

(g) If the court, by order of judgment declares the minor free from the custody and control of both parents, or one parent if the other does not have custody and control, the court shall at the same time order the minor referred to the State Department of Social Services when it is acting as an adoption agency or a county adoption agency for adoptive placement by the agency. The order shall state that responsibility for custody of the minor shall be held jointly by the probation department and the State Department of Social Services when it is acting as an adoption agency or the county adoption agency. The order shall also state that the State Department of Social Services when it is acting as an adoption agency or the county adoption agency has exclusive responsibility for determining the adoptive placement and for making all adoption-related decisions. However, no petition for adoption may be granted until the appellate rights of the natural parents have been exhausted.

(h) The notice procedures for terminating parental rights for minors described by this section shall proceed exclusively pursuant to Section 366.23.

**Leg.H.**

Added Stats 1999 ch 997 § 17 (AB 575). Amended Stats 2000 ch 135 § 167 (AB 2539); Stats 2001 ch 831 § 13 (AB 1696); Stats 2011 ch 459 § 19 (AB 212), effective October 4, 2011; Stats 2012 ch 35 § 63 (SB 1013), effective June 27, 2012.

## **§ 727.32. Termination of Parental Rights of Minor's Parents.**

(a) In any case where a minor has been declared a ward of the juvenile court and has been in foster care for 15 of the most recent 22 months, the probation department shall follow the procedures described in Section 727.31 to terminate the parental rights of the minor's parents, unless the probation department has documented in the probation department file a compelling reason for determining that termination of the parental rights would not be in the minor's best interests, or the probation department has not provided the family with reasonable efforts necessary to achieve reunification. For purposes of this section, compelling reasons for not terminating parental rights are those described in subdivision (c) of Section 727.3.

(b) For the purposes of this section, 15 out of the 22 months shall be calculated from the "date entered foster care," as defined in paragraph (4) of subdivision (d) of Section 727.4. When a minor experiences multiple exits from and entries into foster care during the 22-month period, the 15 months shall be calculated by adding together the total number of months the minor spent in foster care in the past 22 months. However, trial home visits and runaway episodes should not be included in calculating 15 months in foster care.

(c) If the probation department documented a compelling reason at the time of the permanency planning hearing, pursuant to subdivision (n) of Section 706.6, the probation department need not provide any additional documentation to comply with the requirements of this section.

(d) When the probation department sets a hearing pursuant to Section 727.31, it shall concurrently make efforts to identify an approved family for adoption, and follow the procedures described in subdivision (b) of Section 727.31.

**Leg.H.**

Added Stats 2001 ch 831 § 14 (AB 1696). Amended Stats 2019 ch 497 § 295 (AB 991), effective January 1, 2020.

## **§ 727.4. Notice of Hearing; Social Study Report; Definitions.**

**(a)**

**(1)** Notice of any hearing pursuant to Section 727, 727.2, or 727.3 shall be served by the probation officer to the minor, the minor's parent or guardian, any adult provider of care to the minor including, but

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

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

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

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

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

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

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

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

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

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

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

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

**(5)** "Reasonable efforts" means:

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

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

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

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

**(6)** "Relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," "grand," or the spouse of any of these persons even if the marriage was terminated by death or dissolution. "Relative" shall also include an "extended family member" as defined in the federal Indian Child Welfare Act (25 U.S.C. Sec. 1903(2)).

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

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

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

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

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

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

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

**Leg.H.**

Added Stats 1999 ch 997 § 18 (AB 575); Amended Stats 2000 ch 287 § 28 (SB 1955); Stats 2001 ch 831 § 15 (AB 1696); Stats 2002 ch 664 § 230 (AB 3034); Stats 2006 ch 838 § 53 (SB 678), effective January 1, 2007; Stats 2016 ch 612 § 79 (AB 1997), effective January 1, 2017; Stats 2017 ch 319 § 141 (AB 976), effective January 1, 2018.

## **§ 727.5. Community Service; Graffiti Cleanup.**

If a minor is found to be a person described in Section 601, the court may order the minor to perform community service, including, but not limited to, graffiti cleanup, for a total time not to exceed 20 hours over a period not to exceed 30 days, during a time other than his or her hours of school attendance or employment.

**Leg.H.**

## § 727.6. Sexual Offender Treatment of Ward.

Where any minor has been adjudged a ward of the court for the commission of a “sexually violent offense,” as defined in Section 6600, and committed to the Department of the Youth Authority, the ward shall be given sexual offender treatment consistent with protocols for that treatment developed or implemented by the Department of the Youth Authority.

**Leg.H.**

1999 ch. 995, 2000 ch. 287 (amended and renumbered from § 727.2).

## § 727.7. Court Order to Attend Antigang Violence Parenting Classes; Costs.

(a) If a minor is found to be a person described in Section 601 or 602 and the court finds that the minor is a first-time offender and orders that a parent or guardian retain custody of that minor, the court may order the parent or guardian to attend antigang violence parenting classes if the court finds the presence of significant risk factors for gang involvement on the part of the minor.

(b) The Department of Justice shall establish curriculum for the antigang violence parenting classes required pursuant to this section, including, but not limited to, all of the following criteria:

(1) A meeting in which the families of innocent victims of gang violence share their experience.

(2) A meeting in which the surviving parents of a deceased gang member share their experience.

(3) How to identify gang and drug activity in children.

(4) How to communicate effectively with adolescents.

(5) An overview of pertinent support agencies and organizations for intervention, education, job training, and positive recreational activities, including telephone numbers, locations, and contact names of those agencies and organizations.

(6) The potential fines and periods of incarceration for the commission of additional gang-related offenses.

(7) The potential penalties that may be imposed upon parents for aiding and abetting crimes committed by their children.

(c) For purposes of this section, “gang-related” means that the minor was an active participant in a criminal street gang, as specified in subdivision (a) of Section 186.22 of the Penal Code, or committed an offense for the benefit of, or at the direction of, a criminal street gang, as specified in subdivision (b) or (d) of Section 186.22 of the Penal Code.

(d) The father, mother, spouse, or other person liable for the support of the minor, the estate of that person, and the estate of the minor shall be liable for the cost of classes ordered pursuant to this section, unless the court finds that the person or estate does not have the financial ability to pay. In evaluating financial ability to pay, the court shall take into consideration the combined household income, the necessary obligations of the household,

the number of persons dependent upon this income, and whether reduced monthly payments would obviate the need to waive liability for the full costs.

**Leg.H.**

Added Stats 2007 ch 457 § 1 (AB 1291), effective January 1, 2008. Amended Stats 2011 ch 258 § 1 (AB 177), effective January 1, 2012.

## **§ 728. Termination or Modification of Guardianship.**

**(a)** The juvenile court may terminate or modify a guardianship of the person of a minor previously established under the Probate Code, or appoint a coguardian or successor guardian of the person of the minor, if the minor is the subject of a petition filed under Section 300, 601, or 602. If the probation officer supervising the minor provides information to the court regarding the minor's present circumstances and makes a recommendation to the court regarding a motion to terminate or modify a guardianship established in any county under the Probate Code, or to appoint a coguardian or successor guardian, of the person of a minor who is before the juvenile court under a petition filed under Section 300, 601, or 602, the court shall order the appropriate county department, or the district attorney or county counsel, to file the recommended motion. The motion may also be made by the guardian or the minor's attorney. The hearing on the motion may be held simultaneously with any regularly scheduled hearing held in proceedings to declare the minor a dependent child or ward of the court, or at any subsequent hearing concerning the dependent child or ward. Notice requirements of Section 294 shall apply to the proceedings in juvenile court under this subdivision.

**(b)** If the juvenile court decides to terminate or modify a guardianship previously established under the Probate Code pursuant to subdivision (a), the juvenile court shall provide notice of that decision to the court in which the guardianship was originally established. 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 deliver by first-class mail or by electronic service pursuant to [Section 1215 of the Probate Code](#) a copy of the notice to all parties of record in the superior court.

**(c)** If, at any time during the period a minor under the age of 18 years is a ward of the juvenile court, the probation officer supervising the minor recommends to the court that the court establish a guardianship of the person of the minor and appoint a specific adult to act as guardian, or on the motion of the minor's attorney, or on the order of the court that a guardianship shall be established as the minor's permanent plan pursuant to paragraph (4) of subdivision (b) of Section 727.3, the court shall set a hearing to consider the recommendation or motion and shall order the clerk to notice the minor's parents and relatives as required in Section 294. If the motion is not made by the minor's attorney, the court may appoint the district attorney or county counsel to prosecute the action.

**(d)** The procedures for appointment of a guardian shall be conducted exclusively pursuant to Section 366.26, except that subdivision (j) of Section 366.26 shall not apply.

**(e)** Upon the appointment of a guardian pursuant to subdivision (d), the court may continue wardship and conditions of probation, or may terminate the wardship of the minor.

**(f)** Notwithstanding [Section 1601 of the Probate Code](#), the proceedings to modify or terminate a guardianship granted under this section shall be held in the juvenile court unless the termination is due to the emancipation or adoption of the minor.

**(g)** The Judicial Council shall develop rules of court and adopt appropriate forms for the findings and orders under this section.

**Leg.H.**

Added Stats 1998 ch 390 § 4 (SB 2017); Amended Stats 2001 ch 831 § 16 (AB 1696); Stats 2011 ch 459 § 20 (AB 212), effective October 4, 2011; Stats 2017 ch 319 § 142 (AB 976), effective January 1, 2018.

## § 729. Restitution to Victims of Battery on School Property; Community Service.

If a minor is found to be a person described in Section 602 by reason of the commission of a battery on school property as described in [Penal Code Section 243.5](#), and the court does not remove the minor from the physical custody of the parent or guardian, the court as a condition of probation, except in any case in which the court makes a finding and states on the record its reasons that the condition would be inappropriate, shall require the minor to make restitution to the victim of the battery. If restitution is found to be inappropriate, the court, except in any case in which the court makes a finding and states on the record its reasons that the condition would be inappropriate, shall require the minor to perform specified community service. Nothing in this section shall be construed to limit the authority of a juvenile court to provide conditions of probation.

**Leg.H.**

1981 ch. 566, 1994 ch. 146.

### § 729.1. Repair or Restitution Required for Crimes Committed on Public Transit Vehicle; Participation in Graffiti Abatement Program as Alternative.

(a)

(1) If a minor is found to be a person described in Section 602 by reason of the commission of a crime which takes place on a public transit vehicle, and the court does not remove the minor from the physical custody of the parent or guardian, the court as a condition of probation, except in any case in which the court makes a finding and states on the record its reasons that the condition would be inappropriate, shall require the minor to wash, paint, repair or replace the damaged or destroyed property, or otherwise make restitution to the property owner. If restitution is found to be inappropriate, the court, except in any case in which the court makes a finding and states on the record its reasons that the condition would be inappropriate, shall require the minor to perform specified community service. Nothing in this section shall be construed to limit the authority of a juvenile court to provide conditions of probation.

(2) In lieu of the community service required pursuant to paragraph (1), the court may, if a jurisdiction has adopted a graffiti abatement program as defined in [subdivision \(f\) of Section 594 of the Penal Code](#), order the defendant, and his or her parents or guardians, as a condition of probation, to keep a specified property in the community free of graffiti for 90 days. Participation of a parent or guardian is not required under this paragraph if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.

(b) As used in subdivision (a), “public transit vehicle” means any motor vehicle, street car, trackless trolley, bus, shuttle, light rail system, rapid transit system, subway, train, taxi cab, or jitney, which transports members of the public for hire.

(c) The court may order any person ordered to perform community service or graffiti removal pursuant to subdivision (a) to undergo counseling.

**Leg.H.**

## § 729.2. Attendance at School or Counseling Program; Curfew.

If a minor is found to be a person described in Section 601 or 602 and the court does not remove the minor from the physical custody of the parent or guardian, the court as a condition of probation, except in any case in which the court makes a finding and states on the record its reasons that that condition would be inappropriate, shall:

(a) Require the minor to attend a school program approved by the probation officer without absence.

(b) Require the parents or guardian of the minor to participate with the 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 or the probation department, unless the minor has been declared a dependent child of the court pursuant to Section 300 or a petition to declare the minor a dependent child of the court pursuant to Section 300 is pending.

(c) Require the minor to be at his or her legal residence between the hours of 10:00 p.m. and 6:00 a.m. unless the minor is accompanied by his or her parent or parents, legal guardian or other adult person having the legal care or custody of the minor.

**Leg.H.**

1989 ch. 1117.

## § 729.3. Urine Testing.

If a minor is found to be a person described in Section 601 or 602 and the court does not remove the minor from the physical custody of his or her parent or guardian, the court, as a condition of probation, may require the minor to submit to urine testing upon the request of a peace officer or probation officer for the purpose of determining the presence of alcohol or drugs.

**Leg.H.**

1989 ch. 1117.

## § 729.5. Citation to Minor's Parent or Guardian for Court Appearance; Failure to Appear; Liability for Restitution; Not Applicable to Foster Parents.

(a) If a petition alleges that a minor is a person described by Section 602 and the petition is sustained, the court, in addition to the notice required by any other provision of law, may issue a citation to the minor's parents or guardians, ordering them to appear in the court at the time and date stated for a hearing to impose a restitution fine pursuant to Section 730.6.

(b) The citation shall notify the parent or guardian that, at the hearing, the parent or guardian may be held liable for the payment of restitution if the minor is ordered to make restitution to the victim. The citation shall contain a warning that the failure to appear at the time and date stated may result in an order that the parent or guardian pay restitution up to the limits provided for in [Sections 1714.1](#) and [1714.3](#) of the Civil Code.

(c) The hearing described in subdivision (b) may be held immediately following the disposition hearing or at a later date, at the option of the court.

(d) If the parent or guardian fails to appear pursuant to this section, the court may hold the parent or guardian jointly and severally liable with the minor for restitution, subject to the limitations contained in subdivision (b).

(e) Execution may be issued on an order holding a parent or guardian jointly or severally liable with the minor for restitution in the same manner as on a judgment in a civil action, including any balance unpaid at the termination of the court's jurisdiction over the minor.

(f) At any time prior to the full payment of restitution ordered pursuant to this section, a person held liable for payment of restitution may petition the court to modify or vacate the order based on a showing of change in circumstances.

(g) Service of the citation shall be made on all parents or guardians of the minor whose names and addresses are known to the petitioner.

(h) Service of the citation shall be made at least 10 days prior to the time and date stated therein for appearance, in the manner provided by law for the service of a summons in a civil action, other than by publication.

(i) This section shall not apply to any case where a citation has been issued pursuant to Section 742.18.

(j) Nothing in this section shall be interpreted to make an insurer liable for a loss caused by the willful act of the insured or the insured's dependents within the meaning of [Section 533 of the Insurance Code](#).

(k) This section does not apply to foster parents.

**Leg.H.**

1995 ch. 268, 1996 ch. 520.

## **§ 729.6. Minors Committing Assault or Battery on School Grounds to Attend Counseling at Parents' Expense.**

If a minor is found to be a person described in Section 602 by reason of the commission of an offense described in [Section 241.2](#) or [243.2 of the Penal Code](#), the court shall, in addition to any other fine, sentence, or as a condition of probation, order the minor to attend counseling at the expense of the minor's parents. The court shall take into consideration the ability of the minor's parents consistent with Section 730.7 to pay, however, no minor shall be relieved of attending counseling because of the minor's parents' inability to pay for the counseling imposed by this section.

**Leg.H.**

2001 ch. 484.

## **§ 729.7. Restitution by Personal Service.**

At the request of the victim, the probation officer shall assist in mediating a service contract between the victim and the minor under which the amount of restitution owed to the victim by the minor pursuant to Section 729.6, as operative on or before August 2, 1995, or Section 730.6 may be paid by performance of specified services. If the court approves of the contract, the court may make performance of services under the terms of the

contract a condition of probation. Successful performance of service shall be credited as payment of restitution in accordance with the terms of the contract approved by the court.

**Leg.H.**

1983 ch. 939, 1996 ch. 1077.

## **§ 729.8. Community Service Requirement.**

(a) If a minor is found to be a person described in Section 602 by reason of the unlawful possession, use, sale, or other furnishing of a controlled substance, as defined in Chapter 2 (commencing with Section 11053) of the Health and Safety Code, an imitation controlled substance, as defined in **Section 109550 of the Health and Safety Code**, or toluene or a toxic, as described in **Section 381 of the Penal Code**, upon the grounds of any school providing instruction in kindergarten, or any of grades 1 to 12, inclusive, or any church or synagogue, playground, public or private youth center, child day care facility, or public swimming pool, during hours in which these facilities are open for business, classes, or school-related activities or programs, or at any time when minors are using the facility, the court, as a condition of probation, except in any case in which the court makes a finding and states on the record its reasons that the condition would be inappropriate, shall require the minor to perform not more than 100 hours of community service.

(b) The definitions contained in subdivision (e) of Section 11353.1 shall apply to this section.

(c) As used in this section, “community service” means any of the following:

- (1) Picking up litter along public streets or highways.
- (2) Cleaning up graffiti on school grounds or any public property.
- (3) Performing services in a drug rehabilitation center.

**Leg.H.**

1983 ch. 736, 1990 ch. 1664, 1993 chs. 556, 589 (ch. 556 prevails; ch. 589 not effective), 1996 ch. 1023, effective September 29, 1996.

## **§ 729.9. Drug Testing as Condition of Probation.**

If a minor is found to be a person described in Section 602 by reason of the commission 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, and, unless it makes a finding that this condition would not serve the interests of justice, the court, when recommended by the probation officer, shall require, as a condition of probation, in addition to any other disposition authorized by law, that the minor shall not use or be under the influence of any controlled substance and shall submit to drug and substance abuse testing as directed by the probation officer.

**Leg.H.**

Added Stats 1987 ch 879 § 2; Amended Stats 2017 ch 678 § 14 (SB 190), effective January 1, 2018.

**1987 Note:**

This act is not intended to restrict the authority of a court to order drug and substance abuse testing in other appropriate cases, not specified in this act. Stats. 1987 ch. 879 § 3.

## § 729.10. Completion of Alcohol or Drug Education Program; Payment of Fees.

(a) Whenever, in any county specified in subdivision (b), a judge of a juvenile court or referee of a juvenile court finds a minor to be a person described in Section 602 by reason of the commission 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 25662 of the Business and Professions Code, the minor shall be required to participate in, and successfully complete, an alcohol or drug education program, or both of those programs, as designated by the court. Whenever it can be done without substantial additional cost, each county shall require that the program be provided for juveniles at a separate location from, or at a different time of day than, alcohol and drug education programs for adults.

(b) This section applies only in those counties that have one or more alcohol or drug education programs certified by the county alcohol program administrator and approved by the board of supervisors.

Leg.H.

Added Stats 1989 ch 1117 § 17; Amended Stats 2017 ch 678 § 15 (SB 190), effective January 1, 2018.

## § 729.12. Assessment, Orientation, and Volunteer Mentor Pilot Program.

(a) It is the intent of the Legislature to authorize an Assessment, Orientation, and Volunteer Mentor Pilot Program in San Diego County. The pilot project will operate under the authority of the county behavioral health director in conjunction with the San Diego Juvenile Court and the County of San Diego Probation Department.

(b) Whenever a judge of the San Diego County Juvenile Court or a referee of the San Diego Juvenile Court finds a minor to be a person described in Section 601 or 602 for any reason, the minor may be assessed and screened for drug and alcohol use and abuse; and if the assessment and screening determines the need for drug and alcohol education and intervention, the minor may be required to participate in, and successfully complete, an alcohol and drug orientation, and to participate in, and successfully complete, an alcohol or drug program with a local community-based service provider, as designated by the court.

(c) The Assessment, Orientation, and Volunteer Mentor Pilot Program may operate for a minimum of three years and may screen and assess for drug and alcohol problems, minors who are declared wards of San Diego Juvenile Court.

(d) Drug and alcohol assessments may be conducted utilizing a standardized instrument that shall be approved by the county behavioral health director in conjunction with San Diego Juvenile Court and the San Diego County Probation Department.

(e) Those minors who are determined to have drug and alcohol problems, may be required to participate in, and successfully complete, a drug and alcohol orientation. The orientation may provide drug and alcohol education and intervention, referral to community resources for followup education and intervention and arrange for volunteers to serve as mentors to assist each minor in addressing their drug and alcohol problem. Parents or guardians of minors will have the opportunity to participate in the orientation program in order to help juveniles address drug and alcohol use or abuse problems.

(f) As a condition of probation, each minor may be required to submit to drug testing. Drug testing may be conducted on a random basis by a qualified drug and alcohol service provider in coordination with the county

probation department. All contested drug tests may be confirmed by a National Institute for Drug Abuse certified drug laboratory and the findings may be reported to the probation officer for appropriate action. The drug testing protocol may be approved by the county behavioral health director in conjunction with San Diego Juvenile Court and the County of San Diego Probation Department.

(g) An evaluation of the pilot program shall be conducted and results of the program shall be submitted to state alcohol and drug programs and to the Legislature at the conclusion of the pilot program. The evaluation shall include, but not be limited to, all of the following:

- (1) The number and percentage of juveniles screened.
- (2) The number and percentage of juveniles given followup education and intervention.
- (3) The number of mentors recruited and trained.
- (4) The number and percentage of juveniles assigned to a mentor.
- (5) The length of time in an education and intervention program.
- (6) The program completion rates.
- (7) The number of subsequent violations.
- (8) The number of re-arrests.
- (9) The urine test results.
- (10) The subsequent drug or alcohol use.
- (11) The participant's perceptions of program utility.
- (12) The provider's perceptions of program utility.
- (13) The mentor's perceptions of program utility.

**Leg.H.**

1996 ch. 733. Amended Stats 2015 ch 455 § 12 (SB 804), effective January 1, 2016.

## **§ 729.13. Recognition of Exemplary Californians and Present or Former Juvenile Court Wards by Department of Youth Authority; How Awards Made; Award Funding; "Youth Mentoring Programs."**

(a) The Department of the Youth Authority shall recognize, on an annual basis, exemplary Californians who do any of the following:

- (1) Voluntarily participate in a youth mentoring program in their communities.
- (2) Perform special acts or special services that promote youth mentoring programs in their communities.
- (3) By their superior accomplishments, make exceptional contributions to creating, maintaining, or fostering volunteer youth mentoring programs in California.

(b) The Department of the Youth Authority shall recognize, on an annual basis, the outstanding achievements of present and former wards of the juvenile court, whether committed to state institutions or community-based programs.

(c) Recognition awards shall be made in accordance with procedures and standards established by the department.

(d) Any expenditures made or costs incurred for the purposes of this section may be paid from funds appropriated for the support of the department that are otherwise unencumbered.

(e) As used in subdivision (a), "youth mentoring programs" means programs designed to foster positive, role-model relationships between adult community volunteers and minors who are living in conditions that place them at risk for delinquent or criminal conduct.

**Leg.H.**

1997 ch. 281.

## **§ 730. Treatment For Minor Adjudged Ward of Court; Alternative Commitment; Orders When Ward Placed Under Supervision of Probation Officer.**

**(a)**

(1) When a minor is adjudged a ward of the court on the ground that they are a person described by Section 602, the court may order any of the types of treatment referred to in Section 727, and as an additional alternative, may commit the minor to a juvenile home, ranch, camp, or forestry camp. If there is no county juvenile home, ranch, camp, or forestry camp within the county, the court may commit the minor to the county juvenile hall. In addition, the court may also make any of the following orders:

(A) Order the ward to make restitution, to pay a fine up to two hundred fifty dollars (\$250) for deposit in the county treasury if the court finds that the minor has the financial ability to pay the fine, or to participate in uncompensated work programs.

(B) Commit the ward to a sheltered-care facility.

(C) Order that the ward and the ward's family or guardian participate in a program of professional counseling as arranged and directed by the probation officer as a condition of continued custody of the ward.

(D) Order placement of the ward at the Pine Grove Youth Conservation Camp if the ward meets the placement criteria, the county has entered into a contract with the Division of Juvenile Justice, either directly or through another county, the division has found the ward amenable, and there is space and resources available for the placement. The county probation department shall receive approval from the division prior to transporting the ward to the camp. The director of the division shall immediately notify the county probation department if the ward is no longer amenable for continued camp placement and coordinate the immediate return of the ward to the county of jurisdiction.

(2) A court shall not commit a juvenile to any juvenile facility for a period that exceeds the middle term of imprisonment that could be imposed upon an adult convicted of the same offense.

(b) When a ward described in subdivision (a) is placed under the supervision of the probation officer or committed to the care, custody, and control of the probation officer, the court may make any and all reasonable

orders for the conduct of the ward including the requirement that the ward go to work and earn money for the support of the ward's dependents or to effect reparation and in either case that the ward keep an account of the ward's earnings and report the same to the probation officer and apply these earnings as directed by the court. The court may impose and require any and all reasonable conditions that it may determine fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced.

(c) When a ward described in subdivision (a) is placed under the supervision of the probation officer or committed to the care, custody, and control of the probation officer, and is required as a condition of probation to participate in community service or graffiti cleanup, the court may impose a condition that if the minor unreasonably fails to attend or unreasonably leaves prior to completing the assigned daily hours of community service or graffiti cleanup, a law enforcement officer may take the minor into custody for the purpose of returning the minor to the site of the community service or graffiti cleanup.

(d) When a minor is adjudged or continued as a ward of the court on the ground that the ward is a person described by Section 602 by reason of the commission of rape, sodomy, oral copulation, or an act of sexual penetration specified in [Section 289 of the Penal Code](#), the court shall order the minor to complete a sex offender treatment program, if the court determines, in consultation with the county probation officer, that suitable programs are available. In determining what type of treatment is appropriate, the court shall consider all of the following: the seriousness and circumstances of the offense, the vulnerability of the victim, the minor's criminal history and prior attempts at rehabilitation, the sophistication of the minor, the threat to public safety, the minor's likelihood of reoffending, and any other relevant information presented. If ordered by the court to complete a sex offender treatment program, the minor shall pay all or a portion of the reasonable costs of the sex offender treatment program after a determination is made of the ability of the minor to pay.

(e) This section shall become operative July 1, 2021.

**Leg.H.**

Added Stats 2020 ch 337 § 27 (SB 823), effective September 30, 2020, operative July 1, 2021. Amended Stats 2021 ch 80 § 27 (AB 145), effective July 16, 2021.

## § 730.5. Imposition of Fine.

When a minor is adjudged a ward of the court on the ground that he or she is a person described in Section 602, in addition to any of the orders authorized by Section 726, 727, 730, or 731, the court may levy a fine against the minor up to the amount that could be imposed on an adult for the same offense, if the court finds that the minor has the financial ability to pay the fine. [Section 1464 of the Penal Code](#) applies to fines levied pursuant to this section.

**Leg.H.**

1980 ch. 991, 1981 ch. 727, 1988 ch. 99.

## § 730.6. Imposition of Restitution Fine; Community Service; Fee.

**(a)**

(1) It is the intent of the Legislature that a victim of conduct for which a minor is found to be a person described in Section 602 who incurs an economic loss as a result of the minor's conduct shall receive restitution directly from that minor.

(2) Upon a minor being found to be a person described in Section 602, the court shall consider levying a fine in accordance with Section 730.5. In addition, the court shall order the minor to pay, in

addition to any other penalty provided or imposed under the law, both of the following:

(A) A restitution fine in accordance with subdivision (b).

(B) Restitution to the victim or victims, if any, in accordance with subdivision (h).

(b) If a minor is found to be a person described in Section 602, the court shall impose a separate and additional restitution fine. The restitution fine shall be set at the discretion of the court and commensurate with the seriousness of the offense as follows:

(1) If the minor is found to be a person described in Section 602 by reason of the commission of one or more felony offenses, the restitution fine shall not be less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000). A separate hearing for the fine shall not be required.

(2) If the minor is found to be a person described in Section 602 by reason of the commission of one or more misdemeanor offenses, the restitution fine shall not exceed one hundred dollars (\$100). A separate hearing for the fine shall not be required.

(c) The restitution fine shall be in addition to any other disposition or fine imposed and shall be imposed regardless of the minor's inability to pay. This fine shall be deposited in the Restitution Fund.

(d)

(1) In setting the amount of the fine pursuant to subparagraph (A) of paragraph (2) of subdivision (a), the court shall consider any relevant factors including, but not limited to, the minor's ability to pay, the seriousness and gravity of the offense and the circumstances of its commission, any economic gain derived by the minor as a result of the offense, and the extent to which others suffered losses as a result of the offense. The losses may include pecuniary losses to the victim or his or her dependents as well as intangible losses such as psychological harm caused by the offense.

(2) The consideration of a minor's ability to pay may include his or her future earning capacity. A minor shall bear the burden of demonstrating a lack of his or her ability to pay.

(e) Express findings of the court as to the factors bearing on the amount of the fine shall not be required.

(f) Except as provided in subdivision (g), under no circumstances shall the court fail to impose the separate and additional restitution fine required by subparagraph (A) of paragraph (2) of subdivision (a). This fine shall not be subject to penalty assessments pursuant to [Section 1464 of the Penal Code](#).

(g)

(1) In a case in which the minor is a person described in Section 602 by reason of having committed a felony offense, if the court finds that there are compelling and extraordinary reasons, the court may waive imposition of the restitution fine required by subparagraph (A) of paragraph (2) of subdivision (a). If a waiver is granted, the court shall state on the record all reasons supporting the waiver.

(2) If the minor is a person described in subdivision (a) of Section 241.1, the court shall waive imposition of the restitution fine required by subparagraph (A) of paragraph (2) of subdivision (a).

(h)

(1) Restitution ordered pursuant to subparagraph (B) of paragraph (2) of subdivision (a) shall be imposed in the amount of the losses, as determined. If the amount of loss cannot be ascertained at the time of sentencing, the restitution order shall include a provision that the amount shall be determined at the direction of the court at any time during the term of the commitment or probation. The court shall order full

restitution unless it finds compelling and extraordinary reasons for not doing so, and states them on the record. A minor's inability to pay shall not be considered a compelling or extraordinary reason not to impose a restitution order, nor shall inability to pay be a consideration in determining the amount of the restitution order. A restitution order pursuant to subparagraph (B) of paragraph (2) of subdivision (a), to the extent possible, shall identify each victim, unless the court for good cause finds that the order should not identify a victim or victims, and the amount of each victim's loss to which it pertains, and shall be of a dollar amount sufficient to fully reimburse the victim or victims for all determined economic losses incurred as the result of the minor's conduct for which the minor was found to be a person described in Section 602, including all of the following:

(A) Full or partial payment for the value of stolen or damaged property. The value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of repairing the property when repair is possible.

(B) Medical expenses.

(C) Wages or profits lost due to injury incurred by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, while caring for the injured minor. Lost wages shall include any commission income as well as any base wages. Commission income shall be established by evidence of commission income during the 12-month period prior to the date of the crime for which restitution is being ordered, unless good cause for a shorter time period is shown.

(D) Wages or profits lost by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, due to time spent as a witness or in assisting the police or prosecution. Lost wages shall include any commission income as well as any base wages. Commission income shall be established by evidence of commission income during the 12-month period prior to the date of the crime for which restitution is being ordered, unless good cause for a shorter time period is shown.

(2) A minor shall have the right to a hearing before a judge to dispute the determination of the amount of restitution. The court may modify the amount on its own motion or on the motion of the district attorney, the victim or victims, or the minor. If a motion is made for modification of a restitution order, the victim shall be notified of that motion at least 10 days prior to the hearing on the motion. If the amount of victim restitution is not known at the time of disposition, the court order shall identify the victim or victims, unless the court finds for good cause that the order should not identify a victim or victims, and state that the amount of restitution for each victim is to be determined. If feasible, the court shall also identify on the court order, any co-offenders who are jointly and severally liable for victim restitution.

(i) A restitution order imposed pursuant to subparagraph (B) of paragraph (2) of subdivision (a) shall identify the losses to which it pertains, and shall be enforceable as a civil judgment pursuant to subdivision (r). The making of a restitution order pursuant to this subdivision shall not affect the right of a victim to recovery from the Restitution Fund in the manner provided elsewhere, except to the extent that restitution is actually collected pursuant to the order. Restitution collected pursuant to this subdivision shall be credited to any other judgments for the same losses obtained against the minor or the minor's parent or guardian arising out of the offense for which the minor was found to be a person described in Section 602. Restitution imposed shall be ordered to be made to the Restitution Fund to the extent that the victim, as defined in subdivision (j), has received assistance from the Victims of Crime Program pursuant to Article 5 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code.

(j) For purposes of this section, "victim" shall include:

(1) The immediate surviving family of the actual victim.

**(2)** A governmental entity that is responsible for repairing, replacing, or restoring public or privately owned property that has been defaced with graffiti or other inscribed material, as defined in subdivision (e) of Section 594 of the Penal Code, and that has sustained an economic loss as the result of a violation of Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code.

**(3)** A corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity when that entity is a direct victim of a crime.

**(4)** A person who has sustained economic loss as the result of a crime and who satisfies any of the following conditions:

**(A)** At the time of the crime was the parent, grandparent, sibling, spouse, child, or grandchild of the victim.

**(B)** At the time of the crime was living in the household of the victim.

**(C)** At the time of the crime was a person who had previously lived in the household of the victim for a period of not less than two years in a relationship substantially similar to a relationship listed in subparagraph (A).

**(D)** Is another family member of the victim, including, but not limited to, the victim's fiance or fiancee, and who witnessed the crime.

**(E)** Is the primary caretaker of a minor victim.

**(k)** If the direct victim of an offense is a group home or other facility licensed to provide residential care in which the minor was placed as a dependent or ward of the court, or an employee thereof, restitution shall be limited to out-of-pocket expenses that are not covered by insurance and that are paid by the facility or employee.

**(l)** Upon a minor being found to be a person described in Section 602, the court shall require, as a condition of probation, the payment of restitution fines and orders imposed under this section. Any portion of a restitution order that remains unsatisfied after a minor is no longer on probation shall continue to be enforceable by a victim pursuant to subdivision (r) until the obligation is satisfied in full.

**(m)** Probation shall not be revoked for failure of a person to make restitution pursuant to this section as a condition of probation unless the court determines that the person has willfully failed to pay or failed to make sufficient bona fide efforts to legally acquire the resources to pay.

**(n)** If the court finds and states on the record compelling and extraordinary reasons why restitution should not be required as provided in paragraph (2) of subdivision (a), the court shall order, as a condition of probation, that the minor perform specified community service.

**(o)** The court may avoid ordering community service as a condition of probation only if it finds and states on the record compelling and extraordinary reasons not to order community service in addition to the finding that restitution pursuant to paragraph (2) of subdivision (a) should not be required.

**(p)** If a minor is committed to the Division of Juvenile Facilities, Department of Corrections and Rehabilitation, the court shall order restitution to be paid to the victim or victims, if any. Payment of restitution to the victim or victims pursuant to this subdivision shall take priority in time over payment of any other restitution fine imposed pursuant to this section.

**(q)** At its discretion, the board of supervisors of any county may impose a fee to cover the actual administrative cost of collecting the restitution fine, not to exceed 10 percent of the amount ordered to be paid, to

be added to the restitution fine and included in the order of the court, the proceeds of which shall be deposited in the general fund of the county.

(r) If the judgment is for a restitution fine ordered pursuant to subparagraph (A) of paragraph (2) of subdivision (a), or a restitution order imposed pursuant to subparagraph (B) of paragraph (2) of subdivision (a), the judgment may be enforced in the manner provided in [Section 1214 of the Penal Code](#).

**Leg.H.**

Added Stats 1994 ch 1106 § 7 (AB 3169), effective September 28, 1994. Amended Stats 1995 ch 313 § 21 (AB 817), effective August 3, 1995; Stats 1996 ch 1077 § 35 (AB 2898); Stats 1998 ch 451 § 3 (SB 2021), effective September 14, 1998; Stats 2000 ch 481 § 2 (SB 1943), ch 1016 § 12.5 (AB 2491); Stats 2005 ch 238 § 5 (SB 972), effective January 1, 2006; Stats 2009 ch 454 § 2 (AB 576), effective January 1, 2010; Stats 2014 ch 760 § 7 (AB 388), effective January 1, 2015; Stats 2015 ch 131 § 1 (SB 651), effective January 1, 2016.

## **§ 730.7. Restitution by Minor—Parent or Guardian Liable for Payment; Notice Requirements; Not Applicable to Foster Parents.**

(a) In a case in which a minor is ordered to make restitution to the victim or victims, or the minor is ordered to pay fines and penalty assessments under any provision of this code, a parent or guardian who has joint or sole legal and physical custody and control of the minor shall be rebuttably presumed to be jointly and severally liable with the minor in accordance with [Sections 1714.1 and 1714.3 of the Civil Code](#) for the amount of restitution, fines, and penalty assessments so ordered, up to the limits provided in those sections, subject to the court's consideration of the parent's or guardian's inability to pay. When considering the parent's or guardian's inability to pay, the court may consider future earning capacity, present income, the number of persons dependent on that income, and the necessary obligations of the family, including, but not limited to, rent or mortgage payments, food, children's school tuition, children's clothing, medical bills, and health insurance. The parent or guardian shall have the burden of showing an inability to pay. The parent or guardian shall also have the burden of showing by a preponderance of the evidence that the parent or guardian was either not given notice of potential liability for payment of restitution, fines, and penalty assessments prior to the petition being sustained by an admission or adjudication, or that he or she was not present during the proceedings wherein the petition was sustained either by admission or adjudication and any hearing thereafter related to restitution, fines, or penalty assessments.

(b) In cases in which the court orders restitution to the victim or victims of the offense, each victim in whose favor the restitution order has been made shall be notified within 60 days after restitution has been ordered of the following:

- (1) The name and address of the minor ordered to make restitution.
- (2) The amount and any terms or conditions of restitution.
- (3) The offense or offenses that were sustained.
- (4) The name and address of the parent or guardian of the minor.

(5) The rebuttable presumption that the parent or guardian is jointly and severally liable with the minor for the amount of restitution so ordered in accordance with [Sections 1714.1 and 1714.3 of the Civil Code](#), up to the limits provided in those sections, and that the parent or guardian has the burden of showing by a preponderance of the evidence that the parent or guardian was either not given notice of potential liability for payment of restitution prior to the petition being sustained by an admission or adjudication, or that he or she was not present during the proceedings wherein the petition was sustained by an admission or adjudication and any hearings thereafter related to restitution.

(6) Whether the notice and presence requirements of paragraph (5) were met.

(7) The victim's rights to a certified copy of the order reflecting the information specified in this subdivision.

(c) The victim has a right, upon request, to a certified copy of the order reflecting the information specified in subdivision (b).

(d) This section does not apply to foster parents.

(e) Nothing in this section shall be construed to make an insurer liable for a loss caused by the willful act of the insured or the dependents of the insured pursuant to **Section 533 of the Insurance Code**.

**Leg.H.**

1995 ch. 313, effective August 3, 1995, 1996 ch. 520, 1998 ch. 451, effective September 14, 1998.

## **§ 730.8. Report of Compliance with Court Order for Restitution or Community Service; Monitoring of Restitution Compliance.**

(a) Except as provided in subdivision (b), the court shall require any minor who is ordered to pay restitution pursuant to Section 730.6, or to perform community service, to report to the court on his or her compliance with the court's restitution order or order for community service, or both, no less than annually until the order is fulfilled.

(b) For any minor committed to the Department of the Youth Authority, the department shall monitor the compliance with any order of the court that requires the minor to pay restitution. Upon the minor's discharge from the Department of the Youth Authority, the department shall notify the court regarding the minor's compliance with an order to pay restitution.

**Leg.H.**

1999 ch. 996, 2001 ch. 854 (renumbered from § 730.7).

## **§ 731. Treatment, Restitution, Fine, Work Program, Commitment; Recall; Maximum Period for Confinement.**

(a) If a minor is adjudged a ward of the court on the grounds that the minor is a person described by Section 602, the court may commit the ward to the Department of Corrections and Rehabilitation, Division of Juvenile Justice if the ward has committed an offense described in subdivision (b) of Section 707 or **subdivision (c) of Section 290.008 of the Penal Code**, and has been the subject of a motion filed to transfer the ward to the jurisdiction of the criminal court as provided in subdivision (c) of Section 736.5 and is not otherwise ineligible for commitment to the division under Section 733.

(b) A ward committed to the Division of Juvenile Justice shall not be confined in excess of the term of confinement set by the committing court. The court shall set a maximum term based upon the facts and circumstances of the matter or matters that brought or continued the ward under the jurisdiction of the court and as deemed appropriate to achieve rehabilitation. The court shall not commit a ward to the Division of Juvenile Justice for a period that exceeds the middle term of imprisonment that could be imposed upon an adult convicted of the same offense. This subdivision does not limit the power of the Board of Juvenile Hearings to discharge a ward committed to the Division of Juvenile Justice pursuant to Sections 1719 and 1769. Upon discharge, the

committing court may retain jurisdiction of the ward pursuant to Section 607.1 and establish the conditions of supervision pursuant to subdivision (b) of Section 1766.

(c) This section shall become operative on July 1, 2021, and shall remain in effect until the final closure of the Division of Juvenile Justice.

**Leg.H.**

Added Stats 2021 ch 18 § 8 (SB 92), effective May 14, 2021, operative July 1, 2021, operative term contingent.

## **§ 731.1. Recall of Commitment; Exception; Dispositional Hearing.**

(a) Notwithstanding any other law, the court committing a ward to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, upon the recommendation of the chief probation officer of the county, may recall that commitment in the case of any ward confined in an institution operated by the division. Upon recall of the ward, the court shall set and convene a recall disposition hearing for the purpose of ordering an alternative disposition for the ward that is appropriate under all of the circumstances prevailing in the case. The court shall provide to the division no less than 15 days advance notice of the recall hearing date, and the division shall transport and deliver the ward to the custody of the probation department of the committing county no less than five days prior to the scheduled date of the recall hearing. Pending the recall disposition hearing, the ward shall be supervised, detained, or housed in the manner and place, consistent with the requirements of law, as may be directed by the court in its order of recall. The timing and procedure of the recall disposition hearing shall be consistent with the rules, rights, and procedures applicable to delinquency disposition hearings, as described in Article 17 (commencing with Section 675).

(b) A court may also convene a recall disposition hearing, as specified in subdivision (a), regarding any ward who remains under parole supervision by the Division of Juvenile Parole Operations.

**Leg.H.**

Added Stats 2007 ch 175 § 20 (SB 81), effective August 24, 2007, operative September 1, 2007. Amended Stats 2007 ch 257 § 3 (AB 191), effective September 29, 2007; Stats 2008 ch 699 § 27 (SB 1241), effective January 1, 2009; Stats 2010 ch 729 § 11 (AB 1628), effective October 19, 2010; Stats 2011 ch 36 § 75 (SB 92), effective June 30, 2011, operative December 13, 2011.

## **§ 731.2. Juvenile Boot Camp Pilot Program.**

(a) The Department of the Youth Authority and Fresno County may enter into a partnership for the establishment and maintenance of a pilot program juvenile boot camp similar to the program described in Section 731.6, but developed primarily by the county with the Department of the Youth Authority and the county sharing the costs equally, except as specified in subdivision (b).

(b) Under the partnership, the Department of the Youth Authority shall bear all the costs of retrofitting a facility, which is to be provided by the county at county expense.

(c) The implementation of this pilot program shall be contingent upon the appropriation of funds to the Department of the Youth Authority for the pilot program in either the Budget Act of 1996 or subsequent legislation.

**Leg.H.**

1994 ch. 1055.

## **§ 731.5. Public Service Work.**

In addition to the provisions of Section 731, if a minor's conduct constitutes a violation of [Section 490.5 of the Penal Code](#), the court may require the minor to perform public services designated by the court.

**Leg.H.**

1976 ch. 1131.

## **§ 732. Conveyance of Minor to Institution—Check That Person Can Be Received.**

Before a minor is conveyed to any state or county institution pursuant to this article, it shall be ascertained from the superintendent thereof that such person can be received.

**Leg.H.**

1961 ch. 1616.

## **§ 733. Ward Not to be Committed to Department of Corrections and Rehabilitation; Specified Conditions.**

A ward of the juvenile court who meets any condition described below shall not be committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities:

(a) The ward is under 11 years of age.

(b) The ward is suffering from any contagious, infectious, or other disease that would probably endanger the lives or health of the other inmates of any facility.

(c) The ward has been or is adjudged a ward of the court pursuant to Section 602, and the most recent offense alleged in any petition and admitted or found to be true by the court is not described in subdivision (b) of Section 707 or [subdivision \(c\) of Section 290.008 of the Penal Code](#). This subdivision shall be effective on and after September 1, 2007.

**Leg.H.**

Added Stats 2007 ch 175 § 22 (SB 81), effective August 24, 2007, operative September 1, 2007. Amended Stats 2008 ch 699 § 28 (SB 1241), effective January 1, 2009; Stats 2012 ch 7 § 2 (AB 324), effective February 29, 2012.

## **§ 733.1. Ward of juvenile court shall not be committed to Department of Corrections and Rehabilitation, Division of Juvenile Justice on or after July 1, 2021; Exception.**

**(a)** Notwithstanding any other law, except as otherwise provided in this section, a ward of the juvenile court shall not be committed to the Department of Corrections and Rehabilitation, Division of Juvenile Justice on or after July 1, 2021.

**(b)** A court may commit a ward to the Department of Corrections and Rehabilitation, Division of Juvenile Justice as authorized in subdivision (c) of Section 736.5.

**(c)** Effective July 1, 2021, a person adjudged a ward of the court pursuant to Section 602, shall not be committed to the Department of Corrections and Rehabilitation, Division of Juvenile Justice, as long as allocations required by Section 1991 are authorized in statute and disbursed by September 1, 2021, and

September 1 annually thereafter. To the extent that the allocations required by Section 1991 are not authorized in statute and disbursed annually thereafter, it is the intent of this section that wards adjudged wards of the court pursuant to Section 602 for an offense described in subdivision (b) of Section 707 of this code or subdivision (c) of Section 290.008 of the Penal Code may be committed to a state-funded facility pursuant to Sections 731, 733, and 734. For the purpose of determining the state's compliance with this subdivision, the presumption shall be that the state is meeting its commitment in Section 1991 if that section is not materially changed from the law in effect on the operative date of this section.

**Leg.H.**

Added Stats 2020 ch 337 § 29 (SB 823), effective September 30, 2020.

## **§ 734. Determination of Suitability of Commitment.**

No ward of the juvenile court shall be committed to the Youth Authority unless the judge of the court is fully satisfied that the mental and physical condition and qualifications of the ward are such as to render it probable that he will be benefited by the reformatory educational discipline or other treatment provided by the Youth Authority.

**Leg.H.**

1961 ch. 1616.

## **§ 735. Case History to Accompany Commitment Papers.**

Accompanying the commitment papers, the court shall send to the Director of the Youth Authority a summary of all the facts in the possession of the court, covering the history of the ward committed and a statement of the mental and physical condition of the ward.

**Leg.H.**

1961 ch. 1616.

## **§ 736. Division of Juvenile Facilities to Accept Ward Committed to it; Notice; Establishment of Policy.**

(a) Except as provided in Section 733, the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, shall accept a ward committed to it pursuant to this article if the Director of the Division of Juvenile Justice believes that the ward can be materially benefited by the division's reformatory and educational discipline, and if the division has adequate facilities, staff, and programs to provide that care. A ward subject to this section shall not be transported to any facility under the jurisdiction of the division until the superintendent of the facility has notified the committing court of the place to which that ward is to be transported and the time at which he or she can be received.

(b) To determine who is best served by the Division of Juvenile Facilities, and who would be better served by the State Department of State Hospitals, the Director of the Division of Juvenile Justice and the Director of State Hospitals shall, at least annually, confer and establish policy with respect to the types of cases that should be the responsibility of each department.

**Leg.H.**

Added Stats 1961 ch 1616 § 2. Amended Stats 1981 ch 714 § 463; Stats 2006 ch 257 § 1 (SB 1742), effective January 1, 2007; Stats 2007 ch 175 § 23 (SB 81), effective August 24, 2007, operative September 1, 2007; Stats 2012 ch 24 § 60 (AB 1470), effective June 27, 2012, ch 41 § 88 (SB 1021), effective June 27, 2012; Stats 2014 ch 442 § 13 (SB 1465), effective September 18, 2014.

## § 736.5. Legislative intent to close Division of Juvenile Justice within Department of Corrections and Rehabilitation.

(a) It is the intent of the Legislature to close the Division of Juvenile Justice within the Department of Corrections and Rehabilitation, through shifting responsibility for all youth adjudged a ward of the court, commencing July 1, 2021, to county governments and providing annual funding for county governments to fulfill this new responsibility.

(b) Beginning July 1, 2021, a ward shall not be committed to the Department of Corrections and Rehabilitation, Division of Juvenile Justice, except as described in subdivision (c).

(c) Pending the final closure of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, a court may commit a ward who is otherwise eligible to be committed under existing law and in whose case a motion to transfer the minor from juvenile court to a court of criminal jurisdiction was filed. The court shall consider, as an alternative to commitment to the Division of Juvenile Justice, placement in local programs, including those established as a result of the implementation of Chapter 337 of the Statutes of 2020.

(d) All wards committed to the Department of Corrections and Rehabilitation, Division of Juvenile Justice prior to July 1, 2021 or pursuant to (c), shall remain within its custody until the ward is discharged, released or otherwise moved pursuant to law, or until final closure of the Division of Juvenile Justice.

(e) The Division of Juvenile Justice within the Department of Corrections and Rehabilitation shall close on June 30, 2023.

(f) The Director of the Division of Juvenile Justice shall develop a plan, by January 1, 2022, for the transfer of jurisdiction of youth remaining at the Division of Juvenile Justice who are unable to discharge or otherwise move pursuant to law prior to final closure on June 30, 2023.

### Leg.H.

Added Stats 2020 ch 337 § 30 (SB 823), effective September 30, 2020. Amended Stats 2021 ch 18 § 10 (SB 92), effective May 14, 2021.

## § 737. Intermediate Dispositions.

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

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

(c)

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

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

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

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

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

(d)

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

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

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

**Leg.H.**

1961 ch. 1616, 1971 ch. 1543, 1976 ch. 1068, 1983 ch. 101; Stats 2014 ch 615 § 2 (AB 2607), effective January 1, 2015.

## **§ 738. Placement of Nonresident Minors.**

In a case where the residence of a minor placed on probation under the provisions of Section 725 or of a ward of the juvenile court is out of the state and in another state or foreign country, or in a case where such minor is a resident of this state but his parents, relatives, guardian, or person charged with his custody is in another state, the court may order such minor sent to his parents, relatives, or guardian, or to the person charged with his custody, or, if the minor is a resident of a foreign country, to an official of a juvenile court of such foreign country or an agency of such country authorized to accept the minor, and in such 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 probation officer or other suitable person to serve as such attendant. The probation officer shall authorize the necessary expenses of such minor and of the attendant and claims therefor shall be audited, allowed and paid in the same manner as other county claims.

**Leg.H.**

1961 ch. 1616, 1976 ch. 1068.

## **§ 739. Authorization of Medical Examination; Remedial Care; Notice to Parent; Release of Information; Right of Parent to Authorize Designated Care; Notice to Other Parent in Nonemergency Situations; Minor's Right to Authorize or Refuse Designated Care.**

(a) Upon referral to the probation officer of a minor who has been taken into temporary custody under Section 625, the probation officer may authorize a medical examination that complies with regulations adopted by the Corrections Standards Authority. If the minor is retained in custody by the probation officer, and prior to the court detention hearing required under Section 632, the probation officer may authorize medical or dental treatment or care based on the written recommendation of the examining physician and considered necessary for the health of the minor. No treatment or care under this subdivision may be authorized by the probation officer unless the probation officer has made a reasonable effort to notify and to obtain the consent of the parent, guardian, or person standing in loco parentis for the minor, and, if the parent, guardian, or person standing in loco parentis objects, the treatment or care shall be given only upon order of the court in the exercise of its discretion. The probation officer shall document the efforts made to notify and obtain parental consent under this subdivision and shall enter this information into the case file for the minor.

(b) Whenever it appears to the juvenile court that any 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 person is placed by order of the juvenile court within the care and custody or under the supervision of the probation officer of the county in which the person 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 person, the court may, after due notice to the parent, guardian, or person standing in loco parentis, if any, order that the probation officer may authorize the medical, surgical, dental, or other remedial care for the person by licensed practitioners, as may from time to time appear necessary.

(d)

(1) Whenever it appears that a minor 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 minor needs dental care in an emergency situation, by a licensed dentist, without a court order and upon authorization of a probation officer. If the minor needs foot or ankle care within the scope of practice of podiatric medicine, as defined in **Section 2472 of the Business and Professions Code**, a probation officer may authorize the care to be provided by a podiatrist after obtaining the advice and concurrence of a physician and surgeon. The probation officer 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.

(2) For purposes of this subdivision, "emergency situation" means a minor 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 that, if not immediately diagnosed and treated, would lead to serious disability or death. An emergency situation also includes known conditions or illnesses that, during any period of secure detention of the minor by the probation officer, require immediate laboratory testing, medication, or treatment to prevent an imminent and severe or life-threatening risk to the health of the minor.

(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 probation officers, parole officers, or any other qualified individuals or agencies caring for or acting in the interest and welfare of the minor 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 minor 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 any 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 the care.

(h) Nothing in this section shall be construed to interfere with a minor's right to authorize or refuse medical, surgical, dental, or other care when the minor's consent for care is sufficient or specifically required pursuant to existing law, or to interfere with a minor's right to refuse, verbally or in writing, nonemergency medical and mental health care.

**Leg.H.**

Added Stats 1961 ch 1616 § 2. Amended Stats 1968 ch 629 § 1; Stats 1971 ch 640 § 5; Stats 1972 ch 1021 § 1; Stats 1974 ch 745 § 1; Stats 1975 ch 1129 § 2; Stats 1976 ch 1068 § 63; Stats 1990 ch 566 § 2 (AB 2193); Stats 1992 ch 981 § 10 (SB 1968); Stats 2011 ch 256 § 1 (SB 913), effective January 1, 2012.

## **§ 739.5. Authority Regarding Administration of Psychotropic Medications to a Ward of the Court in Foster Care.**

**(a)**

**(1)** If a minor who has been adjudged a ward of the court under Section 601 or 602 is removed from the physical custody of the parent under Section 726 and placed into foster care, as defined in Section 727.4, only a juvenile court judicial officer shall have authority to make orders regarding the administration of psychotropic medications for that minor. 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 minor 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 minor'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 minor's attorneys. This effort shall be undertaken in coordination with the updates required under paragraph (2) of subdivision (a) of Section 369.5.

