code. The court shall transmit a copy of its order to the community program director or his or her designee. If the allegations of the petition specifying any felony are found to be true, the court shall direct that the minor be confined in a state hospital or other public or private mental health facility

approved by the community program director for a minimum of 180 days, before the minor may be released on outpatient treatment. Prior to making the order directing that the minor be confined in a state hospital or other facility or ordered to undergo outpatient treatment, the court shall order the county mental health director or his or her designee to evaluate the minor and to submit to the court within 15 judicial days of the order his or her written recommendation as to whether the minor should be required to undergo outpatient treatment or committed to a state hospital or another mental health facility. If, however, it shall appear to the court that the minor has fully recovered his or her sanity the minor shall be remanded to the custody of the probation department until his or her sanity shall have been finally determined in the manner prescribed by law. A minor committed to a state hospital or other facility or ordered to undergo outpatient treatment shall not be released from confinement or the required outpatient treatment unless and until the court which committed him or her shall, after notice and hearing, in the manner provided in **Section 1026.2 of the Penal Code**, find and determine that his or her sanity has been restored.

(c) When the court, after considering the placement recommendation for the community program director required in subdivision (b), orders that the minor be confined in a state hospital or other public or private mental health facility, the court shall provide copies of the following documents which shall be taken with the minor to the state hospital or other treatment facility where the minor is to be confined:

(1) The commitment order, including a specification of the charges.

(2) The computation or statement setting forth the maximum time of commitment in accordance with Section 1026.5 and subdivision (e).

(3) A computation or statement setting forth the amount of credit, if any, to be deducted from the maximum term of commitment.

(4) State Summary Criminal History information.

(5) Any arrest or detention reports prepared by the police department or other law enforcement agency.

(6) Any court-ordered psychiatric examination or evaluation reports.

(7) The community program director's placement recommendation report.

(d) The procedures set forth in Sections 1026, 1026.1, 1026.2, 1026.3., **1026.4, 1026.5, and 1027 of the Penal Code**, and in Title 15 (commencing with Section 1600) of Part 2 of the Penal Code, shall be applicable to minors pursuant to this section, except that, in cases involving minors, the probation department rather than the sheriff, shall have jurisdiction over the minor.

(e) No minor may be committed pursuant to this section for a period longer than the jurisdictional limits of the juvenile court, pursuant to Section 607, unless, at the conclusion of the commitment, by reason of a mental disease, defect, or disorder, he or she represents a substantial danger of physical harm to others, in which case the commitment for care and treatment beyond the jurisdictional age may be extended by proceedings in superior court in accordance with and under the circumstances specified in **subdivision (b) of Section 1026.5 of the Penal Code**.

(f) The provision of a jury trial in superior court on the issue of extension of commitment shall not be construed to authorize the determination of any issue in juvenile court proceedings to be made by a jury.

**Leg.H.**

1978 ch. 867, 1984 chs. 1415, 1488 § 14.5, 1989 ch. 625.

## § 702.5. Privilege against Self-Incrimination; Right of Confrontation.

In any hearing conducted pursuant to Section 701 or 702 to determine whether a minor is a person described in Section 601 or 602, the minor has a privilege against self-incrimination and has a right to confrontation by, and cross-examination of, witnesses.

**Leg.H.**

1967 ch. 1355.

## § 705. Procedure in Event of Mentally Disordered Minor.

Whenever the court, before or during the hearing on the petition, is of the opinion that the minor is mentally disordered or if the court is in doubt concerning the mental health of any such person, the court may proceed as provided in Section 6550 of this code or [Section 4011.6 of the Penal Code](#).

**Leg.H.**

1961 ch. 1616, 1967 ch. 1267, 1976 ch. 445, effective July 10, 1976.

## § 706. Hearing on Proper Disposition of Minor; Social Study and Other Evidence; SARATSO Risk Assessment.

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

**Leg.H.**

Added Stats 1961 ch 1616 § 2. Amended Stats 1976 ch 1068 § 50; Stats 1995 ch 234 § 3 (AB 889); Stats 2009 ch 582 § 6 (SB 325), effective January 1, 2010.

## § 706.5. Contents of Social Study Where Foster Care Placement Involved.

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

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

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

**(1)**

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

**(B)** On and after October 1, 2021, for the minor or nonminor dependent whose placement in a short-term residential therapeutic program has been reviewed and approved pursuant to Section 727.12, the social study shall include evidence of each of the following:

**(i)** Ongoing assessment of the strengths and needs of the minor or nonminor dependent continues to support the determination that the needs of the minor or nonminor dependent cannot be met by family members or in another family-based setting, placement in a short-term residential therapeutic program continues to provide the most effective and appropriate level of care in the least restrictive environment, and the placement is consistent with the short- and long-term mental and behavioral health goals and permanency plan for the minor or nonminor dependent.

**(ii)** Documentation of the minor or nonminor dependent's specific treatment or service needs that will be met in the placement, and the length of time the minor or nonminor dependent is expected to need the treatment or services. For a Medi-Cal beneficiary, the determination of services and expected length of time for those services funded by Medi-Cal shall be based upon medical necessity and on all other state and federal Medi-Cal requirements, and shall be reflected in the documentation.

**(iii)** Documentation of the intensive and ongoing efforts made by the probation department, consistent with the minor or nonminor dependent's permanency plan, to prepare the minor or nonminor dependent to return home or to be placed with a fit and willing relative, a legal guardian, an adoptive parent, in a resource family home, tribally approved home, or in another appropriate family-based setting, or, in the case of a nonminor dependent, in a supervised independent living setting.

**(2)** The extent of the probation department's compliance with the case plan in making reasonable efforts to safely return the minor to the minor's home or to complete whatever steps are necessary to finalize the permanent placement of the minor.

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

**(4)** If the first permanency planning hearing has not yet occurred, the social study shall include the likely date by which the minor may be returned to and safely maintained in the home or placed for adoption, appointed a legal guardian, permanently placed with a fit and willing relative, or referred to another planned permanent living arrangement.

**(5)** Whether the minor has been or will be referred to educational services and what services the minor is receiving, including special education and related services if the minor has exceptional needs as described in Part 30 (commencing with Section 56000) of Division 4 of Title 2 of the Education Code or accommodations if the child has disabilities as described in Chapter 16 (commencing with Section 701) of

Title 29 of the United States Code Annotated. The probation officer or child advocate shall solicit comments from the appropriate local education agency prior to completion of the social study.

**(6)** If the parent or guardian is unwilling or unable to participate in making an educational or developmental services decision for their child, or if other circumstances exist that compromise the ability of the parent or guardian to make educational or developmental services decisions for the child, the probation department shall consider whether the right of the parent or guardian to make educational or developmental services decisions for the minor should be limited. If the study makes that recommendation, it shall identify whether there is a responsible adult available to make educational or developmental services decisions for the minor pursuant to Section 726.

**(7)** When the minor is 16 years of age or older and in another planned permanent living arrangement, the social study shall include a description of all of the following:

**(A)** The intensive and ongoing efforts to return the minor to the home of the parent, place the minor for adoption, or establish a legal guardianship, as appropriate.

**(B)** The steps taken to do both of the following:

**(i)** Ensure that the minor's care provider is following the reasonable and prudent parent standard.

**(ii)** Determine whether the minor has regular, ongoing opportunities to engage in age or developmentally appropriate activities, including consulting with the minor about opportunities for the minor to participate in the activities.

**(8)** When the minor is under 16 years of age and has a permanent plan of return home, adoption, legal guardianship, or placement with a fit and willing relative, the social study shall include a description of any barriers to achieving the permanent plan and the efforts made by the agency to address those barriers.

**(9)**

**(A)** For a child who is 10 years of age or older and has been declared a ward of the juvenile court pursuant to Section 601 or 602 for a year or longer, the information in subparagraph (B) of paragraph (1) of subdivision (h) of Section 366.1.

**(B)** For a child who is 10 years of age or older, whether the probation officer has informed the minor or nonminor dependent of the information in paragraph (2) of subdivision (h) of Section 366.1.

**(C)** This paragraph does not affect any applicable confidentiality law.

**(10)** For a child who is 16 years of age or older or for a nonminor dependent, whether the probation officer has, pursuant to the requirements of paragraph (22) of subdivision (g) of Section 16501.1, identified the person or persons who shall be responsible for assisting the child or nonminor dependent with applications for postsecondary education and related financial aid, or that the child or nonminor dependent stated that they do not want to pursue postsecondary education, including career or technical education.

**(d)** At each permanency planning hearing, the social study shall include, but not be limited to, an updated case plan as described in Section 706.6, the factual material described in subdivision (c) of this section, and a recommended permanent plan for the minor.

#### Leg.H.

Added Stats 2001 ch 831 § 6 (AB 1696). Amended Stats 2002 ch 785 § 6 (SB 1677); Stats 2011 ch 471 § 3 (SB 368), effective January 1, 2012; Stats 2015 ch 425 § 16 (SB 794), effective January 1, 2016; Stats 2021 ch 86 § 26 (AB 153), effective July 16, 2021.

## § 706.6. Information in Case Plan.

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

(b)

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

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

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

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

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

(3)

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

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

(d) The following shall apply:

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

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

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

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

(D) Group care placements in the following order:

(i) Short-term residential therapeutic programs.

- (ii) Group homes vendored by a regional center.
- (iii) Community treatment facilities.
- (iv) Out-of-state residential facilities as authorized by subdivision (b) of Section 727.1.

(2) Although the placement options shall be considered in the preferential order specified in paragraph (1), the placement of a child may be with any of these placement settings in order to ensure the selection of a safe placement setting that is in the child's best interests and meets the child's special needs.

(3)

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

(B) On and after October 1, 2021, within 30 days of the minor's placement in a short-term residential therapeutic program, the case plan shall document all of the following:

(i) The reasonable and good faith effort by the probation officer to identify and include all required individuals in the child and family team.

(ii) All contact information for members of the child and family team, as well as contact information for other relatives and nonrelative extended family members who are not part of the child and family team.

(iii) Evidence that meetings of the child and family team, including the meetings related to the determination required under Section 4096, are held at a time and place convenient for the family.

(iv) If reunification is the goal, evidence that the parent from whom the minor or nonminor dependent was removed provided input on the members of the child and family team.

(v) Evidence that the determination required under Section 4096 was conducted in conjunction with the child and family team.

(vi) The placement preferences of the minor or nonminor dependent and the child and family team relative to the determination and, if the placement preferences of the minor or nonminor dependent or the child and family team are not the placement setting recommended by the qualified individual conducting the determination, the reasons why the preferences of the team or minor or nonminor dependent were not recommended.

(C) Following the court review required pursuant to Section 727.12, the case plan shall document the court's approval or disapproval of the placement.

(D) When the minor or nonminor dependent has been placed in a short-term residential therapeutic program for more than 12 consecutive months or 18 nonconsecutive months, or, in the case of a minor who has not attained 13 years of age, for more than six consecutive or nonconsecutive months, the case plan shall include both of the following:

- (i) Documentation of the information submitted to the court pursuant to subparagraph (B) of paragraph (1) of subdivision (c) of Section 706.5.
- (ii) Documentation that the chief probation officer of the county probation department, or their designee, has approved the continued placement of the minor or nonminor dependent in the setting.

**(E)**

(i) On and after October 1, 2021, prior to discharge from a short-term residential therapeutic program, the case plan shall include a description of the type of in-home or institution-based services to encourage the safety, stability, and appropriateness of the next placement, including the recommendations of the child and family team, if available.

(ii) A plan, developed in collaboration with the short-term residential therapeutic program, for the provision of discharge planning and family-based aftercare support pursuant to Section 4096.6.

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

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

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

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

(1) The probation department.

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

(3) The minor.

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

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

**(h)**

(1) Scheduled visits between the minor and the minor's family and an explanation if no visits are made.

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

(A) The nature of the relationship between the child and the child's siblings.

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

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

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

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

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

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

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

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

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

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

**(i)**

**(1)** When placement is made in a resource family home, short-term residential therapeutic program, or other children's residential facility that is either a substantial distance from the home of the minor's parent or legal guardian or out of state, the case plan shall specify the reasons why the placement is the most appropriate and is in the best interest of the minor.

**(2)** When an out-of-state residential facility placement is recommended or made, the case plan shall comply with Section 727.1 of this code and [Section 7911.1 of the Family Code](#). In addition, the case plan shall include documentation that the county placing agency has satisfied Section 16010.9. The case plan shall also address what in-state services or facilities were used or considered and why they were not recommended.

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

**(k)** A schedule of visits between the minor and the probation officer, including a monthly visitation schedule for those children placed in group short-term residential therapeutic programs or out-of-state residential facilities, as defined in [subdivision \(b\) of Section 7910 of the Family Code](#).

**(l)** Health and education information about the minor, school records, immunizations, known medical problems, and any known medications the minor may be taking, names and addresses of the minor's health and educational providers; the minor's grade level performance; assurances that the minor's placement in foster care

takes into account proximity to the school in which the minor was enrolled at the time of placement; and other relevant health and educational information.

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

(n)

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

(2) If, after considering reunification, adoptive placement, legal guardianship, or permanent placement with a fit and willing relative the probation officer recommends placement in a planned permanent living arrangement for a minor 16 years of age or older, the case plan shall include documentation of a compelling reason or reasons why termination of parental rights is not in the minor's best interest. For purposes of this subdivision, a "compelling reason" shall have the same meaning as in subdivision (c) of Section 727.3. The case plan shall also identify the intensive and ongoing efforts to return the minor to the home of the parent, place the minor for adoption, establish a legal guardianship, or place the minor with a fit and willing relative, as appropriate. Efforts shall include the use of technology, including social media, to find biological family members of the minor.

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

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

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

**Leg.H.**

Added Stats 1999 ch 997 § 13 (AB 575). Amended Stats 2001 ch 831 § 7 (AB 1696); Stats 2009–2010 4th Ex Sess ch 4 § 8 (ABX4 4), effective July 28, 2009; Stats 2014 ch 773 § 8 (SB 1099), effective January 1, 2015; Stats 2015 ch 425 § 17 (SB 794), effective January 1, 2016, ch 773 § 49.5 (AB 403), effective January 1, 2016; Stats 2016 ch 612 § 76 (AB 1997), effective January 1, 2017; Stats 2021 ch 86 § 27 (AB 153), effective July 16, 2021.

## **§ 707. Determination of Minor's Fitness for Treatment Under Juvenile Court Law; Investigation and Submission of Report; Criteria.**

(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.

#### Leg.H.

Added Stats 1975 ch 1266 § 4; Amended Stats 1976 ch 1071 § 28.5; Stats 1977 ch 1150 § 2; Stats 1979 ch 944 § 19, ch 1177 § 2; Stats 1982 ch 283 § 2, effective June 21, 1982, ch 1094 § 2, ch 1282 § 4.5; Stats 1983 ch 390 § 2; Stats 1986 ch 676 § 2; Stats 1989 ch 820 § 1; Stats 1990 ch 249 § 1 (AB 2601); Stats 1991 ch 303 § 1 (AB 1780); Stats 1993 ch 610 § 30 (AB 6), effective September 30, 1993, ch 611 § 34 (SB 60), effective September 30, 1993; Stats 1994 ch 448 § 3 (AB 1948), ch 453 § 9.5 (AB 560); Stats 1997 ch 910 § 2 (SB 1195); Stats 1998 ch 925 § 7 (AB 1290), ch 936 § 21.5 (AB 105), effective September 28, 1998. Amendment adopted by voters, Prop 21 § 26, effective March 8, 2000; Amended Stats 2007 ch 137 § 1 (AB 686), effective January 1, 2008; Stats 2008 ch 179 § 236 (SB 1498), effective January 1, 2009; Stats 2010 ch 178 § 97 (SB 1115), effective January 1, 2011, operative January 1, 2012; Stats 2015 ch 234 § 2 (SB 382), effective January 1, 2016; Amendment approved by voters, Prop. 57 § 4.2, effective November 9, 2016; Stats 2018 ch 1012 § 1 (SB 1391), effective January 1, 2019.

## § 707.01. Unfitness Findings—Consequences.

(a) If a minor is found an unfit subject to be dealt with under the juvenile court law pursuant to Section 707, then the following shall apply:

(1) The jurisdiction of the juvenile court with respect to any previous adjudication resulting in the minor being made a ward of the juvenile court that did not result in the minor's commitment to the Youth Authority shall not terminate, unless a hearing is held pursuant to Section 785 and the jurisdiction of the juvenile court over the minor is terminated.

(2) The jurisdiction of the juvenile court and the Youth Authority with respect to any previous adjudication resulting in the minor being made a ward of the juvenile court that resulted in the minor's commitment to the Youth Authority shall not terminate.

(3) All petitions pending against the minor shall be transferred to the court of criminal jurisdiction where one of the following applies:

(A) Jeopardy has not attached and the minor was 16 years of age or older at the time he or she is alleged to have violated the criminal statute or ordinance.

(B) Jeopardy has not attached and the minor is alleged to have violated a criminal statute for which he or she may be presumed or may be found to be not a fit and proper subject to be dealt with under the juvenile court law.

(4) All petitions pending against the minor shall be disposed of in the juvenile court pursuant to the juvenile court law, where one of the following applies:

(A) Jeopardy has attached.

(B) The minor was under 16 years of age at the time he or she is alleged to have violated a criminal statute for which he or she may not be presumed or may not be found to be not a fit and proper subject to be dealt with under the juvenile court law.

(5) If, subsequent to a finding that a minor is an unfit subject to be dealt with under the juvenile court law, the minor is convicted of the violations which were the subject of the proceeding that resulted in a finding of unfitness, a new petition or petitions alleging the violation of any law or ordinance defining crime which would otherwise cause the minor to be a person described in Section 602 committed by the minor prior to or after the finding of unfitness need not be filed in the juvenile court if one of the following applies:

(A) The minor was 16 years of age or older at the time he or she is alleged to have violated a criminal statute or ordinance.

(B) The minor is alleged to have violated a criminal statute for which he or she may be presumed or may be found to be not a fit and proper subject to be dealt with under the juvenile court law.

(6) Subsequent to a finding that a minor is an unfit subject to be dealt with under the juvenile court law, which finding was based solely on either or both the minor's previous delinquent history or a lack of success of previous attempts by the juvenile court to rehabilitate the minor, and the minor was not convicted of the offense, a new petition or petitions alleging the violation of any law or ordinance defining crime which would otherwise cause the minor to be a person described in Section 602 committed by the minor prior to or after the finding of unfitness need not be filed in the juvenile court if one of the following applies:

(A) The minor was 16 years of age or older at the time he or she is alleged to have violated a criminal statute or ordinance.