**(B)** The rules of court and forms developed pursuant to subparagraph (A) shall address all of the following:

**(i)** The minor and the minor's caregiver and court-appointed special advocate, if any, have an opportunity to provide input on the medications being prescribed.

**(ii)** Information regarding the minor'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 minor'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 minor'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 minor'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 minor's overall treatment plan. This oversight process shall be conducted in conjunction with other regularly scheduled court hearings and reports provided to the court by the county probation agency.

**(D)**

**(i)** By September 1, 2020, the forms developed pursuant to subparagraph (A) shall include a request for authorization by the minor or the minor's attorney to release the minor'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.

**(b)**

(1) The agency that completes the request for authorization for the administration of psychotropic medication 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) Nothing in this subdivision is intended to 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 minor, or shall, upon a request by the parent, the legal guardian, or the minor'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 probation 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 minor'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) Nothing in this section is intended to 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 2007 ch 120 § 1 (AB 1514), effective January 1, 2008. Amended Stats 2015 ch 534 § 6 (SB 238), effective January 1, 2016; Stats 2019 ch 547 § 2 (SB 377), effective January 1, 2020.

## § 739.6. Review By Child Psychiatrist of Psychotropic Medication Authorization Requests By Counties; Second Opinion Review Process; Exception for Emergency Situations; Federal Approvals.

(a)

(1) The State Department of Social Services, in consultation with the State Department of Health Care Services, shall contract for child psychiatry services to complete a record review for all authorization requests for psychotropic medications for which a second opinion review is requested by a county. The second opinion review shall occur within three business days of the county request and shall include discussion of the psychosocial interventions that have been or will be offered to the child and caretaker, if appropriate, to address the behavioral health needs of the child.

(2)

(A) Recommended indicators for identifying those requests for authorizations of psychotropic medications for which a county may request a second opinion record review may include, but are not limited to, prescriptions for concurrent psychotropic medications, dosages that exceed recommended

guidelines for use in children, off-label prescribing, and requests for psychotropic medication usage without any other concurrent psychosocial services.

**(B)** The State Department of Social Services shall, by July 1, 2018, issue guidance regarding the second opinion review process and may periodically revise that guidance following consultation with counties, other state departments, advocates for children and youth, and other stakeholders.

**(3)** The child psychiatry services contracted for by the State Department of Social Services shall be available to provide second opinion reviews to those counties that do not have a second opinion review program. This section does not prohibit a county from operating its own second opinion review program and does not supersede any county-operated second opinion review program.

**(4)** This section does not prevent the administration of medication in an emergency, as otherwise authorized or required by law or regulation.

**(b)** The State Department of Health Care Services shall seek any necessary federal approvals to obtain federal financial participation for the second opinion review service pursuant to this section, including any approvals necessary to obtain enhanced federal financial participation as applicable. Notwithstanding any other law, this section shall be implemented only if, and to the extent that, any necessary federal approvals are obtained by the department and federal financial participation is available and is not otherwise jeopardized.

**Leg.H.**

Added Stats 2017 ch 24 § 12 (SB 89), effective June 27, 2017.

## **§ 740. Placement in Community Care Facility within County of Residence; Exceptions; Notice; Plan and Formal Agreement for Supervision and Visitation; Disclosure of Certain Information to Law Enforcement; Notice of Unusual Incidents; Judicial Review; Costs.**

(a) Any minor adjudged to be a ward of the court on the basis that he or she is a person described in Section 602 and who is placed in a community care facility shall be placed in a community care facility within his or her county of residence, unless both of the following apply:

(1) He or she has identifiable needs requiring specialized care that cannot be provided in a local facility or his or her needs dictate physical separation from his or her family.

(2) The county of residence agrees to pay the placement county the costs of providing services to the minor, pursuant to [Section 1566.25 of the Health and Safety Code](#).

(b)

(1) Before the placement of a minor adjudged to be a ward of the court on the basis that he or she is a person described in Section 602 in any community care facility outside the ward's county of residence, the probation officer of the county making the placement, or in the case of a ward of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, the parole officer in charge of his or her case, shall send, via mail, delivery, fax, or electronically, written notice of the placement, including the name of the ward, the juvenile record of the ward (including any known prior offenses), and the ward's county of residence, to the probation officer of the county in which the community care facility is located. It is the intention of the Legislature, in regard to this requirement, that the probation officer of the county

making the placement, or in the case of a ward of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, the parole officer in charge of his or her case, shall make his or her best efforts to send, via mail, fax, or electronically, or to hand deliver, the notice at least 24 hours prior to the time the placement is made. When that placement is terminated, the probation officer of the county making the placement, or in the case of a ward of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, the parole officer in charge of his or her case, shall send notice thereof to any person or agency receiving notification of the placement.

(2) When it has been determined that it is necessary for a ward whose board and care is funded through the Aid to Families with Dependent Children-Foster Care program to be placed in a county other than the ward's parents' or guardians' county of residence, the specific reason the out-of-county placement is necessary shall be documented in the ward's case plan. If the reason is lack of resources in the sending county to meet the specific needs of the ward, those specific resources needs shall be documented in the case plan.

(3) When it has been determined that a ward whose board and care is funded through the Aid to Families with Dependent Children-Foster Care program is to be placed out-of-county and that the sending county is to maintain responsibility for supervision and visitation of the ward, the sending county shall develop a plan of supervision and visitation activities to be performed, and shall specify 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 known or suspected gang affiliation or dangerous behavior of the ward that indicates the ward may pose a safety concern in the receiving county. The sending county shall send to the receiving county a copy of the plan of supervision and visitation, in addition to the notice of placement required in paragraph (1), prior to placement of the ward. If placement occurs on a holiday or weekend, the plan of supervision and visitation and the notice of placement shall be provided to the receiving county on or before the end of the next business day.

(4) When it has been determined that a ward whose placement is funded through the Aid to Families with Dependent Children-Foster Care program 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 ward, 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 ward, 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 ward in the receiving county. Additionally, the notice of placement required by paragraph (1) shall be provided to the receiving county prior to placement of the ward in that county. 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 known or suspected gang affiliation or dangerous behavior of the ward that indicates the ward may pose a safety concern for the receiving county.

(5) The probation department of a receiving county that has a group home in which a minor is placed by the probation department of another county, after adjudication of the minor for any felony offense, may disclose to the sheriff of the receiving county or to the municipal police department of the city in which the group home is located, the name of the minor, the felony offense or offenses for which the minor has been adjudicated, and the address of the group home. This information shall be utilized only for law enforcement purposes and may not be utilized in a manner that is inconsistent with the rehabilitative program in which the minor has been placed or with the progress the minor may be making in the placement program. Notwithstanding any other law, the information provided by the probation department to a law enforcement agency under this paragraph may be provided to other law enforcement personnel for the limited law enforcement purposes described in this paragraph, but shall otherwise remain confidential.

(c) Notwithstanding subdivision (e) of Section 1538.5 of the Health and Safety Code, at the request of the probation department of the county in which the group home facility is located, the group home shall notify a probation official designated by the probation department to receive notifications pursuant to this subdivision, of unusual incidents concerning a ward placed by the sending county that involved a response by local law enforcement or emergency services personnel, including runaway incidents. The notification shall include identifying information about the ward. A group home facility shall notify the designated probation official of a requesting probation department of an unusual incident no later than the applicable deadline imposed by law or department regulation for a group home facility to notify the licensing agency of the unusual incident. The requesting probation department shall maintain the confidentiality of any identifying information about the ward contained in the notification and shall not share, transfer, or otherwise release the identifying information to a third party unless otherwise authorized by state or federal law.

(d) A minor, the parent or guardian of a minor, and counsel representing a minor or the parent or guardian of a minor may petition the juvenile court for the review of a placement decision concerning the minor made by the probation officer pursuant to subdivision (a). The petition shall state the petitioner's relationship to the minor and shall set forth in concise language the grounds on which the review is sought. The court shall order that a hearing shall be held on the petition and shall give prior notice, or cause prior notice to be given, to the persons and by the means prescribed by Section 776, and, in instances in which the means of giving notice is not prescribed by that section, then by any means as the court prescribes.

(e) If a minor is placed in a community care facility out of his or her county of residence and is then arrested and placed in juvenile hall pending a jurisdictional hearing, the county of residence shall pay to the probation department of the county of placement all reasonable costs resulting directly from the minor's stay in the juvenile hall, provided that these costs exceed one hundred dollars (\$100).

(f) If, as a result of the hearing in subdivision (d), the minor is remanded back to his or her county of residence, the county of residence shall pay to the probation department of the county of placement, in addition to any payment made pursuant to subdivision (e), all reasonable costs resulting directly from transporting the minor to the county of residency, provided that these costs exceed one hundred dollars (\$100).

(g) Claims made by the probation department in the county of placement to the county of residence, pursuant to subdivisions (e) and (f), shall be paid within 30 days of the submission of these claims and the probation department in the county of placement shall bear the remaining expense.

(h) As used in this section:

(1) "Community care facility" shall be defined as provided in Section 1502 of the Health and Safety Code.

(2) "Gang affiliation" shall have the same meaning as defined for data entry into the CalGang system.

(3) "Group home" has the same meaning as provided in paragraph (1) of subdivision (g) of Section 80001 of Title 22 of the California Code of Regulations.

**Leg.H.**

Added Stats 1984 ch 821 § 3. Amended Stats 1991 ch 1202 § 20 (SB 377); Stats 1992 ch 427 § 177 (AB 3355), ch 1153 § 6 (SB 1573); Stats 1993 ch 1089 § 8 (AB 2129); Stats 2004 ch 375 § 1 (AB 1948); Stats 2005 ch 22 § 217 (SB 1108), effective January 1, 2006; Stats 2009 ch 46 § 4 (SB 352), effective January 1, 2010.

## § 740.1. Placement Outside County of Residence—Requirements for Return of Minor to Placement County.

(a) Any minor adjudged to be a ward of the court on the basis that he or she is a person described in [Section 602 of the Welfare and Institutions Code](#) and who is placed in a community care facility outside his or her county of residence who is then arrested and after receiving a jurisdictional hearing is remanded back to his or her county of residence shall not be placed back into the placement county without the testimony and documentation or request, if any, from the placement county pursuant to subdivision (b).

(b) The placement county may provide to the juvenile court relevant testimony and documentation pertaining to the ward's conduct while residing in the placement county, and may request that the ward not be returned to the placement county.

(c) "Community care facility," as used in this section, shall be defined as provided in [Section 1502 of the Health and Safety Code](#).

**Leg.H.**

1992 ch. 1153.

## **§ 741. Health Care for Minor When Petition Has Been Filed; Diagnosis or Treatment When Related to Drug or Alcohol Use.**

The juvenile court may, in any case before it in which a petition has been filed as provided in Article 16 (commencing with Section 650), order that the probation officer obtain the services of such psychiatrists, psychologists, physicians and surgeons, dentists, optometrists, audiologists, or other clinical experts as may be required to assist in determining the appropriate treatment of the minor and as may be required in the conduct or implementation of the treatment. Payment for the services shall be a charge against the county.

Whenever diagnosis or treatment pursuant to this section is due to, or related to, drug or alcohol use, the cost thereof shall be considered for the use of funds made available to the county from state or federal sources for the purpose of providing care and treatment for drug- and alcohol-related illness or for drug or alcohol abuse.

**Leg.H.**

1961 ch. 1616, 1976 ch. 1068, 1985 ch. 101, 1991 ch. 482, effective October 3, 1991.

## **§ 742. Notification to Victim Regarding Final Case Disposition and Restitution; Victim to Be Informed of Programs, Classes, and Right to Notification and Restitution.**

(a) Upon the request of an alleged victim of a crime, the probation officer shall, within 60 days of the final disposition of a case within which a petition has been filed pursuant to Section 602, inform that person by letter of the final disposition of the case. "Final disposition" means dismissal, acquittal, or findings made pursuant to this article. If the court orders that restitution shall be made to the victim of a crime, the amount, terms, and conditions thereof shall be included in the information provided pursuant to this section.

(b) In any case in which a petition has been filed pursuant to Section 602, the probation officer shall inform the victim of the offense, if any, of any victim-offender conferencing program or victim impact class available in the county, and of his or her right pursuant to subdivision (a) to be informed of the final disposition of the case, including his or her right, if any, to victim restitution, as permitted by law.

**Leg.H.**

1976 ch. 1070, effective September 21, 1976, 1981 ch. 447, 1998 ch. 761.

## ARTICLE 18.5

### **Graffiti Removal and Damage Recovery Program**

#### **§ 742.10. Purposes.**

It is the intent of the Legislature in enacting this article to accomplish the following purposes:

- (a) To assist public and private owners and possessors of property defaced by minors with graffiti or other inscribed material to recover their full damages.
- (b) To safeguard the fiscal integrity of cities and counties that expend public funds to remove graffiti and other material inscribed by minors from public or private property, or to repair or replace public or private property defaced by minors with graffiti or other inscribed material, by enabling those cities and counties to recoup the full costs of that removal, repair, and replacement.
- (c) To safeguard the fiscal integrity of cities and counties by enabling them to recoup the law enforcement costs of identifying and apprehending minors who deface the property of others with graffiti or other inscribed material.
- (d) To minimize the costs of collecting those costs and damages.
- (e) To discourage the inscription of graffiti and other material by minors by requiring the offending minors, and their parents who have the financial ability to do so, to bear the costs associated with the unlawful defacement of property with graffiti or other inscribed material.
- (f) To retain in the juvenile court the discretion needed to accomplish the goal of rehabilitating minors.

**Leg.H.**

1994 ch. 909.

#### **§ 742.12. Definitions.**

- (a) As used in this article, the term “graffiti or other inscribed material” includes any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on real or personal property.
- (b) As used in subdivision (d) of Section 742.16, the word “custody” means either legal custody or physical custody of a minor.

**Leg.H.**

1994 ch. 909.

#### **§ 742.14. Recoupment of Costs.**

- (a) A city, county, or city and county may elect, by ordinance, to have the probation officer of the county recoup for it, through juvenile court proceedings in accordance with Section 742.16, its costs associated with defacement by minors of its property and the property of others by graffiti or other inscribed material. That

ordinance shall include the cost finding or findings specified in subdivision (b), and if the city, county, or city and county enacts an ordinance pursuant to [Section 53069.3 of the Government Code](#), the cost findings specified in subdivision (c). These cost findings shall be reviewed at least once every three years, at which time the city, county, or city and county, by resolution, shall adopt updated cost findings in accordance with subdivisions (b) and (c). A city, county, or city and county may rescind, by ordinance, its election to have the probation officer recoup its costs pursuant to this section. Immediately after adoption, the city or county shall cause a certified copy of an ordinance adopted pursuant to this subdivision and any resolution containing updated cost findings to be forwarded to the clerk of the juvenile court in the county and to the probation officer of the county.

(b) A city, county, or city and county that adopts an ordinance pursuant to subdivision (a) shall include therein a finding or findings, to be reviewed at least once every three years, of the average costs per unit of measure incurred by the law enforcement agency with primary jurisdiction in the city, county, or city and county in identifying and apprehending a person subsequently convicted of violation of [Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code](#) or a minor subsequently found to be a person described in Section 602 by reason of the commission of an act prohibited by [Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code](#). A city, county, or city and county that does not adopt an ordinance pursuant to subdivision (a) may adopt an ordinance containing the cost finding or findings described in this subdivision. Findings of costs per unit of measure may include, but are not limited to, findings of the hourly costs of employee time and of the costs per mile of operating patrol vehicles.

(c) If a city, county, or city and county enacts an ordinance pursuant to [Section 53069.3 of the Government Code](#) and enacts an ordinance pursuant to subdivision (a), the ordinance enacted pursuant to subdivision (a) shall contain findings, to be reviewed at least once every three years, of the average cost to the city, county, or city and county per unit of measure of removing graffiti and other inscribed material, and of repairing and replacing property of the types frequently defaced with graffiti or other inscribed material that cannot be removed cost effectively. A city, county, or city and county that does not adopt an ordinance pursuant to subdivision (a) may adopt an ordinance containing the cost findings described in this subdivision. Findings of costs per unit of measure may include, but are not limited to, findings of the costs per square inch of removing painted graffiti or of the costs per item of replacing items that have been etched.

(d) A school district, district, or other local public agency may elect, by formal action of its governing body, to have the probation officer of the county recoup for it, through juvenile court proceedings in accordance with Section 742.16, its costs associated with the defacement by minors of property it owns or possesses by graffiti or other inscribed material.Upon election, the school district, district, or other local public agency shall make the cost findings described in subdivision (c). These cost findings shall be reviewed at least once every three years, at which time the school district, district, or other local public agency, by formal action of its governing body, shall adopt updated cost findings in accordance with subdivision (c). A school district, district, or other local public agency may rescind, by resolution, its election to have the probation officer recoup its costs pursuant to this section. Immediately after making the election described in this subdivision and adopting initial or updated cost findings, and immediately after rescinding said election, the school district, district, or other local public agency shall cause a certified copy of a document memorializing the election, rescission, or cost findings to be forwarded to the clerk of the juvenile court in the county and to the probation officer of the county. A school district, district, or other local public agency that does not elect to have the probation officer of the county recoup its costs pursuant to Section 742.16 may adopt the cost findings described in this subdivision.

(e) A city, county, or city and county that has elected to have the probation officer of the county recoup its costs pursuant to Section 742.16 shall transmit to the probation officer, forthwith, data about its expenditure of resources in identifying and apprehending any minor about whom a petition is filed alleging that the minor is a person described by Section 602 by reason of the commission of an act prohibited by [Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code](#). That data shall be sufficient to enable the probation officer and the juvenile court to calculate the costs to the city, county, or city and county in identifying and apprehending the minor.

(f) A city, county, or other public agency that has elected to have the probation officer of the county recoup its costs pursuant to Section 742.16 and that has made cost findings pursuant to subdivisions (c) or (d) shall transmit to the probation officer, forthwith, data about its expenditure of resources to remove graffiti or other material inscribed by, or to repair or replace property defaced by, any minor about whom a petition is filed alleging that the minor is a person described by Section 602 by reason of the commission of an act prohibited by **Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code**. That data shall be sufficient to enable the probation officer and the juvenile court to calculate the costs to the city, county, or other local agency for that removal, repair, or replacement.

(g) The probation officer of a county may establish procedures for collecting the data described in subdivision (e) and (f). These procedures may include a provision that the juvenile court may not award and the probation officer may refuse to collect costs described in this section unless the data required to be provided to the probation officer pursuant to subdivisions (e) and (f) is provided to him or her within a time certain after he or she makes a demand therefor.

**Leg.H.**

1994 ch. 909.

## **§ 742.16. Condition of Probation Upon Sustaining of Petition Alleging Vandalism.**

(a) If a minor is found to be a person described in Section 602 of this code by reason of the commission of an act prohibited by **Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code**, and the court does not remove the minor from the physical custody of the parent or guardian, the court as a condition of probation, except in any case in which the court makes a finding and states on the record its reasons why that condition would be inappropriate, shall require the minor to wash, paint, repair, or replace the property defaced, damaged, or destroyed by the minor or otherwise pay restitution to the probation officer of the county for disbursement to the owner or possessor of the property or both. In any case in which the minor is not granted probation or in which the minor's cleanup, repair, or replacement of the property will not return the property to its condition before it was defaced, damaged, or destroyed, the court shall make a finding of the amount of restitution that would be required to fully compensate the owner and possessor of the property for their damages. The court shall order the minor or the minor's estate to pay that restitution to the probation officer of the county for disbursement to the owner or possessor of the property or both, to the extent the court determines that the minor or the minor's estate have the ability to do so, except in any case in which the court makes a finding and states on the record its reasons why full restitution would be inappropriate. If full restitution is found to be inappropriate, the court shall require the minor to perform specified community service, except in any case in which the court makes a finding and states on the record its reasons why that condition would be inappropriate.

(b) If a minor is found to be a person described in Section 602 of this code by reason of the commission of an act prohibited by **Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code**, and the graffiti or other material inscribed by the minor has been removed, or the property defaced by the minor has been repaired or replaced by a public entity that has elected, pursuant to Section 742.14, to have the probation officer of the county recoup its costs through proceedings in accordance with this section and has made cost findings in accordance with subdivision (c) or (d) of Section 742.14, the court shall determine the total cost incurred by the public entity for said removal, repair, or replacement, using, if applicable, the cost findings most recently adopted by the public entity pursuant to subdivision (c) or (d) of Section 742.14. The court shall order the minor or the minor's estate to pay those costs to the probation officer of the county to the extent the court determines that the minor or the minor's estate have the ability to do so.

**(c)** If the minor is found to be a person described in Section 602 of this code by reason of the commission of an act prohibited by **Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code**, and the minor was identified or apprehended by the law enforcement agency of a city or county that has elected, pursuant to Section 742.14, to have the probation officer of the county recoup its costs through proceedings in accordance with this section, the court shall determine the cost of identifying or apprehending the minor, or both, using, if applicable, the cost findings adopted by the city or county pursuant to subdivision (b) of Section 742.14. The court shall order the minor or the minor's estate to pay those costs to the probation officer of the county to the extent the court determines that the minor or the minor's estate has the ability to do so.

**(d)** If the court determines that the minor or the minor's estate is unable to pay in full the costs and damages determined pursuant to subdivisions (a), (b), and (c), and if the minor's parent or parents have been cited into court pursuant to Section 742.18, the court shall hold a hearing to determine the liability of the minor's parent or parents pursuant to **Section 1714.1 of the Civil Code** for those costs and damages. Except when the court makes a finding setting forth unusual circumstances in which parental liability would not serve the interests of justice, the court shall order the minor's parent or parents to pay those costs and damages to the probation officer of the county to the extent the court determines that the parent or parents have the ability to pay, if the minor was in the custody or control of the parent or parents at the time he or she committed the act that forms the basis for the finding that the minor is a person described in Section 602. In evaluating the parent's or parents' ability to pay, the court shall take into consideration the family income, the necessary obligations of the family, and the number of persons dependent upon this income.

**(e)** The hearing described in subdivision (d) may be held immediately following the disposition hearing or at a later date, at the option of the court.

**(f)** If the amount of costs and damages sought to be recovered in the hearing pursuant to subdivision (d) is five thousand dollars (\$5,000) or less, the parent or parents may not be represented by counsel and the probation officer of the county shall be represented by his or her nonattorney designee. The court shall conduct that hearing in accordance with **Sections 116.510 and 116.520 of the Code of Civil Procedure**. Notwithstanding the foregoing, if the court determines that a parent cannot properly present his or her defense, the court may, in its discretion, allow another individual to assist that parent. In addition, a spouse may appear and participate in the hearing on behalf of his or her spouse if the representative's spouse has given his or her consent and the court determines that the interest of justice would be served thereby.

**(g)** If the amount of costs and damages sought to be recovered in the hearing pursuant to subdivision (d) exceeds five thousand dollars (\$5,000), the parent or parents may be represented by counsel of his or her or their own choosing, and the probation officer of the county shall be represented by the district attorney or an attorney or nonattorney designee of the probation officer. The parent or parents shall not be entitled to court-appointed counsel or to counsel compensated at public expense.

**(h)** At the hearing conducted pursuant to subdivision (d), there shall be a presumption affecting the burden of proof that the findings of the court made pursuant to subdivisions (a), (b), and (c) represent the actual damages and costs attributable to the act of the minor that forms the basis of the finding that the minor is a person described in Section 602.

**(i)** If the parent or parents, after having been cited to appear pursuant to Section 742.18, fail to appear as ordered, the court shall order the parent or parents to pay the full amount of the costs and damages determined by the court pursuant to subdivisions (a), (b), and (c).

**(j)** Execution may be issued on an order issued by the court pursuant to this section in the same manner as on a judgment in a civil action, including any balance unpaid at the termination of the court's jurisdiction over the minor.

**(k)** At any time prior to the satisfaction of a judgment entered pursuant to this section, a person against whom the judgment was entered may petition the rendering court to modify or vacate the judgment on the showing of a change in circumstances relating to his or her ability to pay the judgment.

**(l)** For purposes of a hearing conducted pursuant to subdivision (d), the judge of the juvenile court shall have the jurisdiction of a judge of the superior court in a limited civil case, and if the amount of the demand is within the jurisdictional limits stated in **Sections 116.220 and 116.221 of the Code of Civil Procedure**, the judge of the juvenile court shall have the powers of a judge presiding over the small claims court.

**(m)** Nothing in this section shall be construed to limit the authority of a juvenile court to provide conditions of probation.

**(n)** The options available to the court pursuant to subdivisions (a), (b), (c), (d), and (k), to order payment by the minor and his or her parent or parents of less than the full costs described in subdivisions (a), (b), and (c), on grounds of financial inability or for reasons of justice, shall not be available to a superior court in an ordinary civil proceeding pursuant to **subdivision (b) of Section 1714.1 of the Civil Code**, except that in any proceeding pursuant to either **subdivision (b) of Section 1714.1 of the Civil Code** or this section, the maximum amount that a parent or a minor may be ordered to pay shall not exceed twenty thousand dollars (\$20,000) for each tort of the minor.

**Leg.H.**

Added Stats 1994 ch 909 § 11 (SB 1779). Amended Stats 1998 ch 931 § 474 (SB 2139), effective September 28, 1998; Stats 2002 ch 784 § 615 (SB 1316); Stats 2006 ch 167 § 10 (AB 2618), effective January 1, 2007; Stats 2016 ch 50 § 120 (SB 1005), effective January 1, 2017.

## § 742.18. Citation to Parent or Guardian.

(a) If the petition alleges that the minor is the person described by Section 602 by reason of the commission of an act prohibited by **Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code**, and the petition is sustained, the court, in addition to the notice provided in Sections 658 and 659, shall issue a citation to the minor's parent or legal guardian, ordering them to appear in the court at the time and date stated for a hearing pursuant to subdivision (d) of Section 742.16.

(b) The citation shall notify the parent or legal guardian that at the hearing, he, she, or they may be ordered to pay restitution sufficient to fully compensate the owner and possessor of the property defaced by the minor for the damage caused by that defacement, the law enforcement costs of identifying and apprehending the minor, if applicable, and the costs incurred by a public entity to remove graffiti or other material inscribed by the minor, or to repair or replace the property defaced by the minor, if applicable. The citation shall set forth the provisions of Section 742.16 and shall advise the parent or parents that he, she, or they may be ordered to pay an amount not exceeding twenty thousand dollars (\$20,000) for the above-referenced damages and costs. The citation shall contain a warning to the parent or parents that if he, she, or they fail to appear at the time and date stated, the court will order him, her, or them to pay in full the costs and damages caused by the act of the minor.

(c) Service of the citation shall be made on all parents or legal guardians of the minor whose names and addresses are known to the petitioner.

(d) Service of the citation shall be made at least 10 days prior to the time and date stated therein for appearance, in the manner provided by law for the service of a summons in a civil action, other than by publication.

**Leg.H.**

1994 ch. 909.

## § 742.20. Distribution of Moneys Collected.

Any moneys collected by the probation officer of the county pursuant to an order rendered pursuant to Section 742.16 shall be distributed by the county to the following persons and entities in the following priority:

- (a) Restitution to the owner and possessor of the property defaced by the minor, in the amount determined by the court.
- (b) After the restitution described in subdivision (a) has been paid in full, or if restitution was not ordered, the costs of removing graffiti or other material inscribed by the minor and of repairing or replacing property defaced by the minor, to the city, county, or other local public agency that incurred those costs, except that the county may deduct and retain 15 percent of the amount collected for the removal, repair, or replacement costs, or an amount equivalent to its actual costs of collection, whichever is less.
- (c) After the costs and damages described in subdivisions (a) and (b) have been paid in full, or if there are no costs or damages, the law enforcement costs of identifying and apprehending the minor, to the city or county that incurred those costs, except that the county may deduct and retain 15 percent of the amount collected for those law enforcement costs, or an amount equivalent to its actual costs of collection, whichever is less.

Leg.H.

1994 ch. 909.

## § 742.22. Severability Clause.

If any provision or clause of this article or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

Leg.H.

1994 ch. 909.

# ARTICLE 18.6

## Repeat Offender Prevention Project

### § 743. Repeat Offender Prevention Project.

Contingent upon the appropriation of funds therefor, there is hereby established a three-year pilot project which shall be known as the "Repeat Offender Prevention Project." This project shall operate in the Counties of Fresno, Humboldt, Los Angeles, Orange, San Diego, San Mateo, and Solano, and the City and County of San Francisco, unless the board of supervisors of one or more of these counties adopts a resolution to the effect it will not participate in the project, each of which shall either design, establish, implement, and evaluate a model program to meet the needs of a juvenile offender population identified as having the potential to become repeat serious offenders utilizing the findings of exploratory studies conducted in Orange County between 1989 and 1993 by the research staff of the Orange County Probation Department and which identified certain minors who were designated as the "8 percent" population. The main goal of this program is to develop and implement a cost-effective multiagency, multidisciplinary program which targets youth displaying behavior that may lead to delinquency and recidivism.

**Leg.H.**

1994 ch. 730, 1996 ch. 1049, 1998 ch. 327.

## **§ 744. Administration by Board of Corrections; Application for Funding.**

(a) The Repeat Offender Prevention Project shall be administered by the Board of Corrections and each program shall be under the onsite administration of the chief probation officer in the county selected for participation in the project or under a consortium of chief probation officers representing each participating county.

(b) Pursuant to this article, a chief probation officer or the regional consortium, with the approval of the appropriate board or boards of supervisors, may apply to the Board of Corrections for funding to implement a program meeting the criteria specified in subdivision (b) of Section 745. The goal of each program shall be to develop and demonstrate intervention strategies which will end each participating minor's escalating pattern of criminal and antisocial behavior, a pattern that leads to chronic delinquency and, potentially, to adult criminal careers. These strategies shall be provided within the parameters of community protection and offender accountability. Application for program funding shall be made in accordance with written guidelines established by the Board of Corrections in consultation with chief probation officers throughout the state.

**Leg.H.**

1994 ch. 730, 1998 ch. 327.

## **§ 745. Goals and Deadlines.**

The Board of Corrections shall establish goals and deadlines against which the success or failure of the program demonstration projects may be measured. The board shall also develop selection criteria and funding schedules for participating counties which shall take into consideration, but not be limited to, all of the following:

(1) Size of the eligible target population as defined in Section 746.

(2) Demonstrated ability to administer the program.

(3) Identification of service delivery area.

(4) Demonstrated ability to provide or develop the key intervention strategies described in Section 748 to the eligible target population and their families.

(5) A formal research component utilizing an experimental research design and random assignment to the program.

**Leg.H.**

1994 ch. 730, 1996 ch. 1049, 1998 ch. 327.

## **§ 746. Selection of Minor for Participation.**

A minor shall be selected for participation in a program established pursuant to this article based upon the following factors:

- (a) The minor is  $15\frac{1}{2}$  years of age or younger, has been declared a ward of the juvenile court for the first time and is to be supervised by a probation department selected for participation in this project.
- (b) The minor has been evaluated and found to have at least three of the following factors, that place the minor at a significantly greater risk of becoming a chronic juvenile or adult offender:

(1) School behavior and performance problems. This shall include at least one of the following: attendance problems; school suspension or expulsion; or failure in two or more academic classes during the previous six months or comparable academic period.

(2) Family problems. These shall include at least one of the following: poor parental supervision or control; documented circumstances of domestic violence; child abuse or neglect; or family members who have engaged in criminal activities.

(3) Substance abuse. This shall include any regular use of alcohol or drugs by the minor, other than experimentation.

(4) High-risk predelinquent behavior. This shall include at least one of the following: a pattern of stealing; chronic running away from home; or gang membership or association.

(5) The minor matches the at-risk profile for becoming a chronic and repeat juvenile offender according to the criteria developed by the Multi-Agency At-Risk Youth Committee (MAARYC).

**Leg.H.**

1994 ch. 730, 1996 ch. 1049, 1998 ch. 327.

## **§ 747. Minimum Standards for Implementation, Operation, and Evaluation.**

The Board of Corrections shall adopt written minimum standards for project implementation, operation, and evaluation which shall include a written commitment by a county or region to the following objectives:

(a) Teamwork on the part of all treatment and intervention agents involved in the project including the family, the professionals, and any community volunteers.

(b) Empowerment of the family to recognize and, ultimately, to solve the problems related to their minor's delinquent behavior and their involvement as an integral part of the treatment team and process.

(c) Creation of a multiagency, multidisciplinary, and culturally competent team so that the program can effectively draw on the professional knowledge, skill, and experience of many treatment disciplines in areas including, but not limited to, the following: education; job preparation and search; job skills and vocational training; life skills; psychological counseling; mental health services; drug and alcohol treatment; health care; parenting skills; community service opportunities; building self-esteem and self-confidence; mentoring programs; restitution programs; gang intervention; crime prevention; recreational, social, and cultural activities; and transportation and child care as needed.

**Leg.H.**

1994 ch. 730, 1996 ch. 1049, 1998 ch. 327.

## **§ 748. Key Intervention Strategies.**

Each county or region shall, in implementing their respective programs, provide the following key intervention strategies to ensure the following:

(a) Adequate levels of supervision, structure, and support to minors and their families both during and after the intervention and treatment process, in order to accomplish the following:

- (1) Ensure protection of the community, the minor, and his or her family.
- (2) Facilitate the development of new patterns of thinking and behavior.
- (3) Eliminate any obvious stumbling blocks to the family's progress.
- (4) Facilitate the development of enhanced parenting skills and parent-child relationships.

(b) Accountability on the part of the minor for his or her actions and assistance to the minor in developing a greater awareness and sensitivity to the impact of his or her actions on both people and situations.

(c) Assistance to families in their efforts to ensure that minors are attending school regularly.

(d) Assistance to the minor in developing strategies for attaining and reinforcing educational success.

(e) Promotion and development of positive social values, behavior, and relationships by providing opportunities for the minor to directly help people; to improve his or her community; to participate in positive leisure-time activities specially chosen to match his or her individual interests, skills, and abilities; and to have greater access and exposure to positive adult and juvenile role models.

(f) Promotion of partnerships between public and private agencies to develop individualized intervention strategies which shall include, but not be limited to, the following:

(1) Delivery of services in close proximity to the minor's or the minor's family's home.

(2) Community case advocates to assist in building bridges of trust, communication, and understanding between the minor, the family, and all treatment and intervention agents.

(g) Provision of a continuum of care with strong followup services that continue to be available to the minor and family as long as needed, not just on a crisis basis.

**Leg.H.**

1994 ch. 730, 1996 ch. 1049, 1998 ch. 327 (no change was made to the text of the statute).

## **§ 749. Monitoring Project Implementation; Determination of Success; Reports; Funding.**

(a) The Board of Corrections shall be responsible for monitoring demonstration project and expansion program implementations in accordance with an annual program plan submitted by the participating counties or regions. Written progress and evaluation reports shall be required of all participating counties pursuant to a schedule and guidelines developed by the Board of Corrections.

(b) The success of each funded demonstration project shall be determined, at a minimum, by comparing a control group, consisting of juvenile offenders who were not selected for participation in the project, to an experimental group, consisting of juvenile offenders who have participated in the project. Juveniles in each group shall be evaluated at 6-, 12-, 18-, and 24-month intervals, according to the following criteria:

- (1) The number of subsequent petitions to declare the minor a ward of the juvenile court, pursuant to Section 602, and the subject matter and disposition of each of those petitions.
- (2) The number of days served in any local or state correctional facilities.
- (3) The number of days of school attendance during the current or most recent semester.
- (4) The minor's grade point average for the most recently completed school semester.
- (c) The Board of Corrections, based on reports provided pursuant to subdivision (a), shall report upon request to the Legislature on the effectiveness of these programs in achieving the demonstration project and program goals described in this article.
- (d) The Board of Corrections shall determine county or regional eligibility for funding and, from money appropriated therefor, the board shall allocate and award funds to those counties or regions applying and eligible therefor and selected for project participation.
- (e) The Repeat Offender Prevention Project shall be implemented within six months of the appropriation of funds therefor and shall terminate at the end of three years from that appropriation.
- (f) Five percent of the funds allocated each fiscal year for the Repeat Offender Prevention Project shall be set aside for the administrative expenses of the Board of Corrections.

**Leg.H.**

1994 ch. 730, 1998 ch. 327.

## **ARTICLE 18.7**

### **Juvenile Crime Enforcement and Accountability Challenge Grant Program**

#### **§ 749.2. Title.**

This article shall be known and may be cited as the Juvenile Crime Enforcement and Accountability Challenge Grant Program.

**Leg.H.**

1996 ch. 133, effective July 10, 1996.

#### **§ 749.21. Purpose.**

The Juvenile Crime Enforcement and Accountability Challenge Grant Program shall be administered by the Board of Corrections for the purpose of reducing juvenile crime and delinquency. This program shall award grants on a competitive basis following request-for-proposal evaluation standards and guidelines developed by the Board of Corrections, as authorized by this article, to counties that (a) develop and implement a comprehensive, multiagency local action plan that provides for a continuum of responses to juvenile crime and delinquency, including collaborative ways to address local problems of juvenile crime; and (b) demonstrate a collaborative and integrated approach for implementing a system of swift, certain, graduated responses, and appropriate sanctions for at-risk youth and juvenile offenders.

**Leg.H.**

1996 ch. 133, effective July 10, 1996, 1998 ch. 325, effective August 21, 1998.

## **§ 749.22. Eligibility—Establishment of Multiagency Juvenile Justice Coordinating Council.**

To be eligible for this grant, each county shall be required to establish a multiagency juvenile justice coordinating council that shall develop and implement a continuum of county-based responses to juvenile crime. The coordinating councils shall, at a minimum, include the chief probation officer, as chair, and one representative each from the district attorney's office, the public defender's office, the sheriff's department, the board of supervisors, the department of social services, the department of mental health, a community-based drug and alcohol program, a city police department, the county office of education or a school district, and an at-large community representative. In order to carry out its duties pursuant to this section, a coordinating council shall also include representatives from nonprofit community-based organizations providing services to minors. The board of supervisors shall be informed of community-based organizations participating on a coordinating council. The coordinating councils shall develop a comprehensive, multiagency plan that identifies the resources and strategies for providing an effective continuum of responses for the prevention, intervention, supervision, treatment, and incarceration of male and female juvenile offenders, including strategies to develop and implement locally based or regionally based out-of-home placement options for youths who are persons described in Section 602. Counties may utilize community punishment plans developed pursuant to grants awarded from funds included in the 1995 Budget Act to the extent the plans address juvenile crime and the juvenile justice system or local action plans previously developed for this program. The plan shall include, but not be limited to, the following components:

(a) An assessment of existing law enforcement, probation, education, mental health, health, social services, drug and alcohol and youth services resources which specifically target at-risk juveniles, juvenile offenders, and their families.

(b) An identification and prioritization of the neighborhoods, schools, and other areas in the community that face a significant public safety risk from juvenile crime, such as gang activity, daylight burglary, late-night robbery, vandalism, truancy, controlled substance sales, firearm-related violence, and juvenile alcohol use within the council's jurisdiction.

(c) A local action plan (LAP) for improving and marshaling the resources set forth in subdivision (a) to reduce the incidence of juvenile crime and delinquency in the areas targeted pursuant to subdivision (b) and the greater community. The councils shall prepare their plans to maximize the provision of collaborative and integrated services of all the resources set forth in subdivision (a), and shall provide specified strategies for all elements of response, including prevention, intervention, suppression, and incapacitation, to provide a continuum for addressing the identified male and female juvenile crime problem, and strategies to develop and implement locally based or regionally based out-of-home placement options for youths who are persons described in Section 602.

(d) Develop information and intelligence-sharing systems to ensure that county actions are fully coordinated, and to provide data for measuring the success of the grantee in achieving its goals. The plan shall develop goals related to the outcome measures that shall be used to determine the effectiveness of the program.

(e) Identify outcome measures which shall include, but not be limited to, the following:

(1) The rate of juvenile arrests.

- (2) The rate of successful completion of probation.
- (3) The rate of successful completion of restitution and court-ordered community service responsibilities.

**Leg.H.**

1996 ch. 133, effective July 10, 1996, 1998 ch. 325, effective August 21, 1998, ch. 500 § 6, effective September 15, 1998.

## **§ 749.23. Limitations on Grants.**

The Board of Corrections shall award grants that provide funding for three years. Funding shall be used to supplement, rather than supplant, existing programs and grants may be awarded to any county including those counties currently receiving funds pursuant to this article. Grant funds shall be used for programs that are identified in the local action plan as part of a continuum of responses to reduce juvenile crime and delinquency. No grant shall be awarded unless the applicant makes available resources in an amount equal to at least 25 percent of the amount of the grant. Resources may include in-kind contributions from participating agencies. In awarding grants, priority shall be given to those proposals which include additional funding that exceeds 25 percent of the amount of the grant. In awarding grants, priority shall also be given to programs in counties where the population exceeds 500,000 and the rate of violent crime exceeds the state average.

**Leg.H.**

1996 ch. 133, effective July 10, 1996, 1998 ch. 325, effective August 21, 1998.

## **§ 749.24. Requirements for Establishing Minimum Standards, Funding Schedules, and Awarding Grants.**

The Board of Corrections shall establish minimum standards, funding schedules, and procedures for awarding grants, which shall take into consideration, but not be limited to, all of the following:

- (a) Size of the eligible high-risk youth population.
- (b) Demonstrated ability to administer the program.
- (c) Demonstrated ability to provide and develop a continuum of responses to juvenile crime and delinquency that includes prevention, intervention, diversion, suppression, and incapacitation.
- (d) Demonstrated ability to implement a plan that provides a collaborative and integrated approach to juvenile crime and delinquency.
- (e) Demonstrated history of maximizing federal, state, local, and private funding sources.
- (f) Demonstrated efforts to implement a multicounty juvenile justice program.
- (g) Likelihood that the program will continue to operate after state grant funding ends.

**Leg.H.**

1996 ch. 133, effective July 10, 1996.

## **§ 749.25. Limit on Amount to Assist in Establishing Multiagency Coordinating Group or Local Action Plan.**

The Board of Corrections may award up to a total of two million dollars (\$2,000,000) statewide, in individual grants not exceeding one hundred and fifty thousand dollars (\$150,000), on a competitive basis to counties to assist in establishing a multiagency coordinating group or developing a local action plan.

**Leg.H.**

1996 ch. 133, effective July 10, 1996.

## **§ 749.26. Assessment of Program Effectiveness.**

The Board of Corrections shall create an evaluation design for the Juvenile Crime Enforcement and Accountability Challenge Grant Program that will assess the effectiveness of the program. For grants awarded before July 1, 1998, the board shall develop an interim report to be submitted to the Legislature on or before March 1, 1999, and a final analysis of the grant program in a report to be submitted to the Legislature on or before March 1, 2001. For grants awarded after July 1, 1998, the board shall develop an interim report to be submitted to the Legislature on or before March 1, 2001, and a final analysis of the grant program in a report to be submitted to the Legislature on or before March 1, 2003.

**Leg.H.**

1996 ch. 133, effective July 10, 1996, 1998 ch. 325, effective August 21, 1998.

## **§ 749.27. Funding.**

Funding for the Juvenile Crime Enforcement and Accountability Challenge Grant Program for grant awards made before July 1, 1998, shall be provided from the amount appropriated in Item 5430-101-0001 of the Budget Act of 1996. Up to 5 percent of the amount appropriated in Item 5430-101-0001 of the Budget Act of 1996 shall be transferred upon the approval of the Director of Finance, to Item 5430-001-0001 for expenditure as necessary for the board to administer this program, including technical assistance to counties and the development of an evaluation component.

**Leg.H.**

1996 ch. 133, effective July 10, 1996, 1998 ch. 325, effective August 21, 1998.

# **ARTICLE 18.8**

## **County Juvenile Correctional Facilities Act**

### **§ 749.3. Title.**

This title shall be known and may be cited as the County Juvenile Correctional Facilities Act.

**Leg.H.**

1998 ch. 499, effective September 15, 1998.

### **§ 749.31. Findings and Declarations.**

The Legislature finds and declares all of the following:

(a) While the County Correctional Capital Expenditure Bond Act of 1986 and the County Correctional Facility Capital Expenditure and Youth Facility Bond Act of 1988 have provided ninety million dollars (\$90,000,000) for county juvenile facilities for remodeling to help ensure health and safety requirements, many problems remain.

(b) Numerous county juvenile facilities throughout California are dilapidated and overcrowded and do not meet standards. Over 40 percent or 4,335 facility beds are in need of renovation, reconstruction, construction, and deferred maintenance.

(c) Capital improvements are necessary to protect the life and safety of the persons confined or employed in juvenile facilities and to upgrade the health and sanitary conditions of those facilities.

(d) Over two hundred twenty million dollars (\$220,000,000) is needed to remodel, upgrade, or replace 4,335 beds by the year 2000.

(e) Due to fiscal constraints associated with the loss of local property tax revenues, counties are unable to finance the construction of adequate juvenile facilities.

(f) Local juvenile facilities are operating over capacity or must implement emergency release procedures, and the population of these facilities is still increasing. It is essential to the public safety that construction proceed as expeditiously as possible to relieve overcrowding and to maintain public safety and security.

(g) County juvenile facilities are threatened with closure or the imposition of court ordered sanctions if health and safety deficiencies are not corrected immediately.

**Leg.H.**

1998 ch. 499, effective September 15, 1998.

## **§ 749.32. “County Juvenile Facilities” and “Board” Defined.**

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

(a) “County juvenile facilities” means county juvenile halls or camps.

(b) “Board” means the Board of Corrections.

**Leg.H.**

1998 ch. 499, effective September 15, 1998.

## **§ 749.33. Use of Available Moneys; Requirements for Awarding Grants; Application for Funds.**

(a) Upon appropriation by the Legislature, moneys may be available to the board for the purpose of awarding grants on a competitive basis to counties for the renovation, reconstruction, construction, completion of construction, and replacement of county juvenile facilities, and the performance of deferred maintenance on county juvenile facilities. However, deferred maintenance for facilities shall only include items with a useful life of at least 10 years. Up to  $1\frac{1}{2}$  percent of these moneys may be used by the board for administration of this article.

(b) No grant shall be awarded pursuant to this article unless the applicant makes available resources in an amount equal to at least 25 percent of the amount of the grant. Resources may include in-kind contributions from

participating agencies, but in no event shall the applicant's cash contribution be less than 10 percent of the grant.

(c) An application for funds shall be in the manner and form prescribed by the board and pursuant to recommendations of an allocation advisory committee appointed by the board. From these recommendations, an allocation plan shall be developed and adopted by the board. The allocation advisory committee shall convene upon notification by the board.

(d) Any application for funds shall include, but not be limited to, all of the following:

(1) Documentation of need for the project or projects.

(2) Adoption of a formal county plan to finance construction of the proposed project or projects.

(3) Submittal of a preliminary staffing plan for the project or projects.

(4) Submittal of architectural drawings, which shall be approved by the board for compliance with minimum juvenile detention facility standards and which shall also be approved by the State Fire Marshal for compliance with fire and life safety requirements.

(5) Documentation that the facilities will be safely staffed and operated in compliance with law, including applicable regulations of the board.

(e) The board shall not be deemed a responsible agency, as defined in [Section 21069 of the Public Resources Code](#), or otherwise be subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) for any activities undertaken or funded pursuant to this title. This subdivision does not exempt any local agency from the requirements of the California Environmental Quality Act.

**Leg.H.**

1998 ch. 499, effective September 15, 1998.

## **ARTICLE 18.9**

### **Juvenile Justice Community Reentry Challenge Grant Program**

#### **§ 749.5. Citation of Article.**

This article shall be known and may be cited as the Juvenile Justice Community Reentry Challenge Grant Program.

**Leg.H.**

Added Stats 2006 ch 69 § 35 (AB 1806), effective July 12, 2006.

#### **§ 749.6. Legislative Findings and Declaration; Purpose.**

It is the intent of the Legislature to support the systematic and cultural transformation of the Division of Juvenile Justice into a rehabilitative model that improves youthful offender outcomes and reduces recidivism. As a key component of meeting these goals, it is further the intent of the Legislature to support the development of local infrastructure that provides comprehensive reentry services for juvenile parolees. These services shall be

complementary to, and consistent with, the long-term objective of providing a continuum of state and local responses to juvenile delinquency that enhance public safety and improve offender outcomes.

**Leg.H.**

Added Stats 2006 ch 69 § 35 (AB 1806), effective July 12, 2006.

## **§ 749.7. Administration; Award of Grants, Requirements.**

(a) The Juvenile Justice Community Reentry Challenge Grant Program shall be administered by the Division of Juvenile Justice, in consultation with the Corrections Standards Authority, for the purpose of improving the performance and cost-effectiveness of postcustodial reentry supervision of juvenile parolees, reducing the recidivism rates of juvenile offenders, and piloting innovative reentry programs consistent with the division's focus on a rehabilitative treatment model.

(b) This program shall award grants on a competitive basis to applicants that demonstrate a collaborative and comprehensive approach to the successful community reintegration of juvenile parolees, through the provision of wrap-around services that may include, but are not limited to, the following:

- (1) Transitional or step-down housing, including, but not limited to, group homes subject to Section 18987.62.
- (2) Occupational development and job placement.
- (3) Outpatient mental health services.
- (4) Substance abuse treatment services.
- (5) Education.
- (6) Life skills counseling.
- (7) Restitution and community service.
- (8) Case management.
- (9) Intermediate sanctions for technical violations of conditions of parole.

(c) To be eligible for consideration, applicants shall submit a program plan that includes, but is not limited to, the following:

- (1) The target population.
- (2) The type of housing and wrap-around services provided.
- (3) A parole and community reentry plan for each parolee.
- (4) Potential sanctions for a parolee's failure to observe the conditions of the program.
- (5) Coordination with local probation and other law enforcement agencies.
- (6) Coordination with other service providers and community partners.

**Leg.H.**

Added Stats 2006 ch 69 § 35 (AB 1806), effective July 12, 2006.

## § 749.8. Grants, Allocation; Case Supervision Responsibilities.

(a) The Division of Juvenile Justice, in consultation with the Corrections Standards Authority, shall award grants that provide funding for three years on a competitive basis to counties and nonprofit organizations.

(b) A minimum of 75 percent of the grant award shall be for providing program services to individuals on parole from the Division of Juvenile Justice. The remainder of the grant award may additionally be used for providing program services to youthful offenders under the jurisdiction of the county or local juvenile court who are transitioning from out-of-home placements back into the community.

(c) The division shall award grants in a manner that maximizes the development of meaningful and innovative local programs to provide comprehensive reentry services for juvenile parolees.

(d) For any grant award, the division shall work with the juvenile court and the probation department of the county or counties in the grant service area to identify state and local case supervision responsibilities that are appropriate for the effective operation and management of the reentry programs supported by the grant. These responsibilities shall be incorporated into a case supervision plan for the grant that shall describe the role of local courts and probation departments in facilitating individual reentry plans, in assigning or removing parolees from grant-funded programs, and in meeting evaluation criteria for the grant.

**Leg.H.**

Added Stats 2006 ch 69 § 35 (AB 1806), effective July 12, 2006.

## § 749.9. Grants, Minimum Standards, Funding Schedules, Procedures For Award.

The Division of Juvenile Justice, in consultation with the Corrections Standards Authority, the Chief Probation Officers of California, and experts in the field of California juvenile justice programs, shall establish minimum standards, funding schedules, and procedures for awarding grants, which shall take into consideration, but not be limited to, all of the following:

(a) The size of the eligible population.

(b) A demonstrated ability to administer the program.

(c) A demonstrated ability to develop and provide a collaborative approach to improving parolee success rates that includes the participation of nonprofit and community partners.

(d) A demonstrated ability to provide comprehensive services to support improved parolee outcomes, including housing, training, and treatment.

(e) A demonstrated ability to provide effective oversight and management of youthful offenders or young adults who have been committed to a detention facility, and parolees that require reentry supervision and control.

(f) A demonstrated history of maximizing federal, state, local, and private funding sources.

**Leg.H.**

Added Stats 2006 ch 69 § 35 (AB 1806), effective July 12, 2006.

## § 749.95. Grants, Outcome Measures; Evaluation of Program.

(a) Each grant recipient shall be required to establish and track outcome measures, including, but not limited to:

- (1) Annual recidivism rates, including technical parole violations and new offenses.
- (2) The number and percent of participants successfully completing parole.
- (3) The number and percent of participants engaged in part-time or full-time employment, enrolled in higher education or vocational training, receiving drug and substance abuse treatment, or receiving mental health treatment.
- (4) The number and percent of participants that obtain stable housing, including the type of housing.

(b) The Division of Juvenile Justice, in consultation with the Corrections Standards Authority, the Chief Probation Officers of California, and experts in the field of California juvenile justice programs, shall create an evaluation design for the Juvenile Justice Community Reentry Challenge Grant Program that will assess the effectiveness of the program. The division shall develop an interim report to be submitted to the Legislature on or before March 1, 2009, and a final analysis of the grant program in a report to be submitted to the Legislature on or before March 1, 2011.

**Leg.H.**

Added Stats 2006 ch 69 § 35 (AB 1806), effective July 12, 2006.

## **ARTICLE 19**

### **Wards—Transfer of Cases Between Counties**

#### **§ 750. Transfer of Case to County Where Person Entitled to Custody Resides.**

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 such minor resides, the residence of the person who would be legally entitled to the custody of such 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 wherein such person then resides at any time after the court has made a finding of the facts upon which it has exercised its jurisdiction over such minor, and the juvenile court of the county wherein such person then resides shall take jurisdiction of the case upon the receipt and filing with it of such finding of the facts and an order transferring the case.

**Leg.H.**

1961 ch. 1616, 1968 ch. 1082, 1971 ch. 606.

#### **§ 751. Expense of Transfer.**

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.**

1961 ch. 1616, 1971 ch. 606.

## **§ 752. Certified Copy of File Forwarded to Transferee's County.**

Whenever a case is transferred as provided in Section 750, a certified copy of the file may be made and forwarded to the county where the person resides and shall include the name and address of the legal residence of the parent or guardian of the minor. A certified copy shall be deemed to be the same as the original. The original court file may be kept in the files of the transferring county.

**Leg.H.**

1961 ch. 1616, 1965 ch. 912, 1971 ch. 606, 1983 ch. 939, 1984 ch. 205.

## **§ 753. Placing Transfer Order on Court Calendar; Precedence Over Other Actions.**

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.**

1961 ch. 1616.

## **§ 754. Counties Deemed to Be Parties in Action.**

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.**

1961 ch. 1616.

## **§ 755. Ward Permitted to Reside in County Other Than County of Legal Residence.**

Any person placed on probation by the juvenile court or adjudged to be a ward of the juvenile court may be permitted by order of the court to reside in a county other than the county of his legal residence, and the court

shall retain jurisdiction over such person.