(B) The minor is alleged to have violated a criminal statute for which he or she may be presumed or may be found to be not a fit and proper subject to be dealt with under the juvenile court law.

(7) If, subsequent to a finding that a minor is an unfit subject to be dealt with under the juvenile court law, the minor is not convicted of the violations which were the subject of the proceeding that resulted in a finding of unfitness and the finding of unfitness was not based solely on either or both the minor's previous delinquent history or a lack of success of previous attempts by the juvenile court to rehabilitate the minor, a new petition or petitions alleging the violation of any law or ordinance defining a crime which would otherwise cause the minor to be a person described in Section 602 committed by the minor prior to or after the finding of unfitness shall be first filed in the juvenile court. This paragraph does not preclude the prosecuting attorney from seeking to find the minor unfit in a subsequent petition.

(b) As to a violation referred to in paragraph (5) or (6) of subdivision (a), if a petition based on those violations has already been filed in the juvenile court, it shall be transferred to the court of criminal jurisdiction

without any further proceedings.

(c) The probation officer shall not be required to investigate or submit a report regarding the fitness of a minor for any charge specified in paragraph (5) or (6) of subdivision (a) which is refiled in the juvenile court.

(d) This section shall not be construed to affect the right to appellate review of a finding of unfitness or the duration of the jurisdiction of the juvenile court as specified in Section 607.

**Leg.H.**

1994 ch. 453.

## **§ 707.1. Procedure if Minor Determined Unfit for Juvenile Court; Accusatory Pleading in Alternative Criminal Court.**

(a) If, pursuant to a transfer hearing, the minor's case is transferred from juvenile court to a court of criminal jurisdiction, the district attorney or other appropriate prosecuting officer may file an accusatory pleading against the minor in a court of criminal jurisdiction. The case shall proceed from that point according to the laws applicable to a criminal case. If a prosecution has been commenced in another court but has been suspended while juvenile court proceedings are being held, it shall be ordered that the proceedings upon that prosecution shall resume.

(b) A minor whose case is transferred to a court of criminal jurisdiction shall, upon the conclusion of the transfer hearing, be entitled to release on bail or on their own recognizance on the same circumstances, terms, and conditions as an adult alleged to have committed the same offense.

**Leg.H.**

Added Stats 1975 ch 1266 § 5. Amended Stats 1979 ch 539 § 1; Stats 1983 ch 204 § 1; Stats 1986 ch 1271 § 6; Stats 1994 ch 448 § 4 (AB 1948), ch 453 § 11.5 (AB 560); Stats 1995 ch 61 § 1 (SB 7); Stats 2020 ch 337 § 25 (SB 823), effective September 30, 2020.

## **§ 707.4. Procedure Upon Minor's Favorable Disposition in Other Criminal Court; Criminal Record.**

In any case arising under this article in which there is no conviction in the criminal court, the clerk of the criminal court shall report such disposition to the juvenile court, to the probation department, to the law enforcement agency which arrested the minor for the offense which resulted in his remand to criminal court, and to the Department of Justice. Unless the minor has had a prior conviction in a criminal court, the clerk of the criminal court shall deliver to the clerk of the juvenile court all copies of the minor's record in criminal court and shall obliterate the minor's name from any index or minute book maintained in the criminal court. The clerk of the juvenile court shall maintain the minor's criminal court record as provided by Article 22 (commencing with Section 825) of this chapter until such time as the juvenile court may issue an order that they be sealed pursuant to Section 781.

**Leg.H.**

1975 ch. 1266, 1976 ch. 1069, 1978 ch. 380.

## **§ 707.5. Request To Return Case To Juvenile Court Following Transfer To Court Of Criminal Jurisdiction; Circumstances**

## Authorizing Return; Order To Prepare Social Study On Questions Of Proper Disposition.

**(a)** In any case in which a person is transferred from juvenile court to a court of criminal jurisdiction pursuant to Section 707, upon conviction or entry of a plea, the person may, under the circumstances described in subdivision (b), request the criminal court to return the case to the juvenile court for disposition.

**(b)** Upon motion by the person, the criminal court shall have the authority to return the case to juvenile court for disposition in the following circumstances:

**(1)** If the person is convicted at trial in criminal court solely of a misdemeanor or misdemeanors, upon request by the defense, the case shall be returned to juvenile court, as provided in subdivisions (d) and (e).

**(2)** If any of the allegations in the juvenile court petition that were the basis for transfer involved an offense listed in subdivision (b) of Section 707, and the person is convicted at trial in criminal court only of felony offenses that are not listed in subdivision (b) of Section 707, or a combination of such felony offenses and misdemeanors, upon request by the defense, the court shall have the discretion to return the case to juvenile court for further proceedings pursuant to subdivision (c).

**(3)** If the allegations in the juvenile court petition that were the basis for transfer involved only offenses not listed in subdivision (b) of Section 707, and pursuant to a plea agreement the person pleads guilty only to a misdemeanor or misdemeanors, or if any of the allegations in the juvenile court petition that were the basis for transfer involved an offense listed in subdivision (b) of Section 707, and pursuant to a plea agreement the person pleads guilty only to a misdemeanor or misdemeanors, felony offenses that are not listed in subdivision (b) of Section 707, or a combination of such felony offenses and misdemeanors, upon agreement and request of the parties, and subject to the approval of the court, the case shall be returned to juvenile court for further proceedings pursuant to subdivision (c).

**(c)** In determining whether the case should be returned to juvenile court pursuant to paragraph (2) of subdivision (b), or in determining whether to approve the agreement pursuant to paragraph (3) of subdivision (b), the court shall make a finding by a preponderance of the evidence that a juvenile disposition is in the interests of justice and the welfare of the person, and shall so state on the minute order with the specific reasons for making that finding. In making the determination, the court shall consider the transcript and minute order of the transfer hearing, the time that the person has served in custody, the dispositions and services available to the person in the juvenile court, and any relevant evidence submitted by either party. A case that is ordered returned to juvenile court shall comply with subdivisions (d) and (e).

**(d)** Upon determining that the case shall be returned to the juvenile court, the court shall return the entire case to the juvenile court and the matter shall be calendared within two court days.

**(e)** The juvenile court shall order the probation department to prepare a social study on the questions of the proper disposition, and the case shall proceed to disposition as set forth in Sections 702, 706, 706.5, and 730, and Article 18 (commencing with Section 725), as applicable. A conviction or guilty plea that is returned to juvenile court shall be considered an adjudication or admission before the juvenile court for all purposes.

**(f)** The clerk of the criminal court shall report the return to juvenile court to the probation department, the law enforcement agency that arrested the minor for the offense, and the Department of Justice. The clerk of the criminal court shall deliver to the clerk of the juvenile court all copies of the minor's record in criminal court and shall obliterate the person's name for any index maintained in the criminal court. The clerk of the juvenile court shall maintain the criminal court records as provided by Article 22 (commencing with Section 825) until such time as the juvenile court may issue an order that the records be sealed.

**Leg.H.**

Added Stats 2019 ch 583 § 1 (AB 1423), effective January 1, 2020.

## **§ 708. Minor Dangerous to Self or Other From Use of Controlled Substances; 72-Hour Treatment and Evaluation; 14-Day Intensive Treatment.**

(a) Whenever a minor who appears to be a danger to himself or herself or others as a result of the use of controlled substances (as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code), is brought before any judge of the juvenile court, the judge may continue the hearing and proceed pursuant to this section. The court may order the minor taken to a facility designated by the county and approved by the State Department of Health Care Services as a facility for 72-hour treatment and evaluation. Thereupon the provisions of Section 5343 shall apply, except that the professional person in charge of the facility shall make a written report to the court concerning the results of the evaluation of the minor.

(b) If the professional person in charge of the facility for 72-hour evaluation and treatment reports to the juvenile court that the minor is not a danger to himself or herself or others as a result of the use of controlled substances or that the minor does not require 14-day intensive treatment, or if the minor has been certified for not more than 14 days of intensive treatment and the certification is terminated, the minor shall be released if the juvenile court proceedings have been dismissed; referred for further care and treatment on a voluntary basis, subject to the disposition of the juvenile court proceedings; or returned to the juvenile court, in which event the court shall proceed with the case pursuant to this chapter.

(c) Any expenditure for the evaluation or intensive treatment of a minor under this section shall be considered an expenditure made under Part 2 (commencing with Section 5600) of Division 5, and shall be reimbursed by the state as are other local expenditures pursuant to that part.

**Leg.H.**

Added Stats 1970 ch 1129 § 1. Amended Stats 1981 ch 714 § 462; Stats 1984 ch 1635 § 96; Stats 2012 ch 34 § 41 (SB 1009), effective June 27, 2012; Stats 2013 ch 23 § 28 (AB 82), effective June 27, 2013.

## **§ 709. Determination of Minor's Competency; Appointment and Qualifications of Expert; Suspension of Proceedings.**

**(a)**

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

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

**(3)** Notwithstanding paragraph (1), during the pendency of any juvenile proceeding, the court may receive information from any source regarding the minor's ability to understand the proceedings. The

minor's counsel or the court may express a doubt as to the minor's competency. If the court finds substantial evidence that raises a doubt as to the minor's competency, the proceedings shall be suspended.

**(b)**

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

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

**(3)** The expert shall personally interview the minor and review all of the available records provided, including, but not limited to, medical, education, special education, probation, child welfare, mental health, regional center, and court records, and any other relevant information that is available. The expert shall consult with the minor's counsel and any other person who has provided information to the court regarding the minor's lack of competency. The expert shall gather a developmental history of the minor. If any information is unavailable to the expert, the expert shall note in the report the efforts to obtain that information. The expert shall administer age-appropriate testing specific to the issue of competency unless the facts of the particular case render testing unnecessary or inappropriate. The expert shall be proficient in the language preferred by the minor, or, if that is not feasible, the expert shall employ the services of a certified interpreter and use assessment tools that are linguistically and culturally appropriate for the minor. In a written report, the expert shall opine whether the minor has the sufficient present ability to consult with the minor's counsel with a reasonable degree of rational understanding and whether the minor has a rational and factual understanding of the proceedings against them. The expert shall also state the basis for these conclusions. If the expert concludes that the minor lacks competency, the expert shall give their opinion on whether the minor is likely to attain competency in the foreseeable future, and, if so, make recommendations regarding the type of remediation services that would be effective in assisting the minor in attaining competency.

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

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

**(6)** The district attorney or minor's counsel may retain or seek the appointment of additional qualified experts who may testify during the competency hearing. The expert's report and qualifications shall be disclosed to the opposing party within a reasonable time before, but no later than five court days before, the hearing. If disclosure is not made in accordance with this paragraph, the court may make any order

necessary to enforce the provisions of this paragraph, including, but not limited to, immediate disclosure, contempt proceedings, delaying or prohibiting the testimony of the expert or consideration of the expert's report upon a showing of good cause, or any other lawful order. If, after disclosure of the report, the opposing party requests a continuance in order to further prepare for the hearing and shows good cause for the continuance, the court shall grant a continuance for a reasonable period of time. This paragraph does not allow a qualified expert retained or appointed by the district attorney to perform a competency evaluation on a minor without an order from the juvenile court after petitioning the court for an order pursuant to the Civil Discovery Act (Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure).

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

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

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

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

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

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

(1) Motions to dismiss.

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

(3) Detention hearings.

(4) Demurrsers.

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

**(g)**

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

- (A)** Placement through regional centers.
- (B)** Short-term residential therapeutic programs.
- (C)** Crisis residential programs.
- (D)** Civil commitment.
- (E)** Foster care, relative placement, or other nonsecure placement.
- (F)** Other residential treatment programs.

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

**(h)**

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

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

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

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

**(5)**

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

- (i)** Where the minor will have the best chance of obtaining competence.
- (ii)** Whether the placement is the least restrictive setting appropriate for the minor.
- (iii)** Whether alternatives to secure confinement have been identified and pursued and why alternatives are not available or appropriate.
- (iv)** Whether the placement is necessary for the safety of the minor or others.

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

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

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

**Leg.H.**

Added Stats 2018 ch 991 § 2 (AB 1214), effective January 1, 2019. Amended Stats 2019 ch 161 § 1 (AB 439), effective July 31, 2019.

## **§ 710. Applicability of §§ 711, 712 and 713; Resolution.**

**(a)** Sections 711, 712, and 713 shall not be applicable in a county unless the application of those sections in the county has been approved by a resolution adopted by the board of supervisors. A county may establish a program pursuant to Section 711, 712, or 713, or pursuant to two or all three of those sections, on a permanent basis, or it may establish the program on a limited duration basis for a specific number of years. Moneys from a grant from the Mental Health Services Act used to fund a program pursuant to Section 711, 712, or 713 may be used only for services related to mental health assessment, treatment, and evaluation.

(b) It is the intent of the Legislature that in a county where funding exists through the Mental Health Services Act, and the board of supervisors has adopted a resolution pursuant to subdivision (a), the courts may, under the guidelines established in Section 711, make available the evaluation described in Section 712, and receive treatment and placement recommendations from the multidisciplinary assessment team as described in Section 713.

**Leg.H.**

2005 ch. 265 (SB 570) § 3.

## **§ 711. Referral of Minor for Evaluation; Right to Decline.**

(a) When it appears to the court, or upon request of the prosecutor or counsel for the minor, at any time, that a minor who is alleged to come within the jurisdiction of the court under Section 602, may have a serious mental disorder, is seriously emotionally disturbed, or has a developmental disability, the court may order that the minor be referred for evaluation, as described in Section 712.

(b) A minor, with the approval of his or her counsel, may decline the referral for mental health evaluation described in Section 712 or the multidisciplinary team review described in Section 713, in which case the matter shall proceed without the application of Sections 712 and 713, and in accordance with all other applicable provisions of law.

**Leg.H.**

2005 ch. 265 (SB 570) § 4.

## **§ 712. Who May Make Evaluation by Court; Conduct of Evaluation; Report; Referral Under Other Provisions.**

(a) The evaluation ordered by the court under Section 711 shall be made, in accordance with the provisions of Section 741 and Division 4.5 (commencing with Section 4500), by either of the following, as applicable:

(1) For minors suspected to be developmentally disabled, by the director of a regional center or his or her designee, pursuant to paragraph (7) of subdivision (b) of Section 709.

(2) For all other minors, by an appropriate and licensed mental health professional who meets one or more of the following criteria:

(A) The person is licensed to practice medicine in the State of California and is trained and actively engaged in the practice of psychiatry.

(B) The person is licensed as a psychologist under Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(b) The evaluator selected by the court shall personally examine the minor, conduct appropriate psychological or mental health screening, assessment, or testing, according to a uniform protocol developed by the county mental health department, and prepare and submit to the court a written report indicating his or her findings and recommendations to guide the court in determining whether the minor has a serious mental disorder or is seriously emotionally disturbed, as described in Section 5600.3. If the minor is detained, the examination shall occur within three court days of the court's order of referral for evaluation, and the evaluator's report shall be submitted to the court not later than five court days after the evaluator has personally examined the minor, unless the submission date is extended by the court for good cause shown.

**(c)** Based on the written report by the evaluator or the regional center, the court shall determine whether the minor has a serious mental disorder or is seriously emotionally disturbed, as described in Section 5600.3, or has a developmental disability, as defined in Section 4512. If the court determines that the minor has a serious mental disorder, is seriously emotionally disturbed, or has a developmental disability, the case shall proceed as described in Section 713. If the court determines that the minor does not have a serious mental disorder, is not seriously emotionally disturbed, or does not have a developmental disability, the matter shall proceed without the application of Section 713 and in accordance with all other applicable provisions of law.

**(d)** This section shall not be construed to interfere with the legal authority of the juvenile court or of any other public or private agency or individual to refer a minor for mental health evaluation or treatment as provided in Section 370, 635.1, 704, 741, 5150, 5694.7, 5699.2, 5867.5, or 6551 of this code, or in [Section 4011.6 of the Penal Code](#).

**Leg.H.**

Added Stats 2005 ch 265 § 5 (SB 570), effective January 1, 2006; Amended Stats 2011 ch 37 § 4 (AB 104), effective June 30, 2011; Stats 2012 ch 162 § 191 (SB 1171), effective January 1, 2013; Amended Stats 2018 ch 991 § 3 (AB 1214), effective January 1, 2019.

## § 713. Dispositional Procedures.

(a) For any minor described in Section 711 who is determined by the court under Section 712 to be seriously emotionally disturbed, have a serious mental disorder, or have a developmental disability, and who is adjudicated a ward of the court under Section 602, the dispositional procedures set forth in this section shall apply.

(b) Prior to the preparation of the social study required under Section 706, 706.5, or 706.6, the minor shall be referred to a multidisciplinary team for dispositional review and recommendation. The multidisciplinary team shall consist of qualified persons who are collectively able to evaluate the minor's full range of treatment needs and may include representatives from local probation, mental health, regional centers, regional resource development projects, child welfare, education, community-based youth services, and other agencies or service providers. The multidisciplinary team shall include at least one licensed mental health professional as described in subdivision (a) of Section 712. If the minor has been determined to have both a mental disorder and a developmental disorder, the multidisciplinary team may include both an appropriate mental health agency and a regional center.

(c) The multidisciplinary team shall review the nature and circumstances of the case, including the minor's family circumstances, as well as the minor's relevant tests, evaluations, records, medical and psychiatric history, and any existing individual education plan or individual program plans. The multidisciplinary team shall provide for the involvement of the minor's available parent, guardian, or primary caretaker in its review, including any direct participation in multidisciplinary team proceedings as may be helpful or appropriate for development of a treatment plan in the case. The team shall identify the mental health or other treatment services, including in-home and community-based services that are available and appropriate for the minor, including services that may be available to the minor under federal and state programs and initiatives, such as wraparound service programs. At the conclusion of its review, the team shall then produce a recommended disposition and written treatment plan for the minor, to be appended to, or incorporated into, the probation social study presented to the court.

(d) The court shall review the treatment plan and the dispositional recommendations prepared by the multidisciplinary team and shall take them into account when making the dispositional order in the case. The dispositional order in the case shall be consistent with the protection of the public and the primary treatment needs of the minor as identified in the report of the multidisciplinary team. The minor's disposition order shall incorporate, to the extent feasible, the treatment plan submitted by the multidisciplinary team, with any adjustments deemed appropriate by the court.