Whenever a ward of the juvenile court is permitted to reside in a county other than the county of his legal residence, he may be placed under the supervision of the probation officer of the county of actual residence, with the consent of such probation officer. The ward shall comply with the instructions of such probation officer and upon failure to do so shall be returned to the county of his legal residence for further hearing and order of the court.

**Leg.H.**

1961 ch. 1616, 1976 ch. 1068, 1978 ch. 380.

## **ARTICLE 20**

### **Wards—Modification of Juvenile Court Judgments and Orders**

#### **§ 775. 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.**

1961 ch. 1616.

#### **§ 776. Notice Requirements for 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 probation officer and prosecuting attorney and to the minor's counsel of record, or, if there is no counsel of record, to the minor and his parent or guardian.

**Leg.H.**

1961 ch. 1616, 1977 ch. 1241, effective October 1, 1977.

#### **§ 777. Modifications Entailing Removal from Parental Custody or Commitment to Youth Authority—Procedures.**

An order changing or modifying a previous order by removing a minor from the physical custody of a parent, guardian, relative, or friend and directing placement in a foster home, or commitment to a private institution or commitment to a county institution, or an order changing or modifying a previous order by directing commitment to the Youth Authority shall be made only after a noticed hearing.

(a) The notice shall be made as follows:

(1) By the probation officer where a minor has been declared a ward of the court or a probationer under Section 601 in the original matter and shall contain a concise statement of facts sufficient to support the conclusion that the minor has violated an order of the court.

(2) By the probation officer or the prosecuting attorney if the minor is a court ward or probationer under Section 602 in the original matter and the notice alleges a violation of a condition of probation not amounting to a crime. The notice shall contain a concise statement of facts sufficient to support this conclusion.

(3) Where the probation officer is the petitioner pursuant to paragraph (2), prior to the attachment of jeopardy at the time of the jurisdictional hearing, the prosecuting attorney may make a motion to dismiss the notice and may request that the matter be referred to the probation officer for whatever action the prosecuting or probation officer may deem appropriate.

(b) Upon the filing of such notice, the clerk of the juvenile court shall immediately set the same for hearing within 30 days, and the probation officer shall cause notice of it to be served upon the persons and in the manner prescribed by Sections 658 and 660. Service under this subdivision may be by electronic service pursuant to Section 212.5.

(c) The facts alleged in the notice shall be established by a preponderance of the evidence at a hearing to change, modify, or set aside a previous order. The court may admit and consider reliable hearsay evidence at the hearing to the same extent that such evidence would be admissible in an adult probation revocation hearing, pursuant to the decision in People v. Brown, 215 Cal.App.3d (1989) and any other relevant provision of law.

(d) An order for the detention of the minor pending adjudication of the alleged violation may be made only after a hearing is conducted pursuant to Article 15 (commencing with Section 625) of this chapter. Service under this subdivision may be by electronic service pursuant to Section 212.5, but only in addition to other forms of service required by law.

**Leg.H.**

Added Stats 1961 ch 1616 § 2; Amended Stats 1971 ch 641 § 6; Stats 1976 ch 1068 § 68; Stats 1977 ch 1241 § 9, effective October 1, 1977; Stats 1979 ch 540 § 1; Stats 1981 ch 839 § 1, ch 1142 § 9; Stats 1985 ch 1187 § 1; Stats 1986 ch 757 § 5; Stats 1989 ch 1117 § 18. Amendment adopted by voters, Prop. 21 § 27, effective March 8, 2000; Amended Stats 2017 ch 319 § 143 (AB 976), effective January 1, 2018.

## **§ 778. Right of Interested Party to Petition for Modification— Requirements and Procedure.**

**(a)**

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

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

**(b)**

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

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

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

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

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

**Leg.H.**

Added Stats 1961 ch 1616 § 2; Amended Stats 1963 ch 917 § 11; Stats 1976 ch 1068 § 69; Stats 2014 ch 773 § 9 (SB 1099), effective January 1, 2015; Stats 2017 ch 319 § 144 (AB 976), effective January 1, 2018.

## **§ 779. Modification of Order Committing Ward to Youth Authority.**

The court committing a ward to the Youth Authority may thereafter change, modify, or set aside the order of commitment. Ten days' notice of the hearing of the application therefor shall be served upon the Director of the Youth Authority. In changing, modifying, or setting aside the order of commitment, the court shall give due consideration to the effect thereof upon the discipline and parole system of the Youth Authority or of the correctional school in which the ward may have been placed by the Youth Authority. Except as provided in this section, nothing in this chapter shall be deemed to interfere with the system of parole and discharge now or hereafter established by law, or by rule of the Youth Authority, for the parole and discharge of wards of the juvenile court committed to the Youth Authority, or with the management of any school, institution, or facility under the jurisdiction of the Youth Authority. Except as provided in this section, this chapter does not interfere with the system of transfer between institutions and facilities under the jurisdiction of the Youth Authority. This section does not limit the authority of the court to change, modify, or set aside an order of commitment after a noticed hearing and upon a showing of good cause that the Youth Authority is unable to, or failing to, provide treatment consistent with Section 734.

However, before any inmate of a correctional school may be transferred to a state hospital, he or she shall first be returned to a court of competent jurisdiction and, after hearing, may be committed to a state hospital for the insane in accordance with law.

**Leg.H.**

Added Stats 1961 ch 1616 § 2; Amended Stats 2003 ch 4 § 2 (SB 459), effective April 8, operative January 1, 2004; Stats 2004 ch 183 § 371 (AB 3082); Stats 2017 ch 319 § 145 (AB 976), effective January 1, 2018.

## **§ 779.5. Application To Modify or Set Aside Order For Treatment Inconsistent With Ward's Rehabilitation Plan.**

The court committing a ward to a secure youth treatment facility as provided in Section 875 may thereafter modify or set aside the order of commitment upon the written application of the ward or the probation department and upon a showing of good cause that the county or the commitment facility has failed, or is unable to, provide the ward with treatment, programming, and education that are consistent with the individual rehabilitation plan described in subdivision (d) of Section 875, that the conditions under which the ward is confined are harmful to the ward, or that the juvenile justice goals of rehabilitation and community safety are no longer served by continued confinement of the ward in a secure youth treatment facility. The court shall notice a hearing in which it shall hear any evidence from the ward, the probation department, and any behavioral health or other specialists having information relevant to consideration of the request to modify or set aside the order of commitment. The court shall, at the conclusion of the hearing, make its findings on the record, including findings as to the custodial and supervision status of the ward, based on the evidence presented.

**Leg.H.**

Added Stats 2021 ch 18 § 11 (SB 92), effective May 14, 2021.

## **§ 780. Return of Improperly Placed or Incorrigible Person to Committing Court.**

If any person who has been committed to the Youth Authority appears to be an improper person to be received by or retained in any institution or facility under the jurisdiction of the Department of the Youth Authority or to be so incorrigible or so incapable of reformation under the discipline of any institution or facility under the jurisdiction of the department as to render his or her retention detrimental to the interests of the department, the department may order the return of that person to the committing court. However, the return of any person to the committing court does not relieve the department of any of its duties or responsibilities under the original commitment, and that commitment continues in full force and effect until it is vacated, modified, or set aside by order of the court.

If any person is returned to the committing court, his or her transportation shall be made, and the compensation therefor paid, as provided for the order of commitment.

**Leg.H.**

1961 ch. 1616, 1979 ch. 860, 2003 ch. 4 (SB 459), effective April 8, 2003, operative January 1, 2004.

## **§ 781. Sealing of Records; Admission of Records in Defamation Action; Applicability to Dmv Records; Destruction of Records; Provision of Information Regarding Sealing and Destruction of Records; Judicial Council Informational Materials and Petition Form.**

**(a)****(1)**

**(A)** If a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, if a person is cited to appear before a probation officer or is taken before a probation officer pursuant to Section 626, or if 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, if a petition is not 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 626 or was taken before any officer of a law enforcement agency, or, in any case at any time after the person has reached 18 years of age, 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, entities, and public officials as the petitioner alleges, in the petition, to have custody of the records. The court shall notify the district attorney of the county and the county probation officer, if they are not the petitioner, and the 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 the termination of jurisdiction or action pursuant to Section 626, as the case may be, the person 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 all records, papers, and exhibits in the person's case in the custody of the juvenile court sealed, including the juvenile court record, minute book entries, and entries on dockets, and any other records relating to the case in the custody of the other agencies, entities, and officials as are named in the order. Once the court has ordered the person's records sealed, the proceedings in the case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, the records of which are ordered sealed.

**(B)** The court shall send a copy of the order to each agency, entity, and official named in the order, directing the agency or entity to seal its records. Each agency, entity, and official shall seal the 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 the agency, entity, or official received.

**(C)** If a ward of the juvenile court is subject to the registration requirements set forth in [Section 290 of the Penal Code](#), a court, in ordering the sealing of the juvenile records of the person, shall also provide in the order that the person is relieved from the registration requirement and for the destruction of all registration information in the custody of the Department of Justice and other agencies, entities, and officials.

**(D)**

**(i)** A petition to seal the record or records relating to an offense listed in subdivision (b) of Section 707 that was committed after attaining 14 years of age and resulted in the adjudication of wardship by the juvenile court may only be filed or considered by the court pursuant to this section under the following circumstances:

**(I)** The person was committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, has attained 21 years of age, and has completed their period of probation supervision after release from the division.

**(II)** The person was not committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, has attained 18 years of age, and has

completed any period of probation supervision related to that offense imposed by the court.

(ii) A record relating to an offense listed in subdivision (b) of Section 707 that was committed after attaining 14 years of age that has been sealed pursuant to this section may be accessed, inspected, or utilized in a subsequent proceeding against the person under any of the following circumstances:

(I) By the prosecuting attorney, as necessary, to make appropriate charging decisions or to initiate prosecution in a court of criminal jurisdiction for a subsequent felony offense, or by the prosecuting attorney or the court to determine the appropriate sentencing for a subsequent felony offense.

(II) By the prosecuting attorney, as necessary, to initiate a juvenile court proceeding to determine whether a minor shall be transferred from the juvenile court to a court of criminal jurisdiction pursuant to Section 707, and by the juvenile court to make that determination.

(III) By the prosecuting attorney, the probation department, or the juvenile court upon a subsequent finding by the juvenile court that the minor has committed a felony offense, for the purpose of determining an appropriate disposition of the case.

(IV) By the prosecuting attorney, or a court of criminal jurisdiction, for the purpose of proving a prior serious or violent felony conviction, and determining the appropriate sentence pursuant to [Section 667 of the Penal Code](#).

(iii)

(I) A record relating to an offense listed in subdivision (b) of Section 707 that was committed after attaining 14 years of age that has been sealed pursuant to this section may be accessed, inspected, or utilized by the prosecuting attorney in order to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case in which the prosecuting attorney has reason to believe that access to the record is necessary to meet the disclosure obligation. A request to access information in the sealed record for this purpose, including the prosecutor's rationale for believing that access to the information in the record may be necessary to meet the disclosure obligation and the date by which the records are needed, shall be submitted by the prosecuting attorney to the juvenile court. The juvenile court shall approve the prosecutor's request to the extent that the court has, upon review of the relevant records, determined that access to a specific sealed record or portion of a sealed record is necessary to enable the prosecuting attorney to comply with the disclosure obligation. If the juvenile court approves the prosecuting attorney's request, the court shall state on the record appropriate limits on the access, inspection, and utilization of the sealed record information in order to protect the confidentiality of the person whose sealed record is accessed pursuant to this clause. A ruling allowing disclosure of information pursuant to this subdivision does not affect whether the information is admissible in a criminal or juvenile proceeding. This clause does not impose any discovery obligations on a prosecuting attorney that do not already exist.

(II) A record that was sealed pursuant to this section that was generated in connection with the investigation, prosecution, or adjudication of a qualifying offense as defined in [subdivision \(c\) of Section 679.10 of the Penal Code](#) may be accessed by a judge or prosecutor for the limited purpose of processing a request of a victim or victim's family member to certify victim helpfulness on the Form I-918 Supplement B certification or Form I-914 Supplement B declaration. The information obtained pursuant to this subclause shall not be disseminated to other agencies or individuals, except as necessary to certify victim

helpfulness on the Form I-918 Supplement B certification or Form I-914 Supplement B declaration, and under no circumstances shall it be used to support the imposition of penalties, detention, or other sanctions upon an individual.

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

**(iv)** A sealed record that is accessed, inspected, or utilized pursuant to clause (ii) or (iii) shall be accessed, inspected, or utilized only for the purposes described therein, and the information contained in the sealed record shall otherwise remain confidential and shall not be further disseminated. The access, inspection, or utilization of a sealed record pursuant to clause (ii) or (iii) shall not be deemed an unsealing of the record and shall not require notice to any other entity.

**(E)** Subparagraph (D) does not apply in cases in which the offense listed in subdivision (b) of Section 707 that was committed after attaining 14 years of age was dismissed or reduced to a misdemeanor by the court. In those cases, the person may petition the court to have the record sealed, and the court may order the sealing of the record in the same manner and with the same effect as otherwise provided in this section for records that do not relate to an offense listed in subdivision (b) of Section 707 that was committed after the person had attained 14 years of age.

**(F)** Notwithstanding subparagraphs (D) and (E), a record relating to an offense listed in subdivision (b) of Section 707 that was committed after attaining 14 years of age for which the person is required to register pursuant to [Section 290.008 of the Penal Code](#) shall not be sealed.

**(2)** An unfulfilled order of restitution that has been converted to a civil judgment pursuant to Section 730.6 shall not be a bar to sealing a record pursuant to this subdivision.

**(3)** Outstanding restitution fines and court-ordered fees shall not be considered when assessing whether a petitioner's rehabilitation has been attained to the satisfaction of the court and shall not be a bar to sealing a record pursuant to this subdivision.

**(4)** 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 order the inspection of the records. Except as provided in subdivision (b), the 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)**

**(1)** Subdivision (a) does not apply to Department of Motor Vehicles records of any convictions for offenses under the Vehicle Code or any local ordinance relating to the operation, stopping and standing, or parking of a vehicle where the record of any such conviction would be a public record under [Section 1808 of the Vehicle Code](#). However, if a court orders a case record containing any such conviction to be sealed under this section, and if the Department of Motor Vehicles maintains a public record of such a conviction, the court shall notify the Department of Motor Vehicles of the sealing and the department shall advise the court of its receipt of the notice.

**(2)** Notwithstanding any other law, subsequent to the notification, the Department of Motor Vehicles shall allow access to its record of convictions only to the subject of the record and to insurers which have been granted requestor code numbers by the department. Any insurer to which a record of conviction is disclosed, when the conviction record has otherwise been sealed under this section, shall be given notice of the sealing when the record is disclosed to the insurer. The insurer may use the information contained in the record for purposes of determining eligibility for insurance and insurance rates for the subject of the record, and the information shall not be used for any other purpose nor shall it be disclosed by an insurer to any person or party not having access to the record.

**(3)** This subdivision does not prevent the sealing of any record which is maintained by any agency or party other than the Department of Motor Vehicles.

**(4)** This subdivision does not affect the procedures or authority of the Department of Motor Vehicles for purging department records.

**(d)** Unless for good cause the court determines that the juvenile court record shall be retained, the court shall order the destruction of a person's juvenile court records that are sealed pursuant to this section as follows: five years after the record was ordered sealed, if the person who is the subject of the record was alleged or adjudged to be a person described by Section 601; or when the person who is the subject of the record reaches 38 years of age if the person was alleged or adjudged to be a person described by Section 602, except that if the subject of the record was found to be a person described in Section 602 because of the commission of an offense listed in subdivision (b) of Section 707 when the person was 14 years of age or older, the record shall not be destroyed. Any other agency in possession of sealed records may destroy its records five years after the record was ordered sealed.

**(e)** The court may access a file that has been sealed pursuant to this section for the limited purpose of verifying the prior jurisdictional status of a ward who is petitioning the court to resume its jurisdiction pursuant to subdivision (e) of Section 388. This access shall not be deemed an unsealing of the record and shall not require notice to any other entity.

**(f)** This section shall not permit the sealing of a person's juvenile court records for an offense where the person is convicted of that offense in a criminal court pursuant to the provisions of Section 707.1. This subdivision is declaratory of existing law.

**(g)**

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

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

**(h)**

**(1)** On and after January 1, 2015, each court and probation department shall ensure that information regarding the eligibility for and the procedures to request the sealing and destruction of records pursuant to this section shall be provided to each person who is either of the following:

**(A)** A person for whom a petition has been filed on or after January 1, 2015, to adjudge the person a ward of the juvenile court.

**(B)** A person who is brought before a probation officer pursuant to Section 626.

**(2)** The Judicial Council shall, on or before January 1, 2015, develop informational materials for purposes of paragraph (1) and shall develop a form to petition the court for the sealing and destruction of records pursuant to this section. The informational materials and the form shall be provided to each person described in paragraph (1) when jurisdiction is terminated or when the case is dismissed.

**Leg.H.**

Added Stats 1961 ch 1616 § 2. Amended Stats 1961 ch 1673 § 2; Stats 1963 ch 1761 § 8; Stats 1965 ch 1413 § 1; Stats 1967 ch 1649 § 1, ch 1650 § 1; Stats 1970 ch 497 § 3; Stats 1972 ch 579 § 54.5; Stats 1976 ch 1068 § 70; Stats 1980 ch 1104 § 2, ch 1319 § 2; Stats 1981 ch 488 § 1; Stats 1984 ch 1429 § 1; Stats 1985 ch 1474 § 4; Stats 1986 ch 277 § 1; Stats 1994 ch 453 § 13 (AB 560), ch 835 § 1.2 (AB 234); Stats 1996 ch 745 § 1 (AB 3294); Stats 1998 ch 374 § 1 (SB 1387); Stats 1999 ch 83 § 194 (SB 966). Amendment adopted by voters, Prop. 21 § 28, effective March 8, 2000; Amended Stats 2011 ch 459 § 21 (AB 212), effective October 4, 2011; Stats 2013 ch 269 § 1 (AB 1006), effective January 1, 2014; Stats 2015 ch 388 § 2 (SB 504), effective January 1, 2016; Stats 2017 ch 679 § 1 (SB 312), effective January 1, 2018; Stats 2018 ch 423 § 125 (SB 1494), effective January 1, 2019; Stats 2019 ch 50 § 2 (AB 1537), effective January 1, 2020; Stats 2020 ch 329 § 1 (AB 2321), effective January 1, 2021.

## **§ 781.5. [See Subsection (n) for Repeal Information] Relief for Minors; Destruction or Sealing of Records.**

**(a)** Notwithstanding Section 781, in any case where a minor has been cited to appear before a probation officer, has been taken before a probation officer pursuant to Section 626, or has been taken before any officer of a law enforcement agency, and no accusatory pleading or petition to adjudge the minor a ward of the court has been filed, the minor may request in writing that the law enforcement agency and probation officer having jurisdiction over the offense destroy their records of the arrest or citation. A copy of the request shall be served upon the district attorney of the county having jurisdiction over the offense. The law enforcement agency and probation officer having jurisdiction over the offense, upon a determination that the minor is factually innocent, shall, with the concurrence of the district attorney, seal their records with respect to the minor and the request for relief under this section for three years from the date of the arrest or citation and thereafter destroy the records and the request. A determination of factual innocence shall not be made pursuant to this subdivision unless the law enforcement agency and probation officer, with the concurrence of the district attorney, determine that no reasonable cause exists to believe that the minor committed the offense for which the arrest was made or the citation was issued. The law enforcement agency and probation officer having jurisdiction over the offense shall notify the Department of Justice, and any other law enforcement agency or probation officer that arrested or cited the minor or participated in the arrest or citing of the minor for an offense for which the minor has been found factually innocent under this subdivision, of the sealing of the minor's records and the reason therefor. The Department of Justice and any law enforcement agency or probation officer so notified shall forthwith seal its records of the arrest or citation and the notice of sealing for three years from the date of the arrest or citation, and thereafter destroy those records and the notice of sealing. The law enforcement agency and probation officer having jurisdiction over the offense and the Department of Justice shall request the destruction of any records of the arrest or citation that they have given to any local, state, or federal agency or to any other person or entity. Each agency, person, or entity within the State of California receiving that request shall destroy its records of the arrest or citation and that request, unless otherwise provided in this section.

**(b)** If, after receipt by the law enforcement agency, probation officer, and the district attorney of a request for relief under subdivision (a), the law enforcement agency, probation officer, and district attorney do not respond to the request by accepting or denying the request within 60 days after the running of the statute of limitations for the offense for which the minor was cited or arrested or within 60 days after receipt of the petition in cases where the statute of limitations has previously lapsed, then the request shall be deemed to be denied. In any case where the request of a minor to the law enforcement agency and probation officer to have a record destroyed is denied, petition may be made to the juvenile court that would have had jurisdiction over the matter. A copy of the petition shall be served on the district attorney of the county having jurisdiction over the offense at

least 10 days prior to the hearing thereon. The district attorney may present evidence to the court at the hearing. Notwithstanding any other provision of law, any judicial determination of factual innocence made pursuant to this subdivision may be heard and determined upon declarations, affidavits, police reports, or any other evidence submitted by the parties that is material, relevant, and reliable. A finding of factual innocence and an order for the sealing and destruction of records pursuant to this subdivision or subdivision (d) shall not be made unless the court finds that no reasonable cause exists to believe that the minor committed the offense for which the arrest was made or the citation was issued. In any court hearing to determine the factual innocence of a minor, the initial burden of proof shall rest with the minor to show that no reasonable cause exists to believe that the minor committed the offense for which the arrest was made or the citation was issued. If the court finds that this showing of no reasonable cause has been made by the minor, then the burden of proof shall shift to the respondent to show that a reasonable cause exists to believe that the minor committed the offense for which the arrest was made or the citation was issued.

**(c)** If the court finds the minor to be factually innocent of the charges for which the arrest was made or the citation was issued, then the court shall order the law enforcement agency and probation officer having jurisdiction over the offense, the Department of Justice, and any law enforcement agency or probation officer that arrested or cited the minor or participated in the arrest or citation of the minor for an offense for which the minor has been found factually innocent under this section, to seal their records relating to the minor and the court order to seal and destroy those records, for three years from the date of the arrest or citation and thereafter to destroy those records and the court order to seal and destroy those records. The court shall also order the law enforcement agency and probation officer having jurisdiction over the offense and the Department of Justice to request the destruction of any records of the arrest that they have given to any local, state, or federal agency, person or entity. Each state or local agency, person or entity within the State of California receiving that request shall destroy its records of the arrest or citation and the request to destroy those records, unless otherwise provided in this section. The court shall give to the minor a copy of any court order concerning the destruction of the arrest or citation records.

**(d)** Notwithstanding Section 781, in any case where a minor has been arrested or a citation has been issued, and an accusatory pleading or petition to adjudge the minor a ward of the court has been filed, but not sustained, the minor may, at any time after dismissal of the proceeding, request in writing from the court that dismissed the proceeding a finding that the minor is factually innocent of the charges for which the arrest was made or the citation was issued. A copy of the request shall be served on the district attorney of the county in which the accusatory pleading or petition was filed at least 10 days prior to the hearing on the minor's factual innocence. The district attorney may present evidence to the court at the hearing. The hearing shall be conducted as provided in subdivision (b). If the court finds the petitioner to be factually innocent of the charges for which the arrest was made or the citation was issued, then the court shall grant the relief as provided in subdivision (c).

**(e)** Notwithstanding Section 781, in any case where a minor has been arrested or cited and an accusatory pleading or petition to adjudge the minor a ward of the court has been filed, but not sustained, and it appears to the judge presiding at the proceeding that the minor was factually innocent of the offense, the court, upon the written or oral motion of any party in the case or on the court's own motion, may grant the relief provided in subdivision (c). If the district attorney objects to the court granting that relief, the district attorney may request a hearing as to the minor's factual innocence. This hearing shall be conducted as provided in subdivision (b).

**(f)** In any case where a minor who has been arrested or cited is granted relief pursuant to this section, the law enforcement agency and probation officer having jurisdiction over the offense or the court shall issue a written declaration to the minor stating that it is the determination of the law enforcement agency and probation officer having jurisdiction over the offense or the court that the minor is factually innocent of the charges for which the minor was arrested or cited and that the minor is thereby exonerated. Thereafter, the arrest or citation shall be deemed not to have occurred and the minor may answer accordingly any question relating to its occurrence.

(g) The Department of Justice shall furnish forms to be utilized by minors requesting the destruction of their arrest or citation records and for the written declaration that a minor was found factually innocent under this section.

(h) Documentation of arrest or citation records that are destroyed pursuant to this section that are contained in investigative police reports shall bear the notation "Exonerated" whenever reference is made to the minor. The minor shall be notified in writing by the law enforcement agency and probation officer having jurisdiction over the offense of the sealing and destruction of the arrest and citation records pursuant to this section.

(i) Any finding that a minor is factually innocent pursuant to this section shall not be admissible as evidence in any action.

(j) Destruction of records of arrest or citation pursuant to this section shall be accomplished by permanent obliteration of all entries or notations upon those records pertaining to the arrest or citation, and the record shall be prepared again so that it appears that the arrest or citation never occurred. However, where the only entries on the record pertain to the arrest or citation and the record can be destroyed without necessarily effecting the destruction of other records, then the document constituting the record shall be physically destroyed.

(k) No records shall be destroyed pursuant to this section if the minor or another individual arrested or cited for the same offense has filed a civil action against the peace officers, law enforcement agency, or probation officer that made the arrest, issued the citation, or commenced the proceedings and if the agency or officer that is the custodian of those records has received a certified copy of the complaint in the civil action, until the civil action has been resolved. Any records sealed pursuant to this section by the court in the civil action, upon a showing of good cause, may be opened and submitted 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 authorized by the court. Immediately following the final resolution of the civil action, records subject to this section shall be sealed and destroyed pursuant to this section.

(l) Any relief that is available to a minor under this section for an arrest or citation shall also be available for a minor who is taken into temporary custody and then released pursuant to Sections 625 and 626.

(m) This section shall not apply to any offense that is classified as an infraction.

(n)

(1) This section shall be repealed on the effective date of a final judgment based on a claim under the California or United States Constitution holding that evidence that is relevant, reliable, and material may not be considered for purposes of a judicial determination of factual innocence under this section. For purposes of this subdivision, a judgment by the appellate division of a superior court is a final judgment if it is published and if it is not reviewed on appeal by a court of appeal. A judgment of a court of appeal is a final judgment if it is published and if it is not reviewed by the California Supreme Court.

(2) Any decision referred to in this subdivision shall be stayed pending appeal.

(3) If not otherwise appealed by a party to the action, any decision referred to in this subdivision that is a judgment by the appellate division of the superior court, shall be appealed by the Attorney General.

Leg.H.

Added Stats 1999 ch 167 § 1 (AB 744), effective January 1, 2000, repeal contingent.

## § 782. Dismissal of Petition Before Minor Reaches Age 21.

A judge of the juvenile court in which a petition was filed 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 person who is the subject of the petition require that dismissal, or if it finds that he or she is not in need of treatment or rehabilitation. The court has jurisdiction to order dismissal or setting aside of the findings and dismissal regardless of whether the person who is the subject of the petition is, at the time of the order, a ward or dependent child of the court. Nothing in this section shall be interpreted to require the court to maintain jurisdiction over a person who is the subject of a petition between the time the court's jurisdiction over that person terminates and the point at which his or her petition is dismissed.

**Leg.H.**

1971 ch. 607. Amended Stats 2014 ch 249 § 1 (SB 1038), effective January 1, 2015.

## **§ 783. Reporting of Violation of § 23152 or § 23153 by Minor.**

An adjudication that a minor violated any of the provisions enumerated in subdivision (d) of Section 13202.5 of the Vehicle Code shall be reported to the Department of Motor Vehicles at its office in Sacramento within 10 days of the adjudication pursuant to Section 1803 of the Vehicle Code.

**Leg.H.**

1983 ch. 934, 1988 ch. 1254.

## **§ 784. Abstract of Record—Certification and Transmission to Department of Motor Vehicles.**

Notwithstanding any other provision of law, upon adjudication that a minor violated any provision of law for which a report would be required under Section 1803 of the Vehicle Code, including any determination that because of the act the minor is a person described in Section 601 or 602 or that a program of supervision should be instituted for the minor, the clerk shall, not more than 30 days after the violation and in no case later than 10 days after the adjudication, prepare an abstract of the record, certify the abstract to be true and correct, and immediately forward the abstract to the Department of Motor Vehicles. The record shall be a public record subject to disclosure in the same manner as reports made under Section 1803 of the Vehicle Code.

**Leg.H.**

1989 ch. 1465.

## **§ 785. Petition to Terminate or Modify Juvenile Court Jurisdiction.**

(a) Where a minor is a ward of the juvenile court, the wardship did not result in the minor's commitment to the Youth Authority, and the minor is found not to be a fit and proper subject to be dealt with under the juvenile court law with respect to a subsequent allegation of criminal conduct, any parent or other person having an interest in the minor, or the minor, through a properly appointed guardian, the prosecuting attorney, or probation officer, may petition the court in the same action in which the minor was found to be a ward of the juvenile court for a hearing for an order to terminate or modify the jurisdiction of the juvenile court. The court shall order that a hearing be held and shall give prior notice, or cause prior notice to be given, to those persons and by the means prescribed by Sections 776 and 779, by electronic service pursuant to Section 212.5, or where the means of giving notice is not prescribed by those sections, then by such means as the court prescribes.

(b) The petition shall be verified and shall state why jurisdiction should be terminated or modified in concise language.

(c) In determining whether or not the wardship shall terminate or be modified, the court shall be guided by the policies set forth in Section 202.

(d) In addition to its authority under this chapter, the Judicial Council shall adopt rules providing criteria for the consideration of the juvenile court in determining whether or not to terminate or modify jurisdiction pursuant to this section.

**Leg.H.**

Added Stats 1994 ch 448 § 6 (AB 1948); Amended Stats 2010 ch 559 § 29.5 (AB 12), effective January 1, 2011; Stats 2011 ch 459 § 22 (AB 212), effective October 4, 2011; Stats 2017 ch 319 § 146 (AB 976), effective January 1, 2018.

## **§ 786. Dismissal Of Petition If Satisfactory Completion Of Specified Program Of Supervision Or Term Of Probation.**

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

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

**(c)**

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

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

(d) A court shall not seal a record or dismiss a petition pursuant to this section if the petition was sustained based on the commission of an offense listed in subdivision (b) of Section 707 that was committed when the

individual was 14 years of age or older unless the finding on that offense was dismissed or was reduced to a misdemeanor or to a lesser offense that is not listed in subdivision (b) of Section 707.

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

**(f)**

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

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

**(g)**

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

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

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

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

**(D)** Upon a subsequent adjudication of a minor whose record has been sealed under this section and a finding that the minor is a person described by Section 602 based on the commission of a felony offense, by the probation department, the prosecuting attorney, counsel for the minor, or the court for the limited purpose of determining an appropriate juvenile court disposition. Access, inspection, or

use of a sealed record as provided under this subparagraph shall not be construed as a reversal or modification of the court's order dismissing the petition and sealing the record in the prior case.

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

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

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

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

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

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

**(K)**

**(i)** A record that has been sealed pursuant to this section may be accessed, inspected, or utilized by the prosecuting attorney in order to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case in which the prosecuting attorney has reason to believe that access to the record is necessary to meet the disclosure obligation. A request to access information in the sealed record for this purpose, including the prosecutor's rationale for believing that access to the information in the record may be necessary to meet the disclosure obligation and the date by which the records are needed, shall be submitted by the prosecuting attorney to the juvenile court. The juvenile court shall notify the person having the sealed record, including the person's attorney of record, that the court is considering the prosecutor's request to access the record, and the court shall provide that person with the opportunity to respond, in writing or by appearance, to the request prior to making its determination. The juvenile court shall review the case file and records that have been referenced by the prosecutor as necessary to meet the disclosure obligation and any response submitted by the person having the sealed record. The court shall approve the prosecutor's request to the extent that the court has, upon review of the relevant records, determined that access to a specific sealed record or portion of a sealed record is necessary to enable the prosecuting attorney to comply with the disclosure obligation. If the juvenile court approves the prosecuting attorney's request, the court shall state on the record appropriate limits on the access, inspection, and utilization of the sealed record information in order to protect the confidentiality

of the person whose sealed record is accessed pursuant to this subparagraph. A ruling allowing disclosure of information pursuant to this subdivision does not affect whether the information is admissible in a criminal or juvenile proceeding. This subparagraph does not impose any discovery obligations on a prosecuting attorney that do not already exist.

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

(L) If a new petition has been filed against the minor in juvenile court and the issue of competency is raised, by the probation department, the prosecuting attorney, counsel for the minor, and the court for the purpose of assessing the minor's competency in the proceedings on the new petition. Access, inspection, or utilization of the sealed records is limited to any prior competency evaluations submitted to the court, whether ordered by the court or not, all reports concerning remediation efforts and success, all court findings and orders relating to the minor's competency, and any other evidence submitted to the court for consideration in determining the minor's competency, including, but not limited to, school records and other test results. The information obtained pursuant to this subparagraph shall not be disseminated to any other person or agency except as necessary to evaluate the minor's competency or provide remediation services, and shall not be used to support the imposition of penalties, detention, or other sanctions on the minor. Access to the sealed record under this subparagraph shall not be construed as a modification of the court's order dismissing the petition and sealing the record in the case.

(M) A record that was sealed pursuant to this section that was generated in connection with the investigation, prosecution, or adjudication of a qualifying offense as defined in **subdivision (c) of Section 679.10 of the Penal Code** may be accessed by a judge or prosecutor for the limited purpose of processing a request of a victim or victim's family member to certify victim helpfulness on the Form I-918 Supplement B certification or Form I-914 Supplement B declaration. The information obtained pursuant to this subparagraph shall not be disseminated to other agencies or individuals, except as necessary to certify victim helpfulness on the Form I-918 Supplement B certification or Form I-914 Supplement B declaration, and under no circumstances shall it be used to support the imposition of penalties, detention, or other sanctions upon an individual.

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

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

(h)

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

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

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

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

**Leg.H.**

Added Stats 2014 ch 249 § 2 (SB 1038), effective January 1, 2015. Amended Stats 2015 ch 368 § 1 (AB 666), effective January 1, 2016, ch 375 § 1.5 (AB 989), effective January 1, 2016; Stats 2016 ch 86 § 312 (SB 1171), effective January 1, 2017; Stats 2016 ch 858 § 1 (AB 1945), effective January 1, 2017; Stats 2017 ch 679 § 2 (SB 312), effective January 1, 2018; Stats 2017 ch 685 § 1.5 (AB 529), effective January 1, 2018 (ch 685 prevails); Stats 2018 ch 793 § 1 (SB 1281), effective January 1, 2019; Stats 2018 ch 1002 § 1.5 (AB 2952), effective January 1, 2019 (ch 1002 prevails); Stats 2019 ch 50 § 3 (AB 1537), effective January 1, 2020; Stats 2020 ch 338 § 1.5 (SB 1126), effective January 1, 2021; Stats 2020 ch 329 § 2 (AB 2321), effective January 1, 2021 (ch 338 prevails).

## **§ 786.5. Records Sealed Upon Satisfactory Completion of Program of Supervision or Diversion.**

**(a)** Notwithstanding any other law, the probation department shall seal the arrest and other records in its custody relating to a juvenile's arrest and referral and participation in a diversion or supervision program under both of the following circumstances:

**(1)** Upon satisfactory completion of a program of diversion or supervision to which a juvenile is referred by the probation officer in lieu of the filing of a petition to adjudicate the juvenile a ward of the juvenile court, including a program of informal supervision pursuant to Section 654.

**(2)** Upon satisfactory completion of a program of diversion or supervision to which a juvenile is referred by the prosecutor in lieu of the filing of a petition to adjudicate the juvenile a ward of the juvenile court, including a program of informal supervision pursuant to Section 654.

**(b)** The probation department shall notify the arresting law enforcement agency to seal the arrest records described in subdivision (a), and the arresting law enforcement agency shall seal the records in its custody relating to the arrest no later than 60 days from the date of notification by the probation department. Upon sealing, the arresting law enforcement agency shall notify the probation department that the records have been sealed. Within 30 days from receipt of notification by the arresting law enforcement agency that the records have been sealed pursuant to this section, the probation department shall notify the minor in writing that their record has been sealed pursuant to this section. If records have not been sealed pursuant to this section, the written notice from the probation department shall inform the minor of their ability to petition the court directly to seal their arrest and other related records.

**(c)** Upon sealing of the records pursuant to this section, the arrest or offense giving rise to any of the circumstances specified in subdivision (a) shall be deemed not to have occurred and the individual may respond accordingly to any inquiry, application, or process in which disclosure of this information is requested or sought.

**(d)**

**(1)** For the records relating to the circumstances described in subdivision (a), the probation department shall issue notice as follows:

**(A)** The probation department shall notify a public or private agency operating a diversion program to which the juvenile has been referred under these circumstances to seal records in the program operator's custody relating to the arrest or referral and the participation of the juvenile in the

diversion or supervision program, and the operator of the program shall seal the records in its custody relating to the juvenile's arrest or referral and participation in the program no later than 60 days from the date of notification by the probation department. Upon sealing, the public or private agency operating a diversion program shall notify the probation department that the records have been sealed.

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

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

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

**(f)**

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

**(2)**

**(A)** Any record, that has been sealed pursuant to this section may be accessed, inspected, or utilized by the prosecuting attorney in order to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case in which the prosecuting attorney has reason to believe that access to the record is necessary to meet the disclosure obligation.

**(B)**

**(i)** A prosecuting attorney shall not use information contained in a record sealed pursuant to this section for any purpose other than those provided in subparagraph (A).

**(ii)** Once the case referenced in subparagraph (A) has been closed and is no longer subject to review on appeal, the prosecuting attorney shall destroy any records obtained pursuant to this subparagraph.

#### **Leg.H.**

Added Stats 2017 ch 685 § 2 (AB 529), effective January 1, 2018. Amended Stats 2020 ch 330 § 1 (AB 2425), effective January 1, 2021.

## § 787. Access To Sealed Record By State Or Local Agency Having Custody Of Sealed Record; Authorization Of Researcher Or Research Organization To Review Sealed Records.

(a) Notwithstanding any other law, a record sealed pursuant to Section 781, 786, or 786.5 may be accessed by a law enforcement agency, probation department, court, the Department of Justice, or other state or local agency that has custody of the sealed record for the limited purpose of complying with data collection or data reporting requirements that are imposed by other provisions of law. However, no personally identifying information from a sealed record accessed under this subdivision may be released, disseminated, or published by or through an agency, department, court, or individual that has accessed or obtained information from the sealed record.

(b) Notwithstanding any other law, a court may authorize a researcher or research organization to access information contained in records that have been sealed pursuant to Section 781, 786, or 786.5 for the purpose of conducting research on juvenile justice populations, practices, policies, or trends, if both of the following are true:

(1) The court is satisfied that the research project or study includes a methodology for the appropriate protection of the confidentiality of an individual whose sealed record is accessed pursuant to this subdivision.

(2) Personally identifying information relating to the individual whose sealed record is accessed pursuant to this subdivision is not further released, disseminated, or published by or through the researcher or research organization.

(c) For the purposes of this section “personally identifying information” has the same meaning as in Section 1798.79.8 of the Civil Code.

Leg.H.

Added Stats 2015 ch 368 § 2 (AB 666), effective January 1, 2016; Amended Stats 2018 ch 1002 § 2 (AB 2952), effective January 1, 2019.

## ARTICLE 20.5

### Deferred Entry of Judgment

## § 790. Application of Article; Procedure.

(a) Notwithstanding Section 654 or 654.2, or any other provision of law, this article shall apply whenever a case is before the juvenile court for a determination of whether a minor is a person described in Section 602 because of the commission of a felony offense, if all of the following circumstances apply:

(1) The minor has not previously been declared to be a ward of the court for the commission of a felony offense.

(2) The offense charged is not one of the offenses enumerated in subdivision (b) of Section 707.

(3) The minor has not previously been committed to the custody of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

(4) The minor's record does not indicate that probation has ever been revoked without being completed.

(5) The minor is at least 14 years of age at the time of the hearing.

(6) The minor is eligible for probation pursuant to [Section 1203.06 of the Penal Code](#).

(7) The offense charged is not rape, sodomy, oral copulation, or an act of sexual penetration specified in [Section 289 of the Penal Code](#) when the victim was prevented from resisting due to being rendered unconscious by any intoxicating, anesthetizing, or controlled substance, or when the victim was at the time incapable, because of mental disorder or developmental or physical disability, of giving consent, and that was known or reasonably should have been known to the minor at the time of the offense.

(b) The prosecuting attorney shall review their file to determine whether or not paragraphs (1) to (7), inclusive, of subdivision (a) apply. If the minor is found eligible for deferred entry of judgment, the prosecuting attorney shall file a declaration in writing with the court or state for the record the grounds upon which the determination is based, and shall make this information available to the minor and their attorney. Upon a finding that the minor is also suitable for deferred entry of judgment and would benefit from education, treatment, and rehabilitation efforts, the court may grant deferred entry of judgment. Under this procedure, the court may set the hearing for deferred entry of judgment at the initial appearance under Section 657. The court shall make findings on the record that a minor is appropriate for deferred entry of judgment pursuant to this article in any case where deferred entry of judgment is granted.

(c)

(1) If a minor is eligible for deferred entry of judgment, but the minor resides in a different county and the case will be transferred, as described in Section 750, the court may adjudicate the case without determining the minor's suitability for deferred entry of judgment to enable the court in the minor's county of residence to make that determination.

(2) If a minor is eligible for deferred entry of judgment, but the court did not determine the minor's suitability for deferred entry of judgment pursuant to paragraph (1), upon transfer of the case to the minor's county of residence, the receiving court may, prior to determining the disposition of the case, determine the minor's suitability for deferred entry of judgment and modify the transferring court's finding accordingly.

Leg.H.

Adopted by voters, Prop. 21 § 29, effective March 8, 2000. Amended Stats 2006 ch 675 § 1 (SB 1626), effective January 1, 2007; Stats 2014 ch 919 § 4 (SB 838), effective January 1, 2015; Stats 2021 ch 603 § 2 (SB 383), effective January 1, 2022.

## § 791. Contents of Written Notification to Minor; Procedure on Waiver of Right to Speedy Jurisdictional Hearing; Effect of Admission of Charges.

(a) The prosecuting attorney's written notification to the minor shall also include all of the following:

(1) A full description of the procedures for deferred entry of judgment.

(2) A general explanation of the roles and authorities of the probation department, the prosecuting attorney, the program, and the court in that process.

(3) A clear statement that, in lieu of jurisdictional and disposition hearings, the court may grant a deferred entry of judgment with respect to any offense charged in the petition, provided that the minor

admits each allegation contained in the petition and waives time for the pronouncement of judgment, and that upon the successful completion of the terms of probation, as defined in Section 794, the positive recommendation of the probation department, and the motion of the prosecuting attorney, but no sooner than 12 months and no later than 36 months from the date of the minor's referral to the program, the court shall dismiss the charge or charges against the minor.

(4) A clear statement that upon any failure of the minor to comply with the terms of probation, including the rules of any program the minor is directed to attend, or any circumstances specified in Section 793, the prosecuting attorney or the probation department, or the court on its own, may make a motion to the court for entry of judgment and the court shall render a finding that the minor is a ward of the court pursuant to Section 602 for the offenses specified in the original petition and shall schedule a dispositional hearing.

(5) An explanation of record retention and disposition resulting from participation in the deferred entry of judgment program and the minor's rights relative to answering questions about their arrest and deferred entry of judgment following successful completion of the program.

(b) If the minor consents and waives their right to a speedy jurisdictional hearing, the court may refer the case to the probation department or the court may summarily grant deferred entry of judgment if the minor admits the charges in the petition and waives time for the pronouncement of judgment. When directed by the court, the probation department shall make an investigation and take into consideration the defendant's age, maturity, educational background, family relationships, demonstrable motivation, treatment history, if any, and other mitigating and aggravating factors in determining whether the minor is a person who would be benefited by education, treatment, or rehabilitation. The probation department shall also determine which programs would accept the minor. The probation department shall report its findings and recommendations to the court. The court shall make the final determination regarding education, treatment, and rehabilitation of the minor.

(c) If a minor is eligible for deferred entry of judgment, but the court did not determine the minor's suitability for deferred entry of judgment pursuant to paragraph (1) of subdivision (c) of Section 790, when the case is transferred, the receiving court may, prior to determining the disposition of the case, order the probation department to make an investigation and report pursuant to subdivision (b) to determine the minor's suitability for deferred entry of judgment.

(d) A minor's admission of the charges contained in the petition pursuant to this chapter shall not constitute a finding that a petition has been sustained for any purpose, unless a judgment is entered pursuant to subdivision (b) of Section 793.

**Leg.H.**

Added by initiative measure effective March 8, 2000 (Prop. 21 § 29). Amended Stats 2021 ch 603 § 3 (SB 383), effective January 1, 2022.

## **§ 792. Issuance of Citation to Parent or Guardian.**

The judge shall issue a citation directing any custodial parent, guardian, or foster parent of the minor to appear at the time and place set for the hearing, 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. 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. The notice shall explain the provisions of **Section 170.6 of the Code of Civil Procedure**. Personal service shall be made at least 24 hours before the time stated for the appearance.

**Leg.H.**

[Adopted by Initiative (Prop. 21) at the March 7, 2000, Primary Election, operative March 8, 2000.]

## **§ 793. Basis for Lifting Deferred Entry of Judgment and Scheduling Dispositional Hearing; Report of Criminal History to Department of Justice; Dismissal of Charges.**

**(a)** If it appears to the prosecuting attorney, the court, or the probation department that the minor is not performing satisfactorily in the assigned program or is not complying with the terms of the minor's probation, or that the minor is not benefiting from education, treatment, or rehabilitation, the court shall lift the deferred entry of judgment and schedule a dispositional hearing. If after accepting deferred entry of judgment and during the period in which deferred entry of judgment was granted, the minor is convicted of, or declared to be a person described in Section 602 for the commission of, any felony offense or of any two misdemeanor offenses committed on separate occasions, the judge shall enter judgment and schedule a dispositional hearing. If the minor is convicted of, or found to be a person described in Section 602, because of the commission of one misdemeanor offense, or multiple misdemeanor offenses committed during a single occasion, the court may enter judgment and schedule a dispositional hearing.

**(b)** If the judgment previously deferred is imposed and a dispositional hearing scheduled pursuant to subdivision (a), the juvenile court shall report the complete criminal history of the minor to the Department of Justice, pursuant to Section 602.5.

**(c)** If the minor has performed satisfactorily during the period in which deferred entry of judgment was granted, at the end of that period the charge or charges in the wardship petition shall be dismissed and the arrest upon which the judgment was deferred shall be deemed never to have occurred and any records in the possession of the juvenile court shall be sealed, except that the prosecuting attorney and the probation department of any county shall have access to these records after they are sealed for the limited purpose of determining whether a minor is eligible for deferred entry of judgment pursuant to Section 790 and as described in subdivision (d).

**(d)**

**(1)** A record that has been sealed pursuant to this section may be accessed, inspected, or utilized by the prosecuting attorney in order to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case in which the prosecuting attorney has reason to believe that access to the record is necessary to meet the disclosure obligation. A request to access information in the sealed record for this purpose, including the prosecutor's rationale for believing that access to the information in the record may be necessary to meet the disclosure obligation and the date by which the records are needed, shall be submitted by the prosecuting attorney to the juvenile court. The juvenile court shall review the case file and records that have been referenced by the prosecutor as necessary to meet the disclosure obligation and any response submitted by the person having the sealed record. The court shall approve the prosecutor's request to the extent that the court has, upon review of the relevant records, determined that access to a specific sealed record or portion of a sealed record is necessary to enable the prosecuting attorney to comply with the disclosure obligation. If the juvenile court approves the prosecuting attorney's request, the court shall state on the record appropriate limits on the access, inspection, and utilization of the sealed record information in order to protect the confidentiality of the person whose sealed record is accessed pursuant to this subdivision. A ruling allowing disclosure of information pursuant to this subdivision does not affect whether the information is admissible in a criminal or juvenile proceeding. This subdivision does not impose any discovery obligations on a prosecuting attorney that do not already exist.

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

**Leg.H.**

Added by initiative measure effective March 8, 2000 (Prop. 21 § 29). Amended Stats 2019 ch 50 § 4 (AB 1537), effective January 1, 2020.

## **§ 794. Conditions of Probation.**

When a minor is permitted to participate in a deferred entry of judgment procedure, the judge shall impose, as a condition of probation, the requirement that the minor be subject to warrantless searches of his or her person, residence, or property under his or her control, upon the request of a probation officer or peace officer. The court shall also consider whether imposing random drug or alcohol testing, or both, including urinalysis, would be an appropriate condition of probation. The judge shall also, when appropriate, require the minor to periodically establish compliance with curfew and school attendance requirements. The court may, in consultation with the probation department, impose any other term of probation authorized by this code that the judge believes would assist in the education, treatment, and rehabilitation of the minor and the prevention of criminal activity. The minor may also be required to pay restitution to the victim or victims pursuant to the provisions of this code.

**Leg.H.**

[Adopted by Initiative (Prop. 21) at the March 7, 2000, Primary Election, operative March 8, 2000.]

## **§ 795. Program Administrator.**

The county probation officer or a person designated by the county probation officer shall serve in each county as the program administrator for juveniles granted deferred entry of judgment and shall be responsible for developing, supervising, and monitoring treatment programs and otherwise overseeing the placement and supervision of minors granted probation pursuant to the provisions of this chapter.

**Leg.H.**

[Adopted by Initiative (Prop. 21) at the March 7, 2000, Primary Election, operative March 8, 2000.]

## **§ 796.**

**Leg.H.**

Enacted 2000. Inoperative July 1, 2002; repealed operative January 1, 2003, by its own provisions. 2000 ch. 366.

# **ARTICLE 21**

## **Wards—Appeals**

## **§ 800. Appealable Orders—General Rules and Procedures.**

(a) A judgment in a proceeding under Section 601 or 602 may be appealed from, by the minor, in the same manner as any final judgment, and any subsequent order may be appealed from, by the minor, as from an order after judgment. Pending appeal of the order or judgment, the granting or refusal to order release shall rest in the

discretion of the juvenile court. The appeal shall have precedence over all other cases in the court to which the appeal is taken.

A ruling on a motion to suppress pursuant to Section 700.1 shall be reviewed on appeal even if the judgment is predicated upon an admission of the allegations of the petition.

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.

(b) An appeal may be taken by the people from any of the following:

(1) A ruling on a motion to suppress pursuant to Section 700.1 even if the judgment is a dismissal of the petition or any count or counts of the petition. However, no appeal by the people shall lie as to any count which, if the people are successful, will be the basis for further proceedings subjecting any person to double jeopardy.

(2) An order made after judgment entered pursuant to Section 777 or 785.

(3) An order modifying the jurisdictional finding by reducing the degree of the offense or modifying the offense to a lesser offense.

(4) An order or judgment dismissing or otherwise terminating the action before the minor has been placed in jeopardy, or where the minor has waived jeopardy. If, pursuant to this paragraph, the people prosecute an appeal of the decision or any review of that decision, it shall be binding upon the people and they shall be prohibited from refileing the case which was appealed.

(5) The imposition of an unlawful order at a dispositional hearing, whether or not the court suspends the execution of the disposition.

(c) Nothing contained in this section shall be construed to authorize an appeal from an order granting probation. Instead, the people may seek appellate review of any grant of probation, whether or not the court imposes disposition, by means of a petition for a writ of mandate or prohibition which is filed within 60 days after probation is granted. The review of any grant of probation shall include review of any order underlying the grant of probation.

(d) An appellant unable to afford counsel, shall be provided a free copy of the transcript in any appeal.

(e) 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 (c) of Section 68511.3 of the Government Code as though the appellant had been granted permission to proceed in forma pauperis.

(f) All appeals shall be initiated by the filing of notice of appeal in conformity with the requirements of Section 1240.1 of the Penal Code.

**Leg.H.**

1961 ch. 1616, 1963 ch. 917, 1967 ch. 1355, 1976 ch. 1068, 1978 ch. 1385, 1980 chs. 1092, 1095, 1982 ch. 454, 1986 ch. 823, 1990 ch. 482, 1991 ch. 649, 1994 ch. 448.

## **ARTICLE 22**

### **Wards and Dependent Children—Records**

## § 825. Preservation of Superior Court Orders and Findings.

The order and findings of the superior court in each case under the provisions of this chapter shall be entered in a suitable book or other form of written record which shall be kept for that purpose and known as the "juvenile court record."

**Leg.H.**

1961 ch. 1616.

## § 826. Destruction of Records.

(a) After five years from the date on which the jurisdiction of the juvenile court over a minor is terminated, the probation officer may destroy all records and papers in the proceedings concerning the minor.

The juvenile court record, which includes all records and papers, any minute book entries, dockets and judgment dockets, shall be destroyed by order of the court as follows: when the person who is the subject of the record reaches the age of 28 years, if the person was alleged or adjudged to be a person described by Section 300, when the person who is the subject of the record reaches the age of 21 years, if the person was alleged or adjudged to be a person described by Section 601, or when the person reaches the age of 38 years if the person was alleged or adjudged to be a person described by Section 602, unless for good cause the court determines that the juvenile record shall be retained, or unless the juvenile court record is released to the person who is the subject of the record pursuant to this section. However, a juvenile court record which is not permitted to be sealed pursuant to subdivision (f) of Section 781 shall not be destroyed pursuant to this section.

Any person who is the subject of a juvenile court record may by written notice request the juvenile court to release the court record to his or her custody. Wherever possible, the written notice shall include the person's full name, the person's date of birth, and the juvenile court case number. Any juvenile court receiving the written notice shall release the court record to the person who is the subject of the record five years after the jurisdiction of the juvenile court over the person has terminated, if the person was alleged or adjudged to be a person described by Section 300, or when the person reaches the age of 21 years, if the person was alleged or adjudged to be a person described by Section 601, unless for good cause the court determines that the record shall be retained. Exhibits shall be destroyed as provided under [Section 1417 of the Penal Code](#). For the purpose of this section "destroy" means destroy or dispose of for the purpose of destruction. The proceedings in any case in which the juvenile court record is destroyed or released to the person who is the subject of the record pursuant to this section shall be deemed never to have occurred, and the person may reply accordingly to any inquiry about the events in the case.

(b) If an individual whose juvenile court record has been destroyed or released under subdivision (a) discovers that any other agency still retains a record, the individual may file a petition with the court requesting that the records be destroyed. The petition will include the name of the agency and the type of record to be destroyed. The court shall order that such records also be destroyed unless for good cause the court determines to the contrary. The court shall send a copy of the order to each agency and each agency shall destroy records in its custody as directed by the order, and shall advise the court of its compliance. The court shall then destroy the copy of the petition, the order, and the notice of compliance from each agency. Thereafter, the proceedings in such case shall be deemed never to have occurred.