(e) The dispositional order in the case shall authorize placement of the minor in the least restrictive setting that is consistent with the protection of the public and the minor's treatment needs, and with the treatment plan approved by the court. The court shall, in making the dispositional order, give preferential consideration to the return of the minor to the home of his or her family, guardian, or responsible relative with appropriate in-home, outpatient, or wraparound services, unless that action would be, in the reasonable judgment of the court, inconsistent with the need to protect the public or the minor, or with the minor's treatment needs.

(f) Whenever a minor is recommended for placement at a state developmental center, the regional center director or designee shall submit a report to the Director of the Department of Developmental Services or his or her designee. The regional center report shall include the assessments, individual program plan, and a statement describing the necessity for a developmental center placement. The Director of Developmental Services or his or her designee may, within 60 days of receiving the regional center report, submit to the court a written report evaluating the ability of an alternative community option or a developmental center to achieve the purposes of treatment for the minor and whether a developmental center placement can adequately provide the security measures or systems required to protect the public health and safety from the potential dangers posed by the minor's known behaviors.

**Leg.H.**

2005 ch. 265 (SB 570) § 6.

## **§ 714. Participation of Regional Centers.**

A regional center, as described in Chapter 5 (commencing with Section 4620) of Division 4.5, shall not be required to provide assessments or services to minors pursuant to Section 711, 712, or 713 solely on the basis of a finding by the court under subdivision (c) of Section 712 that the minor is developmentally disabled. Regional center representatives may, at their option and on a case-by-case basis, participate in the multidisciplinary teams described in Section 713. However, any assessment provided by or through a regional center to a minor determined by the court to be developmentally disabled under subdivision (c) of Section 712 shall be provided in accordance with the provisions and procedures in Chapter 5 (commencing with Section 4620) of Division 4.5 that relate to regional centers.

**Leg.H.**

2005 ch. 265 (SB 570) § 7.

## **ARTICLE 18**

### **Wards—Judgments and Orders**

## **§ 725. Court's Discretion to Place Minor on Supervised Probation.**

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

(a) If the court has found that the minor is a person described by Section 601 or 602, by reason of the commission of an offense other than any of the offenses set forth in Section 654.3, it may, without adjudging the minor a ward of the court, place the minor on probation, under the supervision of the probation officer, for a period not to exceed six months. The minor's probation shall include the conditions required in Section 729.2 except in any case in which the court makes a finding and states on the record its reasons that any of those conditions would be inappropriate. If the offense involved the unlawful

possession, use, or furnishing of a controlled substance, as defined in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, a violation of subdivision (f) of Section 647 of the Penal Code, or a violation of Section 25662 of the Business and Professions Code, the minor's probation shall include the conditions required by Section 729.10. If the minor fails to comply with the conditions of probation imposed, the court may order and adjudge the minor to be a ward of the court.

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

**Leg.H.**

1961 ch. 1616, 1963 ch. 1761, 1976 ch. 1068, 1989 chs. 936, 1117.

## **§ 725.5. Court Required to Consider Minor's Age, Criminal History, and Gravity of Offense in Making Disposition.**

In determining the judgment and order to be made in any case in which the minor is found to be a person described in Section 602, the court shall consider, in addition to other relevant and material evidence, (1) the age of the minor, (2) the circumstances and gravity of the offense committed by the minor, and (3) the minor's previous delinquent history.

**Leg.H.**

1982 ch. 1090.

## **§ 726. Order Limiting Control by Parent or Guardian; Required Findings; Educational and School Placement Decisions; Physical Confinement for More than Maximum Term of Imprisonment Prohibited; Retention of Jurisdiction.**

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

(1) That the parent or guardian is incapable of providing or has failed or neglected to provide proper maintenance, training, and education for the minor.

(2) That the minor has been tried on probation while in custody and has failed to reform.

(3) That the welfare of the minor requires that custody be taken from the minor's parent or guardian.

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

(1) The minor reaches 18 years of age, unless the child chooses not to make educational or developmental services decisions for themselves, or is deemed by the court to be incompetent.

(2) Another responsible adult is appointed to make educational or developmental services decisions for the minor pursuant to this section.

(3) The right of the parent or guardian to make educational or developmental services decisions for the minor is fully restored.

(4) A successor guardian or conservator is appointed.

(5) The child is placed into a planned permanent living arrangement pursuant to paragraph (5) or (6) of subdivision (b) of Section 727.3, at which time, for educational decisionmaking, the foster parent, relative caretaker, or nonrelative extended family member, as defined in Section 362.7, has the right to represent the child in educational matters pursuant to [Section 56055 of the Education Code](#), and for decisions relating to developmental services, unless the court specifies otherwise, the foster parent, relative caregiver, or nonrelative extended family member of the planned permanent living arrangement has the right to represent the child in matters related to developmental services.

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

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

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

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

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

(3) Nothing in this section in any way removes the obligation to appoint surrogate parents for students with disabilities who are without parental representation in special education procedures as required by

state and federal law, including Section 1415(b)(2) of Title 20 of the United States Code, Section 56050 of the Education Code, Section 7579.5 of the Government Code, and Rule 5.650 of the California Rules of Court.

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

**(d)**

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

**(2)** As used in this section and in Section 731, "maximum term of imprisonment" means the middle of the three time periods set forth in paragraph (3) of subdivision (a) of Section 1170 of the Penal Code, but without the need to follow the provisions of subdivision (b) of Section 1170 of the Penal Code or to consider time for good behavior or participation pursuant to Sections 2930, 2931, and 2932 of the Penal Code, plus enhancements which must be proven if pled.

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

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

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

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

**Leg.H.**

Added Stats 1961 ch 1616 § 2. Amended Stats 1976 ch 1071 § 29; Stats 1977 ch 1238 § 1, effective October 1, 1977; Stats 1994 ch 181 § 1 (AB 1146); Stats 2002 ch 180 § 3 (AB 886); Stats 2003 ch 862 § 12 (AB 490); Stats 2011 ch 471 § 5 (SB 368), effective January 1, 2012; Stats 2012 ch 176 § 3 (AB 2060), effective January 1, 2013; Stats 2013 ch 59 § 12 (SB 514), effective January 1, 2014; Stats 2014 ch 71 § 183 (SB 1304), effective January 1, 2015; Stats 2021 ch 18 § 7 (SB 92), effective May 14, 2021.

## **§ 726.4. Inquiry into Address of Father.**

(a) At the disposition hearing, in any case where the court orders the care, custody, and control of the minor to be under the supervision of the probation officer for foster care placement pursuant to subdivision (a) of Section 727, the court shall inquire of the mother and any other appropriate person as to the identity and address

of all presumed or alleged fathers. The presence at the hearing of a man claiming to be the father shall not relieve the court of its duty of inquiry. The inquiry may include all of the following:

- (1) Whether a judgment of paternity already exists.
- (2) Whether the mother was married or believed she was married at the time of conception of the child or at any time thereafter.
- (3) Whether the mother was cohabiting with a man at the time of conception or birth of the child.
- (4) Whether the mother has received support payments or promises of support with respect to the child or in connection with her pregnancy.
- (5) Whether any man has formally or informally acknowledged or declared his possible paternity of the child.
- (6) Whether paternity tests have been administered and the results, if any.

(b) If, after the court inquiry, one or more men are identified as an alleged father, each alleged father shall be provided notice at his last and usual place of abode by certified mail return receipt requested alleging that he is or could be the father of the child. The notice shall state that the child is the subject of proceedings under Section 602 and that the proceedings could result in the termination of parental rights and adoption of the child. Nothing in this section shall preclude a court from terminating a father's parental rights even if he appears at the hearing and files an action under [Section 7630 or 7631 of the Family Code](#).

(c) The court may determine that the failure of an alleged father to return the certified mail receipt is not good cause to continue a hearing pursuant to Section 682.

(d) If a man appears in the delinquency action and files an action under [Section 7630 or 7631 of the Family Code](#), the court shall determine if he is the father.

(e) After a petition has been filed to declare a minor a ward of the court, and until the time that the petition is dismissed, wardship is terminated, or parental rights are terminated pursuant to Section 727.31, the juvenile court which has jurisdiction of the wardship action shall have exclusive jurisdiction to hear an action filed under [Section 7630 or 7631 of the Family Code](#).

**Leg.H.**

1999 ch. 997.

## **§ 726.5. Protective and Custody or Visitation Orders When Ward's Parents Divorce or Separate; Notice to Court.**

(a) At any time when (1) the minor is a ward of the juvenile court under Section 725, or the court terminates wardship while the minor remains under the age of 18 years, and (2) proceedings for dissolution of marriage, for nullity of marriage, or for legal separation of the minor's parents, proceedings to determine custody of the child, or to establish paternity of the minor under the Uniform Parentage Act, Part 3 (commencing with Section 7600) of Division 12 of the Family Code are pending in the superior court of any county, or an order has been entered with regard to the custody of the minor, the juvenile court may issue a protective order as provided in Section 213.5 or as defined in [Section 6218 of the Family Code](#) and may issue an order determining parentage, custody of, or visitation with, the minor.

A custody or visitation order issued by the juvenile court pursuant to this subdivision shall be made in accordance with the procedures and criteria of Part 2 (commencing with Section 3020) of Division 8 of the Family Code. An order determining parentage issued by the juvenile court pursuant to this subdivision shall be made in accordance with the procedures and presumptions of the Uniform Parentage Act, Part 3 (commencing with Section 7600) of Division 12 of the Family Code.

(b) If the juvenile court decides to issue an order pursuant to subdivision (a), the juvenile court shall provide notice of that decision to the superior court in which the proceeding to decide parentage, custody of, or visitation with, the minor is pending. The clerk of the superior court, upon receipt of the notice, shall file the notice with other documents and records of the pending proceeding and send by first-class mail a copy of the notice to all parties of record in that proceeding.

(c) Any order issued under this section shall continue until modified or terminated by a subsequent order of the juvenile court. The order of the juvenile court shall be filed in the proceeding for nullity, dissolution, or legal separation, or in the proceeding to determine custody or to establish paternity, if that proceeding is pending at the time the juvenile court terminates its jurisdiction over the minor. The order shall then become a part of that proceeding and may be terminated or modified as the court in that proceeding deems appropriate.

(d) If no action is filed or pending relating to the custody of the minor in the superior court of any county at the time the juvenile court terminates its jurisdiction over the minor, the juvenile court order entered pursuant to subdivision (a) may be used as the sole basis for opening a file in the superior court of the county in which the parent who has been awarded physical custody resides. The clerk of the juvenile court shall transmit the order to the clerk of the superior court of the county in which the order is to be filed. The clerk of the superior court shall, upon receipt, open a file, without a filing fee, and assign a case number.

(e) The clerk of the superior court shall, upon the filing of any juvenile court order pursuant to subdivision (d), send by first-class mail a copy of the order with the case number, to the juvenile court and to the parents at the address listed on the order.

(f) The Judicial Council shall adopt forms for orders issued under this section. These orders shall not be confidential.

**Leg.H.**

1998 ch. 390.

## **§ 727. Order for Care and Custody of Minor Adjudged Ward of Court.**

**(a)**

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

**(2)** In the discretion of the court, a ward may be ordered to be on probation without supervision of the probation officer. The court, in so ordering, may impose on the ward any and all reasonable conditions of behavior as may be appropriate under this disposition. A minor or nonminor who has been adjudged a ward of the court on the basis of the commission of any of the offenses described in subdivision (b) or paragraph (2) of subdivision (d) of Section 707, **Section 459 of the Penal Code**, or **subdivision (a) of Section 11350 of the Health and Safety Code**, shall not be eligible for probation without supervision of the probation officer.

A minor or nonminor who has been adjudged a ward of the court on the basis of the commission of an offense involving the sale or possession for sale of a controlled substance, except misdemeanor offenses involving marijuana, as specified in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, or of an offense in violation of **Section 32625 of the Penal Code**, shall be eligible for probation without supervision of the probation officer only if the court determines that the interests of justice would best be served and states reasons on the record for that determination.

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

**(4)** It is the responsibility, pursuant to **Section 672(a)(2)(B) of Title 42 of the United States Code**, of the probation agency to determine the appropriate placement for the ward once the court issues a placement order. In determination of the appropriate placement for the ward, the probation officer shall consider any recommendations of the child and family. The probation agency may place the minor or nonminor in any of the following:

**(A)** The approved home of a relative or the approved home of a nonrelative, extended family member, as defined in Section 362.7. If a decision has been made to place the minor in the home of a relative, the court may authorize the relative to give legal consent for the minor's medical, surgical, and dental care and education as if the relative caregiver were the custodial parent of the minor.

**(B)** A foster home, the approved home of a resource family, as defined in Section 16519.5, or a home or facility in accordance with the federal Indian Child Welfare Act (**25 U.S.C. Sec. 1901 et seq.**).

**(C)** A suitable licensed community care facility, as identified by the probation officer, except a youth homelessness prevention center licensed by the State Department of Social Services pursuant to **Section 1502.35 of the Health and Safety Code**.

**(D)** A foster family agency, as defined in subdivision (g) of Section 11400 and paragraph (4) of **subdivision (a) of Section 1502 of the Health and Safety Code**, in a suitable certified family home or with a resource family.

**(E)** A minor or nonminor dependent may be placed in a group home vendedored by a regional center pursuant to **Section 56004 of Title 17 of the California Code of Regulations** or a short-term residential therapeutic program, as defined in subdivision (ad) of Section 11400 and paragraph (18) of **subdivision (a) of Section 1502 of the Health and Safety Code**. The placing agency shall also comply with requirements set forth in paragraph (9) of subdivision (e) of Section 361.2, that includes, but is not limited to, authorization, limitation on length of stay, extensions, and additional requirements related to minors. For youth 13 years of age and older, the chief probation officer of the county probation department, or their designee, shall approve the placement if it is longer than 12 months, and no less frequently than every 12 months thereafter.

**(F)**

**(i)** A minor adjudged a ward of the juvenile court shall be entitled to participate in age-appropriate extracurricular, enrichment, and social activities. A state or local regulation or policy shall not prevent, or create barriers to, participation in those activities. Each state and local entity shall ensure that private agencies that provide foster care services to wards have policies consistent with this section and that those agencies promote and protect the ability of wards to participate in age-appropriate extracurricular, enrichment, and social activities. A short-term residential therapeutic program or a group home administrator, a facility manager, or their responsible designee, and a caregiver, as defined in paragraph (1) of subdivision (a) of Section

362.04, shall use a reasonable and prudent parent standard, as defined in paragraph (2) of subdivision (a) of Section 362.04, in determining whether to give permission for a minor residing in foster care to participate in extracurricular, enrichment, and social activities. A short-term residential therapeutic program or a group home administrator, a facility manager, or their responsible designee, and a caregiver shall take reasonable steps to determine the appropriateness of the activity taking into consideration the minor's age, maturity, and developmental level. For every minor placed in a setting described in subparagraphs (A) through (E), inclusive, age-appropriate extracurricular, enrichment, and social activities shall include access to computer technology and the internet.

(ii) A short-term residential therapeutic program or a group home administrator, facility manager, or their responsible designee, is encouraged to consult with social work or treatment staff members who are most familiar with the minor at the group home or short-term residential therapeutic program in applying and using the reasonable and prudent parent standard.

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

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

(b)

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

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

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

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

**(d)**

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

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

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

#### Leg.H.

Added Stats 1961 ch 1616 § 2. Amended Stats 1963 ch 1761 § 6; Stats 1968 ch 21 § 1; Stats 1971 ch 1593 § 324, ch 1729 § 4; Stats 1973 ch 1212 § 325; Stats 1975 ch 678 § 73, ch 1266 § 9; Stats 1976 ch 1070 § 3, effective September 21, 1976, ch 1071 § 38; Stats 1977 ch 579 § 204, ch 1252 § 479; Stats 1978 ch 432 § 8.7, effective July 17, 1978; Stats 1980 ch 626 § 1, ch 991 § 1; Stats 1982 ch 978 § 28, effective September 13, 1982; Stats 1984 ch 162 § 4, ch 867 § 4; Stats 1985 ch 1485 § 15; Stats 1986 ch 1120 § 12, effective September 24, 1986; Stats 1987 ch 1022 § 9; Stats 1988 ch 99 § 1; Stats 1989 ch 936 § 3; Stats 1992 ch 1307 § 2 (AB 3553); Stats 1993 ch 1089 § 7 (AB 2129); Stats 1994 ch 453 § 12 (AB 560); Stats 2000 ch 911 § 4 (AB 686); Stats 2001 ch 653 § 13 (AB 1695), effective October 10, 2001; Stats 2008 ch 483 § 2 (AB 2096), effective January 1, 2009; Stats 2010 ch 178 § 98 (SB 1115), effective January 1, 2011, operative January 1, 2012; Stats 2012 ch 130 § 2 (SB 1048), effective January 1, 2013; Stats 2013 ch 21 § 11 (AB 74), effective June 27, 2013, ch 485 § 6 (AB 346), effective January 1, 2014, ch 487 § 4.5 (AB 787), effective January 1, 2014; Stats 2014 ch 615 § 1 (AB 2607), effective January 1, 2015, ch 772 § 13.5 (SB 1460), effective January 1, 2015; Stats 2015 ch 773 § 50 (AB 403), effective January 1, 2016; Stats 2016 ch 612 § 77 (AB 1997), effective January 1, 2017; Stats 2017 ch 561 § 266 (AB 1516), effective January 1, 2018; Stats 2017 ch 732 § 54 (AB 404), effective January 1, 2018 (ch 732 prevails); Stats 2018 ch 92 § 220 (SB 1289), effective January 1, 2019; Stats 2018 ch 997 § 2 (AB 2448), effective January 1, 2019 (ch 997 prevails); Stats 2019 ch 341 § 15 (AB 1235), effective January 1, 2020; Stats 2021 ch 76 § 15 (AB 136), effective July 16, 2021.

## **§ 727.05. Emergency Placement Of Minor Ordered Into Its Care, Custody, And Control With Relative Or Nonrelative Extended Family Member.**

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

**(b)** Prior to making the emergency placement, the probation agency shall do all of the following:

**(1)** Conduct an in-home inspection to assess the safety of the home and the ability of the relative or nonrelative extended family member to care for the minor's needs.

**(2)** Ensure that a state-level criminal records check is conducted by an appropriate government agency through the California Law Enforcement Telecommunications System (CLETS) pursuant to Section 16504.5 for all of the following:

**(A)** Any person over 18 years of age living in the home of the relative or nonrelative extended family member who seeks emergency placement of the minor, excluding any person who is a

nonminor dependent, as defined in subdivision (v) of Section 11400.