(c) Juvenile court records in juvenile traffic matters, which include all records and papers, any minute book entries, dockets and judgment dockets, may be destroyed after five years from the date on which the jurisdiction of the juvenile court over a minor is terminated, or when the minor reaches the age of 21 years, if the person was alleged or adjudged to be a person described by Section 601. Prior to such destruction the original record may be

microfilmed or photocopied. Every such reproduction shall be deemed and considered an original; and a transcript, exemplification or certified copy of any such reproduction shall be deemed and considered a transcript, exemplification or certified copy, as the case may be, of the original.

**Leg.H.**

Added Stats 1980 ch 1104 § 4. Amended Stats 1981 ch 488 § 2; Stats 1990 ch 698 § 1 (AB 3466); Stats 1994 ch 835 § 2 (AB 234); Stats 2011 ch 459 § 23 (AB 212), effective October 4, 2011.

## **§ 826.5. Destruction of Microfilmed Records.**

(a) Notwithstanding the provisions of Section 826, at any time before a person reaches the age when his or her records are required to be destroyed, the judge or clerk of the juvenile court or the probation officer may destroy all records and papers, the juvenile court record, any minute book entries, dockets, and judgment dockets in the proceedings concerning the person as a minor if the records and papers, juvenile court record, any minute book entries, dockets, and judgment dockets are microfilmed or photocopied prior to destruction. Exhibits shall be destroyed as provided under [Sections 1418, 1418.5, and 1419 of the Penal Code](#).

(b) Every reproduction shall be deemed and considered an original. A transcript, exemplification, or certified copy of any reproduction shall be deemed and considered a transcript, exemplification, or certified copy, as the case may be, of the original.

**Leg.H.**

1974 ch. 223, 1977 ch. 239, 1980 ch. 1104, 1981 ch. 488.

## **§ 826.6. Notice to Minor Concerning Records.**

(a) Any minor who is the subject of a petition that has been filed in juvenile court to adjudge the minor a dependent child or a ward of the court shall be given written notice by the clerk of the court upon disposition of the petition or the termination of jurisdiction of the juvenile court of all of the following:

(1) The statutory right of any person who has been the subject of juvenile court proceedings to petition for sealing of the case records.

(2) The statutory provisions regarding the destruction of juvenile court records and records of juvenile court proceedings retained by state or local agencies.

(3) The statutory right of any person who has been the subject of juvenile court proceedings to have his or her juvenile court record released to him or her in lieu of its destruction.

(b) In any juvenile case where a local welfare department, probation department, or district attorney is responsible for notifying the minor of the dismissal, release, or termination of the case, the agency shall provide written notice to the minor of the information specified in subdivision (a) upon the dismissal, release, or termination of the case.

(c) A written form providing the information described in this section shall be prepared by the clerk of the court and shall be made available to juvenile court clerks, probation departments, welfare departments, and district attorneys.

**Leg.H.**

1980 ch. 1104, 1981 ch. 488.

## § 826.7. Release of Juvenile Case File.

Juvenile case files that pertain to a child who died as the result of abuse or neglect shall be released by the custodian of records of the county welfare department or agency to the public pursuant to Section 10850.4 or an order issued pursuant to paragraph (2) of subdivision (a) of Section 827.

**Leg.H.**

Added Stats 2007 ch 468 § 2 (SB 39), effective January 1, 2008.

## § 826.8. Provision Of Information To Verify Person Was Formerly Dependent Or Ward Of Juvenile Court And Placed In Foster Care.

Notwithstanding Section 827 and in order to assist with establishing eligibility for programs or services, the State Department of Social Services may provide to a person who was previously adjudged a dependent or ward of the juvenile court, was placed in foster care, and whose dependency or wardship has been dismissed, upon request by that person, the information included in the proof of dependency or wardship document described in subparagraph (E) of paragraph (2) of subdivision (e) of Section 391, or any information necessary to provide verification that the person was formerly a dependent or ward of the juvenile court and placed in foster care.

**Leg.H.**

Added Stats 2015 ch 215 § 1 (AB 592), effective August 17, 2015.

## § 827. Limited Dissemination of Records; Misdemeanor Violation of Confidentiality Provisions.

**(a)**

**(1)** Except as provided in Section 828, a case file may be inspected only by the following:

**(A)** Court personnel.

**(B)** The district attorney, a city attorney, or city prosecutor authorized to prosecute criminal or juvenile cases under state law.

**(C)** The minor who is the subject of the proceeding.

**(D)** The minor's parent or guardian.

**(E)** The attorneys for the parties, judges, referees, other hearing officers, probation officers, and law enforcement officers who are actively participating in criminal or juvenile proceedings involving the minor.

**(F)** The county counsel, city attorney, or any other attorney representing the petitioning agency in a dependency action.

**(G)** The superintendent or designee of the school district where the minor is enrolled or attending school.

**(H)** Members of the child protective agencies as described in [Section 11165.9 of the Penal Code](#).

(I) The State Department of Social Services, to carry out its duties pursuant to Division 9 (commencing with Section 10000) of this code 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 paragraph (2).

(J)

(i) Authorized staff who are employed by, or authorized staff of entities who are licensed by, the State Department of Social Services, as necessary to the performance of their duties related to resource family approval, and authorized staff who are employed by the State Department of Social Services as necessary to inspect, approve, or license, and monitor or investigate community care facilities or resource families, and 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.

(ii) The confidential information shall remain confidential except for purposes of inspection, approval or licensing, or monitoring 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 and Article 2 (commencing with Section 16519.5) of Chapter 5 of Part 4 of Division 9. The confidential information may also 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 to 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 determines that no further action will be taken in the matter. Except as otherwise provided in this subdivision, confidential information shall not contain the name of the minor.

(K) Members of children's multidisciplinary teams, persons, or agencies providing treatment or supervision of the minor.

(L) A judge, commissioner, or other hearing officer assigned to a family law case with issues concerning custody or visitation, or both, involving the minor, and the following persons, if actively participating in the family law case: a family court mediator assigned to a case involving the minor pursuant to Article 1 (commencing with Section 3160) of Chapter 11 of Part 2 of Division 8 of the Family Code, a court-appointed evaluator or a person conducting a court-connected child custody evaluation, investigation, or assessment pursuant to [Section 3111 or 3118 of the Family Code](#), and counsel appointed for the minor in the family law case pursuant to [Section 3150 of the Family Code](#). Prior to allowing counsel appointed for the minor in the family law case to inspect the file, the court clerk may require counsel to provide a certified copy of the court order appointing the minor's counsel.

(M) When acting within the scope of investigative duties of an active case, a statutorily authorized or court-appointed investigator who is conducting an investigation pursuant to [Section 7663, 7851, or 9001 of the Family Code](#), or who is actively participating in a guardianship case involving a minor pursuant to Part 2 (commencing with Section 1500) of Division 4 of the Probate Code and acting within the scope of the investigator's duties in that case.

(N) A local child support agency for the purpose of establishing paternity and establishing and enforcing child support orders.

**(O)** Juvenile justice commissions as established under Section 225. The confidentiality provisions of Section 10850 shall apply to a juvenile justice commission and its members.

**(P)** The Department of Justice, to carry out its duties pursuant to Sections 290.008 and 290.08 of the Penal Code as the repository for sex offender registration and notification in California.

**(Q)** Any other person who may be designated by court order of the judge of the juvenile court upon filing a petition.

**(R)** A probation officer who is preparing a report pursuant to Section 1178 on behalf of a person who was in the custody of the Department of Corrections and Rehabilitation, Division of Juvenile Justice and who has petitioned the Board of Juvenile Hearings for an honorable discharge.

**(2)**

**(A)** Notwithstanding any other law and subject to subparagraph (A) of paragraph (3), juvenile case files, except those relating to matters within the jurisdiction of the court pursuant to Section 601 or 602, that pertain to a deceased child who was within the jurisdiction of the juvenile court pursuant to Section 300, shall be released to the public pursuant to an order by the juvenile court after a petition has been filed and interested parties have been afforded an opportunity to file an objection. Any information relating to another child or that could identify another child, except for information about the deceased, shall be redacted from the juvenile case file prior to release, unless a specific order is made by the juvenile court to the contrary. Except as provided in this paragraph, the presiding judge of the juvenile court may issue an order prohibiting or limiting access to the juvenile case file, or any portion thereof, of a deceased child only upon a showing by a preponderance of evidence that release of the juvenile case file or any portion thereof is detrimental to the safety, protection, or physical or emotional well-being of another child who is directly or indirectly connected to the juvenile case that is the subject of the petition.

**(B)** This paragraph represents a presumption in favor of the release of documents when a child is deceased unless the statutory reasons for confidentiality are shown to exist.

**(C)** If a child whose records are sought has died, and documents are sought pursuant to this paragraph, no weighing or balancing of the interests of those other than a child is permitted.

**(D)** A petition filed under this paragraph shall be served on interested parties by the petitioner, if the petitioner is in possession of their identity and address, and on the custodian of records. Upon receiving a petition, the custodian of records shall serve a copy of the request upon all interested parties that have not been served by the petitioner or on the interested parties served by the petitioner if the custodian of records possesses information, such as a more recent address, indicating that the service by the petitioner may have been ineffective.

**(E)** The custodian of records shall serve the petition within 10 calendar days of receipt. If an interested party, including the custodian of records, objects to the petition, the party shall file and serve the objection on the petitioning party no later than 15 calendar days after service of the petition.

**(F)** The petitioning party shall have 10 calendar days to file a reply. The juvenile court shall set the matter for hearing no more than 60 calendar days from the date the petition is served on the custodian of records. The court shall render its decision within 30 days of the hearing. The matter shall be decided solely upon the basis of the petition and supporting exhibits and declarations, if any, the objection and any supporting exhibits or declarations, if any, and the reply and any supporting declarations or exhibits thereto, and argument at hearing. The court may, solely upon its own motion, order the appearance of witnesses. If an objection is not filed to the petition, the court shall review the

petition and issue its decision within 10 calendar days of the final day for filing the objection. An order of the court shall be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ.

**(3)** Access to juvenile case files pertaining to matters within the jurisdiction of the juvenile court pursuant to Section 300 shall be limited as follows:

**(A)** If a juvenile case file, or any portion thereof, is privileged or confidential pursuant to any other state law or federal law or regulation, the requirements of that state law or federal law or regulation prohibiting or limiting release of the juvenile case file or any portions thereof shall prevail. Unless a person is listed in subparagraphs (A) to (P), inclusive, of paragraph (1) and is entitled to access under the other state law or federal law or regulation without a court order, all those seeking access, pursuant to other authorization, to portions of, or information relating to the contents of, juvenile case files protected under another state law or federal law or regulation, shall petition the juvenile court. The juvenile court may only release the portion of, or information relating to the contents of, juvenile case files protected by another state law or federal law or regulation if disclosure is not detrimental to the safety, protection, or physical or emotional well-being of a child who is directly or indirectly connected to the juvenile case that is the subject of the petition. This paragraph does not limit the ability of the juvenile court to carry out its duties in conducting juvenile court proceedings.

**(B)** Prior to the release of the juvenile case file or any portion thereof, the court shall afford due process, including a notice of, and an opportunity to file an objection to, the release of the record or report to all interested parties.

**(4)** A juvenile case file, any portion thereof, and information relating to the content of the juvenile case file, may not be disseminated by the receiving agencies to a person or agency, other than a person or agency authorized to receive documents pursuant to this section. Further, a juvenile case file, any portion thereof, and information relating to the content of the juvenile case file, may not be made as an attachment to any other documents without the prior approval of the presiding judge of the juvenile court, unless it is used in connection with, and in the course of, a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

**(5)** Individuals listed in subparagraphs (A), (B), (C), (D), (E), (F), (H), (I), (J), and (P) of paragraph (1) may also receive copies of the case file. For authorized staff of entities who are licensed by the State Department of Social Services, the confidential information shall be obtained through a child protective agency, as defined in subparagraph (H) of paragraph (1). In these circumstances, the requirements of paragraph (4) shall continue to apply to the information received.

**(6)** An individual other than a person described in subparagraphs (A) to (P), inclusive, of paragraph (1) who files a notice of appeal or petition for writ challenging a juvenile court order, or who is a respondent in that appeal or real party in interest in that writ proceeding, may, for purposes of that appeal or writ proceeding, inspect and copy any records in a juvenile case file to which the individual was previously granted access by the juvenile court pursuant to subparagraph (Q) of paragraph (1), including any records or portions thereof that are made a part of the appellate record. The requirements of paragraph (3) shall continue to apply to any other record, or a portion thereof, in the juvenile case file or made a part of the appellate record. The requirements of paragraph (4) shall continue to apply to files received pursuant to this paragraph. The Judicial Council shall adopt rules to implement this paragraph.

**(b)**

**(1)** While the Legislature reaffirms its belief that juvenile court records, in general, should be confidential, it is the intent of the Legislature in enacting this subdivision to provide for a limited exception

to juvenile court record confidentiality to promote more effective communication among juvenile courts, family courts, law enforcement agencies, and schools to ensure the rehabilitation of juvenile criminal offenders as well as to lessen the potential for drug use, violence, other forms of delinquency, and child abuse.

**(2)**

**(A)** Notwithstanding subdivision (a), written notice that a minor enrolled in a public school, kindergarten to grade 12, inclusive, has been found by a court of competent jurisdiction to have committed a felony or misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, a sex offense listed in **Section 290 of the Penal Code**, assault or battery, larceny, vandalism, or graffiti shall be provided by the court, within seven days, to the superintendent of the school district of attendance. Written notice shall include only the offense found to have been committed by the minor and the disposition of the minor's case. This notice shall be expeditiously transmitted by the district superintendent to the principal at the school of attendance. The principal shall expeditiously disseminate the information to those counselors directly supervising or reporting on the behavior or progress of the minor. In addition, the principal shall disseminate the information to any teacher or administrator directly supervising or reporting on the behavior or progress of the minor whom the principal believes needs the information to work with the pupil in an appropriate fashion to avoid being needlessly vulnerable or to protect other persons from needless vulnerability.

**(B)** Any information received by a teacher, counselor, or administrator under this subdivision shall be received in confidence for the limited purpose of rehabilitating the minor and protecting students and staff, and shall not be further disseminated by the teacher, counselor, or administrator, except insofar as communication with the juvenile, the juvenile's parents or guardians, law enforcement personnel, and the juvenile's probation officer is necessary to effectuate the juvenile's rehabilitation or to protect students and staff.

**(C)** An intentional violation of the confidentiality provisions of this paragraph is a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500).

**(3)** If a minor is removed from public school as a result of the court's finding described in subdivision (b), the superintendent shall maintain the information in a confidential file and shall defer transmittal of the information received from the court until the minor is returned to public school. If the minor is returned to a school district other than the one from which the minor came, the parole or probation officer having jurisdiction over the minor shall so notify the superintendent of the last district of attendance, who shall transmit the notice received from the court to the superintendent of the new district of attendance.

**(c)** Each probation report filed with the court concerning a minor whose record is subject to dissemination pursuant to subdivision (b) shall include on the face sheet the school at which the minor is currently enrolled. The county superintendent shall provide the court with a listing of all of the schools within each school district, within the county, along with the name and mailing address of each district superintendent.

**(d)**

**(1)** Each notice sent by the court pursuant to subdivision (b) shall be stamped with the instruction: "Unlawful Dissemination Of This Information Is A Misdemeanor." Any information received from the court shall be kept in a separate confidential file at the school of attendance and shall be transferred to the minor's subsequent schools of attendance and maintained until the minor graduates from high school, is released from juvenile court jurisdiction, or reaches 18 years of age, whichever occurs first. After that time the confidential record shall be destroyed. At any time after the date by which a record required to be destroyed by this section should have been destroyed, the minor or the minor's parent or guardian shall have the right to make a written request to the principal of the school that the minor's school records be

reviewed to ensure that the record has been destroyed. Upon completion of the requested review and no later than 30 days after the request for the review was received, the principal or a designee shall respond in writing to the written request and either shall confirm that the record has been destroyed or, if the record has not been destroyed, shall explain why destruction has not yet occurred.

(2) Except as provided in paragraph (2) of subdivision (b), liability shall not attach to a person who transmits or fails to transmit notice or information required under subdivision (b).

(e) For purposes of this section, a "juvenile case file" means a petition filed in a juvenile court proceeding, reports of the probation officer, and all other documents filed in that case or made available to the probation officer in making the probation officer's report, or to the judge, referee, or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer.

(f) The persons described in subparagraphs (A), (E), (F), (H), (K), (L), (M), and (N) of paragraph (1) of subdivision (a) include persons serving in a similar capacity for an Indian tribe, reservation, or tribal court when the case file involves a child who is a member of, or who is eligible for membership in, that tribe.

(g) Any portion of a case file that is covered by, or included in, an order of the court sealing a record pursuant to Section 781 or 786, or that is covered by a record sealing requirement pursuant to Section 786.5 or 827.95, may not be inspected, except as specified by those sections.

#### Leg.H.

Added Stats 1961 ch 1616 § 2. Amended Stats 1967 ch 315 § 1; Stats 1968 ch 344 § 1; Stats 1970 ch 1236 § 1; Stats 1972 ch 1139 § 1; Stats 1982 ch 1103 § 4, operative January 1, 1991; Stats 1984 ch 1011 § 3, ch 1370 § 3, ch 1423 § 11, effective September 26, 1984; Stats 1990 ch 246 § 3 (AB 2638); Stats 1991 ch 1202 § 21 (SB 377); Stats 1992 ch 148 § 1 (AB 2581); Stats 1993 ch 589 § 193 (AB 2211); Stats 1994 ch 453 § 14 (AB 560), ch 1018 § 1 (AB 3053), ch 1019 § 4 (AB 3309); Stats 1995 ch 71 § 1 (SB 1092), effective July 6, 1995; Stats 1996 ch 599 § 1 (SB 1938); Stats 1998 ch 311 § 55 (SB 933), effective August 19, 1998; Stats 1999 ch 984 § 1 (SB 199), ch 985 § 3 (SB 792), ch 996 § 22.3 (SB 334); Stats 2000 ch 135 § 168 (AB 2539), ch 908 § 3 (SB 1611), ch 926 § 8 (SB 1716) (ch 926 prevails); Stats 2001 ch 754 § 6 (AB 1697); Stats 2002 ch 305 § 2 (SB 1704); Stats 2004 ch 339 § 12 (AB 1704), ch 574 § 4.5 (AB 2228); Stats 2005 ch 22 § 218 (SB 1108), effective January 1, 2006; Stats 2007 ch 468 § 3 (SB 39), effective January 1, 2008; Stats 2014 ch 57 § 1 (AB 1618), effective January 1, 2015; Stats 2016 ch 702 § 3 (AB 2872), effective January 1, 2017; Stats 2016 ch 858 § 2.5 (AB 1945), effective January 1, 2017; Stats 2017 ch 269 § 12 (SB 811), effective January 1, 2018; Stats 2017 ch 683 § 1 (SB 625), effective January 1, 2018; Stats 2017 ch 732 § 55.3 (AB 404), effective January 1, 2018 (ch 732 prevails); Stats 2018 ch 992 § 1 (AB 1617), effective January 1, 2019; Stats 2019 ch 256 § 14 (SB 781), effective January 1, 2020; Stats 2020 ch 330 § 2 (AB 2425), effective January 1, 2021.

## § 827.1. Disclosure of Records Concerning Minors Under Jurisdiction of Juvenile Court—Data Base of Probation Department, Law Enforcement, School District, and Juvenile Court Information and Records; Access Rights.

(a) Notwithstanding any other provision of law, a city, county, or city and county may establish a computerized data base system within that city, county, or city and county that permits the probation department, law enforcement agencies, and school districts to access probation department, law enforcement, school district, and juvenile court information and records which are nonprivileged and where release is authorized under state or federal law or regulation, regarding minors under the jurisdiction of the juvenile court pursuant to Section 602 or for whom a program of supervision has been undertaken where a petition could otherwise be filed pursuant to Section 602.

(b) Each city, county, or city and county permitting computer access to these agencies shall develop security procedures by which unauthorized personnel cannot access data contained in the system as well as procedures or devices to secure data from unauthorized access or disclosure. The right of access granted shall not include the right to add, delete, or alter data without the written permission of the agency holding the data.

**Leg.H.**

1996 ch. 343.

## § 827.2. Notice by Court to Sheriff of Commission of Certain Felony; Dissemination of Information by Law Enforcement Agency.

(a) Notwithstanding Section 827 or any other provision of law, written notice that a minor has been found by a court of competent jurisdiction to have committed any felony pursuant to Section 602 shall be provided by the court within seven days to the sheriff of the county in which the offense was committed and to the sheriff of the county in which the minor resides. Written notice shall include only that information regarding the felony offense found to have been committed by the minor and the disposition of the minor's case. If at any time thereafter the court modifies the disposition of the minor's case, it shall also notify the sheriff as provided above. The sheriff may disseminate the information to other law enforcement personnel upon request, provided that he or she reasonably believes that the release of this information is generally relevant to the prevention or control of juvenile crime.

(b) Any information received pursuant to this section shall be received in confidence for the limited law enforcement purpose for which it was provided and shall not be further disseminated except as provided in this section. An intentional violation of the confidentiality provisions of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500).

(c) Notwithstanding subdivision (a) or (b), a law enforcement agency may disclose to the public or to any interested person the information received pursuant to subdivision (a) regarding a minor 14 years of age or older who was found by the court to have committed any felony enumerated in subdivision (b) of Section 707. The law enforcement agency shall not release this information if the court for good cause, with a written statement of reasons, so orders.

**Leg.H.**

1996 ch. 422, 1999 ch. 996 (amended and renumbered from § 827.1), amended and renumbered by electorate (Prop. 21) at the March 7, 2000, Primary Election, operative March 8, 2000.

**2000 Note:**

Welfare and Institutions Code § 827.1, as added by 1996 Chapter 422, was amended and renumbered to § 827.7 by 1999 Chapter 996, operative January 1, 2000. The same version of § 827.1 was also amended and renumbered to § 827.2 by Proposition 21, operative March 8, 2000.

## § 827.5. Disclosure of Information Relating to Taking Minor into Custody for Committing Serious Felony.

Notwithstanding any other provision of law except Sections 389 and 781 of this code and **Section 1203.45 of the Penal Code**, a law enforcement agency may disclose the name of any minor 14 years of age or older taken into custody for the commission of any serious felony, as defined in **subdivision (c) of Section 1192.7 of the Penal Code**, and the offenses allegedly committed, upon the request of interested persons, following the minor's arrest for that offense.

**Leg.H.**

1994 ch. 37 (First Extra. Sess.), operative November 30, 1994, 1999 ch. 996, amended by electorate (Prop. 21) at the March 7, 2000, Primary Election, operative March 8, 2000.

## § 827.6. Disclosure of Identity of Minor Suspect.

A law enforcement agency may release the name, description, and the alleged offense of any minor alleged to have committed a violent offense, as defined in subdivision (c) of Section 667.5 of the Penal Code, and against whom an arrest warrant is outstanding, if the release of this information would assist in the apprehension of the minor or the protection of public safety. Neither the agency nor the city, county, or city and county in which the agency is located shall be liable for civil damages resulting from release of this information.

**Leg.H.**

1999 ch. 996 § 26, amended by electorate (Prop. 21) at the March 7, 2000, Primary Election, operative March 8, 2000.

## § 827.9. Additional Disclosure Requirements for Los Angeles County; Petitions to Obtain Information; Development of Forms; Procedure Evaluation to be Conducted with Report to Legislature; Violation.

(a) It is the intent of the Legislature to reaffirm its belief that records or information gathered by law enforcement agencies relating to the taking of a minor into custody, temporary custody, or detention (juvenile police records) should be confidential. Confidentiality is necessary to protect those persons from being denied various opportunities, to further the rehabilitative efforts of the juvenile justice system, and to prevent the lifelong stigma that results from having a juvenile police record. Although these records generally should remain confidential, the Legislature recognizes that certain circumstances require the release of juvenile police records to specified persons and entities. The purpose of this section is to clarify the persons and entities entitled to receive a complete copy of a juvenile police record, to specify the persons or entities entitled to receive copies of juvenile police records with certain identifying information about other minors removed from the record, and to provide procedures for others to request a copy of a juvenile police record. This section does not govern the release of police records involving a minor who is the witness to or victim of a crime who is protected by other laws including, but not limited to, Section 841.5 of the Penal Code, Section 11167 et seq. of the Penal Code, and the provisions listed in Section 7920.505 of the Government Code.

(b) Except as provided in Sections 389, 781, and 786 of this code or Section 1203.45 of the Penal Code, a law enforcement agency shall release, upon request, a complete copy of a juvenile police record, as defined in subdivision (m), without notice or consent from the person who is the subject of the juvenile police record to the following persons or entities:

(1) Other law enforcement agencies including the office of the Attorney General of California, any district attorney, the Department of Corrections and Rehabilitation, including the Division of Juvenile Justice, and any peace officer as specified in subdivision (a) of Section 830.1 of the Penal Code.

(2) School district police.

(3) Child protective agencies as defined in Section 11165.9 of the Penal Code.

(4) The attorney representing the juvenile who is the subject of the juvenile police record in a criminal or juvenile proceeding.

(5) The Department of Motor Vehicles.

(c) Except as provided in Sections 389, 781, and 786 of this code or Section 1203.45 of the Penal Code, law enforcement agencies shall release, upon request, a copy of a juvenile police record to the following persons

and entities only if identifying information pertaining to any other juvenile, within the meaning of subdivision (n), has been removed from the record:

- (1) The person who is the subject of the juvenile police record.
- (2) The parents or guardian of a minor who is the subject of the juvenile police record.
- (3) An attorney for a parent or guardian of a minor who is the subject of the juvenile police record.

**(d)**

**(1)**

**(A)** If a person or entity listed in subdivision (c) seeks to obtain a complete copy of a juvenile police record that contains identifying information concerning the taking into custody or detention of any other juvenile, within the meaning of subdivision (n), who is not a dependent child or a ward of the juvenile court, that person or entity shall submit a completed Petition to Obtain Report of Law Enforcement Agency, as developed pursuant to subdivision (i), to the appropriate law enforcement agency. The law enforcement agency shall send a notice to the following persons that a Petition to Obtain Report of Law Enforcement Agency has been submitted to the agency:

**(i)** The juvenile about whom information is sought.

**(ii)** The parents or guardian of any minor described in clause (i). The law enforcement agency shall make reasonable efforts to obtain the address of the parents or guardian.

**(B)** For purposes of responding to a request submitted pursuant to this subdivision, a law enforcement agency may check the Juvenile Automated Index or may contact the juvenile court to determine whether a person is a dependent child or a ward of the juvenile court and whether parental rights have been terminated or the juvenile has been emancipated.

**(C)** The notice sent pursuant to this subdivision shall include the following information:

**(i)** The identity of the person or entity requesting a copy of the juvenile police record.

**(ii)** A copy of the completed Petition to Obtain Report of Law Enforcement Agency.

**(iii)** The time period for submitting an objection to the law enforcement agency, which shall be 20 days if notice is provided by mail or confirmed fax, or 15 days if notice is provided by personal service.

**(iv)** The means to submit an objection.

A law enforcement agency shall issue notice pursuant to this section within 20 days of the request. If no objections are filed, the law enforcement agency shall release the juvenile police record within 15 days of the expiration of the objection period.

**(D)** If any objections to the disclosure of the other juvenile's information are submitted to the law enforcement agency, the law enforcement agency shall send the completed Petition to Obtain Report of Law Enforcement Agency, the objections, and a copy of the requested juvenile police record to the presiding judge of the juvenile court or, in counties with no presiding judge of the juvenile court, the judge of the juvenile court or the judge's designee, to obtain authorization from the court to release a complete copy of the juvenile police record.

(2) If a person or entity listed in subdivision (c) seeks to obtain a complete copy of a juvenile police record that contains identifying information concerning the taking into custody or detention of any other juvenile, within the meaning of subdivision (n), who is a dependent child or a ward of the juvenile court, that person or entity shall submit a Petition to Obtain Report of Law Enforcement Agency, as developed pursuant to subdivision (i), to the appropriate law enforcement agency. The law enforcement agency shall send that Petition to Obtain Report of Law Enforcement Agency and a completed petition for authorization to release the information to that person or entity along with a complete copy of the requested juvenile police record to the presiding judge of the juvenile court, or, in counties with no presiding judge of the juvenile court, the judge of the juvenile court or the judge's designees. The juvenile court shall provide notice of the petition for authorization to the following persons:

(A) If the person who would be identified if the information is released is a minor who is a dependent child of the juvenile court, notice of the petition shall be provided to the following persons:

- (i) The minor.
- (ii) The attorney of record for the minor.
- (iii) The parents or guardian of the minor, unless parental rights have been terminated.
- (iv) The child protective agency responsible for the minor.
- (v) The attorney representing the child protective agency responsible for the minor.

(B) If the person who would be identified if the information is released is a ward of the juvenile court, notice of the petition shall be provided to the following:

- (i) The ward.
- (ii) The attorney of record for the ward.
- (iii) The parents or guardian of the ward if the ward is under 18 years of age, unless parental rights have been terminated.
- (iv) The district attorney.
- (v) The probation department.

(e) Except as otherwise provided in this section or in Sections 389, 781, and 786 of this code or **Section 1203.45 of the Penal Code**, law enforcement agencies shall release copies of juvenile police records to any other person designated by court order upon the filing of a Petition to Obtain Report of Law Enforcement Agency with the juvenile court. The petition shall be filed with the presiding judge of the juvenile court, or, in counties with no presiding judge of the juvenile court, the judge of the juvenile court or the judge's designee, in the county where the juvenile police record is maintained.

(f)

(1) After considering the petition and any objections submitted to the juvenile court pursuant to paragraph (1) or (2) of subdivision (d), the court shall determine whether the law enforcement agency may release a complete copy of the juvenile police record to the person or entity that submitted the request.

(2) In determining whether to authorize the release of a juvenile police record, the court shall balance the interests of the juvenile who is the subject of the record, the petitioner, and the public. The juvenile court may issue orders prohibiting or limiting the release of information contained in the juvenile police

record. The court may also deny the existence of a juvenile police record where the record is properly sealed or the juvenile who is the subject of the record has properly denied its existence.

**(3)** Prior to authorizing the release of any juvenile police record, the juvenile court shall ensure that notice and an opportunity to file an objection to the release of the record has been provided to the juvenile who is the subject of the record or who would be identified if the information is released, that person's parents or guardian if the person is under 18 years of age, and any additional person or entity described in subdivision (d), as applicable. The period for filing an objection shall be 20 days from the date notice is given if notice is provided by mail or confirmed fax and 15 days from the date notice is given if notice is provided by personal service. If review of the petition is urgent, the petitioner may file a motion with the presiding judge of the juvenile court showing good cause why the objection period should be shortened. The court shall issue a ruling on the completed petition within 15 days of the expiration of the objection period.

**(g)** Any out-of-state entity comparable to the California entities listed in paragraphs (1) to (5), inclusive, of subdivision (b) shall file a petition with the presiding judge of the juvenile court in the county where the juvenile police record is maintained in order to receive a copy of a juvenile police record. A petition from that entity may be granted on an ex parte basis.

**(h)** Nothing in this section shall require the release of confidential victim or witness information protected by other laws including, but not limited to, [Section 841.5 of the Penal Code](#), [Section 11167 et seq. of the Penal Code](#), and the provisions listed in [Section 7920.505 of the Government Code](#).

**(i)** The Judicial Council, in consultation with the California Law Enforcement Association of Record Supervisors (CLEARs), shall develop forms for distribution by law enforcement agencies to the public to implement this section. Those forms shall include, but are not limited to, the Petition to Obtain Report of Law Enforcement Agency. The material for the public shall include information about the persons who are entitled to a copy of the juvenile police record and the specific procedures for requesting a copy of the record if a petition is necessary. The Judicial Council shall provide law enforcement agencies with suggested forms for compliance with the notice provisions set forth in subdivision (d).

**(j)** Any information received pursuant to subdivisions (a) to (e), inclusive, and (g) of this section shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated. An intentional violation of the confidentiality provisions of this section is a misdemeanor, punishable by a fine not to exceed five hundred dollars (\$500).

**(k)** A court shall consider any information relating to the taking of a minor into custody, if the information is not contained in a record that has been sealed, for purposes of determining whether an adjudication of the commission of a crime as a minor warrants a finding that there are circumstances in aggravation pursuant to [Section 1170 of the Penal Code](#) or to deny probation.

**(l)** When a law enforcement agency has been notified pursuant to Section 1155 that a minor has escaped from a secure detention facility, the law enforcement agency shall release the name of, and any descriptive information about, the minor to a person who specifically requests this information. The law enforcement agency may release the information on the minor without a request to do so if it finds that release of the information would be necessary to assist in recapturing the minor or that it would be necessary to protect the public from substantial physical harm.

**(m)** For purposes of this section, a "juvenile police record" refers to records or information relating to the taking of a minor into custody, temporary custody, or detention.

**(n)** For purposes of this section, with respect to a juvenile police record, "any other juvenile" refers to additional minors who were taken into custody or temporary custody, or detained and who also could be

considered a subject of the juvenile police record.

(o) An evaluation of the efficacy of the procedures for the release of police records containing information about minors as described in this section shall be conducted by the juvenile court and law enforcement in Los Angeles County and the results of that evaluation shall be reported to the Legislature on or before December 31, 2006.

(p) This section shall only apply to Los Angeles County.

**Leg.H.**

Added Stats 2001 ch 830 § 7 (SB 940). Amended Stats 2002 ch 545 § 34 (SB 1852); Stats 2009 ch 35 § 31 (SB 174), effective January 1, 2010; Stats 2016 ch 858 § 3 (AB 1945), effective January 1, 2017; Stats 2021 ch 615 § 433 (AB 474), effective January 1, 2022.

## **§ 827.10. Inspection of Files and Records by Specified Persons; Copies; Privileged or Confidential Files or Records.**

(a) Notwithstanding Section 827, the child welfare agency is authorized to permit its files and records relating to a minor, who is the subject of either a family law or a probate guardianship case involving custody or visitation issues, or both, to be inspected by, and to provide copies to, the following persons, if these persons are actively participating in the family law or probate case:

(1) The judge, commissioner, or other hearing officer assigned to the family law or probate case.

(2) The parent or guardian of the minor.

(3) An attorney for a party to the family law or probate case.

(4) A family court mediator assigned to a case involving the minor pursuant to Article 1 (commencing with Section 3160) of Chapter 11 of Part 2 of Division 8 of the Family Code.

(5) A court-appointed investigator, evaluator, or a person conducting a court-connected child custody evaluation, investigation, or assessment pursuant to [Section 3111 or 3118 of the Family Code](#) or Part 2 (commencing with Section 1500) of Division 4 of the Probate Code.

(6) Counsel appointed for the minor in the family law case pursuant to [Section 3150 of the Family Code](#). Prior to allowing counsel appointed for the minor in the family law case to inspect the file, the court clerk may require counsel to provide a certified copy of the court order appointing him or her as the counsel for the minor.

(b) If the child welfare agency files or records, or any portions thereof, are privileged or confidential pursuant to any other state law, except Section 827, or federal law or regulation, the requirements of that state law or federal law or regulation prohibiting or limiting release of the child welfare agency files or records, or any portions thereof, shall prevail.

(c) A social worker may testify in any family or probate proceeding with regard to any information that may be disclosed under this section.

(d) Any records or information obtained pursuant to this section, including the testimony of a social worker, shall be maintained solely in the confidential portion of the family law or probate file.

**Leg.H.**

Added Stats 2010 ch 352 § 21 (AB 939), effective January 1, 2011.

## § 827.11. Provision of Information to Caregiver Regarding Child's Educational, Medical, Dental, and Mental Health History and Current Needs.

(a) The Legislature finds and declares all of the following:

(1) It is the intent of the Legislature to ensure quality care for children and youth who are placed in the continuum of foster care settings.

(2) Attracting and retaining quality caregivers is critical to achieving positive outcomes for children, youth, and families, and to ensuring the success of child welfare improvement efforts.

(3) Quality caregivers strengthen foster care by ensuring that a foster or relative family caring for a child provides the loving, committed, and skilled care that the child needs, while working effectively with the child welfare system to reach the child's goals.

(4) Caregivers who are informed of the child's educational, medical, dental, and mental health history and current needs are better able to meet those needs and address the effects of trauma, increasing placement stability and improving permanency outcomes.

(5) Sharing necessary information with the caregiver is a critical component of effective service delivery for children and youth in foster care.

(b) Therefore, consistent with state and federal law, information shall be provided to a caregiver regarding the child's or youth's educational, medical, dental, and mental health history and current needs.

(c) This section is declaratory of existing law and is not intended to impose a new program or higher level of service upon any local agency. It is intended, however, that this restatement of existing law should engender a renewed sense of commitment to engaging foster parents in order to provide quality care to children and youth in foster care.

(d) No later than January 1, 2017, the department shall consult with representatives of the County Counsels' Association of California, County Welfare Directors Association of California, and stakeholders to develop regulations or identify policy changes necessary to allow for the sharing of information as described in this section.

**Leg.H.**

Added Stats 2015 ch 773 § 52 (AB 403), effective January 1, 2016.

## § 827.12. Access to Juvenile Delinquency Case Files.

(a)

(1) Records contained in a juvenile delinquency case file may be accessed by a law enforcement agency, probation department, court, the Department of Justice, or other state or local agency that has custody of the case file and juvenile record for the limited purpose of complying with data collection or data reporting requirements that are imposed under the terms of a grant or by another state or federal law. However, personally identifying information contained in a juvenile delinquency case file accessed under this subdivision shall not be released, disseminated, or published by or through an agency, department, court, or individual that has accessed or obtained information from the juvenile delinquency case file.

(2) Upon request of the chief probation officer, the juvenile court may authorize a probation department to access and provide data contained in juvenile delinquency case files and related juvenile records in the possession of the probation department for the purpose of data sharing or conducting or facilitating research on juvenile justice populations, practices, policies, or trends, if both of the following requirements are met:

(A) The court is satisfied that the research, evaluation, or study includes a sound methodology for the appropriate protection of the confidentiality of an individual whose juvenile delinquency case file is accessed pursuant to this subdivision.

(B) Personally identifying information relating to the individual whose juvenile delinquency case file is accessed pursuant to this subdivision is not further released, disseminated, or published by the probation department or by or through a program evaluator, researcher, or research organization that is retained by the department for research or evaluation purposes.

(3) For the purposes of this subdivision, “personally identifying information” has the same meaning as specified in subdivision (b) of Section 1798.79.8 of the Civil Code.

(b)

(1) If information from a juvenile delinquency case record is being released for the purposes of human subject research, as defined in Part 46 of Title 45 of the Code of Federal Regulations, the probation department shall, after receiving authorization from the court but prior to the release of any information, enter into a formal agreement with the entity or entities conducting the research or evaluation that specifies what may and may not be done with the information disclosed.

(2) All human subject research governed by Part 46 of Title 45 of the Code of Federal Regulations shall be conducted in compliance with the protections set forth therein.

(c) The probation department shall not disclose any dependency information contained in a juvenile delinquency case record that pertains to a child who is currently receiving, or has previously received, public social services administered by the State Department of Social Services unless it has complied with the requirements for disclosure of that information set forth in Section 10850.

**Leg.H.**

Added Stats 2017 ch 462 § 1 (SB 462), effective January 1, 2018.

## **§ 827.15. Transfer To Tribal Court; Federal Law; Release Of File; Definition.**

(a) Notwithstanding Section 827, whenever the juvenile court of a county has made a determination pursuant to subdivision (a), (b), or (f) of Section 305.5 that a child custody proceeding of an Indian child is to be transferred to the jurisdiction of a tribal court the child case file shall be transferred to the tribe.

(b) If an Indian child is under the jurisdiction of a Title IV-E tribe or a Tribal Title IV-E agency, federal law requires the safeguarding of information as set forth in 45 C.F.R 205.50.

(c) In all other transfers, the juvenile court shall order the release of the child's case file provided that the tribe agrees to maintain the documentation confidential consistent with state and federal law.

(d) As used in this section, a “child case file” means information including the juvenile case file retained by the juvenile court and the child welfare agency files or records retained by the county. For Title IV-E tribes or a

Tribal Title IV-E agency that information includes, but need not be limited to, the documentation set forth in [45 C.F.R. 1356.67](#).

**Leg.H.**

Added Stats 2014 ch 772 § 14 (SB 1460), effective January 1, 2015.

## **§ 828. Disclosure of Information Relating to Taking Minor into Custody.**

**(a)**

**(1)** Except as provided in Sections 389, 781, 786, 827.9, and 827.95 of this code or [Section 1203.45 of the Penal Code](#), any information gathered by a law enforcement agency, including the Department of Justice, relating to the taking of a minor into custody may be disclosed to another law enforcement agency, including a school district police or security department, or to any person or agency that has a legitimate need for the information for purposes of official disposition of a case. When the disposition of a taking into custody is available, it shall be included with any information disclosed.

**(2)** A court shall consider any information relating to the taking of a minor into custody, if the information is not contained in a record that has been sealed, for purposes of determining whether adjudications of commission of crimes as a juvenile warrant a finding that there are circumstances in aggravation pursuant to [Section 1170 of the Penal Code](#) or to deny probation.

**(b)** When a law enforcement agency has been notified pursuant to Section 1155 that a minor has escaped from a secure detention facility, the law enforcement agency shall release the name of, and any descriptive information about, the minor to a person who specifically requests this information. The law enforcement agency may release the information on the minor without a request to do so if it finds that release of the information would be necessary to assist in recapturing the minor or that it would be necessary to protect the public from substantial physical harm.

**Leg.H.**

Added by Stats 1972 ch 1139 § 2. Amended Stats 1976 ch 1068 § 73; Stats 1981 ch 1076 § 3; Stats 1984 ch 1420 § 2, effective September 26, 1984; Stats 1986 ch 359 § 2; Stats 1990 ch 776 § 1 (SB 1429); Stats 2001 ch 830 § 8 (SB 940); Stats 2003 ch 124 § 4 (SB 873); Stats 2016 ch 858 § 4 (AB 1945), effective January 1, 2017; Stats 2020 ch 330 § 4 (AB 2425), effective January 1, 2021.

## **§ 828.1. Confidentiality of Juvenile Criminal Records—Limited Exception.**

(a) While the Legislature reaffirms its belief that juvenile criminal records, in general, should be confidential, it is the intent of the Legislature in enacting this section to provide for a limited exception to that confidentiality in cases involving serious acts of violence. Further, it is the intent of the Legislature that even in these selected cases the dissemination of juvenile criminal records be as limited as possible, consistent with the need to work with a student in an appropriate fashion, and the need to protect potentially vulnerable school staff and other students over whom the school staff exercises direct supervision and responsibility.

(b) Notwithstanding subdivision (a) of Section 828, a school district police or security department may provide written notice to the superintendent of the school district that a minor enrolled in a public school maintained by that school district, in kindergarten or any of grades 1 to 12, inclusive, has been found by a court of competent jurisdiction to have illegally used, sold, or possessed a controlled substance as defined in [Section 11007 of the Health and Safety Code](#) or to have committed any crime listed in paragraphs (1) to (15), inclusive,

or paragraphs (17) to (19), inclusive, or paragraphs (25) to (28), inclusive, of subdivision (b) of, or in paragraph (2) of subdivision (d) of, or subdivision (e) of, Section 707. The information may be expeditiously transmitted to any teacher, counselor, or administrator with direct supervisorial or disciplinary responsibility over the minor, who the superintendent or his or her designee, after consultation with the principal at the school of attendance, believes needs this information to work with the student in an appropriate fashion, to avoid being needlessly vulnerable or to protect other persons from needless vulnerability.

(c) Any information received by a teacher, counselor, or administrator pursuant to this section shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher, counselor, or administrator. An intentional violation of the confidentiality provisions of this section is a misdemeanor, punishable by a fine not to exceed five hundred dollars (\$500).

**Leg.H.**

1990 ch. 776, 1994 ch. 453 § 15, 1998 ch. 925.

### **§ 828.3. Exchange of Information Relating to Taking Minor into Custody if Offense against School.**

Notwithstanding any other provision of law, information relating to the taking of a minor into custody on the basis that he or she has committed a crime against the property, students, or personnel of a school district or a finding by the juvenile court that the minor has committed such a crime may be exchanged between law enforcement personnel, the school district superintendent, and the principal of a public school in which the minor is enrolled as a student if the offense was against the property, students, or personnel of that school.

**Leg.H.**

1994 ch. 215.

### **§ 829. Board of Prison Terms May Review Juvenile Court Records.**

Notwithstanding any other provision of law, the Board of Prison Terms, in order to evaluate the suitability for release of a person before the board, shall be entitled to review juvenile court records which have not been sealed, concerning the person before the board, if those records relate to a case in which the person was found to have committed an offense which brought the person within the jurisdiction of the juvenile court pursuant to Section 602.

**Leg.H.**

1983 ch. 241.

### **§ 830. Disclosure of Confidential Records Relating to Child Abuse.**

(a) Notwithstanding any other provision of law, members of a multidisciplinary personnel team engaged in the prevention, identification, management, or treatment of child abuse or neglect may disclose and exchange information and writings to and with one another relating to any incidents of child abuse that may also be a part of a juvenile court record or otherwise designated as confidential under state law if the member of the team having that information or writing reasonably believes it is generally relevant to the prevention, identification, management, or treatment of child abuse, or the provision of child welfare services. All discussions relative to the disclosure or exchange of any such information or writings during team meetings are confidential unless disclosure is required by law. Notwithstanding any other provision of law, testimony concerning any such discussion is not admissible in any criminal, civil, or juvenile court proceeding.

(b) As used in this section:

- (1) "Child abuse" has the same meaning as defined in Section 18951.
- (2) "Multidisciplinary personnel" means a team as specified in Section 18951.
- (3) "Child welfare services" means those services that are directed at preventing child abuse or neglect.

**Leg.H.**

Added Stats 1987 ch 353 § 1. Amended Stats 1989 ch 86 § 1; Stats 2010 ch 551 § 1 (AB 2322), effective September 29, 2010.

## **§ 830.1. Disclosure of Information Among Juvenile Justice Team Personnel; Definitions.**

Notwithstanding any other provision of law, members of a juvenile justice multidisciplinary team engaged in the prevention, identification, and control of crime, including, but not limited to, criminal street gang activity, may disclose and exchange nonprivileged information and writings to and with one another relating to any incidents of juvenile crime, including criminal street gang activity, that may also be part of a juvenile court record or otherwise designated as confidential under state law if the member of the team having that information or writing reasonably believes it is generally relevant to the prevention, identification, or control of juvenile crime or criminal street gang activity. Every member of a juvenile justice multidisciplinary team who receives such information or writings shall be under the same privacy and confidentiality obligations and subject to the same penalties for violating those obligations as the person disclosing or providing the information or writings. The information obtained shall be maintained in a manner which ensures the protection of confidentiality.

As used in this section, "nonprivileged information" means any information not subject to a privilege pursuant to Division 8 (commencing with Section 900) of the Evidence Code.

As used in this section, "criminal street gang" has the same meaning as defined in [Section 186.22 of the Penal Code](#).

As used in this section, "multidisciplinary team" means any team of three or more persons, the members of which are trained in the prevention, identification, and control of juvenile crime, including, but not limited to, criminal street gang activity, and are qualified to provide a broad range of services related to the problems posed by juvenile crime and criminal street gangs. The team may include, but is not limited to:

- (a) Police officers or other law enforcement agents.
- (b) Prosecutors.
- (c) Probation officers.
- (d) School district personnel with experience or training in juvenile crime or criminal street gang control.
- (e) Counseling personnel with experience or training in juvenile crime or criminal street gang control.
- (f) State, county, city, or special district recreation specialists with experience or training in juvenile crime or criminal street gang control.

**Leg.H.**

1994 ch. 24 (First Extra. Sess.).

## § 831. Disclosure Of Juvenile Information To Federal Officials.

(a) It is the intent of the Legislature in enacting this section to clarify that juvenile court records should remain confidential regardless of the juvenile's immigration status. Confidentiality is integral to the operation of the juvenile justice system in order to avoid stigma and promote rehabilitation for all youth, regardless of immigration status.

(b) Nothing in this article authorizes the disclosure of juvenile information to federal officials absent a court order of the judge of the juvenile court upon filing a petition as provided by subparagraph (P) of paragraph (1) of subdivision (a) of Section 827.

(c) Nothing in this article authorizes the dissemination of juvenile information to, or by, federal officials absent a court order of the judge of the juvenile court upon filing a petition as provided by subparagraph (P) of paragraph (1) and paragraph (4) of subdivision (a) of Section 827.

(d) Nothing in this article authorizes the attachment of juvenile information to any other documents given to, or provided by, federal officials absent prior approval of the presiding judge of the juvenile court as provided by paragraph (4) of subdivision (a) of Section 827.

(e) For purposes of this section, "juvenile information" includes the "juvenile case file," as defined in subdivision (e) of Section 827, and information related to the juvenile, including, but not limited to, name, date or place of birth, and the immigration status of the juvenile that is obtained or created independent of, or in connection with, juvenile court proceedings about the juvenile and maintained by any government agency, including, but not limited to, a court, probation office, child welfare agency, or law enforcement agency.

(f) Nothing in this section shall be construed as authorizing any disclosure that would otherwise violate this article.

(g) The Legislature finds and declares that this section is declaratory of existing law.

**Leg.H.**

Added Stats 2015 ch 267 § 2 (AB 899), effective January 1, 2016.

## ARTICLE 22.5

### Home Supervision

## § 840. Home Supervision Program Required in Each County; Definition.

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

**Leg.H.**

Amended 1977 ch. 1241.

## **§ 841. Duties of Deputy Probation Officer or Assistants in Home Supervision Program; Preferred Assignment of Minors in Program.**

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

**Leg.H.**

Amended 1991 ch. 155 § 1.

## **§ 842. "Probation Volunteer" Defined; Prohibition against Qualification as Peace Officer.**

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

**Leg.H.**

Amended 1979 ch. 291.

# **ARTICLE 23**

## **Wards and Dependent Children—Juvenile Halls**

### **§ 850. Creation and Maintenance of Juvenile Hall; Reference in Other Provisions.**

The board of supervisors in every county shall provide and maintain, at the expense of the county, in a location approved by the judge of the juvenile court or in counties having more than one judge of the juvenile court, by the presiding judge of the juvenile court, a suitable house or place for the detention of wards and dependent children of the juvenile court and of persons alleged to come within the jurisdiction of the juvenile court. Such house or place shall be known as the "juvenile hall" of the county. Wherever, in any provision of law, reference is made to detention homes for juveniles, such reference shall be deemed and construed to refer to the juvenile halls provided for in this article.

**Leg.H.**

1961 ch. 1616.

## **§ 851. Juvenile Hall Not to Be Conducted Like or Connected to Penal Institution.**

Except as provided in Section 207.1, the juvenile hall shall not be in, or connected with, any jail or prison, and shall not be deemed to be, nor be treated as, a penal institution. It shall be a safe and supportive homelike environment.

**Leg.H.**

1961 ch. 1616, 1998 ch. 694.

## **§ 851.1. Computer Technology and Internet Access for Minors In Juvenile Hall.**

**(a)**

**(1)** Minors detained in or committed to a juvenile hall shall be provided with access to computer technology and the Internet for the purposes of education.

**(2)** Minors detained in or committed to a juvenile hall may be provided with access to computer technology and the Internet for maintaining relationships with family.

**(b)** This section does not limit the authority of the chief probation officer, or his or her designee, to limit or deny access to computer technology or the Internet for safety and security or staffing reasons.

**Leg.H.**

Added Stats 2018 ch 997 § 3 (AB 2448), effective January 1, 2019.

## **§ 852. Management and Control of Juvenile Hall.**

The juvenile hall shall be under the management and control of the probation officer.

**Leg.H.**

1961 ch. 1616.

## **§ 853. Hiring and Compensation of Superintendent and Other Employees.**

The board of supervisors shall provide for a suitable superintendent to have charge of the juvenile hall, and for such other employees as may be needed for its efficient management, and shall provide for payment, out of the general fund of the county, of suitable salaries for such superintendent and other employees.

**Leg.H.**

1961 ch. 1616.

## **§ 854. Appointment and Removal of Superintendent and Other Employees.**

The superintendent and other employees of the juvenile hall shall be appointed by the probation officer, pursuant to a civil service or merit system, and may be removed, for cause, pursuant to such system.

**Leg.H.**

1961 ch. 1616.

## **§ 855. Keeping and Filing of Classified List of Expenses.**

The probation officer shall keep a classified list of expenses for the operation of the juvenile hall and shall file a duplicate copy with the county board of supervisors.

**Leg.H.**

1961 ch. 1616.

## **§ 856. Creation of Schools in Connection with Juvenile Facilities.**

The board of supervisors may provide for the establishment of a public elementary school and of a public secondary school in connection with any juvenile hall, juvenile house, day center, juvenile ranch, or juvenile camp, or residential or nonresidential boot camp for the education of the children in those facilities.

**Leg.H.**

Amended 1977 ch. 430, 1995 ch. 72.

## **§ 857. Notice to Department of Social Services of Minors Incarcerated at Least 30 Days.**

Whenever a minor is incarcerated in a juvenile hall or other county juvenile facility for a period of at least 30 consecutive days, the facility may inform the State Department of Social Services of the name, date of birth, and social security number of the incarcerated person.

**Leg.H.**

1994 ch. 1042.

## **§ 862. Detention of Juvenile Under Authority of Federal Government; Reimbursement of County's Expenses.**

In addition to those juveniles specified in Section 850, the probation officer may receive and detain in the county juvenile hall any juvenile committed thereto by process or order issued under the authority of the United States until such juvenile is discharged according to law as if he had been committed under process issued under the authority of this state, provided, that, in the absence of a valid detention order issued by a federal court, such detention shall not exceed three judicial days. Juveniles detained pursuant to this section shall have all the rights, powers, privileges, and duties, and shall receive the same treatment, afforded juveniles detained pursuant to the laws of this state. The board of supervisors of a county may contract with the United States for reimbursement of the county's cost incurred in the support of such juvenile.

**Leg.H.**

1976 ch. 250.

## § 870. Creation of Joint Juvenile Hall by Two or More Counties.

Two or more counties may, pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, establish and operate a joint juvenile hall. A joint juvenile hall shall be under the management and control of the probation officers of the participating counties, acting jointly, or of one of such probation officers, as provided by the agreement among the counties, and shall be in the charge of a superintendent selected pursuant to a civil service or merit system. A joint juvenile hall shall be operated in the manner prescribed by this chapter for juvenile halls.