(B) At the discretion of the probation agency, any person over 18 years of age known to the agency to be regularly present in the home, other than any professional providing professional services to the minor.

(C) At the discretion of the agency, any person over 14 years of age living in the home who the agency believes may have a criminal record, excluding any child who is under the jurisdiction of the juvenile court.

(3) Conduct a check of allegations of prior child abuse or neglect concerning the relative or nonrelative extended family member and other adults in the home.

(c)

(1) If the CLETS information that is obtained pursuant to paragraph (2) of subdivision (b) indicates that a person has no criminal record, the probation agency may place the minor in the home on an emergency basis.

(2) If the CLETS information obtained pursuant to paragraph (2) of subdivision (b) indicates that a person has been convicted of an offense described in subparagraph (B) or (D) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, the minor shall not be placed in the home unless a criminal records exemption has been granted using the exemption criteria specified in paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code.

(3) Notwithstanding paragraph (2), a minor may be placed on an emergency basis if the CLETS information obtained pursuant to paragraph (2) of subdivision (b) indicates that the person has been convicted of an offense not described in subclause (II) of clause (i) of subparagraph (B) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, pending a criminal records exemption decision based on live scan fingerprint results if all of the following conditions are met:

(A) The conviction does not involve an offense against a child.

(B) The chief probation officer, or their designee, determines that the placement is in the best interests of the minor.

(C) No party to the case objects to the placement.

(4) If the CLETS information obtained pursuant to paragraph (2) of subdivision (b) indicates that the person has been arrested for any offense described in paragraph (2) of subdivision (e) of Section 1522 of the Health and Safety Code, the minor shall not be placed on an emergency basis in the home until the investigation required by paragraph (1) of subdivision (e) of Section 1522 of the Health and Safety Code has been completed and the chief probation officer, or their designee, and the court have considered the investigation results when determining whether the placement is in the best interests of the child.

(5) If the CLETS information obtained pursuant to paragraph (2) of subdivision (b) indicates that the person has been convicted of an offense described in subparagraph (A) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, the minor shall not be placed in the home on an emergency basis.

(6) Notwithstanding paragraphs (2) and (5), or the placement recommendation of the county probation agency, the court may authorize the placement of a child on an emergency basis in the home of a relative, regardless of the status of any criminal record exemption or resource family approval, if the court finds that the placement does not pose a risk to the health and safety of the child.

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

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

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

**Leg.H.**

Added Stats 2019 ch 777 § 19 (AB 819), effective January 1, 2020. Amended Stats 2021 ch 687 § 10 (SB 354), effective January 1, 2022.

## **§ 727.1. Placement of Court Ward in Private Residential Facility or Supervised Program Out-of-State—Conditions.**

**(a)** If the court orders the care, custody, and control of the minor to be under the supervision of the probation officer for foster care placement pursuant to subdivision (a) of Section 727, the decision regarding choice of placement, pursuant to Section 706.6, shall be based upon selection of a safe setting that is the least restrictive or most family-like, and the most appropriate setting that meets the individual needs of the minor and is available, in proximity to the parent's home, consistent with the selection of the environment best suited to meet the minor's special needs and best interests. The selection shall consider, in order of priority, placement with relatives, tribal members, and foster family, group care, and residential treatment pursuant to [Section 7950 of the Family Code](#).

**(b)** Unless otherwise authorized by law, the court shall not order the placement of a minor who is adjudged a ward of the court on the basis that the ward is a person described by either Section 601 or 602 in an out-of-state residential facility, as defined in [subdivision \(b\) of Section 7910 of the Family Code](#), unless the court finds, in its order of placement and based on evidence presented by the county probation department, that all of the following conditions are met:

**(1)** The out-of-state residential facility is licensed or certified for the placement of children by an agency of the state in which the ward will be placed.

**(2)** The out-of-state residential facility has been certified by the State Department of Social Services or is exempt from that certification, pursuant to [Section 7911.1 of the Family Code](#).

**(3)** On and after July 1, 2021, the county probation department has fulfilled its responsibilities as set forth in Sections 4096 and 16010.9.

**(4)** The court has reviewed the documentation of any required assessment, technical assistance efforts, or recommendations and finds that in-state facilities or programs are unavailable or inadequate to meet the needs of the ward.

(c) If, upon inspection, the probation officer of the county in which the minor is adjudged a ward of the court determines that the out-of-state facility or program is not in compliance with the standards required under paragraph (2) of subdivision (b) or has an adverse impact on the health and safety of the minor, the probation officer may temporarily remove the minor from the facility or program. The probation officer shall promptly inform the court of the minor's removal, and shall return the minor to the court for a hearing to review the suitability of continued out-of-state placement. The probation officer shall, within one business day of removing the minor, notify the State Department of Social Services' Compact Administrator, and, within five working days, submit a written report of the findings and actions taken.

(d) The court shall review each of these placements for compliance with the requirements of subdivision (b) at least once every six months.

(e) The county shall not be entitled to receive or expend any public funds for the placement of a minor in an out-of-state group home or short-term residential therapeutic program, unless the conditions of subdivisions (b) and (d) are met.

(f) Notwithstanding any other law, on and after July 1, 2022, the court shall not order or approve any new placement of a minor by a county probation department in an out-of-state residential facility, as defined in subdivision (b) of Section 7910 of the Family Code, except for placements described in subdivision (h) of Section 7911.1 of the Family Code.

(g) Notwithstanding any other law, the court shall order any minor placed out of state by a county probation department in an out-of-state residential facility, as defined in subdivision (b) of Section 7910 of the Family Code, to be returned to California no later than January 1, 2023, except for placements described in subdivision (h) of Section 7911.1 of the Family Code.

**Leg.H.**

Added Stats 1986 ch 798 § 1. Amended Stats 1994 ch 1128 § 3 (AB 1892); Stats 1996 ch 12 § 9 (AB 1397), effective February 14, 1996; Stats 1998 ch 311 § 54 (SB 933), effective August 19, 1998; Stats 1999 ch 881 § 7 (AB 1659), effective October 10, 1999; Stats 2001 ch 831 § 8 (AB 1696); Stats 2015 ch 773 § 51 (AB 403), effective January 1, 2016; Stats 2016 ch 612 § 78 (AB 1997), effective January 1, 2017; Stats 2017 ch 561 § 267 (AB 1516), effective January 1, 2018; Stats 2021 ch 86 § 28 (AB 153), effective July 16, 2021.

## **§ 727.12. Review of Placement of Minor or Nonminor Dependent In Short-Term Residential Therapeutic Program.**

(a) For a placement made on and after October 1, 2021, each placement of the minor or nonminor dependent in a short-term residential therapeutic program, including the initial placement and each subsequent placement into a short-term residential therapeutic program, shall be reviewed by the court within 45 days of the start of placement in accordance with this section. In no event shall the court grant a continuance that would cause the review to be completed more than 60 days after the start of the placement.

**(b)**

(1) Within five calendar days of each placement of the minor or nonminor dependent in a short-term residential therapeutic program, the probation officer shall request the juvenile court to schedule a hearing to review the placement.

(2) The probation officer shall serve a copy of the request on all parties to the delinquency proceeding, and the minor's tribe in the case of an Indian child to whom subparagraph (E) of paragraph (1) of subdivision (d) of Section 224.1 applies.

**(c)**

**(1)** The probation officer shall prepare and submit a report that shall include all of the following:

**(A)** A copy of the assessment, determination, and documentation prepared by the qualified individual pursuant to subdivision (g) of Section 4096.

**(B)** The case plan documentation required pursuant to subparagraph (B) of paragraph (3) of subdivision (d) of Section 706.6.

**(C)** In the case of an Indian child, a statement regarding whether the minor's tribe had an opportunity to confer regarding the departure from the placement preferences described in Section 361.31, and the active efforts made prior to placement in a short-term therapeutic program to satisfy subdivision (f) of Section 224.1.

**(D)** A statement regarding whether the minor or nonminor dependent or any party to the proceeding, or minor's tribe in the case of an Indian child to whom subparagraph (E) of paragraph (1) of subdivision (d) of Section 224.1 applies, objects to the placement of the minor or nonminor dependent in the short-term residential therapeutic program.

**(2)** The probation officer shall serve a copy of the report on all parties to the proceeding no later than seven calendar days before the hearing.

**(d)** Within five calendar days of the request described in subdivision (b), the court shall set a hearing to be held within 45 days after the start of the placement and give notice of the hearing to all parties to the proceeding, and the minor's tribe in the case of an Indian child to whom subparagraph (E) of paragraph (1) of subdivision (d) of Section 224.1 applies.

**(e)** When reviewing each placement of the minor or nonminor dependent in a short-term residential therapeutic program, the court shall do all of the following:

**(1)** Consider the information specified in subdivision (c).

**(2)** Determine whether the needs of the minor or nonminor dependent can be met through placement in a family-based setting, or, if not, whether placement in a short-term residential therapeutic program provides the most effective and appropriate care setting for the minor or nonminor dependent in the least restrictive environment. A shortage or lack of resource family homes shall not be an acceptable reason for determining that the needs of the minor or nonminor dependent cannot be met in a family-based setting.

**(3)** Determine whether the short-term residential therapeutic program is consistent with the short- and long-term mental and behavioral health goals and permanency plan for the minor or nonminor dependent.

**(4)** In the case of an Indian child, determine whether there is good cause to depart from the placement preferences set forth in Section 361.31.

**(5)** Approve or disapprove the placement.

**(6)** Make a finding, either in writing or on the record, of the basis for its determinations pursuant to this subdivision.

**(f)** If the court disapproves the placement, the court shall order the probation officer to transition the minor or nonminor dependent to a placement setting that is consistent with the determinations made pursuant to subdivision (e) within 30 days of the disapproval.

**(g)** This section does not prohibit the court from reviewing the placement of a minor or nonminor dependent in a short-term residential therapeutic program pursuant to subdivision (a) at a regularly scheduled

hearing if that hearing is held within 60 days of the placement and the information described in subdivision (c) has been presented to the court.

(h) On or before October 1, 2021, the Judicial Council shall amend or adopt rules of court and shall develop or amend appropriate forms, as necessary, to implement this section, including developing a procedure to enable the court to review the placement without a hearing.

**Leg.H**

Added Stats 2021 ch 86 § 29 (AB 153), effective July 16, 2021.

## **§ 727.2. Monitoring the Safety and Well-Being of Minor in Foster Care; Reunification Services; Status Review Hearing; Return of Minor to Parents or Guardian; Termination of Court's Jurisdiction.**

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

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

**(b)**

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

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

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

(i) Murder of another child of the parent.

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

(iii) Aiding or abetting, attempting, conspiring, or soliciting to commit that murder or manslaughter described in clause (i) or (ii).

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

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

(2) If no reunification services are offered to the parent or guardian, the permanency planning hearing, as described in Section 727.3, shall occur within 30 days of the date of the hearing at which the decision is

made not to offer services.

**(c)** The status of every minor declared a ward and ordered to be placed in foster care shall be reviewed by the court no less frequently than once every six months. The six-month time periods shall be calculated from the date the minor entered foster care, as defined in paragraph (4) of subdivision (d) of Section 727.4. If the court so elects, the court may declare the hearing at which the court orders the care, custody, and control of the minor to be under the supervision of the probation officer for foster care placement pursuant to subdivision (a) of Section 727 at the first status review hearing. It shall be the duty of the probation officer to prepare a written social study report pursuant to subdivision (c) of Section 706.5, including an updated case plan, as described in Section 706.6, and submit the report to the court prior to each status review hearing, pursuant to subdivision (b) of Section 727.4. The social study report shall include all reports the probation officer relied upon in making their recommendations.

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

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

**(1)** The continuing necessity for and appropriateness of the placement. If the minor or nonminor dependent is placed in a short-term residential therapeutic program on or after October 1, 2021, the court shall consider the evidence and documentation submitted in the social study pursuant to subparagraph (B) of paragraph (1) of subdivision (c) of Section 706.5 in making this determination.

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

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

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

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

**(6)**

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

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

**(7)**

**(A)** For a child who is 10 years of age or older, is in junior high, middle, or high school, and has been declared a ward of the juvenile court pursuant to Section 601 or 602 for a year or longer whether the probation officer has taken the actions described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 366.

**(B)** On or before January 1, 2023, the Judicial Council shall amend and adopt rules of court and develop appropriate forms for the implementation of this paragraph.

**(8)** For a child who is 16 years of age or older or for a nonminor dependent, whether the probation officer has, pursuant to the requirements of paragraph (22) of subdivision (g) of Section 16501.1, identified the person or persons who shall be responsible for assisting the child or nonminor dependent with applications for postsecondary education and related financial aid, or that the child or nonminor dependent stated that they do not want to pursue postsecondary education, including career or technical education.

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

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

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

**(i)**

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

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

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

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

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

(j) If a review hearing pursuant to this section is the last review hearing to be held before the minor attains 18 years of age, the court shall ensure that the minor's transitional independent living case plan includes a plan for the minor to meet one or more of the criteria in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403, so that the minor can become a nonminor dependent, and that the minor has been informed of the minor's right to decline to become a nonminor dependent and to seek termination of the court's jurisdiction pursuant to Section 607.2.

**Leg.H.**

Added Stats 2001 ch 831 § 10 (AB 1696). Amended Stats 2002 ch 785 § 7 (SB 1677); Stats 2003 ch 862 § 13 (AB 490); Stats 2010 ch 559 § 29 (AB 12), effective January 1, 2011; Stats 2011 ch 459 § 17 (AB 212), effective October 4, 2011; Stats 2012 ch 208 § 4 (AB 2292), effective January 1, 2013; Stats 2015 ch 425 § 18 (SB 794), effective January 1, 2016; Stats 2021 ch 86 § 30 (AB 153), effective July 16, 2021.

## **§ 727.25. Family Reunification Services to Continue for Nonminor Dependent Under Specified Circumstances.**

(a) Notwithstanding any other law, the court may order family reunification services to continue for a nonminor dependent, as defined in subdivision (v) of Section 11400, if all parties are in agreement that the continued provision of court-ordered family reunification services is in the best interests of the nonminor dependent, and there is a substantial probability that the nonminor dependent will be able to safely reside in the home of the parent or guardian by the next review hearing. The continuation of court-ordered family reunification services shall not exceed the timeframes in Section 727.3.

(b) If all parties are not in agreement or the court finds there is not a substantial probability that the nonminor will be able to return and safely reside in the home of the parent or guardian, the court shall terminate reunification services to the parents or guardian.

(c) The continuation of court-ordered family reunification services under this section does not affect the nonminor's eligibility for extended foster care benefits as a nonminor dependent as defined in subdivision (v) of Section 11400. The reviews conducted for any nonminor dependent shall be pursuant to Section 366.31.

(d) The extension of reunification services only applies to youth under the delinquency jurisdiction of the court.

**Leg.H.**

Added Stats 2012 ch 846 § 31 (AB 1712), effective January 1, 2013.

### § 727.3. Monitoring the Safety and Well-Being of Minor in Foster Care; Permanency Planning Hearing; Reunification Services;

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

(a)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(5)** Place the minor with a fit and willing relative. "Placement with a fit and willing relative" means placing the minor with an appropriate approved relative who is willing to provide a permanent and stable home for the minor, but is unable or unwilling to become the legal guardian. When a minor is placed with a fit and willing relative, the court may authorize the relative to provide the same legal consent for the minor's medical, surgical, and dental care, and education as the custodial parent of the minor.

**(6)**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Leg.H.**

Added Stats 2001 ch 831 § 12 (AB 1696); Amended Stats 2011 ch 459 § 18 (AB 212), effective October 4, 2011; Stats 2012 ch 35 § 62 (SB 1013), effective June 27, 2012, ch 208 § 5 (AB 2292), effective January 1, 2013; Stats 2015 ch 425 § 19 (SB 794), effective January 1, 2016; Stats 2016 ch 719 § 3 (SB 1060), effective January 1, 2017; Stats 2017 ch 731 § 6 (SB 612), effective January 1, 2018.

## **§ 727.31. Termination of Parental Rights.**

(a) This section applies to all minors placed in out-of-home care pursuant to Section 727.2 or 727.3 and for whom the juvenile court orders a hearing to consider permanently terminating parental rights to free the minor for adoption.

Except for subdivision (j) of Section 366.26, the procedures for permanently terminating parental rights for minors described by this section shall proceed exclusively pursuant to Section 366.26.

At the beginning of any proceeding pursuant to this section, if the minor is not being represented by previously retained or appointed counsel, the court shall appoint counsel to represent the minor, and the minor shall be present in court unless the minor or the minor's counsel so requests and the court so orders. If a parent appears without counsel and is unable to afford counsel, the court shall appoint counsel for the parent, unless this representation is knowingly and intelligently waived. The same counsel shall not be appointed to represent both the minor and the parent. Private counsel appointed under this section shall

receive a reasonable sum for compensation and expenses as specified in subdivision (f) of paragraph (3) of Section 366.26.

(b) Whenever the court orders that a hearing pursuant to this section shall be held, it shall direct the agency supervising the minor and the county adoption agency, or the State Department of Social Services when it is acting as an adoption agency, to prepare an assessment that shall include all of the following:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount and nature of any contact between the minor and his or her parents and other members of his or her extended family since the time of placement. Although the extended family of each minor shall be reviewed on a case-by-case basis, “extended family” for the purpose of the paragraph shall include, but not be limited to, the minor’s siblings, grandparents, aunts, and uncles.

(3) An evaluation of the minor’s medical, developmental, scholastic, mental, and emotional status.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history, including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the minor’s needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and Section 361.4.

(5) The relationship of the minor to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative’s or adoptive parent’s strong commitment to caring permanently for the child, the motivation for seeking adoption or guardianship, a statement from the minor concerning placement and the adoption or guardianship, and whether the minor, if over 12 years of age, has been consulted about the proposed relative guardianship arrangements, unless the minor’s age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(6) An analysis of the likelihood that the minor will be adopted if parental rights are terminated.

(c) A relative caregiver’s preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement. A relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption.

(d) If at any hearing held pursuant to Section 366.26, a legal guardianship is established for the minor with an approved relative caregiver and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

(e) For purposes of this section, “relative” means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words “great,” “great-great,” or “grand,” or the spouse of any of those persons, even if the marriage was terminated by death or dissolution.

(f) Whenever the court orders that a hearing pursuant to procedures described in this section be held, it shall order that the county adoption agency, or the State Department of Social Services when it is acting as an

adoption agency, has exclusive responsibility for determining the adoptive placement and making all adoption-related decisions.