A county participating in the maintenance of a joint juvenile hall pursuant to this section need not maintain a separate juvenile hall.

**Leg.H.**

1961 ch. 1616.

## § 871. Escape from Juvenile Facility; Willful Failure to Return to Facility Considered Escape; Exceptions.

(a) Any person under the custody of a probation officer or any peace officer in a county juvenile hall, or committed to a county juvenile ranch, camp, forestry camp, or regional facility, who escapes or attempts to escape from the institution or facility in which he or she is confined, who escapes or attempts to escape while being conveyed to or from such an institution or facility, or who escapes or attempts to escape while outside or away from such an institution or facility while under the custody of a probation officer or any peace officer, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year.

(b) Any person who commits any of the acts described in subdivision (a) by use of force or violence shall be punished by imprisonment in a county jail for not more than one year or by imprisonment in the state prison.

(c) The willful failure of a person under the custody of a probation officer or any peace officer in a county juvenile hall, or committed to a county juvenile ranch, camp, or forestry camp, to return to the county juvenile hall, ranch, camp, or forestry camp at the prescribed time while outside or away from the county facility on furlough or temporary release constitutes an escape punishable as provided in subdivision (a). However, a willful failure to return at the prescribed time shall not be considered an escape if the failure to return was reasonable under the circumstances.

(d) A minor who, while under the supervision of a probation officer, removes his or her electronic monitor without authority and who, for more than 48 hours, violates the terms and conditions of his or her probation relating to the proper use of the electronic monitor shall be guilty of a misdemeanor. If an electronic monitor is damaged or discarded while in the possession of the minor, restitution for the cost of replacing the unit may be ordered as part of the punishment.

(e) The liability established by this section shall be limited by the financial ability of the person or persons ordered to pay restitution under this section, who shall be entitled to an evaluation and determination of ability to pay under Section 903.45.

(f) For purposes of this section, "regional facility" means any facility used by one or more public entities for the confinement of juveniles for more than 24 hours.

**Leg.H.**

Added Stats 1968 ch 536 § 3; Amended Stats 1985 ch 1283 § 1; Stats 1993 ch 918 § 1 (AB 2087); Stats 1997 ch 267 § 1 (AB 1152); Stats 1998 ch 694 § 6 (SB 2147); Stats 2003 ch 263 § 1 (AB 355); Stats 2017 ch 678 § 16 (SB 190), effective January 1, 2018.

## § 871.5. Prohibition Against Bringing or Sending Specified Contraband into Institution or Camp.

(a) Except as authorized by law, or when authorized by the person in charge of any county juvenile hall, ranch, camp, or forestry camp, or by an officer of any juvenile hall or camp empowered by the person in charge to give that authorization, any person who knowingly brings or sends into, or who knowingly assists in bringing into, or sending into, any county juvenile hall, ranch, camp, or forestry camp, or any person who while confined in any of those institutions possesses therein, any controlled substance, the possession of which is prohibited by Division 10 (commencing with Section 11000) of the Health and Safety Code, any firearm, weapon, or explosive of any kind, or any tear gas or tear gas weapon shall be punished by imprisonment in a county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

(b) Except as otherwise authorized in the manner provided in subdivision (a), any person who knowingly uses tear gas or uses a tear gas weapon in an institution or camp specified in subdivision (a) is guilty of a felony.

(c) A sign shall be posted at the entrance of each county juvenile hall, ranch, camp, or forestry camp specifying the conduct prohibited by this section and the penalties therefor.

(d) Except as otherwise authorized in the manner provided in subdivision (a), any person who knowingly brings or sends into, or who knowingly assists in bringing into, or sending into, any county juvenile hall, ranch, camp, or forestry camp, or any person who while confined in such an institution knowingly possesses therein, any alcoholic beverage shall be guilty of a misdemeanor.

(e) This section shall not be construed to preclude or in any way limit the applicability of any other law proscribing a course of conduct also proscribed by this section.

### Leg.H.

Added Stats 1981 ch 988 § 1. Amended Stats 1985 ch 515 § 1; Stats 1998 ch 694 § 7 (SB 2147); Stats 2011 ch 15 § 617 (AB 109), effective April 4, 2011, operative October 1, 2011.

## § 872. Detention in Another County's Juvenile Hall for Limited Time; Reimbursement of Costs and Liability.

Where there is no juvenile hall in the county of residence of minors, or when the juvenile hall becomes unfit or unsafe for detention of minors, the presiding or sole juvenile court judge may, with the recommendation of the probation officer of the sending county and the consent of the probation officer of the receiving county, by written order filed with the clerk of the court, designate the juvenile hall of any county in the state for the detention of an individual minor for a period not to exceed 60 days. The court may, at any time, modify or vacate the order and shall require notice of the transfer to be given to the parent or guardian. The county of residence of a minor so transferred shall reimburse the receiving county for costs and liability as agreed upon by the two counties in connection with the order.

As used in this section, the terms "unfit" and "unsafe" shall include a condition in which a juvenile hall is considered by the juvenile court judge, the probation officer of that county, or the Board of State and Community Corrections to be too crowded for the proper and safe detention of minors.

### Leg.H.

Added Stats 1995 ch 304 § 5 (AB 904), effective August 3, 1995. Amended Stats 1996 ch 12 § 10 (AB 1397), effective February 14, 1996; Stats 2002 ch 784 § 616 (SB 1316); Stats 2019 § 296 (AB 991), effective January 1, 2020.

## § 873. Juvenile Hall Store: Purpose; Prices; Sales; Deposits; Expenditures.

(a) Upon approval of the board of supervisors of a county, the chief probation officer of the county may establish, maintain, and operate a store in connection with the juvenile hall or other county juvenile facilities and for this purpose may purchase goods, articles and supplies, including, but not limited to, confectionery, snack foods and beverages, postage and writing materials, and toilet articles and supplies, and may sell these goods, articles, and supplies for cash to wards and detainees confined in the juvenile hall or other county juvenile facilities.

(b) The sale prices of the articles offered for sale at the store shall be fixed by the chief probation officer. Any profit shall be deposited in a Ward Welfare Fund which shall be established in the treasury of the county, if a store is established pursuant to subdivision (a).

(c) There shall also be deposited in the Ward Welfare Fund, if any, 10 percent of all gross sales of confined minor hobbycraft.

(d) There shall be deposited in the Ward Welfare Fund, if any, any money, refund, rebate, or commission received from a telephone company or pay telephone provider when the money, refund, rebate, or commission is attributable to the use of pay telephones which are primarily used by confined wards or detainees while incarcerated.

(e) The money and property deposited in the Ward Welfare Fund shall be expended by the chief probation officer primarily for the benefit, education, and welfare of the wards and detainees confined within the juvenile hall or other county juvenile facilities. Any funds that are not needed for the welfare of the confined wards and detainees may be expended by the chief probation officer at his or her sole discretion for the maintenance of county juvenile facilities. Maintenance of the juvenile hall or other county juvenile facilities may include, but is not limited to, the salary and benefits of personnel used in the programs to benefit the confined wards and detainees including, but not limited to, education, drug and alcohol treatment, welfare, library, accounting, and other programs deemed appropriate by the chief probation officer.

(f) The operation of a store within any other county juvenile detention facility which is not under the jurisdiction of the chief probation officer shall be governed by the provisions of this section, except that the board of supervisors shall designate the proper county official to exercise the duties otherwise allocated in this section to the chief probation officer.

(g) The treasurer may, pursuant to Article 1 (commencing with Section 53600), or Article 2 (commencing with Section 53630), of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, deposit, invest, or reinvest any part of the Ward Welfare Fund, in excess of that which the treasurer deems necessary for immediate use. The interest or increment accruing on these funds shall be deposited in the Ward Welfare Fund.

(h) The chief probation officer may expend money from the Ward Welfare Fund to provide indigent wards and detainees, prior to release from the juvenile hall, any county juvenile facility, or other juvenile detention facility under the jurisdiction of the chief probation officer, with essential clothing and transportation expenses within the county or, at the discretion of the chief probation officer, transportation to the minor's county of residence, if the county is within the state or 500 miles from the county of incarceration. This subdivision does not authorize expenditure of money from the Ward Welfare Fund for the transfer of any ward or detainees to the custody of any other law enforcement official or jurisdiction.

**Leg.H.**

1997 ch. 125.

## **§ 875. Criteria For Commitment To Secure Youth Treatment Facility; Baseline Term Of Confinement; Maximum Term; Individual Rehabilitation Plan; Review.**

**(a)** In addition to the types of treatment specified in Sections 727 and 730, commencing July 1, 2021, the court may order that a ward who is 14 years of age or older, be committed to a secure youth treatment facility for a period of confinement described in subdivision (b) if the ward meets the following criteria:

**(1)** The juvenile is adjudicated and found to be a ward of the court based on an offense listed in subdivision (b) of Section 707.

**(2)** The adjudication described in paragraph (1) is the most recent offense for which the juvenile has been adjudicated.

**(3)** The court has made a finding on the record that a less restrictive, alternative disposition for the ward is unsuitable. In determining this, the court shall consider all relevant and material evidence, including the recommendations of counsel, the probation department, and any other agency or individual designated by the court to advise on the appropriate disposition of the case. The court shall additionally make its determination based on all of the following criteria:

**(A)** The severity of the offense or offenses for which the ward has been most recently adjudicated, including the ward's role in the offense, the ward's behavior, and harm done to victims.

**(B)** The ward's previous delinquent history, including the adequacy and success of previous attempts by the juvenile court to rehabilitate the ward.

**(C)** Whether the programming, treatment, and education offered and provided in a secure youth treatment facility is appropriate to meet the treatment and security needs of the ward.

**(D)** Whether the goals of rehabilitation and community safety can be met by assigning the ward to an alternative, less restrictive disposition that is available to the court.

**(E)** The ward's age, developmental maturity, mental and emotional health, sexual orientation, gender identity and expression, and any disabilities or special needs affecting the safety or suitability of committing the ward to a term of confinement in a secure youth treatment facility.

**(b)** In making its order of commitment for a ward, the court shall set a baseline term of confinement for the ward that is based on the most serious recent offense for which the ward has been adjudicated. The baseline term of confinement shall represent the time in custody necessary to meet the developmental and treatment needs of the ward and to prepare the ward for discharge to a period of probation supervision in the community. The baseline term of confinement for the ward shall be determined according to offense-based classifications that are approved by the Judicial Council as described in subdivision (h). Pending the development and adoption of offense-based classifications by the Judicial Council, the court shall set a baseline term of confinement for the ward utilizing the discharge consideration date guidelines applied by the Department of Corrections and Rehabilitation, Division of Juvenile Justice prior to its closure and as set forth in Sections 30807 to 30813, inclusive, of Title 9 of the California Code of Regulations. These guidelines shall be used only to determine a baseline confinement time for the ward and shall not be used or relied on to modify the ward's confinement time in any manner other than as provided in this section. The court may, pending the adoption of Judicial Council guidelines, modify the initial baseline term with a deviation of plus or minus six months. The baseline term shall also be subject to modification in progress review hearings as described in subdivision (e).

**(c)** In making its order of commitment, the court shall additionally set a maximum term of confinement for the ward in a secure youth treatment facility. The maximum term of confinement shall represent the longest term of confinement in a facility that the ward may serve subject to the following:

**(1)** A ward committed to a secure youth treatment facility under this section shall not be held in secure confinement beyond 23 years of age, or two years from the date of the commitment, whichever occurs later. However, if the ward has been committed to a facility based on adjudication for an offense or offenses for which the ward, if convicted in adult criminal court, would face an aggregate sentence of seven or more years, the maximum period of confinement shall not exceed the ward attaining 25 years of age or two years from the date of the commitment, whichever occurs later.

**(2)** The maximum period of confinement shall not exceed the middle term of imprisonment that can be imposed upon an adult convicted of the same offense or offenses.

**(d)**

**(1)** Within 30 days of making an order of commitment to a secure youth treatment facility, the court shall receive, review, and approve an individual rehabilitation plan that meets the requirements of paragraph (2) for the ward that has been submitted to the court by the probation department and any other agencies or individuals the court deems necessary for the development of the plan. The plan may be developed in consultation with a multidisciplinary team of youth service, mental and behavioral health, education, and other treatment providers who are convened to advise the court for this purpose. The prosecutor and the counsel for the ward may provide input in the development of the rehabilitation plan prior to the court's approval of the plan. The plan may be modified by the court based on all of the information provided.

**(2)** An individual rehabilitation plan shall do all of the following:

**(A)** Identify the ward's needs in relation to treatment, education, and development, including any special needs the ward may have in relation to health, mental or emotional health, disabilities, or gender-related or other special needs.

**(B)** Describe the programming, treatment, and education to be provided to the ward in relation to the identified needs during the commitment period.

**(C)** Reflect, and be consistent with, the principles of trauma-informed, evidence-based, and culturally responsive care.

**(D)** The ward and their family shall be given the opportunity to provide input regarding the needs of the ward during the identification process stated in subparagraph (A), and the opinions of the ward and the ward's family shall be included in the rehabilitation plan report to the court.

**(e)**

**(1)** The court shall, during the term of commitment, schedule and hold a progress review hearing for the ward not less frequently than once every six months. In the review hearing, the court shall evaluate the ward's progress in relation to the rehabilitation plan and shall determine whether the baseline term of confinement is to be modified. The court shall consider the recommendations of counsel, the probation department and any behavioral, educational, or other specialists having information relevant to the ward's progress. At the conclusion of the review hearing, the court may order that the ward remain in custody for the remainder of the baseline term or may order that the ward's baseline term be modified downward by a reduction of confinement time not to exceed six months. The court may additionally order that the ward be assigned to a less restrictive program, as provided in subdivision (f).

**(2)** The ward's confinement time, including time spent in a less restrictive program described in subdivision (f), shall not be extended beyond the baseline confinement term, or beyond a modified baseline term, for disciplinary infractions or other in-custody behaviors. Any infractions or behaviors shall be addressed by alternative means, which may include a system of graduated sanctions for disciplinary infractions adopted by the operator of a secure youth treatment facility and subject to any relevant state standards or regulations that apply to juvenile facilities generally.

**(3)** The court shall, at the conclusion of the baseline confinement term, including any modified baseline term, hold a probation discharge hearing for the ward. For a ward who has been placed in a less restrictive program described in subdivision (f), the probation discharge hearing shall occur at the end of the period, or modified period, of placement that has been ordered by the court. At the discharge hearing, the court shall review the ward's progress toward meeting the goals of the individual rehabilitation plan and the recommendations of counsel, the probation department, and any other agencies or individuals having information the court deems necessary. At the conclusion of the hearing, the court shall order that the ward be discharged to a period of probation supervision in the community under conditions approved by the court, unless the court finds that the ward constitutes a substantial risk of imminent harm to others in the community if released from custody. If the court so finds, the ward may be retained in custody in a secure youth treatment facility for up to one additional year of confinement, subject to the review hearing and probation discharge hearing provisions of this subdivision and subject to the maximum confinement provisions of subdivision (c).

**(4)** If the ward is discharged to probation supervision, the court shall determine the reasonable conditions of probation that are suitable to meet the developmental needs and circumstances of the ward and to facilitate the ward's successful reentry into the community. The court shall periodically review the ward's progress under probation supervision and shall make any additional orders deemed necessary to modify the program of supervision in order to facilitate the provision of services or to otherwise support the ward's successful reentry into the community. If the court finds that the ward has failed materially to comply with the reasonable orders of probation imposed by the court, the court may order that the ward be returned to a juvenile facility or to a placement described in subdivision (f) for a period not to exceed either the remainder of the baseline term, including any court-ordered modifications, or six months, whichever is longer, and in any case not to exceed the maximum confinement limits of subdivision (c).

**(f)**

**(1)** Upon a motion from the probation department or the ward, the court may order that the ward be transferred from a secure youth treatment facility to less restrictive program, such as a halfway house, a camp or ranch, or a community residential or nonresidential service program. The purpose of a less restrictive program is to facilitate the safe and successful reintegration of the ward into the community. The court shall consider the transfer request at the next scheduled treatment review hearing or at a separately scheduled hearing. The court shall consider the recommendations of the probation department on the proposed change in placement. Approval of the request for a less restrictive program shall be made only upon the court's determination that the ward has made substantial progress toward the goals of the individual rehabilitation plan described in subdivision (d) and that placement is consistent with the goals of youth rehabilitation and community safety. In making its determination, the court shall consider both of the following factors:

**(A)** The ward's overall progress in relation to the rehabilitation plan during the period of confinement in a secure youth treatment facility.

**(B)** The programming and community transition services to be provided, or coordinated by the less restrictive program, including, but not limited to, any educational, vocational, counseling, housing, or other services made available through the program.

(2) In any order transferring the ward from a secure youth treatment facility to a less restrictive program, the court may require the ward to observe any conditions of performance or compliance with the program that are reasonable and appropriate in the individual case and that are within the capacity of the ward to perform. The court shall set the length of time the ward is to remain in a less restrictive program, not to exceed the remainder of the baseline or modified baseline term, prior to a probation discharge hearing described in subdivision (e). If, after placement in a less restrictive program, the court determines that the ward has materially failed to comply with the court-ordered conditions of placement in the program, the court may modify the terms and conditions of placement in the program or may order the ward to be returned to a secure youth treatment facility for the remainder of the baseline term, or modified baseline term, and subject to further periodic review hearings, as provided in subdivision (e) and to the maximum confinement provisions of subdivision (c).

(g) A secure youth treatment facility, as described in this section, shall meet the following criteria:

(1) The facility shall be a secure facility that is operated, utilized, or accessed by the county of commitment to provide appropriate programming, treatment, and education for wards having been adjudicated for the offenses specified in subdivision (a).

(2) The facility may be a stand-alone facility, such as a probation camp or other facility operated under contract with the county, or with another county, or may be a unit or portion of an existing county juvenile facility, including a juvenile hall or probation camp, that is configured and programmed to serve the population described in subdivision (a) and is in compliance with the standards described in paragraph (3).

(3) The Board of State and Community Corrections shall by July 1, 2023, review existing juvenile facility standards and modify or add standards for the establishment, design, security, programming and education, and staffing of any facility that is utilized or accessed by the court as a secure youth treatment facility under the provisions of this section. The standards shall be developed by the board with the coordination and concurrence of the Office of Youth and Community Restoration established by Section 2200. The standards shall specify how the facility may be used to serve or to separate juveniles, other than juveniles described in subdivision (a) serving baseline confinement terms, who may also be detained in or committed to the facility or to some portion of the facility. Pending the final adoption of these modified standards, a secure youth treatment facility shall comply with applicable minimum standards for juvenile facilities in Title 15 and Title 24 of the California Code of Regulations.

(4) A county proposing to establish a secure youth treatment facility for wards described in subdivision (a) shall notify the Board of State and Community Corrections of the operation of the facility and shall submit a description of the facility to the board in a format designated by the board. Commencing July 1, 2022, the Board of State and Community Corrections shall conduct a biennial inspection of each secure youth treatment facility that was used for the confinement of juveniles placed pursuant to subdivision (a) during the preceding calendar year. To the extent new standards are not yet in place, the board shall utilize the standards in existing regulations.

(5) In lieu of establishing its own secure youth treatment facility, a county may contract with another county having a secure youth treatment facility to accept commitments of wards described in subdivision (a).

(6) A county may establish a secure youth treatment facility to serve as a regional center for commitment of juveniles by one or more other counties on a contract payment basis.

(h)

(1) By July 1, 2023, the Judicial Council shall develop and adopt a matrix of offense-based classifications to be applied by the juvenile courts in all counties in setting the baseline confinement terms described in subdivision (b). Each classification level or category shall specify a set of offenses within the level or category that is linked to a standard baseline term of years to be assigned to youth, based on their most serious recent adjudicated offense, who are committed to a secure youth treatment facility as provided in this section. The classification matrix may provide for upward or downward deviations from the baseline term and may also provide for a system of positive incentives or credits for time served. In developing the matrix, the Judicial Council shall be advised by a working group of stakeholders, which shall include representatives from prosecution, defense, probation, behavioral health, youth service providers, youth formerly incarcerated in the Division of Juvenile Justice, and youth advocacy and other stakeholders and organizations having relevant expertise or information on dispositions and sentencing of youth in the juvenile justice system. In the development process, the Judicial Council shall also examine and take into account youth sentencing and length-of-stay guidelines or practices adopted by other states or recommended by organizations, academic institutions, or individuals having expertise or having conducted relevant research on dispositions and sentencing of youth in the juvenile justice system.

(2) Upon final adoption by the Judicial Council, the matrix of offense-based classifications shall be applied in a standardized manner by juvenile courts in each county in cases where the court is required to set a baseline confinement term under subdivision (b) for wards who are committed to a secure youth treatment facility. The discharge consideration date guidelines of the Division of Juvenile Justice that were applied on an interim basis, as provided in subdivision (b), shall not thereafter be utilized to determine baseline confinement terms for wards who are committed to a secure youth treatment facility under the provisions of this section.

(i) A court shall not commit a juvenile to any juvenile facility, including a secure youth treatment facility as defined in this section, for a period that exceeds the middle term of imprisonment that could be imposed upon an adult convicted of the same offense or offenses.

**Leg.H.**

Added Stats 2021 ch 18 § 12 (SB 92), effective May 14, 2021.

## **§ 875.5. Legislative Intent.**

(a) It is the intent of the Legislature to apply Article 6 (commencing with Section 1800) of Chapter 1 of Division 2.5, governing extended detention of persons physically dangerous to the public who are served by the Division of Juvenile Justice, to persons physically dangerous to the public who are committed to a secure treatment facility pursuant to Section 875, pending development of a specific commitment process for realigned persons pursuant to subdivision (b).

(b) The Governor and the Legislature shall work with stakeholders, including, but not limited to, the Division of Juvenile Justice, the State Department of State Hospitals, the Chief Probation Officers of California, the California State Association of Counties, advocacy organizations representing youth, and the Judicial Council to develop language by July 1, 2021, to replace the procedures specified in Section 876 with a commitment process that ensures the treatment capacity, legal protections, and court procedures are appropriate to successfully serve persons realigned from the Division of Juvenile Justice to the counties by Senate Bill 823 (Chapter 337, Statutes of 2020).

(c) It is the intent of the Legislature to enact legislation that would, effective July 1, 2022, extend detention of persons physically dangerous to the public who are in a secure youth treatment facility pursuant to the commitment process developed in subdivision (b).

**Leg.H.**

## **§ 876. Petition To Extend Department Control; Review And Hearing; Order For Continued Detention.**

**(a)** If a probation department determines that the discharge of a person confined in a secure youth treatment facility from the control of the court at the time required by Section 875 would be physically dangerous to the public because of the person's mental or physical condition, disorder, or other problem that causes the person to have serious difficulty controlling their dangerous behavior, the department shall request the prosecuting attorney to petition the committing court for an order directing that the person remain subject to the control of the department beyond that time. The petition shall be filed at least 90 days before the time of discharge otherwise required. The petition shall be accompanied by a written statement of the facts upon which the department bases its opinion that discharge at the time stated would be physically dangerous to the public, but the petition may not be dismissed and an order may not be denied merely because of technical defects in the application.

**(b)** The prosecuting attorney shall promptly notify the probation department of a decision not to file a petition.

**(c)** If a petition is filed with the court and, upon review, the court determines that the petition, on its face, supports a finding of probable cause, the court shall order that a hearing be held. The court shall provide notification of the hearing to the person whose liberty is involved and, if the person is a minor, the minor's parent or guardian, if the minor's parent or guardian can be reached, and, if not, the court shall appoint a person to act in the place of the parent or guardian and shall afford the person an opportunity to appear at the hearing with the aid of counsel and the right to cross-examine experts or other witnesses upon whose information, opinion, or testimony the petition is based. The court shall inform the person named in the petition of their right of process to compel attendance of relevant witnesses and the production of relevant evidence. When the person is unable to provide their own counsel, the court shall appoint counsel to represent them. The probable cause hearing shall be held within 10 calendar days after the date the order is issued pursuant to this subdivision unless the person named in the petition waives this time.

**(d)** At the probable cause hearing, the court shall receive evidence and determine whether there is probable cause to believe that discharge of the person would be physically dangerous to the public because of the person's mental or physical condition, disorder, or other problem that causes the person to have serious difficulty controlling dangerous behavior. If the court determines there is not probable cause, the court shall dismiss the petition and the person shall be discharged from the control of a secure youth treatment facility at the time required by Section 875, as applicable. If the court determines there is probable cause, the court shall order that a trial be conducted to determine whether the person is physically dangerous to the public because of their mental or physical condition, disorder, or other problem.

**(e)** If a trial is ordered, the trial shall be by jury unless the right to a jury trial is personally waived by the person, after the person has been fully advised of the constitutional rights being waived, and by the prosecuting attorney, in which case trial shall be by the court. If the jury is not waived, the court shall cause a jury to be summoned and to be in attendance at a date stated, not less than 4 days nor more than 30 days from the date of the order for trial, unless the person named in the petition waives time. The court shall submit to the jury, or, at a court trial, the court shall answer, the following question: Is the person physically dangerous to the public because of a mental or physical condition, disorder, or other problem that causes the person to have serious difficulty controlling their dangerous behavior? The court's previous order entered pursuant to this section shall not be read to the jury, nor alluded to in the trial. The person shall be entitled to all rights guaranteed under the federal and state constitutions in criminal proceedings. A unanimous jury verdict shall be required in any jury trial. As to either a court or a jury trial, the standard of proof shall be that of proof beyond a reasonable doubt.

(f) If an order for continued detention is made pursuant to this section, the control of the department over the person shall continue, subject to the provisions of this article, but, unless the person is previously discharged as provided in Section 875, the department shall, within two years after the date of that order in the case of persons committed by the juvenile court, or within two years after the date of that order in the case of persons committed after conviction in criminal proceedings, file a new application for continued detention in accordance with the provisions of this section if continued detention is deemed necessary. These applications may be repeated at intervals as often as in the opinion of the department may be necessary for the protection of the public, except that the court shall have the power, in order to protect other persons in the custody of probation to refer the person for evaluation for civil commitment or to transfer the custody of any person over 25 years of age to the county adult probation authorities for placement in an appropriate institution. Each person shall be discharged from the control of the probation department at the termination of the period stated in this section unless the probation department has filed a new application and the court has made a new order for continued detention as provided above in this section.

(g) An order of the committing court made pursuant to this section is appealable by the person whose liberty is involved in the same manner as a judgment in a criminal case. The appellate court may affirm the order of the lower court, or modify it, or reverse it and order the appellant to be discharged. Pending appeal, the appellant shall remain under the control of the probation department.

**Leg.H.**

Added Stats 2021 ch 18 § 12 (SB 92), effective May 14, 2021.

## **ARTICLE 24**

### **Wards and Dependent Children—Juvenile Homes, Ranches and Camps**

#### **§ 880. Purposes of Creation of Juvenile Residence Facilities.**

In order to provide appropriate facilities for the housing of wards of the juvenile court in the counties of their residence or in adjacent counties so that those wards may be kept under direct supervision of the court, and in order to more advantageously apply the salutary effect of a safe and supportive home and family environment upon them, and also in order to secure a better classification and segregation of those wards according to their capacities, interests, and responsiveness to control and responsibility, and to give better opportunity for reform and encouragement of self-discipline in those wards, juvenile ranches or camps may be established, as provided in this article.

**Leg.H.**

1961 ch. 1616, 1998 ch. 694.

#### **§ 881. Creation and Maintenance of Juvenile Residence Facilities.**

The board of supervisors of any county may, by ordinance, establish juvenile ranches, camps, or forestry camps, within or without the county, to which persons made wards of the court on the ground of fitting the description in Section 602 may be committed. As far as possible, the provisions of this chapter relating to commitments to the probation officer shall apply to commitments to those juvenile facilities, except that where any ward proves to be unfit to remain in any facility, in the opinion of the superintendent or director thereof, the

superintendent or director shall make a recommendation to the probation department for consideration for other commitment. Complete operation and authority for the administration shall be vested in the county.

**Leg.H.**

Amended 1976 ch. 1071, 1998 ch. 694.

## **§ 881.5. County Contributions to Youth Authority for Reduced Capacity or Increased Commitments.**

(a)

(1) If a county receives funds pursuant to Section 17602, the county reduces the capacity of its juvenile ranches, camps, or forestry camps below the capacity for those facilities during the 1990–91 fiscal year, and if during the 12-month period subsequent to the month of reduction, there is an increase in the rate of commitments from the county’s juvenile court to the Department of the Youth Authority above the commitments per 100,000 of the county’s juvenile population, aged 12 to 17 years, during the 1990–91 fiscal year, the county shall contribute to the Department of the Youth Authority an amount equivalent to the actual cost, as determined by the Department of the Youth Authority.

(2) Paragraph (1) shall not apply to a county of the fifth class, for reductions in the capacity of its juvenile ranches, camps, or forestry camps that were made prior to January 1, 1993, if the reductions were due to fiscal constraints.

(b) Any county that provides juvenile ranch or camp space to another county pursuant to contract shall contribute to the Department of the Youth Authority an amount equivalent to the actual costs associated with any increase in the rate of commitments to which subdivision (a) applies, per 100,000, by the county’s juvenile court to the Department of the Youth Authority above the rate of commitments during the 1991–92 fiscal year that are not attributable to a reduced capacity in juvenile ranches, camps, or forestry camps.

(c) The Department of the Youth Authority may notify the Controller of any county or counties that have experienced an increase in the rate of commitments for purposes of recovering the costs associated with that increase. Upon receiving this notice, the Controller shall redirect, from the funds that are provided to that county or counties pursuant to Section 17602, an amount equal to the costs associated with the increased commitments. Within 30 days of the notification of the Controller the Department of the Youth Authority shall also notify each county from which they are seeking reimbursement pursuant to subdivision (b).

**Leg.H.**

1991 ch. 91, effective June 30, 1991, 1992 ch. 1311, effective September 30, 1992, 1993 ch. 970, effective October 11, 1993, 1998 ch. 694.

## **§ 883. Labor and Study by Committed Wards; Conditions for Use in Fire Suppression.**

The wards committed to ranches, camps, or forestry camps may be required to labor on the buildings and grounds thereof, on the making of forest roads for fire prevention or firefighting, on forestation or reforestation of public lands, or on the making of firetrails or firebreaks, or to perform any other work or engage in any studies or activities on or off of the grounds of those ranches, camps, or forestry camps prescribed by the probation department, subject to such approval as the county board of supervisors by ordinance requires.

Wards may not be required to labor in fire suppression when under the age of 16 years.

Wards between the ages of 16 years and 18 years may be required to labor in fire suppression if all of the following conditions are met:

(a) The parent or guardian of the ward has given permission for that labor by the ward.

(b) The ward has completed 80 hours of training in forest firefighting and fire safety, including, but not limited to, the handling of equipment and chemicals, survival techniques, and first aid.

Whenever any ward committed to a camp is engaged in fire prevention work or the suppression of existing fires, he or she shall be subject to worker's compensation benefits to the same extent as a county employee, and the board of supervisors shall provide and cover any ward committed to a camp while performing that service, with accident, death and compensation insurance as is otherwise regularly provided for employees of the county.

**Leg.H.**

Amended 1975 ch. 1129, 1998 ch. 694.

## **§ 884. Payment of Wages to Wards.**

The board of supervisors may provide for the payment of wages and pay such wages from the treasury of such county to the wards for the work they do, the sums earned to be paid in reparation, or to the parents or dependents of the ward, or to the ward himself, in such manner and in such proportions as the court directs.

**Leg.H.**

1961 ch. 1616.

## **§ 885. Minimum Standards for Juvenile Residence Facilities; Conformity and Reporting Requirements.**

(a) The Board of State and Community Corrections shall adopt and prescribe the minimum standards of construction, operation, programs of education and training, and qualifications of personnel for juvenile ranches, camps, or forestry camps established under Section 881.

(b) The Board of State and Community Corrections shall conduct a biennial inspection of each juvenile ranch, camp, or forestry camp situated in this state that, during the preceding calendar year, was used for confinement of any minor for more than 24 hours.

(c) The custodian of each juvenile ranch, camp, or forestry camp shall make any reports that may be required by the board to effectuate the purposes of this section.

**Leg.H.**

Added Stats 1995 ch 304 § 7 (AB 904), effective August 3, 1995. Amended Stats 1996 ch 12 § 12 (AB 1397), effective February 14, 1996, ch 805 § 9 (AB 1325); Stats 1998 ch 694 § 13 (SB 2147); Stats 2019 § 297 (AB 991), effective January 1, 2020.

## **§ 886. Maximum Occupancy of Any Facility.**

Except as provided in Section 886.5, no juvenile home, ranch, camp, or forestry camp established pursuant to the provisions of this article shall receive or contain more than 100 children at any one time.

**Leg.H.**

Amended 1981 ch. 988 § 2, 1998 ch. 375.

## § 886.5. Capacity Expansion by County of Any Facility Under Certain Conditions.

(a) A juvenile home, ranch, camp, or forestry camp may receive or contain a maximum of 125 children at any one time if the county has determined that there is a consistent need for juvenile home, ranch, camp, or forestry camp placements which exceeds the beds available in the county. Any county desiring to expand the capacity of a juvenile home, ranch, camp, or forestry camp pursuant to this section shall certify to the Board of Corrections that the facility to be expanded will continue to meet the minimum standards adopted and prescribed pursuant to Section 885 during the period of expanded capacity.

(b)

(1) The Legislature reaffirms its belief that juvenile ranches, camps, forestry camps, and other residential treatment facilities should be small enough to provide individualized guidance and treatment for juvenile offenders which enables them to return to their families and communities as productive and law abiding citizens. Consistent with this principle and upon demonstration of exceptional need, a juvenile ranch, camp, or forestry camp may receive or contain a maximum population in excess of 125 children at any one time if the Board of Corrections has approved that expanded capacity pursuant to the following procedure:

(A) The county shall submit an application to the Board of Corrections, endorsed by the board of supervisors, identifying the capacity requested and the reasons why the additional capacity is needed. The application shall include the county's plan to ensure that the facility will, with the additional capacity, comply with applicable minimum standards and maintain adequate levels of onsite staffing, program, and other services for children in the facility.

(B) The Board of Corrections shall review any application received under this subdivision and shall approve or deny the application based on a determination whether the county has demonstrated its ability to comply with minimum standards and maintain adequate staffing, program, and service levels for children in the expanded facility. In its review, the board shall consider any public comment that may be submitted while the application is pending. The board may approve an application with conditions, including a capacity below the requested number, remodeling or expansion of units or living quarters, staffing ratios in excess of those required by minimum standards, or other adjustments of program or procedure deemed appropriate by the board for a facility operating with a capacity in excess of 125 children. The board shall ensure that the staffing, program, and service levels are increased commensurate with the increased risks to residents and the staff that are a result of the expanded capacity.

(2) Notwithstanding the inspection schedule set forth in Section 885, the board shall conduct an annual inspection of any facility whose application for expanded capacity under this subdivision is approved. The approval to operate at a capacity above 125 children shall terminate, and the facility shall not thereafter receive or contain more than 125 children, if the board determines after any annual inspection that the facility is not in compliance with minimum standards, that program, staffing, or service levels for children in the expanded facility have not been maintained, or that the county has failed substantially to comply with a condition that was attached to the board's approval of the expanded capacity.

(c) The board may provide forms and instructions to local jurisdictions to facilitate compliance with this section.

## **§ 888. Agreements Between Counties Regarding Creating Facilities or Receiving Commitments.**

Any county establishing a juvenile ranch or camp under the provisions of this article may, by mutual agreement, accept children committed to that ranch or camp by the juvenile court of another county in the state. Two or more counties may, by mutual agreement, establish juvenile ranches or camps, and the rights granted and duties imposed by this article shall devolve upon those counties acting jointly. The provisions of this article shall not apply to any juvenile hall.

**Leg.H.**

Amended 1983 ch. 288 § 2, effective July 15, 1983, 1998 ch. 694.

## **§ 889. Operation of Public Schools in Juvenile Residence Facilities.**

The board of education shall provide for the administration and operation of public schools in any juvenile hall, day center, ranch, camp, regional youth educational facility, or Orange County youth correctional center in existence and providing services prior to the effective date of the amendments to this section made by the Statutes of 1989, established pursuant to Article 2.5 (commencing with Section 48645) of Chapter 4 of Part 27 of the Education Code, or Article 9 (commencing with Section 1850) of Chapter 1 of Division 2.5 of the Welfare and Institutions Code.

**Leg.H.**

Amended 1989 ch. 929 § 3, 1998 ch. 694.

## **§ 889.1. Computer Technology and Internet Access for Minors In Juvenile Ranch, Camp, or Forestry Camp.**

**(a)**

**(1)** Minors detained in or committed to a juvenile ranch, camp, or forestry camp shall be provided with access to computer technology and the Internet for the purposes of education.

**(2)** Minors detained in or committed to a juvenile ranch, camp, or forestry camp may be provided with access to computer technology and the Internet for maintaining relationships with family.

**(b)** This section does not limit the authority of the chief probation officer, or his or her designee, to limit or deny access to computer technology or the Internet for safety and security or staffing reasons.

**Leg.H.**

Added Stats 2018 ch 997 § 4 (AB 2448), effective January 1, 2019.

## **§ 891. “Construction” Defined; Limits on State’s Share of Construction Costs.**

**(a)** From any state moneys made available to it for that purpose, the Youth Authority shall share in the cost pursuant to this article of the construction of juvenile ranch camps or forestry camps established after July 1,

1957, and for construction at existing juvenile ranches, camps, or forestry camps, by counties that apply therefor.

(b) "Construction," as used in this section, includes construction of new buildings and acquisition of existing buildings and initial equipment of any of those buildings; and, to the extent provided for in regulations adopted by the Department of the Youth Authority, remodeling of existing buildings owned by the county, to serve the purposes of a juvenile ranch camp or forestry camp, and initial equipment thereof. "Construction" also includes payments made by a county under any lease-purchase agreement or similar arrangement authorized by law and payments for the necessary repair or improvements of property which is leased from the federal government or other public entity without cost to the county for a term of not less than 10 years. It does not include architects' fees or the cost of land acquisition.

(c) The amount of state assistance that shall be provided to any county shall not exceed 50 percent of the project cost approved by the Youth Authority, and, in no event shall it exceed three thousand dollars (\$3,000) per bed unit of the new juvenile ranch, camp, or forestry camp or per bed unit added to an existing juvenile ranch camp, or forestry camp, as the case may be. The construction project shall be deemed to have as many bed units as the number of persons it is designed to accommodate, not exceeding 100 bed units for any one project.

(d) Application for state assistance for construction funds under this article shall be made to the Youth Authority in the manner and form prescribed by the Youth Authority. The Youth Authority shall prescribe the time and manner of payment of state assistance, if granted.

**Leg.H.**

1978 ch. 464, 1998 ch. 694.

## **§ 892. "City" Defined; State Aid in Construction of Border Check Station Facilities.**

(a) From any state moneys made available to it for that purpose, the Youth Authority shall provide state assistance pursuant to this section to defray, in whole or part, the cost of construction of border check station facilities by any city which applies therefor.

"City" as used in this section means any city with a population in excess of 500,000 as determined by the last decennial census, all or part of the boundaries of which are contiguous with the boundaries of a foreign country adjoining this state.

(b) "Construction," as used in this section, includes construction of new buildings and acquisition of existing buildings and initial equipment of any such buildings to serve as a border check station facility. It does not include the cost of land acquisition.

(c) The amount of state assistance which shall be provided to any city shall not exceed 100 percent of the project cost approved by the Youth Authority, and, in no event shall it exceed one hundred thousand dollars (\$100,000) for any one project.

(d) Application for state assistance for construction funds under this section shall be made to the Youth Authority in the manner and form prescribed by the Youth Authority. The Youth Authority shall prescribe the time and manner of payment of state assistance, if granted.

(e) The Youth Authority shall adopt and prescribe the minimum standards of construction for such border check station facility. No city shall be entitled to receive any state funds provided for in this section unless and until the minimum standards and qualifications referred to in this section are complied with by such city. Type and standards of construction shall be approved by the city architect's office, city department of public works, or such city department having jurisdiction over public construction.

**Leg.H.**

1968 ch. 1249.

## § 893. Operation of Schools at Juvenile Residence Facilities in County with Population Over 5,000,000.

(a) The board of supervisors of any county with a population of five million or more may provide and maintain a school or schools at a juvenile ranch or camp or residential or nonresidential boot camp under the control of the probation officer for the purpose of meeting the special educational needs of wards and dependent children of the juvenile court. The school or schools shall be conducted in a manner and under conditions that will minister to the specific individualized educational and training needs of each ward and dependent child in furtherance of the objective of assisting each of them, as much as possible, to fulfill his or her potential to be a contributing, law-abiding member of society. If the board of supervisors determines that this objective may be promoted as well as or better by provision of educational and training services by a qualified private organization, the board of supervisors on behalf of the county may enter into annual contracts, with or without options to renew, for the provision of those services by that organization.

(b) The Legislature hereby finds and determines that there are persons whose educational and vocational backgrounds and personal leadership qualities peculiarly fit them to instruct and train wards of the court in promotion of the aforesaid objective, but who lack certification qualifications. Accordingly, the probation officer is hereby authorized to certify to the county board of education and the Superintendent of Public Instruction that a person employed or to be employed by the probation officer or by an organization retained by contract to provide vocational training or vocational training courses at or in connection with the school or schools is peculiarly fit to provide wards of the court that vocational training in promotion of the aforesaid objective.

The certification shall specify the type or types of service the person is qualified to provide. Upon filing of that certification, the person shall be deemed to be a certificated employee for purposes of authorizing him or her to provide the services described in the certificate and for apportionment purposes.

(c) The individual school or schools shall have a maximum enrollment of 100 students.

(d) The county superintendent of schools shall report on behalf of the county the average daily attendance for the schools and classes maintained by the county in the school or schools in the manner provided in Sections 41601 and 84701 of the Education Code and other provisions of law.

(e) The Superintendent of Public Instruction shall compute the amount of allowance to be made to the county by reasons of the average daily attendance at the school or schools by multiplying the average daily attendance by the foundation program amount for a high school district that has an average daily attendance of 301 or more during the fiscal year, and shall make allowances based thereon and shall apportion to the county, the allowances so computed in the same manner and at the same times as would be done with respect to allowances and apportionments to the county school service fund.

**Leg.H.**

Amended 1978 ch. 380, 1995 ch. 72, 1998 ch. 694.

## ARTICLE 24.5

### Regional Youth Educational Facilities

## **§ 894. Creation and Operation of Pilot Regional Youth Educational Facilities.**

In order to provide a sentencing alternative for the juvenile courts, one or more pilot regional youth educational facilities shall be established as short-term intensive residential programs to which primarily 16- and 17-year-old minor juvenile court wards not committed to the Youth Authority who fit the description in Section 602 may be committed. Participating minors shall be those who are awaiting out-of-home placement in county juvenile halls, educationally behind in school, educable, able to participate in vocational activities, and able to participate in work projects. Each facility shall provide a short-term intensive educational experience, including program elements such as competency-based education services, assessment for learning disabilities including visual perceptual screening and treatment, remedial individual educational plans for diagnosed learning disabilities, electronic and computer education, physical education, vocational and industrial arts and training, job training and experience, character education, victim awareness, and restitution. Wards who complete the short-term intensive program who need continuing services shall be transferred to local facilities for up to 60 days of additional education and training. Following institutional placement, all wards in the program shall receive intensive supervision by a probation officer in their county of residence for a minimum of 120 days. Intensive supervision means a 10 to 15 person caseload per deputy probation officer.

### **Leg.H.**

1984 ch. 1455 § 6, effective September 26, 1984.

## **§ 895. Youth Authority Assistance in Creation of Pilot Facilities; Criteria for Selection of Participating Counties.**

(a) From any state moneys made available to it for that purpose, the Youth Authority shall assist counties in the establishment of pilot regional youth educational facilities. Interested counties that agree to provide matching funds or resources, in compliance with standards established by the department, may enter agreements with the Youth Authority to establish these facilities. The facilities shall be operated by participating counties, either solely or under a joint powers agreement. The counties may contract with private agencies to provide job training consultation or other services.

(b) The Youth Authority shall develop selection criteria for participating counties to include, but not be limited to, all of the following factors:

- (1) Eligible target population.
- (2) Demonstrated ability to administer the program.
- (3) Facility capability.
- (4) Financial ability to provide matching funds or resources.
- (5) Demonstrated need for the program.
- (6) Ability to meet regional needs.
- (7) Ability to provide specified program elements.

### **Leg.H.**

1984 ch. 1455 § 6, effective September 26, 1984.

## **§ 896. Minimum Standards for Educational Programs and Personnel Qualifications; Conformity and Reporting Requirements.**

(a) The Board of State and Community Corrections shall establish minimum performance standards for programs of education and training and for qualifications of personnel for all youth educational facilities in the program, including local continuation and intensive supervision components. These standards and qualifications shall be designed to achieve program goals such as an increase in the educational level of participants, better community protection and offender accountability, and preparation of participants to return to the community as responsible and productive members.

(b) Every person in charge of a regional youth educational facility, which, in the preceding calendar year, was used for confinement, for more than 24 hours, of any minor, shall certify annually to the board that the facility is in conformity with the standards adopted by the board under subdivision (a). The board may provide forms and instructions to local jurisdictions to facilitate compliance with this subdivision.

(c) The custodian of each regional youth educational facility shall make any reports as may be required by the board to effectuate the purposes of this section.

**Leg.H.**

Added Stats 1995 ch 304 § 11 (AB 904), effective August 2, 1995. Amended Stats 1996 ch 12 § 14 (AB 1397), effective February 14, 1996; Stats 2019 § 298 (AB 991), effective January 1, 2020.

## **§ 897. Capacity of Pilot Facilities.**

The capacity of each regional youth educational facility shall be established pursuant to Sections 886 and 886.5.

**Leg.H.**

1984 ch. 1455 § 6, effective September 26, 1984.

## **§ 898. Appointment of Citizens Advisory Committee.**

The participating counties shall appoint a citizens advisory committee with a membership drawn from law enforcement, judiciary, probation, education, corrections, business, and the general public, whose function is to review the goals, objectives, and programs of each youth educational facility and provide input to the facility.

**Leg.H.**

1984 ch. 1455 § 6, effective September 26, 1984.

# **ARTICLE 25**

## **Support of Wards and Dependent Children**

### **§ 900. Order for Support and Maintenance by County.**

(a) If it is necessary that provision be made for the expense of support and maintenance of a dependent child of the juvenile court or of a minor person concerning whom a petition has been filed to declare the person a dependent child of the juvenile court in accordance with this chapter, the order providing for the care and

custody of the dependent child or other minor person shall direct that the whole expense of support and maintenance of the dependent child or other minor person, up to the amount of twenty dollars (\$20) per month, be paid from the county treasury and may direct that an amount up to any maximum amount per month established by the board of supervisors of the county be paid. The board of supervisors of each county is hereby authorized to establish, either generally or for individual dependent children or according to classes or groups of dependent children, a maximum amount that the court may order the county to pay for the support and maintenance. All orders made pursuant to this subdivision shall state the amounts to be paid from the county treasury, and those amounts shall constitute legal charges against the county.

**(b)** If it is necessary that provision be made for the expense of support and maintenance of a ward of the juvenile court or of a minor person concerning whom a petition has been filed to declare the person a ward of the juvenile court in accordance with this chapter, the order providing for the care and custody of the ward or other minor person shall direct that the whole expense of support and maintenance of the ward or other minor person be paid from the county treasury. All orders made pursuant to this subdivision shall state the amounts to be paid from the county treasury, and those amounts shall constitute legal charges against the county.

**(c)** This section is applicable to a minor who is the subject of a program of supervision undertaken by the probation department pursuant to Section 330 or 654 and who is temporarily placed out of his home by the probation department, with the approval of the court and the minor's parent or guardian, for a period not to exceed seven days.

**Leg.H.**

Added Stats 1961 ch 1616 § 2; Amended Stats 1972 ch 924 § 1; Stats 1976 ch 1068 § 77; Stats 1978 ch 380 § 168; Stats 2017 ch 678 § 17 (SB 190), effective January 1, 2018.

## **§ 901. Limitation on Payment.**

No order for payment shall be made in a sum in excess of the actual cost of supporting and maintaining the ward, dependent child or other minor person.

**Leg.H.**

1961 ch. 1616.

## **§ 902. Parental Liability for Payment Beyond Maximum Allowed by Board.**

**(a)** If it is found that the maximum amount established by the board of supervisors of the county is insufficient to pay the whole expense of support and maintenance of a dependent child or other minor person, the court may order and direct that the additional amount as is necessary shall be paid out of the earnings, property, or estate of the dependent child or other minor person, or by the parents or guardian of the dependent child or other minor person, or by any other person liable for his or her support and maintenance, to the county officers designated by the board of supervisors, who shall in turn pay it to the person, association, or institution that, under court order, is caring for and maintaining the dependent child or other minor person.

**(b)**

**(1)** This section does not apply to a minor who is adjudged a ward of the juvenile court, who is placed on probation pursuant to Section 725, who is the subject of a petition that has been filed to adjudicate the minor a ward of the juvenile court, or who is the subject of a program of supervision undertaken pursuant to Section 654.

(2) Notwithstanding paragraph (1), this section applies to a minor who is designated as a dual status child pursuant to Section 241.1, for purposes of the dependency jurisdiction only and not for purposes of the delinquency jurisdiction.

**Leg.H.**

Added Stats 1961 ch 1616 § 2; Amended Stats 1969 ch 437 § 1; Stats 2017 ch 678 § 18 (SB 190), effective January 1, 2018.

## **§ 903. Liability of Parent for Support Costs of Minor in Detention.**

(a) The father, mother, spouse, or other person liable for the support of a minor, the estate of that person, and the estate of the minor, shall be liable for the reasonable costs of support of the minor while the minor is placed, or detained in, or committed to, any institution or other place pursuant to Section 625 or pursuant to an order of the juvenile court. However, a county shall not levy charges for the costs of support of a minor detained pursuant to Section 625 unless, at the detention hearing, the juvenile court determines that detention of the minor should be continued. The liability of these persons and estates shall be a joint and several liability.

(b) The county shall limit the charges it seeks to impose to the reasonable costs of support of the minor and shall exclude any costs of treatment or supervision for the protection of society and the minor and the rehabilitation of the minor. In the event that court-ordered child support paid to the county pursuant to subdivision (a) exceeds the amount of the costs authorized by this subdivision and subdivision (a), the county shall either hold the excess in trust for the minor's future needs pursuant to [Section 302.52 of Title 45 of the Code of Federal Regulations](#) or, with the approval of the minor's caseworker, pay the excess directly to the minor.

(c) It is the intent of the Legislature in enacting this subdivision to protect the fiscal integrity of the county, to protect persons against whom the county seeks to impose liability from excessive charges, to ensure reasonable uniformity throughout the state in the level of liability being imposed, and to ensure that liability is imposed only on persons with the ability to pay. In evaluating a family's financial ability to pay under this section, the county shall take into consideration the family's income, the necessary obligations of the family, and the number of persons dependent upon this income. Except as provided in paragraphs (1), (2), (3), and (4), "costs of support" as used in this section means only actual costs incurred by the county for food and food preparation, clothing, personal supplies, and medical expenses, not to exceed a combined maximum cost of thirty dollars (\$30) per day, except that:

(1) The maximum cost of thirty dollars (\$30) per day shall be adjusted every third year beginning January 1, 2012, to reflect the percentage change in the calendar year annual average of the California Consumer Price Index, All Urban Consumers, published by the Department of Industrial Relations, for the three-year period.

(2) No cost for medical expenses shall be imposed by the county until the county has first exhausted any eligibility the minor may have under private insurance coverage, standard or medically indigent Medi-Cal coverage, and the Robert W. Crown California Children's Services Act (Article 5 (commencing with 123800) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code).

(3) In calculating the cost of medical expenses, the county shall not charge in excess of 100 percent of the AFDC fee-for-service average Medi-Cal payment for that county for that fiscal year as calculated by the State Department of Health Services; however, if a minor has extraordinary medical or dental costs that are not met under any of the coverages listed in paragraph (2), the county may impose these additional costs.

(4) For those placements of a minor subject to this section in which an AFDC-FC grant is made, the local child support agency shall, subject to [Sections 17550 and 17552 of the Family Code](#), seek an order

pursuant to [Section 17400 of the Family Code](#) and the statewide child support guideline in effect in Article 2 (commencing with Section 4050) of Chapter 2 of Part 2 of Division 9 of the Family Code. For purposes of determining the correct amount of support of a minor subject to this section, the rebuttable presumption set forth in [Section 4057 of the Family Code](#) is applicable. This paragraph shall be implemented consistent with subdivision (a) of [Section 17415 of the Family Code](#).

**(d)** Notwithstanding subdivision (a), the father, mother, spouse, or other person liable for the support of the minor, the estate of that person, or the estate of the minor, shall not be liable for the costs described in this section if a petition to declare the minor a dependent child of the court pursuant to Section 300 is dismissed at or before the jurisdictional hearing.

**(e)**

**(1)** This section does not apply to a minor who is adjudged a ward of the juvenile court, who is placed on probation pursuant to Section 725, who is the subject of a petition that has been filed to adjudicate the minor a ward of the juvenile court, or who is the subject of a program of supervision undertaken pursuant to Section 654.

**(2)** Notwithstanding paragraph (1), this section applies to a minor who is designated as a dual status child pursuant to Section 241.1, for purposes of the dependency jurisdiction only and not for purposes of the delinquency jurisdiction.

**Leg.H.**

Added Stats 1983 ch 1135 § 3, effective September 28, 1983; Amended Stats 1984 ch 485 § 1; Stats 1991 ch 110 § 19 (SB 101), ch 137 § 1 (AB 2235); Stats 1992 ch 50 § 3 (AB 1394), effective May 11, 1992; Stats 1993 ch 219 § 228 (AB 1500), ch 876 § 31 (SB 1068), effective October 6, 1993; Stats 1994 ch 882 § 3 (AB 1327), ch 1269 § 62.1 (AB 2208); Stats 1996 ch 508 § 1 (AB 1348), ch 1023 § 457 (SB 1497), effective September 29, 1996 (ch 508 prevails); Stats 1997 ch 478 § 1 (SB 238), effective September 25, 1997; Stats 2001 ch 463 § 4 (AB 1449); Stats 2009 ch 606 § 11 (SB 676), effective January 1, 2010; Stats 2017 ch 678 § 19 (SB 190), effective January 1, 2018.

## **§ 903.1. Cost for Legal Services; Liability; Fees Received.**

**(a)**

**(1)**

**(A)** The father, mother, spouse, or other person liable for the support of a minor, the estate of that person, and the estate of the minor, shall be liable for the cost to the county or the court, whichever entity incurred the expenses, of legal services rendered to the minor by an attorney pursuant to an order of the juvenile court.

**(B)**

**(i)** This paragraph does not apply to a minor who is adjudged a ward of the juvenile court, who is placed on probation pursuant to Section 725, who is the subject of a petition that has been filed to adjudicate the minor a ward of the juvenile court, or who is the subject of a program of supervision undertaken pursuant to Section 654.

**(ii)** Notwithstanding clause (i), this paragraph applies to a minor who is designated as a dual status child pursuant to Section 241.1, for purposes of the dependency jurisdiction only and not for purposes of the delinquency jurisdiction.

**(2)** The father, mother, spouse, or other person liable for the support of a minor and the estate of that person shall also be liable for any cost to the county or the court of legal services rendered directly to the father, mother, or spouse, of the minor or any other person liable for the support of the minor, in a

dependency proceeding by an attorney appointed pursuant to an order of the juvenile court. The liability of those persons (in this article called relatives) and estates shall be a joint and several liability.

**(b)** Notwithstanding subdivision (a), the father, mother, spouse, or other person liable for the support of the minor, the estate of that person, or the estate of the minor, shall not be liable for the costs of any of the legal services provided to any person described in this section if a petition to declare the minor a dependent child of the court pursuant to Section 300 is dismissed at or before the jurisdictional hearing.

**(c)** Fees received pursuant to this section shall be transmitted to the Administrative Office of the Courts in the same manner as prescribed in [Section 68085.1 of the Government Code](#). The Administrative Office of the Courts shall deposit the fees received pursuant to this section into the Trial Court Trust Fund.

**Leg.H.**

Added Stats 1965 ch 2006 § 1; Amended Stats 1981 ch 188 § 1; Stats 1992 ch 433 § 2 (AB 2448); Stats 1996 ch 508 § 2 (AB 1348); Stats 2009 ch 140 § 189 (AB 1164), effective January 1, 2010, ch 413 § 1 (AB 131), effective January 1, 2010 (ch 413 prevails); Stats 2017 ch 678 § 20 (SB 190), effective January 1, 2018.

## **§ 903.2. Parental Liability for Probation Supervision, Home Supervision, or Electronic Surveillance; Consideration of Ability to Pay.**

**(a)** The juvenile court may require that the father, mother, spouse, or other person liable for the support of a minor, the estate of that person, and the estate of the minor shall be liable for the cost to the county of the home supervision of the minor, pursuant to the order of the juvenile court, by the probation officer or social worker. The liability of these persons (in this article called relatives) and estates shall be a joint and several liability.

**(b)** Liability shall be imposed on a person pursuant to this section only if he or she has the financial ability to pay. In evaluating a family's financial ability to pay under this section, the county shall take into consideration the family income, the necessary obligations of the family, and the number of persons dependent upon this income.

**(c)**

**(1)** This section does not apply to a minor who is adjudged a ward of the juvenile court, who is placed on probation pursuant to Section 725, who is the subject of a petition that has been filed to adjudicate the minor a ward of the juvenile court, or who is the subject of a program of supervision undertaken pursuant to Section 654.

**(2)** Notwithstanding paragraph (1), this section applies to a minor who is designated as a dual status child pursuant to Section 241.1, for purposes of the dependency jurisdiction only and not for purposes of the delinquency jurisdiction.

**Leg.H.**

Added Stats 1968 ch 1225 § 1; Amended Stats 1996 ch 355 § 1 (SB 1734); Amended Stats 2017 ch 678 § 22 (SB 190), effective January 1, 2018.

## **§ 903.25. Parental Liability for Support Costs Following Refusal to Take Minor After Release.**

**(a)** In addition to the liability established by any other law, a parent or guardian of a minor who has been delivered to the custody of the probation department, or who has been placed into a children's receiving home, a foster care home or facility, shall be liable for the reasonable costs of food, shelter, and care of the minor while in the custody of the probation department when all of the following circumstances are applicable:

**(1)** The parent or guardian receives actual notice by telephone or by written communication from the probation officer that the minor is scheduled for release from custody and that the parent or guardian, in person or through a responsible relative, is requested to take delivery of the minor. The notice shall inform the parent or guardian of the financial liability created by this section.

**(2)** It is reasonably possible for the parent or guardian to take delivery of the minor, in person or through a responsible relative, at the place designated by the probation officer within 12 hours from the time notice of release was received, or within 48 hours from the time notice of release is received in any case where a petition to declare the minor a dependent child of the court pursuant to Section 300 was dismissed at or before the jurisdictional hearing.

**(3)** The parent states a refusal to take delivery of the minor or fails to make a reasonable effort to take delivery of the minor, in person or through a responsible relative, within 12 hours from the time of actual receipt of the notice, or within 48 hours from the time of actual receipt of the notice in any case where a petition to declare the minor a dependent child of the court pursuant to Section 300 was dismissed at or before the jurisdictional hearing.

**(b)** The liability established by this section, when combined with any liability arising under Section 903, shall not exceed one hundred dollars (\$100) for each 24-hour period, beginning when notice of release was actually received, or beginning 48 hours after notice of release was actually received in any case where a petition to declare the minor a dependent child of the court pursuant to Section 300 was dismissed at or before the jurisdictional hearing, in which a notified parent or guardian has failed to make a reasonable effort to take delivery of the minor, in person or through a responsible relative, in accordance with the request and instructions of the probation officer.

**(c)** The liability established by this section shall be limited by the financial ability of the parents, guardians, or other persons to pay. Any parent, guardian, or other person who is assessed under this section shall, upon request, be entitled to an evaluation and determination of ability to pay under the provisions of Section 903.45. Any parent, guardian, or other person who is assessed under this section shall also be entitled, upon petition, to a hearing and determination by the juvenile court on the issues of liability and ability to pay.

**(d)**

**(1)** This section does not apply to a minor who is adjudged a ward of the juvenile court, who is placed on probation pursuant to Section 725, who is the subject of a petition that has been filed to adjudge the minor a ward of the juvenile court, or who is the subject of a program of supervision undertaken pursuant to Section 654.

**(2)** Notwithstanding paragraph (1), this section applies to a minor who is designated as a dual status child pursuant to Section 241.1, for purposes of the dependency jurisdiction only and not for purposes of the delinquency jurisdiction.

**Leg.H.**

Added Stats 1992 ch 429 § 6 (SB 1274), effective August 1, 1992; Amended Stats 1996 ch 508 § 3 (AB 1348); Stats 2017 ch 678 § 23 (SB 190), effective January 1, 2018.

## **§ 903.4. Collection of Support for Juveniles in Out-of-Home Care.**

(a)

**(1)** The Legislature finds that even though Section 903 establishes parental liability for the cost of the care, support, and maintenance of a child in a county institution or other place in which the child is placed, detained, or committed pursuant to an order of the juvenile court, the collection of child support for juveniles who have been placed in out-of-home care as dependents of the juvenile court under Sections 300 has not been pursued routinely and effectively.

**(2)** It is the purpose of this section to substantially increase income to the state and to counties through court-ordered parental reimbursement for the support of juveniles who are in out-of-home placement. In this regard, the Legislature finds that the costs of collection will be offset by the additional income derived from the increased effectiveness of the parental support program.

**(b)** In any case in which a child is or has been declared a dependent child of the court pursuant to Section 300, the juvenile court shall order any agency that has expended moneys or incurred costs on behalf of the child pursuant to a detention or placement order of the juvenile court, to submit to the local child support agency, within 30 days, in the form of a declaration, a statement of its costs and expenses for the benefit, support, and maintenance of the child.

(c)

**(1)**

**(A)** The local child support agency may petition the superior court to issue an order to show cause why an order should not be entered for continuing support and reimbursement of the costs of the support of any minor described in Section 903.

**(B)** Any order entered as a result of the order to show cause shall be enforceable in the same manner as any other support order entered by the courts of this state at the time it becomes due and payable.

**(C)** In any case in which the local child support agency has received a declaration of costs or expenses from any agency, the declaration shall be deemed an application for assistance pursuant to **Section 17400 of the Family Code**.

**(2)** The order to show cause shall inform the parent of all of the following facts:

**(A)** He or she has been sued.

**(B)** If he or she wishes to seek the advice of an attorney in this matter, it should be done promptly so that his or her financial declaration and written response, if any, will be filed on time.

**(C)** He or she has a right to appear personally and present evidence in his or her behalf.

**(D)** His or her failure to appear at the order to show cause hearing, personally or through his or her attorney, may result in an order being entered against him or her for the relief requested in the petition.

**(E)** Any order entered could result in the garnishment of wages, taking of money or property to enforce the order, or being held in contempt of court.

**(F)** Any party has a right to request a modification of any order issued by the superior court in the event of a change in circumstances.

**(3)** Any existing support order shall remain in full force and effect unless the superior court modifies that order pursuant to subdivision (f).

**(4)** The local child support agency shall not be required to petition the court for an order for continuing support and reimbursement if, in the opinion of the local child support agency, it would not be appropriate to secure that order. The local child support agency shall not be required to continue collection efforts for any order if, in the opinion of the local child support agency, it would not be appropriate or cost effective to enforce the order pursuant to **Section 17552 of the Family Code**.

**(d)**

**(1)** In any case in which an order to show cause has been issued and served upon a parent for continuing support and reimbursement of costs, a completed income and expense declaration shall be filed with the court by the parent; a copy of it shall be delivered to the local child support agency at least five days prior to the hearing on the order to show cause.

**(2)** Any person authorized by law to receive a parent's financial declaration or information obtained therefrom, who knowingly furnishes the declaration or information to a person not authorized by law to receive it, is guilty of a misdemeanor.

**(e)**

**(1)** If a parent has been personally served with the order to show cause and no appearance is made by the parent, or an attorney in his or her behalf, at the hearing on the order to show cause, the court may enter an order for the principal amount and continuing support in the amount demanded in the petition.

**(2)** If the parent appears at the hearing on the order to show cause, the court may enter an order for the amount the court determines the parent is financially able to pay.

**(f)** The court shall have continuing jurisdiction to modify any order for continuing support entered pursuant to this section.

**(g)** As used in this section, "parent" includes any person specified in Section 903, the estate of that person, and the estate of the minor person. "Parent" does not include a minor or nonminor dependent whose minor child receives aid under Section 11401.4.

**(h)** The local child support agency may contract with another county agency for the performance of any of the duties required by this section.

**(i)**

**(1)** This section does not apply to a minor who is adjudged a ward of the juvenile court, who is placed on probation pursuant to Section 725, who is the subject of a petition that has been filed to adjudicate the minor a ward of the juvenile court, or who is the subject of a program of supervision undertaken pursuant to Section 654.

**(2)** Notwithstanding paragraph (1), this section applies to a minor who is designated as a dual status child pursuant to Section 241.1, for purposes of the dependency jurisdiction only and not for purposes of the delinquency jurisdiction.

#### **Leg.H.**

Added Stats 1982 ch 1276 § 5, effective September 22, 1982; Amended Stats 1984 ch 1720 § 1; Stats 2000 ch 808 § 118 (AB 1358), effective September 28, 2000; Stats 2012 ch 846 § 32 (AB 1712), effective January 1, 2013; Stats 2017 ch 678 § 24 (SB 190), effective January 1, 2018.

## § 903.41. Legislative Intent Regarding Parentage Determinations.

(a) It is the intention of the Legislature that the family law departments and juvenile departments of each superior court coordinate determinations of parentage and the setting of support to ensure that the State of California remains in compliance with federal regulations for child support guidelines. The Legislature therefore enacts this section for the purpose of ensuring a document exchange between the family law departments and juvenile departments of each superior court as necessary to administer the public social services administered or supervised by the State Department of Social Services.

(b) If the issue of paternity is raised during any hearings pursuant to Section 300, 601, or 602, the court clerk shall notify the local child support agency for an inquiry concerning any superior court order or judgment which addresses the issue.

(1) If the local child support agency determines that a judgment for parentage already exists, the local child support agency shall obtain and forward certified copies of the judgment to the juvenile court and the court shall take judicial notice thereof.

(2) If the local child support agency determines that the issue of parentage has not been determined, the juvenile court may determine the issue of parentage and, if it does so, shall give notice to the local child support agency.

(c) If the court establishes paternity of a minor child, the court clerk shall forward the order on a form to be adopted by the Judicial Council to the local child support agency.

(d) If a child is receiving public assistance under the CalWORKs program, or if it appears to the court that the child may receive assistance under CalWORKs, the court shall direct the clerk of the court to advise the local child support agency.

(e) The court shall advise the parent of the minor of the possibility that the local child support agency may file an action for support if the child receives CalWORKs, pursuant to [Section 17402 of the Family Code](#).

Leg.H.

1994 ch. 1269, 2000 ch. 808, effective September 28, 2000.

## § 903.45. Financial Evaluations of Parental Liability for Costs; Petition; Hearing; Order.

(a) The board of supervisors may designate a county financial evaluation officer pursuant to [Section 27750 of the Government Code](#) to make financial evaluations of liability for reimbursement pursuant to Sections 903, 903.1, 903.2, 903.25, 903.3, and 903.5, and other reimbursable costs allowed by law, as set forth in this section.

(b)

(1)

(A) In a county where a board of supervisors has designated a county financial evaluation officer, the juvenile court shall, at the close of the disposition hearing, order any person liable for the cost of support, pursuant to Section 903, the cost of legal services as provided for in Section 903.1, supervision costs as provided for in Section 903.2, or any other reimbursable costs allowed under this code, to appear before the county financial evaluation officer for a financial evaluation of his or her ability to pay those costs. If the responsible person is not present at the disposition hearing, the court shall cite him or her to appear for a financial evaluation. In the case of a parent, guardian, or other

person assessed for the costs of transport, food, shelter, or care of a minor under Section 903.25, the juvenile court shall, upon request of the county probation department, order the appearance of the parent, guardian, or other person before the county financial evaluation officer for a financial evaluation of his or her ability to pay the costs assessed.

**(B)**

**(i)** This paragraph does not apply to costs described in this paragraph for purposes of a minor who is adjudged a ward of the juvenile court, who is placed on probation pursuant to Section 725, who is the subject of a petition that has been filed to adjudicate the minor a ward of the juvenile court, or who is the subject of a program of supervision undertaken pursuant to Section 654.

**(ii)** Notwithstanding clause (i), this paragraph applies to a minor who is designated as a dual status child pursuant to Section 241.1, for purposes of the dependency jurisdiction only and not for purposes of the delinquency jurisdiction.

**(2)** If the county financial evaluation officer determines that a person so responsible has the ability to pay all or part of the costs, the county financial evaluation officer shall petition the court for an order requiring the person to pay that sum to the county or court, depending on which entity incurred the expense. If the parent or guardian is liable for costs for legal services pursuant to Section 903.1, the parent or guardian has been reunified with the child pursuant to a court order, and the county financial evaluation officer determines that repayment of the costs would harm the ability of the parent or guardian to support the child, then the county financial evaluation officer shall not petition the court for an order of repayment, and the court shall not make that order. In addition, if the parent or guardian is currently receiving reunification services, and the court finds, or the county financial officer determines, that repayment by the parent or guardian will pose a barrier to reunification with the child because it will limit the ability of the parent or guardian to comply with the requirements of the reunification plan or compromise the parent's or guardian's current or future ability to meet the financial needs of the child, or in any case in which the court finds that the repayment would be unjust under the circumstances of the case, then the county financial evaluation officer shall not petition the court for an order of repayment, and the court shall not order repayment by the parent or guardian. In evaluating a person's ability to pay under this section, the county financial evaluation officer and the court shall take into consideration the family's income, the necessary obligations of the family, and the number of persons dependent upon this income. A person appearing for a financial evaluation has the right to dispute the county financial evaluation officer's determination, in which case he or she is entitled to a hearing before the juvenile court. The county financial evaluation officer, at the time of the financial evaluation, shall advise the person of his or her right to a hearing and of his or her rights pursuant to subdivision (c).

**(3)** At the hearing, a person responsible for costs is entitled to have, but shall not be limited to, the opportunity to be heard in person, to present witnesses and other documentary evidence, to confront and cross-examine adverse witnesses, to disclosure of the evidence against him or her, and to receive a written statement of the findings of the court. The person has the right to be represented by counsel, and, if the person is unable to afford counsel, the right to appointed counsel. If the court determines that the person has the ability to pay all or part of the costs, including the costs of any counsel appointed to represent the person at the hearing, the court shall set the amount to be reimbursed and order him or her to pay that sum to the county or court, depending on which entity incurred the expense, in a manner in which the court believes reasonable and compatible with the person's financial ability.

**(4)**

**(A)** That the person has a right to a statement of the costs as soon as it is available.

**(B)** The person's procedural rights under **Section 27755 of the Government Code**.

**(C)** The time limit within which the person's appearance is required.

**(D)** A warning that if the person fails to appear before the county financial evaluation officer, the officer will recommend that the court order the person to pay the costs in full.

**(5)** If the county financial evaluation officer determines that the person has the ability to pay all or a portion of these costs, with or without terms, and the person concurs in this determination and agrees to the terms of payment, the county financial evaluation officer, upon his or her written evaluation and the person's written agreement, shall petition the court for an order requiring the person to pay that sum to the county or the court in a manner that is reasonable and compatible with the person's financial ability. This order may be granted without further notice to the person, provided that a copy of the order is served on the person by mail or by electronic means pursuant to Section 212.5.

**(6)** However, if the county financial evaluation officer cannot reach an agreement with the person with respect to either the liability for the costs, the amount of the costs, the person's ability to pay the costs, or the terms of payment, the matter shall be deemed in dispute and referred by the county financial evaluation officer back to the court for a hearing.

**(c)** At any time prior to the satisfaction of a judgment entered pursuant to this section, a person against whom the judgment was entered may petition the rendering court to modify or vacate the judgment on the basis of a change in circumstances relating to his or her ability to pay the judgment.

**(d)** Execution may be issued on the order in the same manner as on a judgment in a civil action, including any balance remaining unpaid at the termination of the court's jurisdiction over the minor.

**Leg.H.**

Added Stats 1984 ch 1720 § 2; Amended Stats 1985 ch 1485 § 15.1; Stats 1992 ch 429 § 7 (SB 1274), effective August 1, 1992; Stats 2001 ch 755 § 23 (SB 943), effective October 12, 2001; Stats 2009 ch 413 § 2 (AB 131), effective January 1, 2010; Stats 2013 ch 31 § 26 (SB 75), effective June 27, 2013; Stats 2017 ch 319 § 147 (AB 976), effective January 1, 2018; Stats 2017 ch 678 § 25.5 (SB 190), effective January 1, 2018 (ch 678 prevails).

## **§ 903.47. Program to Collect Reimbursements; Financial Evaluation Officer.**

**(a)** The Judicial Council shall establish a program to collect reimbursements from the person liable for the costs of counsel appointed to represent parents or minors pursuant to Section 903.1 in dependency proceedings.

**(1)** As part of the program, the Judicial Council shall:

**(A)** Adopt a statewide standard for determining the ability to pay reimbursements for counsel, which shall at a minimum include the family's income, their necessary obligations, the number of individuals dependent on this income, and the cost-effectiveness of the program.

**(B)** Adopt policies and procedures allowing a court to recover from the money collected the costs associated with implementing the reimbursements program. The policies and procedures shall at a minimum limit the amount of money a court may recover to a reasonable proportion of the reimbursements collected and provide the terms and conditions under which a court may use a third party to collect reimbursements. For the purposes of this subparagraph, "costs associated with implementing the reimbursements program" means the court costs of assessing a parent's ability to pay for court-appointed counsel and the costs to collect delinquent reimbursements.

(2) The money collected shall be deposited as required by [Section 68085.1 of the Government Code](#). Except as otherwise authorized by law, the money collected under this program shall be utilized to reduce caseloads, for attorneys appointed by the court, to the caseload standard approved by the Judicial Council. Priority shall be given to those courts with the highest attorney caseloads that also demonstrate the ability to immediately improve outcomes for parents and children as a result of lower attorney caseloads.

(b) The court may do either of the following:

(1) Designate a court financial evaluation officer to make financial evaluations of liability for reimbursement pursuant to Section 903.1.

(2) With the consent of the county and pursuant to the terms and conditions agreed upon by the court and county, designate a county financial evaluation officer to make financial evaluations of liability for reimbursement pursuant to Section 903.1.

(c) In handling reimbursement of payments pursuant to Section 903.1, the court financial evaluation officer and the county financial evaluation officer shall follow the procedures set forth for county financial evaluation officers in subdivisions (b), (c), and (d) of Section 903.45.

**Leg.H.**

Added Stats 2009 ch 413 § 3 (AB 131), effective January 1, 2010. Amended Stats 2010 ch 569 § 1 (AB 1229), effective January 1, 2011; Stats 2011 ch 308 § 13 (SB 647), effective January 1, 2012.

## **§ 903.5. Liability of Person Placing Minor in Out-of-home Care.**

(a) In addition to the requirements of Section 903.4, and notwithstanding any other law, the parent or other person legally liable for the support of a minor, who voluntarily places the minor in 24-hour out-of-home care, shall be liable for the cost of the minor's care, support, and maintenance when the minor receives Aid to Families with Dependent Children-Foster Care (AFDC-FC), Supplemental Security Income-State Supplementary Program (SSI-SSP), or county-only funds. As used in this section, "parent" includes any person specified in Section 903. As used in this section, "parent" does not include a minor or nonminor dependent whose minor child receives aid under Section 11401.4. Whenever the county welfare department or the placing agency determines that a court order would be advisable and effective, pursuant to [Section 17552 of the Family Code](#), the department or the agency shall notify the local child support agency, or the financial evaluation officer designated pursuant to Section 903.45, who shall proceed pursuant to Section 903.4 or 903.45.

(b)

(1) This section does not apply to a minor who is adjudged a ward of the juvenile court, who is placed on probation pursuant to Section 725, who is the subject of a petition that has been filed to adjudge the minor a ward of the juvenile court, or who is the subject of a program of supervision undertaken pursuant to Section 654.

(2) Notwithstanding paragraph (1), this section applies to a minor who is designated as a dual status child pursuant to Section 241.1, for purposes of the dependency jurisdiction only and not for purposes of the delinquency jurisdiction.

**Leg.H.**

Added Stats 1982 ch 1276 § 6, effective September 22, 1982; Amended Stats 1993 ch 876 § 32 (SB 1068), effective October 6, 1993; Stats 2000 ch 808 § 120 (AB 1358), effective September 28, 2000; Stats 2001 ch 755 § 24 (SB 943), effective October 12, 2001; Stats 2002 ch 664 § 231 (AB 3034); Stats 2012 ch 846 § 33 (AB 1712), effective January 1, 2013; Stats 2017 ch 678 § 26 (SB 190), effective January 1, 2018.

## § 903.6. Distribution of Collected Support Funds.

Funds collected pursuant to Sections 903, 903.4, and 903.5 shall be distributed in the following manner:

(a) If the program through which the minor is placed is a county-funded program, the county shall retain 100 percent of the funds collected. For the purposes of this subdivision, programs funded in whole or part with county justices system subvention program funds shall be considered to be 100 percent county funded.

(b) If the program through which the minor is placed is funded partially with state or federal funds, the amounts collected shall be distributed by the State Department of Social Services pursuant to Section 11457 and incentives shall be paid pursuant to Sections 15200.1, 15200.2, and 15200.3.

**Leg.H.**

1982 ch. 1276, effective September 22, 1982.

## § 903.7. [See Subsection (f) for Operative Date Information] Foster Parent Training—Funding, Community College Programs; Foster Children Services Programs—Funding.

(a) There is in the State Treasury the Foster Children and Parent Training Fund. The moneys contained in the fund shall be used exclusively for the purposes set forth in this section.

(b) For each fiscal year beginning with the 1981–82 fiscal year, except as provided in Sections 15200.1, 15200.2, 15200.3, 15200.8, and 15200.81, and [Section 17704 of the Family Code](#), the Department of Child Support Services shall determine the amount equivalent to the net state share of foster care collections attributable to the enforcement of parental fiscal liability pursuant to Sections 903, 903.4, and 903.5. On July 1, 1982, and every three months thereafter, the department shall notify the Chancellor of the Community Colleges, the Department of Finance, and the Superintendent of Public Instruction of the above-specified amount. The Department of Child Support Services shall authorize the quarterly transfer of any portion of this amount for any particular fiscal year exceeding three million seven hundred fifty thousand dollars (\$3,750,000) of the net state share of foster care collections to the Treasurer for deposit in the Foster Children and Parent Training Fund, except that, commencing with the 2002–03 fiscal year, a total of not more than three million dollars (\$3,000,000) may be transferred to the fund in any fiscal year.

(c)

(1) If sufficient moneys are available in the Foster Children and Parent Training Fund, up to three million dollars (\$3,000,000) shall be allocated for the support of foster parent training programs conducted in community colleges. The maximum amount authorized to be allocated pursuant to this subdivision shall be adjusted annually by a cost-of-living increase each year based on the percentage given to discretionary education programs. Funds for the training program shall be provided in a separate budget item in that portion of the Budget Act pertaining to the Chancellor of the California Community Colleges, to be deposited in a separate bank account by the Chancellor of the California Community Colleges.

(2) The chancellor shall use these funds exclusively for foster parent training, as specified by the chancellor in consultation with the California State Foster Parents Association and the State Department of Social Services.

(3) The plans for each foster parent training program shall include the provision of training to facilitate the development of foster family homes and small family homes to care for no more than six

children who have special mental, emotional, developmental, or physical needs.

(4) The State Department of Social Services shall facilitate the participation of county welfare departments in the foster parent training program. The California State Foster Parents Association, or the local chapters thereof, and the State Department of Social Services shall identify training participants and shall advise the chancellor on the form, content, and methodology of the training program. Funds shall be paid monthly to the foster parent training program until the maximum amount of funds authorized to be expended for that program is expended. No more than 10 percent or seventy-five thousand dollars (\$75,000) of these moneys, whichever is greater, shall be used for administrative purposes; of the 10 percent or seventy-five thousand dollars (\$75,000), no more than ten thousand dollars (\$10,000) shall be expended to reimburse the State Department of Social Services for its services pursuant to this paragraph.

(d) Beginning with the 1983–84 fiscal year, and each fiscal year thereafter, after all allocations for foster parent training in community colleges have been made, any moneys remaining in the Foster Children and Parent Training Fund may be allocated for foster children services programs pursuant to Chapter 11.3 (commencing with Section 42920) of Part 24 of the Education Code.

(e)

(1) The Controller shall transfer moneys from the Foster Children and Parent Training Fund to the Chancellor of the California Community Colleges and the Superintendent of Public Instruction as necessary to fulfill the requirements of subdivisions (c) and (d).

(2) After the maximum amount authorized in any fiscal year has been transferred to the Chancellor of the California Community Colleges and the Superintendent of Public Instruction, the Controller shall transfer any remaining funds to the General Fund for expenditure for any public purpose.

(f) This section shall be operative until June 30, 2005, and thereafter is operative only if specified in the annual Budget Act or in another statute.

**Leg.H.**

1982 ch. 1276, effective September 22, 1982, 1983 ch. 543, effective July 28, 1983, 1984 ch. 1597, 2000 ch. 108, effective July 10, 2000, 2001 ch. 755, effective October 12, 2001, 2002 ch. 1022 (AB 444), effective September 28, 2002, 2005 ch. 73 (SB 63) § 26, effective July 19, 2005.

## **§ 903.8. Statewide Foster Parent Training Program; Teenage Pregnancy Prevention as Supplemental Curricula.**

(a) Beginning January 1, 1994, the State Department of Social Services shall develop and implement an enhanced statewide basic foster parent training program. It is the intent of the Legislature to fund this program by allocating unexpended child welfare services funds from the 1992–93 fiscal year to support a two and one-half year training curricula development.

(b) During this two and one-half year period, the State Department of Social Services shall do all of the following, in cooperation with foster parents and representatives from county placement agencies and other foster care providers:

(1) Complete a comprehensive survey of existing foster parent training curricula and resources, evaluate the existing foster parent training delivery system and explore alternative delivery models, complete a needs assessment of foster parents, and develop and implement a statewide core curriculum.

(2) Develop and implement curricula for, teenage pregnancy prevention and other special needs topics, as identified in the needs assessment, to supplement the core curriculum. The teenage pregnancy prevention topics shall be based upon public health fact-based materials and programs. Curricula for teenage pregnancy prevention shall emphasize that abstinence from sexual intercourse is the only protection that is 100 percent effective against unwanted teenage pregnancy, sexually transmitted diseases, and acquired immune deficiency syndrome (AIDS) when transmitted sexually, and that all other methods of contraception carry a risk of failure in preventing unwanted teenage pregnancy. The curricula shall:

(A) Include statistics based on the latest medical information citing the failure and success rates of condoms and other contraceptives in preventing pregnancy.

(B) Stress that sexually transmitted diseases are serious possible hazards of sexual intercourse, and shall include statistics based on the latest medical information citing the failure and success rates of condoms in preventing AIDS and other sexually transmitted diseases.

(C) Include a discussion of the possible emotional and psychological consequences of preadolescent and adolescent sexual intercourse outside of marriage and the consequences of unwanted adolescent pregnancy.

(3) Evaluate the current foster parent training funding formula and explore funding alternatives to ensure that a permanent and adequate funding source is available.

(4) Evaluate current recruitment strategies and facilitate the expansion of recruitment activities, especially targeting minority families for the promotion of the placement of minority youth with trained and culturally competent families of the same ethnicity and cultural background.

(5) In its foster parent recruitment and training effort, place special emphasis on the recruitment of prospective foster parents willing to accept sibling placements and the training of foster parents to ensure they are able and ready to care for a sibling group.

(c) It is not the intent of the Legislature and nothing in this section shall be construed as requiring foster parents to participate in this training program in whole or in part.

**Leg.H.**

1993 ch. 1089, 1995 ch. 281.

## **§ 904. Determination of Costs by Board of Supervisors.**

(a) The monthly or daily charge, not to exceed cost, for care, support, and maintenance of minor persons placed or detained in or committed to any institution by order of a juvenile court, the cost of supervision referred to by Section 903.2, and the cost of sealing records in county or local agency custody referred to by Section 903.3 shall be determined by the board of supervisors. The cost of dependency-related legal services referred to by Section 903.1 and the cost of sealing records in court custody referred to by Section 903.3 shall be determined by the court. Any determination made by a court under this section shall be valid only if either (1) made under procedures adopted by the Judicial Council or (2) approved by the Judicial Council.

**(b)**

(1) This section does not apply to a minor who is adjudged a ward of the juvenile court, who is placed on probation pursuant to Section 725, who is the subject of a petition that has been filed to adjudge the minor a ward of the juvenile court, or who is the subject of a program of supervision undertaken pursuant to Section 654.

(2) Notwithstanding paragraph (1), this section applies to a minor who is designated as a dual status child pursuant to Section 241.1, for purposes of the dependency jurisdiction only and not for purposes of the delinquency jurisdiction.

**Leg.H.**

Added Stats 1961 ch 1616 § 2; Amended Stats 1965 ch 336 § 1, ch 2006 § 2; Stats 1968 ch 1225 § 2; Stats 1979 ch 978 § 2; Stats 1983 ch 1135 § 4, effective September 28, 1983; Stats 2001 ch 824 § 40 (AB 1700); Stats 2017 ch 678 § 27 (SB 190), effective January 1, 2018.

## **§ 911. Time Limits on Orders of Payment; County Reimbursement of Homes.**

No order for payment from the county treasury of the expense of support and maintenance of a ward or dependent child of the juvenile court shall be effective for more than 12 months, and no order for payment from the county treasury of the expense of support and maintenance of a minor person concerning whom a verified petition has been filed in accordance with the provision of this chapter, other than a ward or dependent child of the court, shall be effective for more than one month. Upon all hearings of the case of any ward or dependent child of the juvenile court, the case shall be continued on the calendar, but in no instance to exceed 12 months.

When any ward of the juvenile court is, with the consent of the juvenile court of the county committing him and the officer in charge of the state school to which he was committed or in which he is confined, placed in a boarding home, foster home, or work home, but continues to be under the supervision of such state school, the county may reimburse the boarding home, foster home, or work home in an amount adequate for the maintenance of the ward, but not to exceed twenty-five dollars (\$25) per month.

**Leg.H.**

1961 ch. 1616.

## **§ 912. County Payment to State for Youth Authority Commitment.**

(a) A county from which a person is committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, shall pay to the state an annual rate of twenty-four thousand dollars (\$24,000) while the person remains in an institution under the direct supervision of the division, or in an institution, boarding home, foster home, or other private or public institution in which the person is placed by the division, and cared for and supported at the expense of the division, as provided in this subdivision. This subdivision applies to a person who is committed to the division by a juvenile court on or after July 1, 2012.

The Department of Corrections and Rehabilitation, Division of Juvenile Facilities, shall present to the county, not more frequently than monthly, a claim for the amount due to the state under this subdivision, which the county shall process and pay pursuant to Chapter 4 (commencing with Section 29700) of Division 3 of Title 3 of the Government Code.

(b) A county from which a person is committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, on or after July 1, 2018, shall pay to the state an annual rate of twenty-four thousand dollars (\$24,000) for the time the person remains in an institution under the direct supervision of the division, or in an institution, boarding home, foster home, or other private or public institution in which the person is placed by the division, and cared for and supported at the expense of the division, as provided in this subdivision. A county shall not pay the annual rate of twenty-four thousand dollars (\$24,000) for a person who is 23 years of age or older. This subdivision applies to a person committed to the division by a juvenile court on or after July 1, 2018.

**(c)** A county from which a person is committed to the Department of Corrections and Rehabilitation, Division of Juvenile Justice, on or after July 1, 2021, shall pay to the state an annual rate of one-hundred and twenty-five thousand dollars (\$125,000) for the time the person remains in an institution under the direct supervision of the division, or in an institution, boarding home, foster home, or other private or public institution in which the person is placed by the division, and cared for and supported at the expense of the division, as provided in this subdivision. A county shall not pay the annual rate of one-hundred and twenty-five thousand dollars (\$125,000) for a person who is 23 years of age or older. This subdivision applies to a person committed to the division by a juvenile court on or after July 1, 2021.

**(d)** Consistent with Article 1 (commencing with Section 6024) of Chapter 5 of Title 7 of Part 3 of the Penal Code, the Board of State and Community Corrections shall collect and maintain available information and data about the movement of juvenile offenders committed by a juvenile court and placed in any institution, boarding home, foster home, or other private or public institution in which they are cared for, supervised, or both, by the division or the county while they are on parole, probation, or otherwise.

**Leg.H.**

Added Stats 2011 ch 36 § 77 (SB 92), effective June 30, 2011, operative December 13, 2011. Amended Stats 2012 ch 41 § 89 (SB 1021), effective June 27, 2012 (ch 41 prevails), ch 162 § 192 (SB 1171), effective January 1, 2013; Stats 2018 ch 36 § 31 (AB 1812), effective June 27, 2018; Stats 2020 ch 337 § 31 (SB 823), effective September 30, 2020.

## **§ 912.1. Statement of Per Capita Institutional Cost.**

(a) The Department of the Youth Authority shall present to each county, not more frequently than monthly, a statement of per capita institutional cost.

(b) As of July 1, 2003, “per capita institutional cost,” as used in this section and Section 912.5, means thirty-six thousand five hundred four dollars (\$36,504).

(c) The “per capita institutional cost” set forth in subdivision (b) shall be adjusted annually, on July 1, to reflect any increases in the California Consumer Price Index for All Urban Consumers, as published by the California Department of Industrial Relations, based on regional data from the United States Department of Labor, Bureau of Labor Statistics.

**Leg.H.**

Added Stats 1998 ch 632 § 1 (SB 2055). Amended Stats 2003 ch 158 § 14 (AB 1758), effective August 2, 2003. Repealed Stats 2011 ch 36 § 78 (SB 92), effective June 30, 2011, operative date contingent.

## **§ 913. Power of County to Contract for Care of Committed Person.**

When any person has been adjudged to be a ward or dependent child of the juvenile court, and the court has made an order committing such person to the care of any association, society, or corporation, embracing within its objects the purpose of caring for or obtaining homes for such persons, the county in which such person has been committed may contract with such custodian, for the supervision, investigation, and rehabilitation of such person by such custodian, and may, pursuant to such contract, pay to it an amount determined by mutual agreement, not to exceed the cost to such custodian of such service.

**Leg.H.**

1961 ch. 1616.

## **§ 914. “Expense for Support and Maintenance” Defined.**

As used in this article, "expense for support and maintenance" includes the reasonable value of any medical services furnished to the ward or dependent child at the county hospital or at any other county institution, or at any private hospital or by any private physician with the approval of the juvenile court of the county concerned, and the reasonable value for the support of the ward or dependent child at any juvenile hall established pursuant to the provisions of Article 23 (commencing with Section 850) of this chapter or the reasonable value of the ward's support at any forestry camp, juvenile home, ranch, or camp established within or without the county pursuant to the provisions of Article 24 (commencing with Section 880) of this chapter.

**Leg.H.**

1961 ch. 1616, 1976 ch. 1068.

## **ARTICLE 26**

### **Work Furloughs**

#### **§ 925. Counties Where Article Operative; Board's Right to Terminate.**

The provisions of this article shall be operative in any county in which the board of supervisors by ordinance finds, on the basis of employment conditions, the state of juvenile detention facilities, and other pertinent circumstances, that the operation of this article in that county is feasible. In such ordinance the board shall prescribe whether the probation officer or any official in charge of a county juvenile detention facility shall perform the functions of the juvenile work furlough administrator. The board of supervisors may also terminate the operativeness of this article in the county if it finds by ordinance that, because of changed circumstances, the operation of this article in that county is no longer feasible.

**Leg.H.**

1967 ch. 1070.

#### **§ 926. Continuation of Employment or New Employment for Wards of Court.**

When a minor is adjudged a ward of the juvenile court and committed to a county juvenile home, ranch, camp, or forestry camp, the juvenile work furlough administrator may, if he concludes that such person is a fit subject therefor, direct that such person be permitted to continue in his regular employment, if that is compatible with the requirements of Section 928, or may authorize the person to secure employment for himself in the county, unless the court at the time of commitment has ordered that such person not be granted work furloughs.

**Leg.H.**

1967 ch. 1070.

#### **§ 927. Arrangement for Employment; Wage Rate and Labor Disputes; Local Job Training Program Placement.**

(a) If the juvenile work furlough administrator so directs that the minor be permitted to continue in his or her regular employment, the administrator shall arrange for a continuation of that employment when possible without interruption. If the minor does not have regular employment, and the administrator has authorized the minor to secure employment for himself or herself, the minor may do so, and the administrator may assist the

minor in doing so. Any employment so secured must be suitable for the minor and must be at a wage at least as high as the prevailing wage for similar work in the area where the work is performed and in accordance with the prevailing working conditions in the area. In no event may any employment be permitted where there is a labor dispute in the establishment in which the minor is, or is to be, employed.

(b) If the minor does not have regular employment, the juvenile work furlough administrator may authorize the minor to apply for placement in a local job training program, and the administrator may assist him or her in doing so. The program may include, but shall not be limited to, job training assistance as provided through the Job Training Partnership Act (Public Law 97-300; 29 U.S.C.A. Sec. 1501 et seq.).

**Leg.H.**

Amended 1989 ch. 48 § 2.

## **§ 928. Confinement Requirement.**

Whenever the minor is not employed and between the hours or periods of employment, he shall be confined in a juvenile detention facility unless the court or administrator directs otherwise.

**Leg.H.**

1967 ch. 1070.

## **§ 929. Earnings.**

The earnings of the minor shall be collected by the juvenile work furlough administrator, and it shall be the duty of the minor's employer to transmit such wages to the administrator at the latter's request. Earnings levied upon pursuant to Chapter 5 (commencing with Section 706.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure shall not be transmitted to the administrator. If the administrator has requested transmittal of earnings prior to levy, such request shall have priority. When an employer transmits such earnings to the administrator pursuant to this section the employer shall have no liability to the minor for such earnings. From such earnings the administrator shall pay the minor's board and personal expenses, both inside and outside the juvenile detention facility, and shall deduct so much of the costs of administration of this article as is allocable to such minor. If sufficient funds are available after making the foregoing payments, the administrator may, with the consent of the minor, pay, in whole or in part, the preexisting debts of the minor. Any balance shall be retained until the minor's discharge and thereupon shall be paid to the minor.

**Leg.H.**

Amended 1982 ch. 497 § 181.

## **§ 930. Violations; Termination of Work Furlough.**

In the event the minor violates the conditions laid down for his conduct, custody, or employment, the juvenile work furlough administrator may order termination of work furloughs for such minor.

**Leg.H.**

1967 ch. 1070.

# **ARTICLE 27**

## **24-Hour Schools**

### **§ 940. Creation and Maintenance; Purpose and Costs.**

The board of supervisors in every county may provide and maintain, at the expense of the county, in a location approved by the judge of the juvenile court, or in counties having more than one judge of the juvenile court, by the presiding judge of the juvenile court, a 24-hour school or a nonresidential boot camp school program operated by the probation officer. The school shall be established to provide education and training for minors in accordance with the provisions of Article 1 (commencing with Section 48600) of Chapter 4 of Part 27 of the Education Code. The cost of providing education and training for the students shall be computed pursuant to the provisions of Section 893.

**Leg.H.**

Amended 1978 ch. 380, 1995 ch. 72.

### **§ 941. Management and Control.**

The 24-hour school or a nonresidential boot camp school program shall be under the management and control of the probation officer.

**Leg.H.**

1967 ch. 1542, 1995 ch. 72.

### **§ 942. Hiring and Compensation of Superintendent and Other Employees.**

The board of supervisors shall provide for a suitable superintendent to have charge of the 24-hour school, and for such other employees as may be needed for its efficient management, and shall provide for payment, out of the general fund of the county, of suitable salaries for such superintendent and other employees.

**Leg.H.**

1967 ch. 1542.

### **§ 943. Appointment and Removal of Superintendent and Other Employees.**

The superintendent and other employees of the 24-hour school shall be appointed by the probation officer, pursuant to a civil service or merit system, and may be removed, for cause, pursuant to such system.

**Leg.H.**

1967 ch. 1542.

### **§ 944. Keeping and Filing of Classified List of Expenses.**

The probation officer shall keep a classified list of expenses for the operation of the 24-hour school and shall file a duplicate copy with the county board of supervisors.

**Leg.H.**

1967 ch. 1542.

## **§ 945. Licensing of 24-Hour Schools.**

A 24-hour school shall be considered a children's institution for licensing purposes and shall be licensed by the department of social welfare of the county in which the 24-hour school is located.

**Leg.H.**

1967 ch. 1542.

## **ARTICLE 28**

### **Adjustment Schools**

## **§ 960. Construction; Powers of Governing Board.**

This article shall be construed in conformity with the intent as well as the expressed provisions thereof, and the governing board of any adjustment school may do all those lawful acts that it deems necessary to promote the prosperity of the adjustment school, or to promote the well-being and education of all minors entrusted to its charge.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 961. Statutes Governing Proceedings.**

The terms and provisions of Article 25 (commencing with Section 900) of Chapter 2 of Part 1 of Division 2 and Section 579 shall, so far as applicable, govern and control proceedings under this article.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 962. Creation and Maintenance; Purpose.**

The boards of supervisors or other governing bodies of counties and cities and counties may organize, establish, equip, and maintain, including the purchase of suitable sites and the construction of suitable buildings, adjustment schools in each county or city and county for the purpose of furnishing to minors under the age of 18 years pursuant to this article, care, custody, education, training, and adjustment to good citizenship, which shall be continuous and uninterrupted during the period the minors remain in school.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 963. Joint Creation and Maintenance by Two or More Counties.**

The boards of supervisors of two or more counties may by regularly adopted resolutions or ordinances duly entered on the minutes or proceedings of their respective boards, unite in the organization, establishment, equipment, and maintenance of adjustment schools for the respective counties. In that event, the schools shall be located in one or more of the counties as shall be mutually agreed upon and designated in the resolutions or ordinances.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 964. Designation of Governing Board for School Organized by One County.**

If adjustment schools are organized by only one county or city and county, the government and management shall be vested in a governing board which shall be either the board of education, or similar school governing body, or the county probation committee of the juvenile court, or a board of trustees composed of seven members selected from both the board of education and the probation committee, as may be determined or chosen in the exercise of sound discretion by the board of supervisors or other governing body of the county or city and county.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 965. Designation of Governing Board for School Organized by Two or More Counties.**

If the adjustment schools are organized by the joint action of two or more counties, the boards of supervisors of the counties may by concerted action by duly adopted resolutions entrust the government and management to a governing board, which shall be any of the following:

- (a) The board of education of the county in which at least one adjustment school is located.
- (b) The probation committee of the juvenile court of the county in which at least one adjustment school is located.
- (c) A board of trustees composed of seven members who shall represent all of the counties and each of whom may be selected from either the county board of education or the probation committee of the juvenile court of his or her respective county as shall be determined in the joint resolutions of the boards of supervisors.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 966. Trustee's Term of Office.**

If a board of trustees is chosen to govern and manage the adjustment school the term of office of the trustees shall be six years, except that of the seven trustees first selected, two shall hold office for two years, two shall hold office for four years, and three shall hold office for six years. Each of the two-, four-, and six-year terms shall be assigned by lot to each of the seven trustees.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 967. Governing Board Duties and Powers to Make Rules and Regulations.**

The governing board shall make all needful rules and regulations for the transaction of business and for the management and government of the adjustment school under its jurisdiction, and it shall see that proper care, custody, education, and training are provided for the minors under its care, to the end that the minors shall be adjusted to good citizenship and prepared to become honorable, self-supporting members of society.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 968. Contracts and Limits on Appropriations.**

The governing board shall make all contracts for the organization, establishment, including the purchase of a suitable site and the construction of suitable buildings, equipment, operation, and maintenance of the adjustment school that may be necessary or advisable. In no event shall the amount of money appropriated for any such purpose or other limitation prescribed by law or by order of the governing board, be exceeded or violated.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 969. Prohibition against Personal Interest in Contract.**

No member of the governing board, nor officer, nor employee of any adjustment school shall be interested, personally, directly, or indirectly, in any contract, purchase, or sale made, or in any business carried on in behalf of the school. Any money paid on the contracts or sales may be recovered by a civil suit, and the governing board upon the proof of such interest shall remove from office immediately the member, officer, or employee.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 970. Appointment of Superintendent; Qualifications and Tenure.**

The governing board of the adjustment school shall appoint a superintendent, not of its own number, who shall be a person qualified by training and experience for the character of work to be performed at the adjustment school, and who shall hold office at the pleasure of the governing board.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 971. Determination of All Other Officers and Employees; Compensation.**

The governing board shall determine the number, title, duties, and terms of office of all other officers and employees and shall fix their salaries, and that of the superintendent.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 972. Oath and Bond Requirement of Superintendent.**

The superintendent of the adjustment school shall, before entering upon the discharge of his or her duties, make and file with the governing board an oath that he or she will faithfully and impartially discharge his or her duties. The superintendent shall also file with the governing board a bond, running to the State of California in a sum the board may determine, and with sureties to be approved by the board, conditioned upon the faithful performance of his or her duties. The premium of the bond shall be a part of the cost of maintaining the adjustment school.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 973. Custody of Property and Accounting Requirement of Superintendent.**

The superintendent, after making and filing the bond, shall, subject to the direction of the governing board, be invested with the custody of the lands, buildings, and all other property pertaining to or under the control of the adjustment school. The superintendent shall account to the governing board in the manner it may require for all property entrusted to the superintendent and for all money received by him or her as superintendent of the adjustment school, or for any of the minors entrusted to its care.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 974. Right of Superintendent to Appoint and Supervise Officers and Employees.**

The superintendent shall also, subject to the direction of the governing board, appoint all officers and employees of the adjustment school, who shall hold office at the pleasure of the superintendent. The superintendent shall exercise the supervisory, executive, and managing powers that are conferred upon him or her by the governing board.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 975. Residence Requirement of Superintendent and Other Offices and Employees.**

The superintendent shall reside in the adjustment school or one of the adjustment schools under his or her jurisdiction and shall be furnished suitable quarters, furniture, food supplies, and laundry for himself or herself

and his or her family. The governing board may make similar provision for other officers and employees that the interests of the adjustment school may in its judgment require to reside on the premises.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 976. Commitment of Minors by Order of Juvenile Court.**

The adjustment school shall receive into its care, custody, and control all boys and girls under 18 years of age who are committed to it by order of the juvenile court of the county or city and county maintaining or contributing to the maintenance of the adjustment school.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 977. Duration of Commitment.**

Any minor who has been committed to the care, custody, and control of any adjustment school shall remain in the school for the duration of the period provided in the order of commitment, or until further order of the juvenile court.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 978. Required Review of Order of Commitment.**

The juvenile court shall review the order of commitment at least once each year, and upon review the court may continue, terminate, or modify the order of commitment.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 979. Return of Minor to Committing Court and Revocation of Order of Commitment.**

If at any time in the opinion of the superintendent of the adjustment school the further detention of the minor is detrimental to the interests of the school, the minor may immediately, upon order of the superintendent, be returned to the committing court, and the court may revoke its previous order, and proceedings may be resumed where they were suspended when the commitment was made.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 980. Conduct of School by Governing Board.**

The governing board of any adjustment school shall cause the school to be conducted as may seem best calculated to carry out the intentions of this article.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 981. Course of Study Requirement.**

There shall be organized a course of study, corresponding as far as practicable with the course of study in the public schools of the state.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 982. Vocational and Trade Training Requirement.**

There shall be provided in the adjustment school the proper facilities and equipment for vocational and trade training, in addition to other public school education or training that may be determined upon by the governing board. Vocational or trade training education shall be given to each minor while under the care of the adjustment school, to the end that he or she may upon discharge be qualified for honorable and self-supporting employment.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 983. Order for Expense of Committed Minor's Support and Maintenance.**

Any order of the juvenile court committing a minor to the care, custody, and control of an adjustment school may provide the expense of his or her support and maintenance by directing that the expense be paid in whole or in part by his or her parent, guardian, or other person liable for his or her support and maintenance.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 984. Yearly Expense of School Created and Maintained by One County.**

If the adjustment school is organized, established, equipped, and maintained by only one county or city and county, the entire expense of the school shall be borne by the county or city and county, and the board of supervisors, or other governing body of the county or city and county shall make due and annual provision therefor. The necessary items of expense shall be set forth in the annual budget of the county or city and county.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 985. Initial Expense of School Created and Maintained by Two or More Counties.**

If an adjustment school is organized, established, equipped, and maintained by two or more counties, the initial expense of organizing, establishing, and equipping the school shall be apportioned between each of the counties on a pro rata basis in the ratio that the number of children of school age residing in each county bears to the number of children of school age residing in all of the counties.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 986. Apportionment of Yearly Maintenance Expense Between Two or More Counties.**

The annual expense of maintaining the school by two or more counties, shall be apportioned between the counties on a pro rata basis in the ratio that the average daily enrollment of minors placed in the school from each county during the preceding year bears to the total average daily enrollment in the school from all of the counties during the year.

**Leg.H.**

1987 ch. 1452 § 534.

## **§ 987. Officer's Bond Requirement.**

The governing board shall require any officer entrusted with money belonging to an adjustment school or to any of the minors entrusted to its care, or any officer placed in a position of trust and responsibility in the custody of property or in the handling of supplies belonging to the school, to file with the board a bond with sureties approved by the board and in a sum that it may determine, conditioned upon the faithful performance of the duties required, and upon the faithful accounting of all money and property coming into his or her hands or under his or her control by virtue of his or her office. The premiums on the bonds shall be a part of the cost of maintaining the adjustment school.

**Leg.H.**

1987 ch. 1452 § 534.

# **CHAPTER 2.5**

## **JUVENILE AND GANG VIOLENCE PREVENTION, DETENTION, AND PUBLIC PROTECTION ACT OF 1998**

### **§ 990. Definitions.**

As used in this article:

- (a) "Acquiring" means obtaining ownership of an existing facility in fee simple for use as a youth center.

(b) "Altering" or "renovating" means making modifications to an existing facility that are necessary for cost-effective use as a youth center, including restoration, repair, expansion, and all related physical improvements.

(c) "Applicant" means a nonprofit agency that serves youth, including, but not limited to, organizations such as Boys and Girls Clubs, YMCA, Girl Scouts, Boy Scouts, Camp Fire, Inc., California 4-H Programs, the California Police Activities League, and camping organizations that have been operating in California for a period of not less than two years. An applicant does not have to be operating in the county of application in order to be a qualified applicant.

(d) "Constructing" means the purchase or building of a new facility, including the costs of land acquisition and architectural and engineering fees.

(e) "Department" means the Department of the Youth Authority.

(f) "Nonprofit organization" means an agency or organization that serves youth that is exempt under **Section 501(c)(3) of the Internal Revenue Code** and is owned and operated by one or more corporations or associations with no part of the net earnings benefiting any private shareholder or individual.

(g) "Programs" means services and activities provided in a youth center, including, but not limited to, recreation, health and fitness, citizenship and leadership development, job training, delinquency prevention such as antigang programs, teen pregnancy prevention programs, and counseling for problems such as drug and alcohol abuse.

**Leg.H.**

1998 ch. 499, effective September 15, 1998, 2000 ch. 59.

## **§ 991. Allocation of Funds.**

Moneys in the fund, up to twenty-five million dollars (\$25,000,000), upon appropriation to the department, shall be available for allocation by the department in accordance with this chapter, for grants to nonprofit organizations for acquiring, renovating, or constructing youth centers. Of these moneys, an amount not to exceed  $1 \frac{1}{2}$  percent thereof shall be available to the department for administrative costs associated with this article.

**Leg.H.**

1998 ch. 499, effective September 15, 1998.

## **§ 992. Grants—Use, Conditions, and Restrictions; Fund Applicant Proposals—Requirements and Ranking.**

(a) The department shall, upon appropriation pursuant to Section 993.3, make grants to nonprofit organizations for the purpose of acquiring, renovating, or constructing youth centers. This article shall not apply to agencies or institutions under the jurisdiction of the department prior to the operative date of this section.

(b) A nonprofit organization receiving a grant for the acquisition of a facility to be used as a youth center shall agree that the facility will be used for that purpose for at least 10 years from the date of acquisition.

(c) A nonprofit organization receiving a grant for renovation of an existing facility to be used as a youth center shall agree that the facility will be used for that purpose for at least 10 years.

(d) A nonprofit organization receiving a grant for the construction of a facility to be used as a youth center shall agree that the facility will be used for that purpose for at least 20 years after completion of construction.

(e) Prior to the grant award, and as a condition to receipt of the award, the nonprofit organization shall execute and deliver a promissory note to the department in a form approved by the department. The amount of the note shall be the amount of the grant, reduced proportionately for each year of compliance as set forth in subdivisions (b), (c), and (d). The department shall have a lien on any facility construction, acquired, renovated, or remodeled under this act for the period of time described in subdivisions (b), (c), and (d). The lien shall be evidenced by a deed of trust or other suitable recordable document approved by the department. This subdivision shall not apply when the department determines that application of its provisions is not in the best interests of the public.

(f) Should any of the following events occur, the department may, without the consent of the Department of General Services, foreclose upon the lien, take possession of and sell the property:

- (1) The owner of the facility ceases to be a nonprofit organization.
- (2) The facility is no longer used for youth center activities.

(g) A facility altered, acquired, renovated, or constructed using funds allocated under this article may not be used and may not be intended to be used for sectarian instruction or as a place for religious worship.

(h) The Director of the Youth Authority, prior to issuing a request for proposal under this article, shall create an advisory committee. This advisory committee shall advise the director on the request for proposal and on the criteria for reviewing and evaluating the responses. The department shall not issue a request for proposal for acquiring, renovating, or constructing youth centers any later than three months after the moneys are deposited in the fund for the purpose of this chapter. The advisory committee shall consist of representatives, including, but not limited to, representatives from statewide nonprofit youth organizations, local government, probation and law enforcement, and community-based nonprofit organizations serving youth or youth related issues. Any local chapter, branch, group, or other entity within an organization shall not be eligible for funding under this article if a representative of the organization serves on the advisory committee and that representative is a member of the particular chapter, branch, group, or other entity within the larger organization that is applying for the funds.

The department shall review and evaluate proposals from applicants for funding. The proposals shall be consistent with the criteria developed by the department following consultation with the advisory committee.

(i) Proposals from an applicant for youth center funding shall do all of the following:

- (1) Document the need for the applicant's proposal.
- (2) Contain a written commitment and a plan for the delivery of programs, including, where appropriate, plans for innovative nontraditional programs designed to meet the needs of the youth of the targeted community.
- (3) Contain a match for funding that meets the following:
  - (A) Equal to 15 percent of the total amount requested.
  - (B) Match is in cash or in kind.
- (4) Document the cost effectiveness of the proposal.

(5) Contain a written commitment and plan to develop and implement a process to receive and consider feedback and suggestions from the community served including a separate mechanism for the youth it serves. A board of directors reflecting broad representation of the community shall satisfy the requirement for community input.

(6) Document plans to utilize and coordinate availability of the youth center facilities with other organizations serving the same youth population and, where possible, when the facilities are not being utilized for youth activities, to maximize utilization by other community organizations, including, but not limited to, senior groups and crime victims' and crime prevention organizations.

(j) The department shall rank the proposals received for funding on a priority consideration based on established greatest need, the number of youths that can be served, the most underserved areas, and the most economically disadvantaged areas, both in urban and rural counties. The department shall also evaluate the cost effectiveness of the proposal, the nonprofit organization's experience in programs serving youth, and the proposed utilization of, and coordination with, other agencies serving youth.

(k) The department shall, to the extent possible, and giving consideration to the amount of funds available, attempt to ensure a broad distribution of the funds consistent with the program priorities, in order to meet the needs of the youth in the state.

(l) The department shall consider any protest or objection regarding the award of a contract grant, whether submitted before or after the grant award, as long as the protest is filed within the time period established in the request for proposal. All protests or objections shall be made in writing. The protesting party shall be notified by the department in writing of the final decision on the protest. The notification shall set forth the rationale upon which the decision is based.

**Leg.H.**

1998 ch. 499, effective September 15, 1998.

## **§ 993. Grant Restrictions—Maximum Amount, Use of Funds, and Time.**

(a) No grant made pursuant to this chapter shall exceed three million dollars (\$3,000,000) and each grant shall reflect the reasonable costs for acquisition and construction of a facility, taking into consideration its location, size, and proposed use.

(b) In a youth center facility that is acquired, renovated, or constructed in conjunction with other groups, funds received under this article may support only the following:

(1) That part of the facility used by qualifying youth.

(2) A proportionate share of the costs based on the extent of use of the facility by qualifying youth.

(c) Facilities shall be acquired, renovated, or constructed not later than three years from the date of any grant awarded unless the time is extended, for good cause, by the department.

**Leg.H.**

1998 ch. 499, effective September 15, 1998.

# **CHAPTER 3**

# INSTITUTIONS FOR DELINQUENTS

## ARTICLE 1

### Establishment and General Government

#### § 1000. Jurisdiction.

Commencing July 1, 2005, any reference to the Department of the Youth Authority refers to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, which has jurisdiction over all educational training and treatment institutions now or hereafter established and maintained in the state as correctional schools for the reception of wards of the juvenile court and other persons committed to the department.

Leg.H.

1957 ch. 311, 2005 Gov. Reorg. Plan 1 § 69, effective May 5, 2005, operative July 1, 2005, 2005 ch. 10 (SB 737) § 72, effective May 10, 2005, operative July 1, 2005.

#### § 1000.1. Authorization to Develop Regional Centers; Possible Programs and Services to Be Provided.

In order to provide counties with alternative placement options, the Department of the Youth Authority is authorized to establish, maintain, or facilitate the development of regional centers, which may be available on a contract basis to counties for the placement of wards. The regional centers, depending on the services needed, may provide, but are not limited to, the following: mental health programs, short-term incarceration and treatment services, and boot camp programs. This section shall not be interpreted to prohibit counties from jointly developing regional centers.

Leg.H.

1994 ch. 452.

#### § 1000.5. “Whittier State School” Renamed.

Where in any law of this State the name “Whittier State School” appears it shall hereafter be understood to mean and shall be construed to refer to Fred C. Nelles School for Boys.

Leg.H.

Renumbered from § 155.5, 1943 ch. 481.

#### § 1000.7. “Youth Authority,” “Authority” and “The Authority” Defined; “Board” Defined.

As used in this chapter, “Youth Authority,” “authority,” and “the authority” mean and refer to the Department of the Youth Authority, and “board” means and refers to the Youth Authority Board.

Leg.H.

Amended 1979 ch. 860, 2003 ch. 4 (SB 459), effective April 8, 2003, operative January 1, 2004, 2004 ch. 183 (AB 3082).

## § 1001. General Government and Supervision Powers.

The general government and supervision of each such institution is vested in the Youth Authority.

**Leg.H.**

Amended 1943 ch. 481.

## § 1001.5. Bringing or Sending Specified Articles into Youth Authority Facility; Punishment.

(a) Except when authorized by law, or when authorized by the person in charge of an institution or camp administered by the Youth Authority, or by an officer of the institution or camp empowered by the person in charge of the institution or camp to give that authorization, any person who knowingly brings or sends into, or who knowingly assists in bringing into, or sending into, any institution or camp, or the grounds belonging to any institution or camp, administered by the Youth Authority, or any person who, while confined in the institution or camp knowingly possesses therein, any controlled substance, the possession of which is prohibited by Division 10 (commencing with [Section 11000](#)) of the [Health and Safety Code](#); any alcoholic beverage; any firearm, weapon or explosive of any kind; or any tear gas or tear gas weapon shall be punished by imprisonment in a county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 of the [Penal Code](#).

(b) Except as otherwise authorized in the manner provided in subdivision (a), any person who knowingly uses tear gas or uses a tear gas weapon in any institution or camp specified in subdivision (a) is guilty of a felony.

(c) This section shall not be construed to preclude or in any way limit the applicability of any other law proscribing a course of conduct also proscribed by this section.

**Leg.H.**

Added Stats 1972 ch 497 § 3. Amended Stats 1976 ch 1139 § 343, operative July 1, 1977; Stats 1984 ch 1635 § 97; Stats 1985 ch 515 § 2; Stats 2011 ch 15 § 618 (AB 109), effective April 4, 2011, operative October 1, 2011.

## § 1001.7. Prohibition against Ex-Felons Entering Land of Youth Authority Institution or Adjacent Lands at Night and Refusing to Leave.

Every person who, having been previously convicted of a felony and confined in any state prison in this state, without the consent of the officer in charge of any California Youth Authority institution comes upon the grounds of any such institution, or lands belonging or adjacent thereto, in the nighttime, and who refuses or fails to leave upon being requested to do so by an employee of the institution, is guilty of a misdemeanor.

**Leg.H.**

1972 ch. 497.

## § 1002. Powers of Youth Authority.

The Youth Authority may do all lawful acts which it deems necessary to effectuate the purposes for which such schools are established, and to promote the well-being, education and reformation of the inmates thereof; but the authority shall not incur any indebtedness in excess of the moneys appropriated or otherwise made available for the use of such schools.

**Leg.H.**

Amended 1943 ch. 481.

## **§ 1003. Custody of Property of Institution.**

The authority shall have charge of the land, buildings, apparatus, tools, stock, provisions and other property belonging to each such institution.

**Leg.H.**

Amended 1943 ch. 481.

## **§ 1004. Custody of Persons Committed to or Confined in Institution.**

The authority shall have charge of the persons committed to or confined in each such institution, and shall provide for their care, supervision, education, training, employment, discipline, and government. It shall exercise its powers toward the correction of their faults, the development of their characters, and the promotion of their welfare.

**Leg.H.**

Amended 1943 ch. 481.

## **§ 1006. Exclusive Use of Land for Preston School of Industry.**

The land purchased for the site of Preston School of Industry shall be used exclusively for the occupancy and purposes of the school.

**Leg.H.**

1937 ch. 369.

## **§ 1009. Possible Return of Non-Residents to State of Legal Residency; Right to Private Funds for Activity.**

The Department of the Youth Authority may order the return of nonresident persons committed to the department or confined in institutions or facilities subject to the jurisdiction of the department to the states in which they have legal residence. Whenever any public officer, other than an officer or employee of the department, receives from any private source any moneys to defray the cost of that transportation, he or she shall immediately transmit the moneys to the department. All moneys, together with any moneys received directly by the department from private sources for transportation of nonresidents, shall be deposited by the department in the State Treasury, in augmentation of the current appropriation for the support of the department.

**Leg.H.**

Amended 1979 ch. 860, 2003 ch. 4 (SB 459), effective April 8, 2003, operative January 1, 2004.

## **§ 1009.1. Refund of Unused Private Funds for Return of Non-Residents to State of Legal Residency.**

When, pursuant to Section 1009, money is received by the Department of the Youth Authority from private sources to defray the cost of transportation for the return of a nonresident committed to it and the nonresident is not returned or the money received exceeds the cost of such transportation, the department shall refund to such private sources such money or such excess money, as the case may be.

**Leg.H.**

1968 ch. 60.

## **§ 1009.2. Conditions for Refund Payment.**

The fiscal officer of the Department of the Youth Authority shall make payment of any refund pursuant to Section 1009.1 if the Director of the Youth Authority prepares a voucher which sets forth the facts which pertain to the refund and authorizes its payment.

**Leg.H.**

1968 ch. 60.

## **§ 1009.3. Refund of Funds Deposited in State Treasury.**

If any money which is to be refunded has been deposited in the State Treasury, the State Controller, upon receipt of a claim which is filed by the Department of the Youth Authority, shall draw his warrant for the payment of the refund from the fund to which the money was credited.

**Leg.H.**

1968 ch. 60.

## **§ 1009.4. Retention of Refunds Less Than \$3.**

If the Director of the Youth Authority finds that the amount of any refund is less than three dollars (\$3), he may retain such amount, unless demand for the payment of such refund is made within six months after the determination that a refund is due. If such demand is made, the refund shall be paid.

**Leg.H.**

1968 ch. 60.

## **§ 1010. Determination of State of Legal Residency.**

In determining residence for purposes of transportation, a person who has lived continuously in this State for a period of one year and who has not acquired a residence in another State by living continuously therein for at least one year subsequent to his residence in this State shall be deemed to be a resident of this State. Time spent in a public institution or on parole therefrom shall not be counted in determining the matter of residence in this or another State. In determining the residence of a ward of the juvenile court committed to the Youth Authority or confined in any institution under its jurisdiction, due consideration shall be given to the residence of the parents of such ward, and if either one or both parents of the ward are residents of this State the ward shall also be deemed a resident of this State.

**Leg.H.**

1943 ch. 481.

## **§ 1011. Expenses of Returning Wards of Court to and from State of Legal Residency.**

All expenses incurred in returning these persons to other states shall be paid by this state, but the expense of returning residents of this state shall be borne by the states making the returns.

The cost and expense incurred in effecting the transportation of these persons shall be paid from the funds appropriated for that purpose, or, if necessary, from the money appropriated for the care of these persons.

**Leg.H.**

1943 ch. 481, 1996 ch. 320.

## **§ 1015. Disposition of Decedent's Personal Property Left at Institution.**

Whenever any person confined in any state institution subject to the jurisdiction of the Youth Authority dies, and any personal funds or property of such person remains in the hands of the Director of the Youth Authority, and no demand is made upon said director by the owner of the funds or property or his legally appointed representative, all money and other personal property of such decedent remaining in the custody or possession of the Director of the Youth Authority shall be held by him for a period of one year from the date of death of the decedent, for the benefit of the heirs, legatees, or successors in interest of such decedent.

Upon the expiration of said one-year period, any money remaining unclaimed in the custody or possession of the director shall be delivered by him to the State Treasurer for deposit in the Unclaimed Property Fund under the provisions of Article 1 of Chapter 6 of Title 10 of Part 3 of the Code of Civil Procedure.

Upon the expiration of said one-year period, all personal property and documents of the decedent, other than cash, remaining unclaimed in the custody or possession of the director shall be disposed of as follows:

(a) All deeds, contracts or assignments shall be filed by the director with the public administrator of the county of commitment of the decedent;

(b) All other personal property shall be sold by the director at public auction, or upon a sealed-bid basis, and the proceeds of the sale delivered by him to the State Treasurer in the same manner as is herein provided with respect to unclaimed money of the decedent. If he deems it expedient to do so, the director may accumulate the property of several decedents and sell the property in such lots as he may determine, provided that he makes a determination as to each decedent's share of the proceeds;

(c) If any personal property of the decedent is not salable at public auction, or upon a sealed-bid basis, or if it has no intrinsic value, or if its value is not sufficient to justify the deposit of such property in the State Treasury, the director may order it destroyed;

(d) All other unclaimed personal property of the decedent not disposed of as provided in paragraphs (a), (b), or (c) hereof, shall be delivered by the director to the State Controller for deposit in the State Treasury under the provisions of Article 1 of Chapter 6 of Title 10 of Part 3 of the Code of Civil Procedure.

**Leg.H.**

Amended 1961 ch. 1962.

## § 1016. Disposal of Personal Funds or Property; Escaped, Discharged or Paroled Inmate.

(a) Whenever a person confined in a state institution subject to the jurisdiction of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, escapes, or is discharged or paroled from the institution, and any personal funds or property of that person remains in the hands of the Director of the Division of Juvenile Justice in the Department of Corrections and Rehabilitation, and no demand is made upon the director by the owner of the funds or property or his or her legally appointed representative, all money and other intangible personal property of that person, other than deeds, contracts, or assignments, remaining in the custody or possession of the director shall be held by him or her for a period of three years from the date of that escape, discharge, or parole, for the benefit of the person or his or her successors in interest. However, unclaimed personal funds or property of paroled minors may be exempted from the provisions of this section during the period of their minority and for a period of one year thereafter, at the discretion of the director.

(b) Upon the expiration of this three-year period, any money and other intangible personal property, other than deeds, contracts or assignments, remaining unclaimed in the custody or possession of the director shall be subject to the provisions of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

(c) Upon the expiration of one year from the date of the escape, discharge, or parole:

(1) All deeds, contracts, or assignments shall be filed by the director with the public administrator of the county of commitment of that person.

(2) All tangible personal property other than money, remaining unclaimed in his or her custody or possession, shall be sold by the director at public auction, or upon a sealed-bid basis, and the proceeds of the sale shall be held by him or her subject to the provisions of Section 1752.8 of this code, and subject to the provisions of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure. If he or she deems it expedient to do so, the director may accumulate the property of several inmates and may sell the property in lots as he or she may determine, provided that he or she makes a determination as to each inmate's share of the proceeds.

(d) If any tangible personal property covered by this section is not salable at public auction or upon a sealed-bid basis, or if it has no intrinsic value, or if its value is not sufficient to justify its retention by the director to be offered for sale at public auction or upon a sealed-bid basis at a later date, the director may order it destroyed.

### Leg.H.

Added Stats 1951 ch 1708 § 52. Amended Stats 1955 ch 192 § 5; Stats 1961 ch 1962 § 7; Stats 2008 ch 88 § 1 (AB 1864), effective January 1, 2009; Stats 2012 ch 41 § 90 (SB 1021), effective June 27, 2012.

## § 1017. Notice Required Before Disposition.

Before any money or other personal property or documents are delivered to the State Treasurer, State Controller, or public administrator, or sold at auction or upon a sealed-bid basis, or destroyed, under the provisions of Section 1015, and before any personal property or documents are delivered to the public administrator, or sold at auction or upon a sealed-bid basis, or destroyed, under the provisions of Section 1016, of this code, notice of said intended disposition shall be posted at least 30 days prior to the disposition, in a public place at the institution where the disposition is to be made, and a copy of such notice shall be mailed to the last known address of the owner or deceased owner, at least 30 days prior to such disposition. The notice prescribed by this section need not specifically describe each item of property to be disposed of.

**Leg.H.**

Amended 1961 ch. 1962.

## **§ 1018. Schedule of Personal Property Required at Delivery.**

At the time of delivering any money or other personal property to the State Treasurer or State Controller under the provisions of Section 1015 or of Chapter 7 of Title 10 of Part 3 of the Code of Civil Procedure, the director shall deliver to the State Controller a schedule setting forth a statement and description of all money and other personal property delivered, and the name and last known address of the owner or deceased owner.

**Leg.H.**

Amended 1961 ch. 1962.

## **§ 1019. Certain Actions for Destroyed Personal Property Prohibited.**

When any personal property has been destroyed as provided in Section 1015 or 1016, no suit shall thereafter be maintained by any person against the State or any officer thereof for or on account of such property.

**Leg.H.**

1951 ch. 1708.

## **§ 1020. Retroactive Application of §§ 1015 and 1016.**

Notwithstanding any other provision of law, the provisions of Sections 1015 and 1016 shall apply (1) to all money and other personal property delivered to the State Treasurer or State Controller prior to the effective date of said sections, which would have been subject to the provisions thereof if they had been in effect on the date of such delivery; and (2) to all money and personal property delivered to the State Treasurer or State Controller prior to the effective date of the 1961 amendments to said sections, as said provisions would have applied on the date of such delivery if, on said date of delivery, the provisions of Chapter 1809, Statutes of 1959, had not been in effect.

**Leg.H.**

Amended 1961 ch. 1962.

## **ARTICLE 3**

### **Superintendents**

## **§ 1049. Authority of Youth Authority to Appoint Superintendent and Define Duties and Salary.**

Subject to the provisions of law relating to the State civil service, the Youth Authority may appoint, define the duties, and fix the salary of the superintendent or executive officer of each institution under this chapter.

**Leg.H.**

1943 ch. 481.

## § 1050. Qualifications Required.

The superintendent of the institutions under this chapter shall be persons of high moral character, specially qualified for the position.

**Leg.H.**

Amended 1975 ch. 1129.

## ARTICLE 4

### Employees

## § 1075. Authority of Youth Authority to Appoint Officers and Other Employees and Define Salary.

The Youth Authority shall, in accordance with law, appoint all officers and employees required at the institutions under this chapter, and shall fix their remuneration.

**Leg.H.**

Amended 1943 ch. 481.

## § 1076. Employees Having Powers of Peace Officer.

The superintendent, assistant superintendent, supervisor, or any employee having custody of wards, of each institution of the Department of the Youth Authority, and any transportation officer of the Department of the Youth Authority, shall have the powers and authority of peace officers listed in [Section 830.5 of the Penal Code](#).

**Leg.H.**

Amended 1969 ch. 645.

## § 1077. Licensed Psychologist to Provide Services to Wards.

(a) Any psychologist employed by or who contracts with the Department of the Youth Authority to provide services to wards under the jurisdiction of the department shall be licensed to practice in this state.

(b) Any psychologist employed by the department on July 1, 1999, shall be exempt from the requirements of subdivision (a), as long as he or she continues employment with the department in the same class.

(c) The requirements of subdivision (a) may be waived in order for a person to gain qualifying expertise for licensure as a psychologist in this state in accordance with [Section 1277 of the Health and Safety Code](#).

**Leg.H.**

2000 ch. 659.

## § 1078. Training in Treatment of Children and Adolescents for Mental Health Disorders.

To the extent that funding is available, the department, in consultation with the State Department of State Hospitals, shall develop training in the treatment of children and adolescents for mental health disorders and shall provide training to all appropriate mental health professionals.

**Leg.H.**

Added Stats 2000 ch 659 § 2 (SB 2098). Amended Stats 2012 ch 440 § 58 (AB 1488), effective September 22, 2012.

## **ARTICLE 6**

### **Conduct, Education, and Discipline**

#### **§ 1120. Legislative Intent; Assessment of the Educational Needs of Each Ward Upon Commitment; Responsiveness to the Needs of All Wards; Required Courses of Instruction.**

(a) It is the intent of the Legislature to insure an appropriate educational program for wards committed to the Department of the Youth Authority. The objective of the program shall be to improve the academic, vocational, and life survival skills of each ward so as to enable these wards to return to the community as productive citizens.

(b) The department shall assess the educational needs of each ward upon commitment and at least annually thereafter until released on parole. The initial assessment shall include a projection of the academic, vocational, and psychological needs of the ward and shall be used both in making a determination as to the appropriate educational program for the ward and as a measure of progress in subsequent assessments of the educational development of the ward.

The educational program of the department shall be responsive to the needs of all wards, including those who are educationally handicapped or limited-English-speaking wards.

(c) The statewide educational program of the department shall include, but shall not be limited to, all of the following courses of instruction:

(1) Academic preparation in the areas of verbal communication skills, reading, writing, and arithmetic.

(2) Vocational preparation including vocational counseling, training in marketable skills, and job placement assistance.

(3) Life survival skills, including preparation in the areas of consumer economics, family life, and personal and social adjustment.

All of the aforementioned courses of instruction shall be offered at each institution within the jurisdiction of the department except camps and those institutions whose primary function is the initial reception and classification of wards. At such camps and institutions the educational program shall take into consideration the purpose and function of the camp and institutional program.

**Leg.H.**

1979 ch. 981, 2004 ch. 193 (SB 111).

## § 1120.1. Required Focus on Value-Based Character Education; Creation of Office of Superintendent of Education.

(a) In furtherance of the purpose of the Department of the Youth Authority to protect society from the consequences of criminal activity, the department's educational programs shall focus on value-based character education, emphasizing curriculum leading to a crime-free lifestyle. In furtherance of this goal, the department shall establish the office of the Superintendent of Education. The Superintendent of Education shall oversee educational programs under the jurisdiction of the department.

(b) The department shall ensure that each ward who has not attained a high school diploma or equivalent shall be enrolled in an appropriate educational program as deemed necessary by the department.

(c) The department shall develop a high school graduation plan for every ward identified pursuant to subdivision (b).

**Leg.H.**

1995 ch. 317, 1999 ch. 996.

## § 1120.2. Correctional Educational Authority—Establishment; Scope.

(a) There is in the Department of the Youth Authority a correctional education authority for the purpose of carrying out the education and training of wards committed to the youth authority.

(b) The course of study for wards attending any of grades 7 to 12, inclusive, shall include those courses specified in Article 3 (commencing with Section 51220) of Chapter 2 of Part 28 of the Education Code. The course of study shall meet the model curriculum standards adopted by the Superintendent of Public Instruction pursuant to [Section 51226 of the Education Code](#).

(c)

(1) The correctional education authority shall adopt standards of proficiency in basic skills for wards attending a course of study for any of grades 7 to 12, inclusive.

(2) Differential standards and assessment procedures may be adopted for wards for whom an individualized education program has been developed and for whom the regular instructional program has been modified or for wards who have been diagnosed with a learning handicap or disability.

(d) The correctional education authority may issue diplomas of graduation from high school to wards who have completed the required course of study and meet the standards of proficiency in basic skills adopted by the correctional education authority. The authority may also administer to wards the general educational development tests that have been approved by the State Board of Education.

(e) For purposes of receiving federal funds, the correctional education authority shall be deemed a local educational agency.

(f) For purposes of receiving state funds pursuant to subdivision (b) of [Section 8 of Article XVI of the California Constitution](#) in accordance with the definitions set forth in [Section 41202 of the Education Code](#), the correctional education authority shall be deemed a state agency and shall only be entitled to state funding for direct instructional services provided to wards attending a course of study. The correctional education authority may not receive state funds unless the funds are specifically appropriated to the Department of the Youth Authority for direct instructional services, and may not receive additional funds from the State Department of Education under any other program.

**Leg.H.**

1996 ch. 280, 1999 ch. 78, effective July 7, 1999.

## **§ 1120.5. Creation and Maintenance of Divisions in Conduct of School.**

At each institution under this chapter the Youth Authority shall organize and maintain a division of instruction and such other divisions as it deems necessary and advisable in the conduct of the school.

**Leg.H.**

Renumbered from § 1120, 1979 ch. 981.

## **§ 1121. Training of Chief of Division.**

The chief of each such division of instruction shall be well trained in modern school administration.

**Leg.H.**

Amended 1963 ch. 183.

## **§ 1122. Jurisdiction Over Courses of Instruction.**

Such divisions of instruction shall have jurisdiction over all courses of instruction. Such courses shall include academic and vocational training, and shall be subject to the approval of the State Superintendent of Public Instruction.

**Leg.H.**

Amended 1965 ch. 1634.

## **§ 1123. Providing of HIV Risk and AIDS Prevention Information to Wards.**

Subject to the availability of adequate state funding for these purposes, the Director of the Youth Authority shall provide all wards at each penal institution within the jurisdiction of the department, including camps, with information about behavior that places a person at high risk for contracting the human immunodeficiency virus (HIV), and about the prevention of transmission of acquired immune deficiency syndrome (AIDS). The director shall provide all wards, who are within one month of release or being placed on parole, with information about agencies and facilities that provide testing, counseling, medical, and support services for AIDS victims. Information about AIDS prevention shall be solicited by the director from the State Department of Health Services, the county health officer, or local agencies providing services to persons with AIDS. The Director of Health Services, or his or her designee, shall approve protocols pertaining to the information to be disseminated, and the training to be provided, under this section.

**Leg.H.**

1988 ch. 1301 § 3.

## **§ 1124. Purpose of Training and Employing Inmates.**

Each institution under this chapter may manufacture, repair, and assemble products or may raise produce, for use in the institution or in any other State institution or for sale to or pursuant to contract with the public. The primary purpose of all instruction, discipline and industries shall be to benefit the inmates of the several schools and to qualify them for honorable employment and good citizenship. Moneys received from sales or contracts made or entered into under this section shall be used first to defray the expenses of the industry, including wages paid to the wards working in the industry. The wages shall be set by the director. Moneys in excess of those used to support the industry shall be deposited in the "Benefit Fund" as defined in Section 1752.5.

**Leg.H.**

Amended 1981 ch. 540 § 7, effective September 17, 1981.

## **§ 1125. Right of Inmate to Retain Articles of Handiwork.**

Each inmate of an institution under this chapter shall be permitted to keep for his own use all articles of handiwork and other finished products suitable primarily for personal use, as determined by the director, which have been fabricated by the inmate.

**Leg.H.**

1959 ch. 78.

## **§ 1125.5. Uncompensated Employment of Preston School of Industry Inmates for Road Labor.**

When any public road is a principal means of access to the Preston School of Industry the Department of the Youth Authority, with the consent of the Department of Finance, may arrange with the California Highway Commission or the board of supervisors of the county in which the road is located for the employment of the inmates of the school in the improvement or maintenance of the road, under supervision of the officers of the school and without compensation to the inmates so employed.

**Leg.H.**

1955 ch. 58.

## **ARTICLE 7**

### **Escapes**

## **§ 1152. Assisting Escape of Youth Authority Parolee.**

(a) Any person who without the use of force or violence willfully assists any parolee of the Department of the Youth Authority whose parole has been revoked, any escapee, any ward confined to a Department of the Youth Authority institution or facility, or who is being transported to or from that institution or facility, or any person in the lawful custody of any officer or person to escape or in an attempt to escape from a Department of the Youth Authority institution or facility, or custody, is guilty of a misdemeanor.

(b) Any person who with the use of force or violence willfully assists any parolee of the Department of the Youth Authority whose parole has been revoked, any escapee, any ward confined to a Department of the Youth Authority institution or facility, or who is being transported to or from that institution or facility, or any person in the lawful custody of any officer or person to escape or in an attempt to escape from a Department of the Youth

Authority institution or facility, or custody, is punishable by imprisonment in the state prison for a term of 16 months, two, or three years or in the county jail for a term not exceeding one year.

**Leg.H.**

1937 ch. 369, 1991 ch. 687.

## **§ 1154. Payment of Expenses for Return of Escaped Person.**

Whenever any person who has escaped from any institution or facility under the jurisdiction of the Youth Authority is returned by a sheriff or probation officer, the sheriff or probation officer shall be paid the same fees and expenses as are allowed such officers by law for the transportation of persons to institutions or facilities under the jurisdiction of the Youth Authority.

**Leg.H.**

1945 ch. 783.

## **§ 1155. Duty to Notify Sheriff or Police of Escape of Minor and Provide Descriptive Information.**

The person in charge of any secure detention facility, including, but not limited to, a prison, a juvenile hall, a county jail, or any institution under the jurisdiction of the California Youth Authority, shall promptly notify the chief of police of the city in which the facility is located, or the sheriff of the county if the facility is located in an unincorporated area, of an escape by a person in its custody. The person in charge of any secure detention facility under the jurisdiction of the Department of Corrections or the Youth Authority shall release the name of, and any descriptive information about, any person who has escaped from custody to other law enforcement agencies or to other persons if the release of the information would be necessary to assist in recapturing the person or would be necessary to protect the public from substantial physical harm.

**Leg.H.**

Amended 1986 ch. 359 § 3.

# **ARTICLE 8**

## **Paroles and Dismissals**

### **§ 1176. Authority to Determine Conditions of Parole.**

When, in the opinion of the Youth Authority Board, any person committed to or confined in any such school deserves parole according to regulations established for the purpose, and it will be to his or her advantage to be paroled, the board may grant parole under conditions it deems best. A reputable home or place of employment shall be provided for each person so paroled.

**Leg.H.**

Amended 1979 ch. 860, 2003 ch. 4 (SB 459), effective April 8, 2003, operative January 1, 2004.

## **§ 1177. Honorable Discharge from Parole; Return to Youth Authority for Violation of Parole.**

**(a)** Pursuant to Section 1178, if a person discharged from the Department of Corrections and Rehabilitation, Division of Juvenile Facilities by the Board of Juvenile Hearings has proven that person's ability to desist from criminal behavior and to initiate a successful transition into adulthood, the board may grant that person an honorable discharge.

**(b)** The purposes of an honorable discharge are to recognize and reward youth who have avoided reoffending and have pursued productive and engaged roles as members of society; to remove barriers to a youth's successful integration into society and to enable the pursuit of greater opportunities; to serve as an incentive for youth to participate in treatment and training while placed in the Division of Juvenile Facilities; to connect youth with resources and opportunities upon their reentry into the community; and to inspire and motivate youth committed to the Division of Juvenile Facilities to plan and pursue a positive life.

**(c)** When determining whether to grant an honorable discharge to a person who petitions the board pursuant to Section 1178, the board shall consider, but is not limited to, both of the following:

**(1)** The petitioner's offense history, if any, while the petitioner was under the jurisdiction of the Division of Juvenile Facilities, or during or after completion of local probation supervision.

**(2)** Efforts made by the petitioner toward successful community reintegration, including employment history, educational achievements or progress toward obtaining a degree, vocational training, volunteer work, community engagement, positive peer and familial relationships, and any other relevant indicators of successful reentry and rehabilitation.

**(d)** The board shall promulgate regulations setting forth the criteria for the award of an honorable discharge.

**(e)** The board shall promote the purposes of an honorable discharge designation and communicate the success of recipients of honorable discharge to youth currently committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

**(f)** The board shall inform youth about the opportunity to earn an honorable discharge at initial case reviews, annual reviews, and discharge consideration hearings.

**(g)** The board may collaborate with public, private, and nonprofit organizations to assist youth in the fulfillment of the criteria described in subdivision (d) and in the completion of a petition for an honorable discharge.

**Leg.H.**

Added Stats 2017 ch 683 § 3 (SB 625), effective January 1, 2018.

## **§ 1178. Petition for Honorable Discharge.**

**(a)** A person previously committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities may petition the Board of Juvenile Hearings for an honorable discharge upon his or her completion of local probation supervision following discharge, but not sooner than 18 months following the date of discharge, by the board.

**(b)** Commencing on or after July 1, 2018, a person housed at the Division of Juvenile Facilities pursuant to paragraph (3) of subdivision (c) of Section 1731.5 or Section 1731.7 may petition the Board of Juvenile Hearings

for an honorable discharge upon his or her completion of parole or local probation supervision following release, but not sooner than 18 months following the date of release.

(c)

(1) The county of commitment shall inform youth currently or previously under its supervision, who were previously under the jurisdiction of the division, about the opportunity and process of petitioning the board for an honorable discharge.

(2) The county of commitment shall send a letter regarding the opportunity and process of petitioning the board for an honorable discharge to the last known residence of a person previously under the supervision of the county of commitment.

(d) Upon receiving a petition for an honorable discharge, the board shall request of the county of commitment, and the county of commitment shall provide, a summary report of the petitioner's performance while on probation after release from the Division of Juvenile Facilities.

(e) The Division of Juvenile Facilities shall promulgate regulations to implement this section.

Leg.H.

Added Stats 2017 ch 683 § 5 (SB 625), effective January 1, 2018. Amended Stats 2018 ch 36 § 32 (AB 1812), effective June 27, 2018.

## § 1179. Certification of Final Discharge or Dismissal; Release from Penalties and Disabilities; Eligibility for Peace Officer Employment.

(a) Each person honorably discharged by the Board of Juvenile Hearings shall thereafter be released from all penalties or disabilities resulting from the offenses for which the person was committed, including, but not limited to, penalties or disabilities that affect access to education, employment, or occupational licenses. However, a release from all penalties and disabilities shall not affect a person's duty to register pursuant to [Section 290.008 of the Penal Code](#). A person in receipt of an honorable discharge is not eligible for appointment as a peace officer employed by any public agency if that person's appointment is otherwise prohibited by [Section 1029 of the Government Code](#).

(b) Persons who receive an honorable discharge and who petition the court for relief otherwise provided for by law may cite and the court shall recognize receipt of an honorable discharge as evidence of rehabilitation.

(c) Notwithstanding subdivision (a), a person may be appointed and employed as a peace officer by the Department of Corrections and Rehabilitation, Division of Juvenile Facilities if (1) at least five years have passed since that person's honorable discharge, and the person has had no misdemeanor or felony convictions except for traffic misdemeanors since the person was honorably discharged by the board, or (2) the person was employed as a peace officer by the department on or before January 1, 1983. A person who is under the jurisdiction of the Division of Juvenile Facilities or a county probation department shall not be admitted to an examination for a peace officer position with the Division of Juvenile Facilities unless and until the person has been honorably discharged from the jurisdiction of the Division of Juvenile Facilities pursuant to Sections 1177 and 1719.

(d) In the case of a person granted an honorable discharge, the Department of Corrections and Rehabilitation, Division of Juvenile Facilities shall immediately certify the discharge or dismissal in writing, and shall transmit the certificate to the committing court and the Department of Justice. The court shall thereupon dismiss the accusation and the action pending against that person.

**Leg.H.**

Enacted Stats 1937 ch 369, effective May 25, 1937; Amended Stats 1943 ch 481 § 59; Stats 1976 ch 1272 § 1; Stats 1982 ch 778 § 1; Stats 2003 ch 4 § 9 (SB 459), effective April 8, 2003, operative January 1, 2004; Stats 2017 ch 683 § 6 (SB 625), effective January 1, 2018.

## **§ 1180. Providing Information About Parolees to Local Authorities Upon Request.**

The Department of the Youth Authority shall provide, within 10 days, upon request to the chief of police of a city or the sheriff of a county information available to the department, including actual, glossy photographs, no smaller than  $3\frac{1}{8}$  x  $3\frac{1}{8}$  inches in size, and, in conjunction with the Department of Justice, fingerprints concerning persons then on parole who are or may be residing or temporarily domiciled in that city or county.

**Leg.H.**

Amended 1986 ch. 600 § 6.

## **ARTICLE 9**

### **Finances**

## **§ 1200. Payment by State for Creation and Maintenance of Schools.**

The Controller of the State shall, on requisition of any of the institutions under this chapter, duly audited by him, draw his warrant on the State Treasurer for any moneys duly appropriated to pay for the necessary expenditures in the establishment and maintenance of such school, and the State Treasurer shall pay the same from the appropriations provided therefor.

**Leg.H.**

Amended 1943 ch. 481.

## **§ 1201. Payment by County for Commitments to State Schools.**

For each person committed to any state school the county from which he was committed shall make payments to the state as provided in Section 911 of this code.

**Leg.H.**

Amended 1965 ch. 605.

## **ARTICLE 10**

### **The California Youth Training School**

## **§ 1250. Creation of Youth Training School for Males.**

There is hereby established an institution for the confinement of males under the custody of the Director of Corrections and the Youth Authority to be known as the Heman G. Stark Youth Training School.

**Leg.H.**

Amended 1989 ch. 555 § 1.

## **§ 1251. Purpose of School.**

The Heman G. Stark Youth Training School shall be an intermediate security type institution. Its primary purpose shall be to provide custody, care, industrial, vocational and other training, guidance and reformatory help for young men, too mature to be benefited by the programs of correctional schools for juveniles and too immature in crime for confinement in prisons.

**Leg.H.**

Amended 1989 ch. 555 § 2.

## **§ 1252. Persons to Be Confined in School.**

There may be transferred to and confined in the Heman G. Stark Youth Training School any male subject to the custody, control and discipline of the Youth Authority, whom the Youth Authority believes will be benefited by confinement in such an institution. Whenever by reason of any law governing the commitment of a person to the Youth Authority or to an institution under the jurisdiction of the Youth Authority such a person is deemed not to be a person convicted of a crime, the transfer or placement of such a person in the Heman G. Stark Youth Training School shall not affect the status or rights of the person and shall not be deemed to constitute a conviction of a crime.

**Leg.H.**

Amended 1989 ch. 555 § 3.

## **§ 1253. Rules and Regulations of School.**

The Youth Authority shall make rules and regulations for the government of the Heman G. Stark Youth Training School and the management of its affairs.

**Leg.H.**

Amended 1989 ch. 555 § 4.

## **§ 1254. Appointment and Compensation of Superintendent and Other Employees.**

The Youth Authority shall appoint, subject to civil service, a superintendent for the Heman G. Stark Youth Training School, and such officers and employees as may be necessary, and shall fix their compensation.

**Leg.H.**

Amended 1989 ch. 555 § 5.

## **§ 1255. Construction and Equipping of Facilities.**

The Youth Authority shall construct and equip, in accordance with law, suitable buildings, structures, and facilities for the Heman G. Stark Youth Training School.

**Leg.H.**

Amended 1989 ch. 555 § 6.

## **§ 1256. Powers, Duties, and Responsibilities of Youth Authority for School.**

The Youth Authority shall have the same powers, duties, and responsibilities in respect to the Heman G. Stark Youth Training School and the persons confined therein that the Youth Authority has in respect to institutions established for persons committed to the Youth Authority under Division 2.5 of this code and in respect to such persons, except that the Youth Authority shall have no power to parole, discharge, grant leave of absence to, or otherwise release from the Heman G. Stark Youth Training School any person under the custody of the Director of Corrections and transferred to and confined in the Heman G. Stark Youth Training School, or to transfer any such person from the Heman G. Stark Youth Training School to any other institution whatever, except to return him to the custody of the Director of Corrections.

Except as otherwise provided in this article, the provisions of Part 3 of the Penal Code continue to apply to all persons in the custody of the Director of Corrections who are transferred by the Adult Authority to the Heman G. Stark Youth Training School, so far as such provisions may be applicable.

**Leg.H.**

Amended 1989 ch. 555 § 7.

## **§ 1258. Construction and Sale of Movable Houses; Proceeds.**

The Director of the Youth Authority, in connection with industrial training at the Heman G. Stark Youth Training School, Chino, California, may provide suitable materials and facilities for use by persons confined in the school in the construction of houses which can be moved which, upon their completion, shall be sold to the public upon competitive bids. Proceeds derived from the sale of any such house shall be deposited in the General Fund. Construction shall be limited to not more than one each calendar year and the size shall not exceed one thousand two hundred fifty (1,250) square feet.

**Leg.H.**

Amended 1989 ch. 555 § 8.

# **CHAPTER 4**

## **INTERSTATE COMPACT ON JUVENILES**

**Leg.H.**

[Added Stats 2009 ch 268 § 2, effective January 1, 2010. Former Chapter 4, entitled "Interstate Compact on Juveniles" consisting of §§ 1300–1308, was added Stats 1995 ch 1363 § 1, and repealed Stats 2009 ch 268 § 1, effective January 1, 2010]

## **§ 1300. [Section Repealed 2010.]**

**Leg.H.**

Added Stats 1955 ch 1363 § 1. Repealed Stats 2009 ch 268 § 1 (AB 1053), effective January 1, 2010.

## § 1300.3. [Section repealed 2010.]

### Leg.H.

Added Stats 1965 ch 1323 § 1, operative January 1, 1966. Repealed Stats 2009 ch 268 § 1 (AB 1053), effective January 1, 2010.

## § 1300.4. [Section repealed 2010.]

### Leg.H.

Added Stats 1988 ch 608 § 1. Repealed Stats 2009 ch 268 § 1 (AB 1053), effective January 1, 2010.

## § 1300.5. [Section repealed 2010.]

### Leg.H.

Added Stats 1965 ch 1323 § 2, operative January 1, 1966. Repealed Stats 2009 ch 268 § 1 (AB 1053), effective January 1, 2010.

## § 1301. [Section repealed 2010.]

### Leg.H.

Added Stats 1955 ch 1363 § 1. Repealed Stats 2009 ch 268 § 1 (AB 1053), effective January 1, 2010. The repealed section related to compact administrator; designation; promulgation of rules and regulations; tenure.

## § 1302. [Section repealed 2010.]

### Leg.H.

Added Stats 1955 ch 1363 § 1. Repealed Stats 2009 ch 268 § 1 (AB 1053), effective January 1, 2010. The repealed section related to cooperation in facilitating proper administration of compact.

## § 1303. [Section repealed 2010.]

### Leg.H.

Added Stats 1955 ch 1363 § 1. Repealed Stats 2009 ch 268 § 1 (AB 1053), effective January 1, 2010. The repealed section related to power to enter into supplementary agreements and the approval of certain agreements.

## § 1304. [Section repealed 2010.]

### Leg.H.

Added Stats 1955 ch 1363 § 1. Repealed Stats 2009 ch 268 § 1 (AB 1053), effective January 1, 2010. The repealed section related to payment of financial obligations.

## § 1305. [Section repealed 2010.]

### Leg.H.

Added Stats 1955 ch 1363 § 1. Repealed Stats 2009 ch 268 § 1 (AB 1053), effective January 1, 2010. The repealed section related to fee on appointment of counsel or guardian ad litem, and payment of fee.

## § 1306. [Section repealed 2010.]

### Leg.H.

Added Stats 1955 ch 1363 § 1. Repealed Stats 2009 ch 268 § 1 (AB 1053), effective January 1, 2010. The repealed section related to enforcement, performance of things appropriate to effectuation of purposes and intent of compact.

## § 1307. [Section repealed 2010.]

### Leg.H.

Added Stats 1955 ch 1363 § 1. Amended Stats 1963 ch 866 § 2. Repealed Stats 2009 ch 268 § 1 (AB 1053), effective January 1, 2010. The repealed section related to “delinquent juvenile” and persons included in term.

## § 1308. [Section repealed 2010.]

### Leg.H.

Added Stats 1955 ch 1363 § 1. Repealed Stats 2009 ch 268 § 1 (AB 1053), effective January 1, 2010. The repealed section related to effect on conflicting laws.

(Repealed January 1, 2016)

## § 1400. The Interstate Compact for Juveniles.

### The Interstate Compact For Juveniles.

#### ARTICLE I—

##### Purpose

The compacting states to this Interstate Compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents, and status offenders who are on probation or parole and who have absconded, escaped, or run away from supervision and control and in so doing have endangered their own safety and the safety of others. The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence. The compacting states also recognize that Congress, by enacting the Crime Control Act ([4 U.S.C. Sec. 112](#)), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

It is the purpose of this compact, through means of joint and cooperative action among the compacting states to: (a) ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state; (b) ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected; (c) return juveniles who have run away, absconded, or escaped from supervision or control or have been accused of an offense to the state requesting their return; (d) make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services; (e) provide for the effective tracking and supervision of juveniles; (f) equitably allocate the costs, benefits, and obligations of the compacting states; (g) establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has

jurisdiction over juvenile offenders; (h) insure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; (i) establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact; (j) establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials, and regular reporting of compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators; (k) monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance; (l) coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; and (m) coordinate the implementation and operation of the compact with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision, and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise. It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and therefore are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

## **ARTICLE II—**

### **Definitions**

As used in this compact, unless the context clearly requires a different construction:

- (a) “Bylaws” means those bylaws established by the Interstate Commission for its governance, or for directing or controlling its actions or conduct.
- (b) “Compact Administrator” means the individual in each compacting state appointed pursuant to the terms of this compact, responsible for the administration and management of the state’s supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission, and policies adopted by the State Council for Interstate Juvenile Supervision under this compact.
- (c) “Compacting state” means any state which has enacted the enabling legislation for this compact.
- (d) “Commissioner” means the voting representative of each compacting state appointed pursuant to Article III of this compact.
- (e) “Court” means any court having jurisdiction over delinquent, neglected, or dependent children.
- (f) “Deputy Compact Administrator” means the individual, if any, in each compacting state appointed to act on behalf of a Compact Administrator pursuant to the terms of this compact responsible for the administration and management of the state’s supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.
- (g) “Interstate Commission” means the Interstate Commission for Juveniles created by Article III of this compact.
- (h) “Juvenile” means any person defined as a juvenile in any member state or by the rules of the Interstate Commission, including:

(1) "Accused delinquent" means a person charged with an offense that, if committed by an adult, would be a criminal offense;

(2) "Adjudicated delinquent" means a person found to have committed an offense that, if committed by an adult, would be a criminal offense;

(3) "Accused status offender" means a person charged with an offense that would not be a criminal offense if committed by an adult;

(4) "Adjudicated status offender" means a person found to have committed an offense that would not be a criminal offense if committed by an adult; and

(5) "Non-offender" means a person in need of supervision who has not been accused or adjudicated a status offender or delinquent.

(i) "Noncompacting state" means any state which has not enacted the enabling legislation for this compact.

(j) "Probation or parole" means any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.

(k) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article VI of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.

(l) "State" means a state of the United States, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.

## **ARTICLE III—**

### **Interstate Commission for Juveniles**

(a) The compacting states hereby create the "Interstate Commission for Juveniles." The commission shall be a body corporate and joint agency of the compacting states. The commission shall have all the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(b) The Interstate Commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the State Council for Interstate Juvenile Supervision created hereunder. The commissioner shall be the compact administrator, deputy compact administrator, or designee from that state who shall serve on the Interstate Commission in such capacity under or pursuant to the applicable law of the compacting state.

(c) In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners, but who are members of interested organizations. Such noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult Offender Supervision, Interstate Compact for the Placement of Children, juvenile justice and juvenile corrections officials, and crime

victims. All noncommissioner members of the Interstate Commission shall be ex officio (nonvoting) members. The Interstate Commission may provide in its bylaws for such additional ex officio (nonvoting) members, including members of other national organizations, in such numbers as shall be determined by the commission.

(d) Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

(e) The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

(f) The Interstate Commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking or amendment to the compact. The executive committee shall oversee the day-to-day activities of the administration of the compact managed by an executive director and Interstate Commission staff, and the committee shall administer enforcement and compliance with the provisions of the compact, its bylaws and rules, and perform such other duties as directed by the Interstate Commission or set forth in the bylaws.

(g) Each member of the Interstate Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Interstate Commission. A member shall vote in person and shall not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

(h) The Interstate Commission's bylaws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

(i) Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

- (1) Relate solely to the Interstate Commission's internal personnel practices and procedures.
- (2) Disclose matters specifically exempted from disclosure by statute.
- (3) Disclose trade secrets or commercial or financial information which is privileged or confidential.
- (4) Involve accusing any person of a crime, or formally censuring any person.
- (5) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.
- (6) Disclose investigative records compiled for law enforcement purposes.
- (7) Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity.

(8) Disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity.

(9) Specifically relate to the Interstate Commission's issuance of a subpoena, or its participation in a civil action or other legal proceeding.

(j) For every meeting closed pursuant to this provision, the Interstate Commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefore, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(k) The Interstate Commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

## **ARTICLE IV—**

### **Powers and duties of the Interstate Commission**

The commission shall have the following powers and duties:

(a) To provide for dispute resolution among compacting states.

(b) To promulgate rules to effect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

(c) To oversee, supervise, and coordinate the interstate movement of juveniles subject to the terms of this compact and any bylaws adopted and rules promulgated by the Interstate Commission.

(d) To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process.

(e) To establish and maintain offices which shall be located within one or more of the compacting states.

(f) To purchase and maintain insurance and bonds.

(g) To borrow, accept, hire, or contract for services of personnel.

(h) To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

(i) To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications, and to establish the Interstate

Commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel.

(j) To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

(k) To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

(l) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

(m) To establish a budget and make expenditures and levy dues as provided in Article VIII of this compact.

(n) To sue and be sued.

(o) To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

(p) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

(q) To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

(r) To coordinate education, training, and public awareness regarding the interstate movement of juveniles for officials involved in such activity.

(s) To establish uniform standards of the reporting, collecting, and exchanging of data.

(t) The Interstate Commission shall maintain its corporate books and records in accordance with the bylaws.

## **ARTICLE V—**

### **Organization and operation of the Interstate Commission**

(a) Section A. Bylaws. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

(1) Establishing the fiscal year of the Interstate Commission.

(2) Establishing an executive committee and such other committees as may be necessary.

(3) Provide for the establishment of committees governing any general or specific delegation of any authority or function of the Interstate Commission.

(4) Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting.

(5) Establishing the titles and responsibilities of the officers of the Interstate Commission.

(6) Providing a mechanism for concluding the operations of the Interstate Commission and the return of any surplus funds that may exist upon the termination of the compact after the payment or reserving of all of its debts and obligations.

(7) Providing “start-up” rules for initial administration of the compact.

(8) Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

(b) Section B. Officers and Staff

(1) The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice chairperson, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson’s absence or disability, the vice-chairperson shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

(2) The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a member and shall hire and supervise such other staff as may be authorized by the Interstate Commission.

(c) Section C. Qualified Immunity, Defense, and Indemnification

(1) The commission’s executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided, that any such person shall not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

(2) The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of such person’s employment or duties for acts, errors, or omissions occurring within such person’s state may not exceed the limits of liability set forth under the United States Constitution and laws of that state for state officials, employees, and agents. Nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

(3) The Interstate Commission shall defend the executive director or the employees or representatives of the Interstate Commission and, subject to the approval of the Attorney General of the state represented by any commissioner of a compacting state, shall defend such commissioner or the commissioner’s representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(4) The Interstate Commission shall indemnify and hold the commissioner of a compacting state, or the commissioner's representatives or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

## ARTICLE VI—

### **Rulemaking Functions of the Interstate Commission**

(a) The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

(b) Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedures act, as the Interstate Commission deems appropriate consistent with the due process requirements under the United States Constitution as now or hereafter interpreted by the United States Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the commission.

(c) When promulgating a rule, the Interstate Commission shall, at a minimum:

(1) Publish the proposed rule's entire text stating the reason(s) for that proposed rule.

(2) Allow and invite any and all persons to submit written data, facts, opinions and arguments, which information shall be added to the record, and be made publicly available.

(3) Provide an opportunity for an informal hearing if petitioned by 10 or more persons.

(4) Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

(d) Allow, not later than sixty days after a rule is promulgated, any interested person to file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this subdivision, evidence is substantial if it would be considered substantial evidence under the Model State Administrative Procedures Act.

(e) If a majority of the Legislatures of the compacting states rejects a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, cause that such rule shall have no further force and effect in any compacting state.

(f) The existing rules governing the operation of the Interstate Compact on Juveniles superceded by this act shall be null and void 12 months after the first meeting of the Interstate Commission created hereunder.

(g) Upon determination by the Interstate Commission that a state of emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking

procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.

## **ARTICLE VII—**

### **Oversight, Enforcement, and Dispute Resolution by the Interstate Commission**

#### (a) Section A. Oversight

(1) The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor such activities being administered in noncompacting states which may significantly affect compacting states.

(2) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission, it shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

#### (b) Section B. Dispute Resolution

(1) The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its bylaws and rules.

(2) The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and between compacting and noncompacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(3) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in Article XI of this compact.

## **ARTICLE VIII—**

### **Finance**

(a) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The Interstate Commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of each compacting state and the volume of interstate

movement of juveniles in each compacting state and shall promulgate a rule binding upon all compacting states which governs said assessment.

(c) The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same, nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

(d) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

## **ARTICLE IX—**

### **The State Council**

Each member state shall create a State Council for Interstate Juvenile Supervision. While each state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and the compact administrator, deputy compact administrator or designee. Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administrator. Each state council will advise and may exercise oversight and advocacy concerning that state's participation in Interstate Commission activities and other duties as may be determined by that state, including, but not limited to, development of policy concerning operations and procedures of the compact within that state.

## **ARTICLE X—**

### **Compacting States, Effective Date, and Amendment**

(a) Any state, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands as defined in Article II of this compact is eligible to become a compacting state.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 of the states. The initial effective date shall be the later of July 1, 2004, or upon enactment into law by the 35th jurisdiction. Thereafter it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

(c) The Interstate Commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

## **ARTICLE XI—**

### **Withdrawal, Default, Termination, and Judicial Enforcement**

### (a) Section A. Withdrawal

(1) Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

(2) The effective date of withdrawal is the effective date of the repeal.

(3) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.

(4) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

(5) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

### (b) Section B. Technical Assistance, Fines, Suspension, Termination, and Default

(1) If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the bylaws, or duly promulgated rules, the Interstate Commission may impose any or all of the following penalties:

(A) Remedial training and technical assistance as directed by the Interstate Commission.

(B) Alternative dispute resolution.

(C) Fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission.

(D) Suspension or termination of membership in the compact, which shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted and the Interstate Commission has therefore determined that the offending state is in default. Immediate notice of suspension shall be given by the Interstate Commission to the Governor, the Chief Justice or the Chief Judicial Officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council. The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, the bylaws, or duly promulgated rules and any other grounds designated in commission bylaws and rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission and of the default pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination.

(2) Within 60 days of the effective date of termination of a defaulting state, the commission shall notify the Governor, the Chief Justice or Chief Judicial Officer, the majority and minority leaders of the defaulting state's legislature, and the state council of such termination.

(3) The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

(4) The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

(5) Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

(c) Section C. Judicial Enforcement

The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules, and bylaws, against any compacting state in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

(d) Section D. Dissolution of Compact

(1) The compact dissolves effective upon the date of the withdrawal or default of the compacting state, which reduces membership in the compact to one compacting state.

(2) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and any surplus funds shall be distributed in accordance with the bylaws.

## **ARTICLE XII—**

### **Severability and Construction**

(a) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of this compact shall be liberally construed to effectuate its purposes.

## **ARTICLE XIII—**

### **Binding Effect of Compact and Other Laws**

(a) Section A. Other Laws

(1) Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

(2) All compacting states' laws other than state constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

(b) Section B. Binding Effect of the Compact

(1) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the compacting states.

(2) All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms.

(3) Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the compacting states, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.

(4) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

**Leg.H.**

Added Stats 2009 ch 268 § 2, effective January 1, 2010. Amended Stats 2013 ch 360 § 12 (SB 100), effective September 26, 2013, repealed January 1, 2016.

(Repealed January 1, 2016)

## **§ 1401. Duty of Compact Administrator.**

The compact administrator shall be the Secretary of the Department of Corrections and Rehabilitation, or his or her designee.

**Leg.H.**

Added Stats 2009 ch 268 § 2, effective January 1, 2010. Amended Stats 2013 ch 360 § 12 (SB 100), effective September 26, 2013, repealed January 1, 2016.(Repealed January 1, 2016); Stats 2014 ch 54 § 19 (SB 1461), effective January 1, 2015, repealed January 1, 2016; Stats 2015 ch 499 § 7 (SB 795), effective January 1, 2016 (repealer repealed).

## **§ 1402. Duties of Executive Steering Committee; Report.**

The executive director of the Corrections Standards Authority shall convene an executive steering committee to review and make recommendations regarding the Interstate Compact for Juveniles and whether permanent membership in the compact would be the most effective and prudent means by which California can achieve the purpose set forth in Section 1400 compared to other alternatives. The Corrections Standards Authority shall present the executive steering committee's final report, including recommendations for legislative action, if necessary, to the appropriate committees of the Legislature by January 1, 2011. The report shall be concise and may be produced and submitted solely in electronic format.

**Leg.H.**

Added Stats 2009 ch 268 § 2, effective January 1, 2010. Amended Stats 2013 ch 360 § 12 (SB 100), effective September 26, 2013, repealed January 1, 2016; Stats 2015 ch 499 § 7 (SB 795), effective January 1, 2016 (repealer repealed).

(Repealed January 1, 2016)

## **§ 1403. Repeal of Chapter.**

This chapter shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

**Leg.H.**

Added Stats 2009 ch 268 § 2, effective January 1, 2010, repealed January 1, 2012. Amended Stats 2011 ch 356 § 1 (AB 220), effective January 1, 2012, repealed January 1, 2014; Stats 2013 ch 360 § 12 (SB 100), effective September 26, 2013, repealed January 1, 2016.

## PART 2

### Minors Crossing the Mexican Border

#### § 1500. Prohibition against Entry of Minor Without Parental Consent or Passport.

A peace officer of any city or county shall prevent the entry from California into the Republic of Mexico at the border by any resident of this state under the age of 18 years who is unaccompanied by a parent or guardian or who does not have written consent for such entry from a parent or guardian or who does not have a passport. The authority of the peace officer under this part shall be only to prevent entry and not otherwise to detain. Nothing in this part shall be construed to limit the authority of a peace officer under any other law of this state.

**Leg.H.**

1973 ch. 336.

## DIVISION 2.5

### YOUTHS

### CHAPTER 1

### THE YOUTH AUTHORITY

### ARTICLE 2

#### Department of the Youth Authority

#### § 1710.5. [Section Repealed 2011.]

**Leg.H.**

Added Stats 2011 ch 15 § 619 (AB 109), effective April 4, 2011, operative October 1, 2011. Repealed Stats 2011 ch 39 § 66 (AB 117), effective June 30, 2011, operative October 1, 2011. The repealed section related to admission of minors to Division of Juvenile Justice.

### Editor's Notes—

This section, as added by Stats 2011 ch 15 § 620, effective April 4, 2011, operative October 1, 2011, read: "Notwithstanding any other law, on and after July 1, 2011, a county may enter into a memorandum of understanding with the state to provide for the admission of minors adjudicated for an offense listed under subdivision (b) of Section 707 to the Division of Juvenile Justice."

## **§ 1714. Transfer of Confined Persons from One Institution to Another by Secretary.**

The Secretary of the Department of Corrections and Rehabilitation may transfer persons confined in one institution or facility of the Division of Juvenile Justice to another. Proximity to family shall be one consideration in placement.

**Leg.H.**

Added Stats 2020 ch 337 § 41 (SB 823), effective September 30, 2020.

## **ARTICLE 2.5**

### **Youthful Offender Parole Board**

## **§ 1716. References to Youth Authority Board.**

Commencing July 1, 2016, any reference to the Youth Authority Board refers to the Board of Juvenile Hearings.

**Leg.H.**

Added Stats 1979 ch 860 § 17. Amended Stats 1982 ch 624 § 19. Amended Stats 2003 ch 4 § 13 (SB 459), effective April 8, 2003, operative January 1, 2004. Amended Governor's Reorganization Plan No. 1 of 2005 § 76, effective May 5, 2005, operative July 1, 2005. Amended Stats 2005 ch 10 § 79 (SB 737), effective May 10, 2005, operative July 1, 2005; Stats 2016 ch 33 § 40 (SB 843), effective June 27, 2016.

## **§ 1717.**

**Leg.H.**

Enacted 1979. Repealed 2005 Gov. Reorg. Plan 1 § 77, effective May 5, 2005, operative July 1, 2005, 2005 ch. 10 (SB 737) § 80, effective July 1, 2005.

## **§ 1718. Appointment And Terms; Designation Of Chair And Appointment Of Executive Officer; Participation.**

(a) The Governor shall appoint three commissioners, subject to Senate confirmation, to the Board of Juvenile Hearings. These commissioners shall be appointed and trained to hear only juvenile matters. The term of appointment for each commissioner shall be five years, and each term shall commence on the expiration of the predecessor. Each commissioner currently serving on the Board of Parole Hearings to hear only juvenile matters shall continue to serve as a commissioner of the Board of Juvenile Hearings until his or her current term expires. The Governor shall stagger the remaining vacancies as follows: one commissioner term to expire on July 1, 2018, and one commissioner term to expire on July 1, 2019. Any appointment to a vacancy that occurs for any reason other than expiration of the term shall be for the remainder of the unexpired term. Commissioners are eligible for reappointment. The selection of persons and their appointment by the Governor and confirmation by

the Senate shall reflect as nearly as possible a cross section of the racial, sexual, economic, and geographic features of the population of the state.

**(b)** The Chair of the Board of Juvenile Hearings shall be designated by the Governor periodically. The Governor may appoint an executive officer of the board, subject to Senate confirmation, who shall hold office at the pleasure of the Governor. The executive officer shall be the administrative head of the board and shall exercise all duties and functions necessary to ensure that the responsibilities of the board are successfully discharged. The Director of the Division of Juvenile Facilities shall be the hiring authority for all civil service positions of employment with the board.

**(c)** Each commissioner shall participate in hearings, including discharge consideration hearings, initial case reviews, and annual reviews.

**Leg.H.**

Added Stats 2016 ch 33 § 41 (SB 843), effective January 1, 2017.

## **§ 1719. Powers and Duties of Juvenile Parole Board; Powers and Duties of Division of Juvenile Facilities; Policies and Regulations.**

**(a)** The following powers and duties shall be exercised and performed by the Board of Juvenile Hearings: discharges of commitment, orders for discharge from the jurisdiction of the Division of Juvenile Facilities to the jurisdiction of the committing court, honorable discharge determinations, initial case reviews, and annual reviews.

**(b)** Any ward may appeal a decision by the Board of Juvenile Hearings to deny discharge to a panel comprised of at least two commissioners.

**(c)** The following powers and duties shall be exercised and performed by the Division of Juvenile Facilities: return of persons to the court of commitment for redisposition by the court or a reentry disposition, determination of offense category, setting of discharge consideration dates, developing and updating individualized treatment plans, institution placements, furlough placements, return of nonresident persons to the jurisdiction of the state of legal residence, disciplinary decisionmaking, and referrals pursuant to Section 1800.

**(d)** The department shall promulgate policies and regulations implementing a departmentwide system of graduated sanctions for addressing ward disciplinary matters. The disciplinary decisionmaking system shall be employed as the disciplinary system in facilities under the jurisdiction of the Division of Juvenile Facilities, and shall provide a framework for handling disciplinary matters in a manner that is consistent, timely, proportionate, and ensures the due process rights of wards. The department shall develop and implement a system of graduated sanctions that distinguishes between minor, intermediate, and serious misconduct. The department may not extend a ward's discharge consideration date. The department also may promulgate regulations to establish a process for granting wards who have successfully responded to disciplinary sanctions a reduction of any time acquired for disciplinary matters.

**Leg.H.**

Added Stats 2010 ch 729 § 13 (AB 1628), effective October 19, 2010, operative July 1, 2014; Amended Stats 2012 ch 41 § 95 (SB 1021), effective June 27, 2012, operative January 1, 2013, ch 342 § 5 (AB 1481), effective September 17, 2012, operative January 1, 2013; Amended Stats 2016 ch 33 § 42 (SB 843), effective June 27, 2016. Stats 2017 ch 683 § 7 (SB 625), effective January 1, 2018.

## **§ 1719.5. [Section Repealed 2013.]**

**Leg.H.**

Added Stats 2010 ch 729 § 14 (AB 1628), effective October 19, 2010, operative January 17, 2011, inoperative July 1, 2014, repealed January 1, 2015. Amended Stats 2012 ch 41 § 96 (SB 1021), effective June 27, 2012, repealed January 1, 2013, ch 342 § 6 (AB 1481), effective September 17, 2012, repealed January 1, 2013. The repealed section related to powers and duties of the Juvenile Parole Board and the Division of Juvenile Facilities.

## **§ 1720. Review of Case of Ward within 45 Days and Subsequently; Intervals Not to Exceed One Year; Notice of Delay; Effect of Failure to Review within Fifteen Months; Contents and Copies of Reviews.**

**(a)** The case of each ward shall be reviewed by the Board of Juvenile Hearings within 45 days of arrival at the department, and at other times as is necessary to meet the powers or duties of the board.

**(b)** The Board of Juvenile Hearings shall periodically review the case of each ward. These reviews shall be made as frequently as the Board of Juvenile Hearings considers desirable and shall be made with respect to each ward at intervals not exceeding one year.

**(c)** The ward shall be entitled to notice if his or her annual review is delayed beyond one year after the previous annual review hearing. The ward shall be informed of the reason for the delay and of the date the review hearing is to be held.

**(d)** Failure of the board to review the case of a ward within 15 months of a previous review shall not of itself entitle the ward to discharge from the control of the division but shall entitle him or her to petition the superior court of the county from which he or she was committed for an order of discharge, and the court shall discharge him or her unless the court is satisfied as to the need for further control.

**(e)** Reviews conducted by the board pursuant to this section shall be written and shall include, but not be limited to, the following: verification of the treatment or program goals and orders for the ward to ensure the ward is receiving treatment and programming that is narrowly tailored to address the correctional treatment needs of the ward and is being provided in a timely manner that is designed to meet the discharge consideration date set for the ward; an assessment of the ward's adjustment and responsiveness to treatment, programming, and custody; a review of the ward's disciplinary history and response to disciplinary sanctions; and a review of any additional information relevant to the ward's progress.

**(f)** The division shall provide copies of the reviews prepared pursuant to this section to the court and the probation department of the committing county.

### **Leg.H.**

Added Stats 1979 ch 860 § 17. Amended Stats 1984 ch 680 § 1. Amended Stats 2003 ch 4 § 17 (SB 459), effective April 8, 2003, operative January 1, 2004; Amended Governor's Reorganization Plan No. 1 of 2005 § 80, effective May 5, 2005, operative July 1, 2005; Amended Stats 2005 ch 10 § 83 (SB 737), effective May 10, 2005; Stats 2016 ch 33 § 43 (SB 843), effective June 27, 2016.

## **§ 1721. Meetings; Traveling Expenses; Majority Vote Required; Assignment Of Duties To Board Representatives; Conduct Of Hearings By Panels.**

**(a)** The Board of Juvenile Hearings shall meet at each of the facilities under the jurisdiction of the Division of Juvenile Facilities. Meetings shall be held at whatever times may be necessary for a full and complete study of the cases of all wards whose matters are considered. Other times and places of meeting may also be designated

by the board, including, but not limited to, prisons or state facilities housing wards under the jurisdiction of the Division of Juvenile Facilities. Each commissioner of the board shall receive his or her actual necessary traveling expenses incurred in the performance of his or her official duties. If the board performs its functions by meeting en banc in either public or executive sessions to decide matters of general policy, no action shall be valid unless it is concurred in by a majority vote of those present.

**(b)** The Board of Juvenile Hearings may utilize board representatives to whom it may assign appropriate duties, including hearing cases and making decisions. Those decisions shall be made in accordance with policies approved by a majority of the total membership of the board. When determining whether commissioners or board representatives shall hear matters pursuant to subdivision (a) of Section 1719, or any other matter submitted to the board involving wards under the jurisdiction of the Division of Juvenile Facilities, the chair shall take into account the degree of complexity of the issues presented by the case.

**(c)** The board shall exercise the powers and duties specified in subdivision (a) of Section 1719 in accordance with rules and regulations adopted by the board. The board may conduct discharge hearings in panels. Each panel shall consist of two or more persons, at least one of whom shall be a commissioner. No panel action shall be valid unless concurred in by a majority vote of the persons present; in the event of a tie vote, the matter shall be referred to and heard by the board en banc.

**Leg.H.**

Added Stats 2016 ch 33 § 44 (SB 843), effective June 27, 2016.

## **§ 1722. Promulgation Of Rules And Regulations; Publication And Availability Of Rules And Regulations.**

**(a)** Any rules and regulations, including any resolutions and policy statements, promulgated by the Board of Juvenile Hearings shall be promulgated and filed pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and shall, to the extent practical, be stated in language that is easily understood by the general public.

**(b)** The Board of Juvenile Hearings shall maintain, publish, and make available to the general public a compendium of its rules and regulations, including any resolutions and policy statements, promulgated pursuant to this section.

**(c)** Notwithstanding subdivisions (a) and (b), the chairperson may specify an effective date that is any time more than 30 days after the rule or regulation is filed with the Secretary of State. However, no less than 20 days prior to that effective date, copies of the rule or regulation shall be posted in conspicuous places throughout each institution and shall be mailed to all persons or organizations who request them.

**History:**

Added Stats 2016 ch 33 § 45 (SB 843), effective June 27, 2016.

## **§ 1723. Exercise and Delegation of Powers; Petition for Review; Training Requirements.**

**(a)** The powers and duties of the board described in subdivision (a) of Section 1719 shall be exercised and performed by the board or its designee, as authorized by this article.

**(b)** All other powers conferred to the board concerning wards under the jurisdiction of the division may be exercised through subordinates or delegated to the division under rules established by the board. Any person

subjected to an order of those subordinates or of the division pursuant to that delegation may petition the board for review. The board may review those orders under appropriate rules and regulations.

(c) All board designees shall be subject to the training required pursuant to Section 1724.

**Leg.H.**

Added Stats 1979 ch 860 § 17. Amended Stats 2003 ch 4 § 20 (SB 459), effective April 8, 2003, operative January 1, 2004. Amended Governor's Reorganization Plan No. 1 of 2005 § 83, effective May 5, 2005, operative July 1, 2005. Amended Stats 2005 ch 10 § 86 (SB 737), effective May 10, 2005, operative July 1, 2005; Stats 2016 ch 33 § 46 (SB 843), effective June 27, 2016.

## **§ 1724. Required Background And Ability Of Commissioners And Board Representatives; Training.**

(a) Commissioners and board representatives hearing matters pursuant to subdivision (a) of Section 1719 or any other matter involving wards under the jurisdiction of the Division of Juvenile Facilities shall have a broad background in, and ability to perform or understand, appraisal of youthful offenders and delinquents, the circumstances of delinquency for which those persons are committed, and the evaluation of an individual's progress toward reformation. Insofar as practicable, commissioners and board representatives selected to hear these matters also shall have a varied and sympathetic interest in juvenile justice and shall have experience or education in the fields of juvenile justice, sociology, law, law enforcement, mental health, medicine, drug treatment, or education.

(b) Within 60 days of appointment and annually thereafter, commissioners and board representatives described in subdivision (a) shall undergo a minimum of 40 hours of training in the following areas:

(1) Adolescent brain development, the principles of cognitive behavioral therapy, and evidence-based treatment and recidivism-reduction models.

(2) Treatment and training programs provided to wards at the Division of Juvenile Facilities, including, but not limited to, educational, vocational, mental health, medical, substance abuse, psychotherapeutic counseling, and sex offender treatment programs.

(3) Current national research on effective interventions with juvenile offenders and how they compare to division program and treatment services.

(4) Commissioner duties and responsibilities.

(5) Knowledge of laws and regulations applicable to conducting initial case reviews, annual reviews, and discharge hearings, including the rights of victims, witnesses, and wards.

(6) Factors influencing ward lengths of stay and ward recidivism rates and their relationship to one another.

**Leg.H.**

Added Stats 2016 ch 33 § 47 (SB 843), effective June 27, 2016.

## **§ 1725. Succession of Youthful Offender Parole Board and Youthful Offender Parole Board Powers; Abolishment of Boards; Transfer of Commissioners.**

**(a)** Commencing July 1, 2016, the Board of Juvenile Hearings shall succeed, and shall exercise and perform all powers and duties previously granted to, exercised by, and imposed upon the Youthful Offender Parole Board and Youth Authority Board, as authorized by this article. The Youthful Offender Parole Board and Youth Authority Board are abolished.

**(b)** Commencing January 1, 2007, all commissioners appointed and trained to hear juvenile parole matters, together with their duties prescribed by law as functions of the Board of Parole Hearings concerning wards under the jurisdiction of the Department of Corrections and Rehabilitation, are transferred to the Director of the Division of Juvenile Justice.

**Leg.H.**

Added Stats 1979 ch 860 § 17. Amended Stats 2003 ch 4 § 22 (SB 459), effective April 8, 2003, operative January 1, 2004. Amended Governor's Reorganization Plan No. 1 of 2005 § 84, effective May 5, 2005, operative July 1, 2005. Amended Stats 2005 ch 10 § 87 (SB 737), effective May 10, 2005, operative July 1, 2005; Stats 2012 ch 41 § 97 (SB 1021), effective June 27, 2012; Stats 2016 ch 33 § 48 (SB 843), effective June 27, 2016.

## **§ 1726. Selection and Appointment of Employees to Support Youth Authority Board; Transfer of Officers and Employees to Department of Youth Authority.**

(a) Employees of the Department of the Youth Authority who are needed to support the functions of the Youth Authority Board shall be selected and appointed pursuant to the State Civil Service Act.

(b) All officers and employees of the Youthful Offender Parole Board who on January 1, 2004, are serving in the state civil service, other than as temporary employees, as part of the direct staff of the Youthful Offender Parole Board shall be transferred to the Department of the Youth Authority and subject to retention pursuant to **Section 19050.9 of the Government Code**.

**Leg.H.**

1979 ch. 860, 2003 ch. 4 (SB 459), effective April 8, 2003, operative January 1, 2004.

## **ARTICLE 3**

### **Commitments to Youth Authority**

## **§ 1730. Youth Authority—Requirement of Approved Facilities and Personnel.**

(a) No person may be committed to the Authority until the Authority has certified in writing to the Governor that it has approved or established places of preliminary detention and places for examination and study of persons committed, and has other facilities and personnel sufficient for the proper discharge of its duties and functions.

(b) Before certification to the Governor as provided in subsection (a), a court shall, upon conviction of a person under 21 years of age at the time of his apprehension, deal with him without regard to the provisions of this chapter.

**Leg.H.**

1941 ch. 937, 1944 ch. 2 (Third Extra. Sess.).

## § 1731. Determination of Age of Criminal Offender; Courts Prohibited from Committing Adult to Youth Authority.

(a) When in any criminal proceeding in a court of this State a person has been convicted of a public offense and the person was a minor when he or she committed the offense, the court shall determine whether the person was less than 21 years of age at the time of the apprehension from which the criminal proceeding resulted. Proceedings in a juvenile court in respect to a juvenile are not criminal proceedings as that phrase is used in this chapter.

(b) Notwithstanding any other provision of law, no court shall have the power to order an adult convicted of a public offense in a court of criminal jurisdiction to be committed to the Youth Authority. This subdivision shall not apply to a transfer pursuant to Section 1731.5.

**Leg.H.**

1941 ch. 937, 1944 ch. 2 (Third Extra. Sess.), 1994 ch. 452.

## § 1731.5. Persons to be Committed; Acceptance; Transfer.

(a) After certification to the Governor as provided in this article, a court may, until July 1, 2021, commit to the Division of Juvenile Justice any person who meets all of the following:

(1) Is convicted of an offense described in subdivision (b) of Section 707 or subdivision (c) of Section 290.008 of the Penal Code.

(2) Is found to be less than 21 years of age at the time of apprehension.

(3) Is not sentenced to death, imprisonment for life, with or without the possibility of parole, whether or not pursuant to Section 190 of the Penal Code, imprisonment for 90 days or less, or the payment of a fine, or after having been directed to pay a fine, defaults in the payment thereof, and is subject to imprisonment for more than 90 days under the judgment.

(4) Is not granted probation, or was granted probation and that probation is revoked and terminated.

(b) The Division of Juvenile Justice shall accept a person committed to it prior to July 1, 2021, pursuant to this article if it believes that the person can be materially benefited by its reformatory and educational discipline, and if it has adequate facilities to provide that care.

(c) A person under 18 years of age who is not committed to the division pursuant to this section may be transferred to the division by the Secretary of the Department of Corrections and Rehabilitation with the approval of the Director of the Division of Juvenile Justice. In sentencing a person under 18 years of age, the court may, until July 1, 2021, order that the person be transferred to the custody of the Division of Juvenile Justice pursuant to this subdivision. If the court makes this order and the division fails to accept custody of the person, the person shall be returned to court for resentencing. The transfer shall be solely for the purposes of housing the inmate, allowing participation in the programs available at the institution by the inmate, and allowing division parole supervision of the inmate, who, in all other aspects shall be deemed to be committed to the Department of Corrections and Rehabilitation and shall remain subject to the jurisdiction of the Secretary of the Department of Corrections and Rehabilitation and the Board of Parole Hearings. Notwithstanding subdivision (b) of Section 2900 of the Penal Code, the secretary, with the concurrence of the director, may designate a facility under the jurisdiction of the director as a place of reception for a person described in this

subdivision. The director has the same powers with respect to an inmate transferred pursuant to this subdivision as if the inmate had been committed or transferred to the Division of Juvenile Justice either under the Arnold-Kennick Juvenile Court Law or subdivision (a). The duration of the transfer shall extend until any of the following occurs:

- (1) The director orders the inmate returned to the Department of Corrections and Rehabilitation.
- (2) The inmate is ordered discharged by the Board of Parole Hearings.
- (3) The inmate reaches 18 years of age. However, if the inmate's period of incarceration would be completed on or before the inmate's 25th birthday, the director may continue to house the inmate until the period of incarceration is completed or until final closure of the Division of Juvenile Justice.
- (d) The amendments to subdivision (c), as that subdivision reads on July 1, 2018, made by the act adding this subdivision, apply retroactively.

**Leg.H.**

Added Stats 2020 ch 337 § 43 (SB 823), effective September 30, 2020. Amended Stats 2021 ch 18 § 13 (SB 92), effective May 14, 2021.

## **§ 1731.6. Diagnostic and Treatment Services for Youth Offenders.**

(a) In any county in which there is in effect a contract made pursuant to Section 1752.1, if a court has determined that a person comes within the provisions of Section 1731.5 and concludes that a proper disposition of the case requires such observation and diagnosis as can be made at a diagnostic and treatment center of the Division of Juvenile Justice, the court may continue the hearing and, until July 1, 2021, order that the person be placed temporarily in such a center for a period not to exceed 90 days, with the further provision in such order that the Director of the Division of Juvenile Justice report to the court its diagnosis and recommendations concerning the person within the 90-day period.

(b) The Director of the Division of Juvenile Justice shall, within the 90 days, cause the person to be observed and examined and shall forward to the court the diagnosis and recommendation concerning the person's future care, supervision, and treatment.

(c) The Division of Juvenile Justice shall accept that person if it believes that the person can be materially benefited by such diagnostic and treatment services and if the Director of the Division of Juvenile Justice certifies that staff and institutions are available. A person shall not be transported to any facility under the jurisdiction of the Division of Juvenile Justice until the director has notified the referring court of the place to which the person is to be transported and the time at which the person can be received.

(d) Notwithstanding subdivision (c), the Division of Juvenile Justice shall accept without cost to the county any persons remanded pursuant to Section 707.2.

(e) The sheriff of the county in which an order is made placing a person in a diagnostic and treatment center pursuant to this section, or any other peace officer designated by the court, shall execute the order placing the person in the center or returning them therefrom to the court. The expense of the sheriff or other peace officer incurred in executing that order is a charge upon the county in which the court is situated.

**Leg.H.**

Added Stats 1976 ch 299 § 1. Amended Stats 2021 ch 18 § 14 (SB 92), effective May 14, 2021.

## **§ 1731.8. Setting of Initial Parole Consideration Date; Guidelines.**

Notwithstanding any other provision of law, within 60 days of the commitment of a ward to the Department of the Youth Authority, the department shall set an initial parole consideration date for the ward and shall notify the probation department and the committing juvenile court of that date. The department shall use the category offense guidelines contained in Sections 4951 to 4957, inclusive, of, and the deviation guidelines contained in subdivision (i) of [Section 4945 of, Title 15 of the California Code of Regulations](#), that were in effect on January 1, 2003, in setting an initial parole consideration date.

**Leg.H.**

2003 ch. 4 (SB 459), effective April 8, 2003, operative January 1, 2004.

## **§ 1732. Repeat Sexual Offenders—Prohibition against Commitment to Youth Authority.**

No person convicted of violating Section 261, 262, or 264.1 of, subdivision (b) of Section 288 of, Section 289 of, or of sodomy or oral copulation by force, violence, duress, menace or threat of great bodily harm as provided in Section 286 or 287 of, or former [Section 288a of, the Penal Code](#) committed when that person was 18 years of age who has previously been convicted of any such felony shall be committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities. This section does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

**Leg.H.**

Added Stats 1979 ch 944 § 20; Amended Stats 1989 ch 555 § 9; Stats 1996 ch 1075 § 17 (SB 1444); Amended Stats 2018 ch 423 § 126 (SB 1494), effective January 1, 2019.

## **§ 1732.5. Sentencing.**

Notwithstanding any other provision of law, no person convicted of murder, rape or any other serious felony, as defined in [Section 1192.7 of the Penal Code](#), committed when he or she was 18 years of age or older shall be committed to Youth Authority.

The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors. [Adopted by Initiative (Prop. 8) at the June 8, 1982, Primary Election.]

## **§ 1732.6. Youth Authority Exception for Juvenile Convicted of Serious or Violent Felony; Housing with Department of Corrections.**

(a) No minor shall be committed to the Youth Authority when he or she is convicted in a criminal action for an offense described in subdivision (c) of Section 667.5 or [subdivision \(c\) of Section 1192.7 of the Penal Code](#) and is sentenced to incarceration for life, an indeterminate period to life, or a determinate period of years such that the maximum number of years of potential confinement when added to the minor's age would exceed 25 years. Except as specified in subdivision (b), in all other cases in which the minor has been convicted in a criminal action, the court shall retain discretion to sentence the minor to the Department of Corrections or to commit the minor to the Youth Authority.

(b) No minor shall be committed to the Youth Authority when he or she is convicted in a criminal action for:

(1) An offense described in subdivision (b) of Section 602, or

(2) An offense described in paragraphs (1), (2), or (3) of subdivision (d) of Section 707, if the circumstances enumerated in those paragraphs are found to be true by the trier of fact.

(3) An offense described in subdivision (b) of Section 707, if the minor had attained the age of 16 years of age or older at the time of commission of the offense.

(c) Notwithstanding any other provision of law, no person under the age of 16 years shall be housed in any facility under the jurisdiction of the Department of Corrections.

**Leg.H.**

1994 ch. 15 (First Extra. Sess.), operative November 30, 1994, amended by electorate (Prop. 21) at the March 7, 2000, Primary Election, operative March 8, 2000, 2002 ch. 787 (SB 1798).

## **§ 1732.8. Youth Authority May Transfer Person 18 Years of Age or Older Back to Department of Corrections After Sentence for Felony Committed in Youth Authority Is Served—Written Consent; Meeting with Youth Authority Agent; Participation in Educational or Vocational Program.**

(a) Notwithstanding any other law and subject to the provisions of this section, the Director of the Youth Authority may transfer to and cause to be confined within the custody of the Director of Corrections any person 18 years of age or older who is subject to the custody, control, and discipline of the Department of the Youth Authority and who is scheduled to be returned, or has been returned, to the Department of the Youth Authority from the Department of Corrections after serving a sentence imposed pursuant to **Section 1170 of the Penal Code** for a felony that was committed while he or she was in the custody of the Department of the Youth Authority.

(b) No person shall be transferred pursuant to this section until and unless the person voluntarily, intelligently, and knowingly executes a written consent to the transfer, which shall be irrevocable.

(c) Prior to being returned to the Youth Authority, a person in the custody of the Department of Corrections who is scheduled to be returned to the Department of the Youth Authority shall meet personally with a Youth Authority parole agent or other appropriate Department of the Youth Authority staff member. The parole agent or staff member shall explain, using language clearly understandable to the person, all of the following matters:

(1) What will be expected from the person when he or she returns to a Youth Authority institution in terms of cooperative daily living conduct and participation in applicable counseling, academic, vocational, work experience, or specialized programming.

(2) The conditions of parole applicable to the person, and how those conditions will be monitored and enforced while the person is in the custody of the Youth Authority.

(3) The person's right under this section to voluntarily and irrevocably consent to continue to be housed in an institution under the jurisdiction of the Department of Corrections instead of being returned to the Youth Authority.

(d) A person who has been returned to the Youth Authority after serving a sentence described in subdivision (a) may be transferred to the custody of the Department of Corrections if the person consents to the transfer after having been provided with the explanations described in subdivision (c).

(e) If a Youth Authority person consents to being housed in an institution under the jurisdiction of the Department of Corrections pursuant to this section, he or she shall be subject to the general rules and regulations of the Department of Corrections. The Youth Authority Board shall continue to determine the person's eligibility for parole at the same intervals, in the same manner, and under the same standards and criteria that would be applicable if the person were confined in the Department of the Youth Authority. However, the board shall not order or recommend any treatment, education, or other programming that is unavailable in the institution where the person is housed, and shall not deny parole to a person housed in the institution based solely on the person's failure to participate in programs unavailable to the person.

(f) Any person housed in an institution under the jurisdiction of the Department of Corrections pursuant to this section who has not attained a high school diploma or its equivalent shall participate in educational or vocational programs, to the extent the appropriate programs are available.

(g) Upon notification by the Director of Corrections that the person should be no longer be housed in an institution under its jurisdiction, the Department of the Youth Authority shall immediately send for, take, and receive the person back into an institution under its jurisdiction.

**Leg.H.**

2001 ch. 476, 2003 ch. 4 (SB 459), effective April 8, 2003, operative January 1, 2004.

## **§ 1733. Revocation or Suspension of Licenses.**

Nothing in this chapter prevents a court from revoking or suspending any license issued to the defendant under any law of this State where such revocation or suspension is otherwise provided for.

**Leg.H.**

1941 ch. 937.

## **§ 1735. Failure to Pay Fines.**

If the court sentences a person under 21 years of age at the time of his apprehension to the payment of a fine and the fine is not paid, the court may either remit the fine in whole or in part, or commit him to confinement for a length of time permitted by the statutes relating to imprisonment for failure to pay fines. But such confinement may be only in a place approved by the Authority.

**Leg.H.**

1941 ch. 937, 1944 ch. 2 (Third Extra. Sess.).

## **§ 1736. Discretion of Juvenile Court and Youth Authority—Commitment of Offenders.**

The juvenile court may in its discretion commit persons subject to its jurisdiction to the Authority, and the Authority may in its discretion accept such commitments.

**Leg.H.**

1941 ch. 937.

## **§ 1737. Resentencing After Commitment.**

When a person has been committed to the custody of the authority, if it is deemed warranted by a diagnostic study and recommendation approved by the director, the judge who ordered the commitment or, if the judge is not available, the presiding judge of the court, within 120 days of the date of commitment on his or her own motion, or the court, at any time thereafter upon recommendation of the director, may recall the commitment previously ordered and resentence the person as if he or she had not previously been sentenced. The time served while in custody of the authority shall be credited toward the term of any person resented pursuant to this section.

As used in this section, "time served while in custody of the authority" means the period of time during which the person was physically confined in a state institution by order of the Department of the Youth Authority or the Youth Authority Board.

**Leg.H.**

1941 ch. 937, 1945 ch. 779, 1963 ch. 443, effective May 17, 1963, 1975 ch. 1103, 1983 ch. 221, 2002 ch. 784 (SB 1316), 2003 ch. 4 (SB 459), effective April 8, 2003, operative January 1, 2004.

## **§ 1737.1. Wrongful Commitment to Department of Youth Authority—Determination by Department; Sentencing to Adult Institution.**

Whenever any person who has been convicted of a public offense in adult court and committed to and accepted by the Department of the Youth Authority appears to be an improper person to be retained by the department, or to be so incorrigible or so incapable of reformation under the discipline of the department as to render his or her detention detrimental to the interests of the department and the other persons committed thereto, the department may order the return of that person to the committing court. The court may then commit the person to a state prison or sentence him or her to a county jail as provided by law for punishment of the offense of which he or she was convicted. The maximum term of imprisonment for a person committed to a state prison under this section shall be a period equal to the maximum term prescribed by law for the offense of which he or she was convicted less the period during which he or she was under the control of the department. This section shall not apply to commitments from juvenile court.

As used in this section "period during which he or she was under the control of the department" means the period of time during which he or she was physically confined in a state institution by order of the department or the Youth Authority Board.

**Leg.H.**

1945 ch. 781, 1969 ch. 924, 1976 ch. 1071, 1979 ch. 860, 1983 ch. 221, 2003 ch. 4 (SB 459), effective April 8, 2003, operative January 1, 2004.

## **§ 1737.5. Commitment to Authority—Judgment; Appealability.**

A commitment to the Authority is a judgment within the meaning of Chapter 1 of Title 8 of Part 2 of the Penal Code, and is appealable.

**Leg.H.**

1943 ch. 898.

## **§ 1738. Commitment to Authority—Transport to Facility.**

When the court commits a person to the authority the court may order him conveyed to some place of detention approved or established by the authority or may direct that he be left at liberty until otherwise ordered by the authority under such conditions as in the court's opinion will insure his submission to any orders which the authority may issue. No such person shall be transported to any facility under the jurisdiction of the Youth Authority until the director has notified the sheriff of the county of the committing court of the place to which said person is to be transported and the time at which he can be received.

**Leg.H.**

1941 ch. 937, 1969 ch. 1197.

## **§ 1739. Conviction—Appeals, Stays of Execution, and Bail.**

(a) The right of a person who has been convicted of a public offense to a new trial or to an appeal from the judgment of conviction shall not be affected by anything in this chapter.

(b) When a person who has been convicted and committed to the Authority appeals from the conviction, the execution of the commitment to the Authority shall not be stayed by the taking of the appeal except as provided in subsection (c). The person so committed shall remain subject to the control of the Authority, until final disposition of the appeal.

(c) A person convicted and committed to the Authority may be admitted to bail under the provisions of [Section 1272 of the Penal Code](#), or in the discretion of the court, may be left at liberty, under such conditions as in the court's opinion will insure his cooperation in reasonable expedition of the appellate proceedings and his submission to the control of the Authority at the proper time.

**Leg.H.**

1941 ch. 937.

## **§ 1740. Copy of Order of Commitment.**

When a court commits a person to the Authority such court shall at once forward to the Authority a certified copy of the order of commitment.

**Leg.H.**

1941 ch. 937.

## **§ 1741. Background Information Accompanying Order.**

The judge before whom the person was tried and committed, the district attorney or other official who conducted the prosecution, and the probation officer of the county, shall obtain and with the order of commitment furnish to the authority, in writing, all information that can be given in regard to the career, habits, degree of education, age, nationality, parentage and previous occupations of such person, together with a statement to the best of their knowledge as to whether such person was industrious, and of good character, the nature of his associates and his disposition.

The reports required by this section shall be made upon forms furnished by the authority or according to an outline furnished by it.

When a person has been committed to the authority, the court and the prosecuting and police authorities and other public officials shall make available to the authority all pertinent data in their possession in respect to

the case.

**Leg.H.**

1941 ch. 937, 1945 ch. 782, 1961 ch. 79.

## **§ 1742. Individuals with Exceptional Needs—Furnishing of Individualized Education Program to Department of Youth Authority.**

When the juvenile court commits to the Youth Authority a person identified as an individual with exceptional needs, as defined by [Section 56026 of the Education Code](#), the juvenile court, subject to the requirements of subdivision (a) of Section 727 and subdivision (b) of Section 737, shall not order the juvenile conveyed to the physical custody of the Youth Authority until the juvenile's individualized education program previously developed pursuant to Article 3 (commencing with Section 56340) of Chapter 4 of Part 30 of Division 4 of Title 2 of the Education Code for the individual with exceptional needs, has been furnished to the Department of the Youth Authority.

To facilitate this process the juvenile court shall assure that the probation officer communicates with appropriate staff at the juvenile court school, county office of education, or special education local planning area.

**Leg.H.**

1993 ch. 175.

## **ARTICLE 4**

### **Powers and Duties of Youth Authority**

## **§ 1752. [Operative Until Conditions Met; See Note Below] Establishment and Operation of Services; Creation of Administrative Districts; Employment of Personnel.**

To the extent that necessary funds are available for the purposes, the director may

- (a) Establish and operate a treatment and training service and such other services as are proper for the discharge of his duties;
- (b) Create administrative districts suitable to the performance of his duties;
- (c) Employ and discharge all such persons as may be needed for the proper execution of the duties of the authority. Such employment and discharge shall be in accord with the civil service laws of this state.

Notwithstanding [Section 18932 of the Government Code](#), the maximum age shall be 35 years for any open examination for the position of parole agent I, group supervisor, youth counselor, and other custodial and parole positions which normally afford entry into the Youth Authority service, unless the applicant is already a "state safety" member for the purposes of retirement and disability benefits.

**Leg.H.**

1941 ch. 937, 1945 ch. 639, 1970 ch. 1600, operative July 1, 1971, 1972 ch. 1365.

## **§ 1752. [Operative Upon Conditions Being Met; See Note Below] Establishment and Operation of Services; Creation of Administrative Districts; Employment of Personnel.**

To the extent that necessary funds are available for the purposes the director may:

- (a) Establish and operate a treatment and training service and such other services as are proper for the discharge of his duties;
- (b) Create administrative districts suitable to the performance of his duties;
- (c) Employ and discharge all such persons as may be needed for the proper execution of the duties of the authority. Such employment and discharge shall be in accord with the civil service laws of this state.

Any open examination for the position of parole agent I, group supervisor, youth counselor, and other custodial and parole positions which normally afford entry into the Youth Authority service shall require the demonstration of the physical ability to effectively carry out the duties and responsibilities of the position in a manner which would not inordinately endanger the health or safety of a custodial person or a parolee or the health and safety of others.

**Leg.H.**

1941 ch. 937, 1945 ch. 639, 1970 ch. 1600, operative July 1, 1971, 1972 ch. 1365, 1981 ch. 453.

### **1981 Note:**

The provisions of this act shall be operative only if a study or studies to develop physical ability tests for the specified job classes consistent with the Federal Uniform Guidelines on Employee Selection Procedures are completed and implemented by the State Personnel Board. In that event, this act shall become operative on the implementation date of the study or studies as designated by the State Personnel Board. However, if this act becomes operative, any affected maximum age limit shall be retained if the employing department provides empirical evidence to the State Personnel Board substantiating the use of the age limit as a bona fide occupational qualification. Stats. 1981 ch. 453 § 8.

## **§ 1755.4. Adoption of Standards and Guidelines for Administration of Psychotropic Medications.**

The Department of the Youth Authority, in consultation with the State Department of Mental Health shall establish, by regulations adopted at the earliest possible date, but no later than December 31, 2001, standards and guidelines for the administration of psychotropic medications to any person under the jurisdiction of the Department of the Youth Authority, in a manner that protects the health and short- and long-term well-being of those persons. The standards and guidelines adopted pursuant to this section shall be consistent with the due process requirements set forth in [Section 2600 of the Penal Code](#).

**Leg.H.**

2000 ch. 659.

## **§ 1764.2. Release of Information to Victim of Offense.**

(a) Notwithstanding any other provision of law, the Director of the Division of Juvenile Justice or the director's designee shall release the information described in Section 1764 regarding a person committed to the Division of Juvenile Facilities, to the victim of the offense, the next of kin of the victim, or his or her representative as designated by the victim or next of kin pursuant to Section 1767, upon request, unless the court has ordered confidentiality under subdivision (c) of Section 676. The victim or the next of kin shall be identified

by the court or the probation department in the offender's commitment documents before the director is required to disclose this information.

(b) The Director of the Division of Juvenile Justice or the director's designee shall, with respect to persons committed to the Division of Juvenile Facilities, including persons committed to the Department of Corrections and Rehabilitation who have been transferred to the Division of Juvenile Facilities, inform each victim of that offense, the victim's next of kin, or his or her representative as designated by the victim or next of kin pursuant to Section 1767, of his or her right to request and receive information pursuant to subdivision (a) and Section 1767.

**Leg.H.**

Added Stats 1989 ch 1048 § 3. Amended Stats 1993 ch 560 § 1 (AB 935); Stats 2000 ch 481 § 5 (SB 1943); Stats 2008 ch 154 § 1 (AB 2289), effective January 1, 2009; Stats 2012 ch 41 § 101 (SB 1021), effective June 27, 2012.

## **§ 1766. Discretionary Powers of Juvenile Parole Board; Discharge; Reentry Supervision Plan; Treatment Plan within 60 Days; Right to Hearing Prior to Discharge; Rules and Regulations; Information Made Available to Public.**

(a) Subject to Sections 733 and 1767.35, and subdivision (b) of this section, if a person has been committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, the Board of Juvenile Hearings, according to standardized review and appeal procedures established by the board in policy and regulation and subject to the powers and duties enumerated in subdivision (a) of Section 1719, may do any of the following:

(1) Set a date on which the ward shall be discharged from the jurisdiction of the Division of Juvenile Facilities and permitted his or her liberty under supervision of probation and subject to the jurisdiction of the committing court pursuant to subdivision (b).

(2) Deny discharge, except that a person committed to the division pursuant to Section 731 or 1731.5 shall not be held in physical confinement for a total period of time in excess of the maximum periods of time set forth in Section 731.

(b) The following provisions shall apply to any ward eligible for discharge from that ward's commitment to the custody of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities. Any order entered by the court pursuant to this subdivision shall be consistent with evidence-based practices and the interest of public safety.

(1) The county of commitment shall supervise the reentry of any ward still subject to the court's jurisdiction and discharged from the jurisdiction of the Division of Juvenile Facilities. The conditions of the ward's supervision shall be established by the court pursuant to the provisions of this section.

(2) Not less than 60 days prior to the scheduled discharge consideration hearing of a ward described in this subdivision, the division shall provide to the probation department and the court of the committing county, and the ward's counsel, if known, the most recent written review prepared pursuant to Section 1720, along with notice of the discharge consideration hearing date.

(3)

(A) Not less than 30 days prior to the scheduled discharge consideration hearing, the division shall notify the ward of the date and location of the discharge consideration hearing. A ward shall

have the right to contact the ward's parent or guardian, if he or she can reasonably be located, to inform the parent or guardian of the date and location of the discharge consideration hearing. The division shall also allow the ward to inform other persons identified by the ward, if they can reasonably be located, and who are considered by the division as likely to contribute to a ward's preparation for the discharge consideration hearing or the ward's postrelease success.

**(B)** This paragraph shall not apply if either of the following conditions is met:

**(i)** A minor chooses not to contact the minor's parents, guardians, or other persons and the director of the division facility determines it would be in the best interest of the minor not to contact the parents, guardians, or other persons.

**(ii)** A person 18 years of age or older does not consent to the contact.

**(C)** Upon intake of a ward committed to a division facility, and again upon attaining 18 years of age while serving the ward's commitment in the custody of the division, an appropriate staff person shall explain the provisions of subparagraphs (A) and (B), using language clearly understandable to the ward.

**(D)** Nothing in this paragraph shall be construed to limit the right of a ward to an attorney under any other law.

**(4)** Not less than 30 days prior to the scheduled discharge consideration hearing of a ward described in this subdivision, the probation department of the committing county may provide the division with its written plan for the reentry supervision of the ward. At the discharge consideration hearing, the Board of Juvenile Hearings shall, in determining whether the ward is to be released, consider a reentry supervision plan submitted by the county.

**(5)** If the Board of Juvenile Hearings determines that a ward is ready for discharge to county supervision pursuant to subdivision (a), the board shall do both of the following:

**(A)** Set a date for discharge from the jurisdiction of the Division of Juvenile Facilities no less than 14 days after the date of such determination. The board shall also record any postrelease recommendations for the ward. These recommendations will be sent to the committing court responsible for setting the ward's conditions of supervision no later than seven days from the date of such determination.

**(B)** Notify the ward that he or she may petition the board for an honorable discharge after 18 months following his or her discharge by the board, provided that he or she is not on probation.

**(6)** No more than four days but no less than one day prior to the scheduled date of the reentry disposition hearing before the committing court, the Division of Juvenile Facilities shall transport and deliver the ward to the custody of the probation department of the committing county. On or prior to a ward's date of discharge from the Division of Juvenile Facilities, the committing court shall convene a reentry disposition hearing for the ward. The purpose of the hearing shall be for the court to identify those conditions of supervision that are appropriate under all the circumstances of the case and consistent with evidence-based practices. The court shall, to the extent it deems appropriate, incorporate postrelease recommendations made by the board as well as any reentry plan submitted by the county probation department and reviewed by the board into its disposition order. At the hearing the ward shall be fully informed of the terms and conditions of any order entered by the court, including the consequences for any violation thereof. The procedure of the reentry disposition hearing shall otherwise be consistent with the rules, rights, and procedures applicable to delinquency disposition hearings as described in Article 17 (commencing with Section 675) of Chapter 2 of Part 1 of Division 2.

(7) The Department of Corrections and Rehabilitation shall have no further jurisdiction over a ward who is discharged by the Board of Juvenile Hearings, except that the board shall make honorable discharge determinations.

(8) Notwithstanding any other law or any other provision of this section, commencing January 1, 2013, all wards who remain on parole under the jurisdiction of the Division of Juvenile Facilities shall be discharged, except for wards who are in custody pending revocation proceedings or serving a term of revocation. A ward that is pending revocation proceedings or serving a term of revocation shall be discharged after serving the ward's revocation term, including any revocation extensions, or when any allegations of violating the terms and conditions of the ward's parole are not sustained.

(c) Within 60 days of intake, the Division of Juvenile Facilities shall provide the court and the probation department with a treatment plan for the ward.

(d) Commencing January 1, 2013, and annually thereafter, for the preceding fiscal year, the department shall collect and make available to the public the following information:

(1) The total number of ward case reviews conducted by the division and the board, categorized by guideline category.

(2) The number of discharge consideration dates for each category set at guideline, above guideline, and below guideline.

(3) The number of ward case reviews resulting in a change to a discharge consideration date, including the category assigned to the ward and the specific reason for the change.

(4) The percentage of wards who have had a discharge consideration date changed to a later date, the percentage of wards who have had a discharge consideration date changed to an earlier date, and the average annual time added or subtracted per case.

(5) The number and percentage of wards who, while confined or on parole, are charged with a new misdemeanor or felony criminal offense.

(6) Any additional data or information identified by the department as relevant.

(e) As used in subdivision (d), the term "ward case review" means any review of a ward that changes, maintains, or appreciably affects the programs, treatment, or placement of a ward.

**Leg.H.**

Added Stats 2010 ch 729 § 16 (AB 1628), effective October 19, 2010, operative July 1, 2014; Amended Stats 2011 ch 36 § 80 (SB 92), effective June 30, 2011, operative July 27, 2011; Stats 2012 ch 41 § 103 (SB 1021), effective June 27, 2012, operative January 1, 2013; Amended Stats 2016 ch 33 § 50 (SB 843), effective June 27, 2016. Stats 2017 ch 683 § 8 (SB 625), effective January 1, 2018.

## § 1766.01. [Section Repealed 2013.]

**Leg.H.**

Added Stats 2010 ch 729 § 17 (AB 1628), effective October 19, 2010, operative January 17, 2011, inoperative July 1, 2014, repealed January 1, 2015. Amended Stats 2011 ch 36 § 81 (SB 92), effective June 30, 2011, operative July 27, 2011, inoperative July 1, 2014, repealed January 1, 2015, ch 39 § 67 (AB 117), effective June 30, 2011, operative October 1, 2011, inoperative July 1, 2014, repealed January 1, 2015; Stats 2012 ch 41 § 104 (SB 1021), effective June 27, 2012, repealed January 1, 2013. The repealed section related to the powers and duties of the Juvenile Parole Board.

## **§ 1766.2. Placement of Applicable Ward on Supervised Parole within Specified Period Prior to Release from Custody or Prior to Completion of Maximum Period of Confinement.**

(a) Except as provided in subdivision (b), all applicable wards shall be placed on supervised parole within the period of 120 to 90 days prior to the date of release from custody from a Division of Juvenile Facilities institution pursuant to the discharge provisions of Section 1769, 1770, or 1771, or within the period of 120 to 90 days prior to completion of the maximum period of confinement pursuant to Section 731, whichever comes first.

(b) Subdivision (a) shall not apply when a petition or order for further detention of a juvenile has been requested by the Division of Juvenile Facilities or the Juvenile Parole Board pursuant to Section 1800.

(c) A ward who has been released under the provisions of subdivision (a) shall be subject to revocation of parole for alleged violations committed during the period of release. Any term of reconfinement under these circumstances shall remain subject to the limits of Section 731, 1769, 1770, or 1771, as applicable in each case. Any such revocation proceedings shall be in accordance with the procedures and due process protections for parolees under current law.

(d) For the purposes of this section, “applicable ward” means a person who is confined in a facility or institution operated by the Division of Juvenile Facilities 120 days prior to his or her discharge date under Section 1769, 1770, or 1771, or 120 days prior to completion of the maximum period of confinement under Section 731.

### **Leg.H.**

Added Stats 2009 ch 268 § 3 (AB 1053), effective January 1, 2010.

## **§ 1767. Victim’s Statements; Public Safety Determination.**

(a) Upon request, written notice of any hearing to consider the release on parole of any person under the control of the Youth Authority for the commission of a crime or committed to the authority as a person described in Section 602 shall be sent by the Department of the Youth Authority at least 30 days before the hearing to any victim of a crime committed by the person, or to the next of kin of the victim if the victim has died or is a minor. The requesting party shall keep the board apprised of his or her current mailing address.

(b) Any one of the following persons may appear, personally or by counsel, at the hearing:

(1) The victim of the offense and one support person of his or her choosing.

(2) In the event that the victim is unable to attend the proceeding, two support persons designated by the victim may attend to provide information about the impact of the crime on the victim.

(3) If the victim is no longer living, two members of the victim’s immediate family may attend.

(4) If none of those persons appear personally at the hearing, any one of them may submit a statement recorded on videotape for the board’s consideration at the hearing. Those persons shall also have the right to submit a written statement to the board at least 10 days prior to the scheduled hearing for the board’s consideration at the hearing.

(c) The board, in deciding whether to release the person on parole, shall consider the statements of victims, next of kin, or statements made on their behalf pursuant to this section and shall include in its report a statement of whether the person would pose a threat to public safety if released on parole.

(d) A representative designated by the victim or the victim's next of kin shall be either that person's legal counsel or a family or household member of the victim, for the purposes of this section.

(e) Support persons may only provide information about the impact of the crime on the victim and provide physical and emotional support to the victim or the victim's family.

(f) This section does not prevent the board from excluding a victim or his or her support person or persons from a hearing. The board may allow the presence of other support persons under particular circumstances surrounding the proceeding.

(g) The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

**Leg.H.**

Adopted by Initiative (Proposition 8) at the June 8, 1982 Primary Election, 1993 ch. 560 (AB 935) § 2, 2000 ch. 481; Stats 2015 ch 303 § 570 (AB 731), effective January 1, 2016.

## **§ 1767.35. Supervision Modification Hearing; Sanctions; Return of Ward to Custody of Division of Juvenile Facilities; Findings.**

(a) For a ward discharged from the Division of Juvenile Facilities to the jurisdiction of the committing court, that person may be detained by probation, for the purpose of initiating proceedings to modify the ward's conditions of supervision entered pursuant to paragraph (6) of subdivision (b) of Section 1766 if there is probable cause to believe that the ward has violated any of the court-ordered conditions of supervision. Within 15 days of detention, the committing court shall conduct a modification hearing for the ward. Pending the hearing, the ward may be detained by probation. At the hearing authorized by this subdivision, at which the ward shall be entitled to representation by counsel, the court shall consider the alleged violation of conditions of supervision, the risks and needs presented by the ward, and the supervision programs and sanctions that are available for the ward. Modification may include, as a sanction for a finding of a serious violation or a series of repeated violations of the conditions of supervision, an order for the reconfinement of a ward under 18 years of age in a juvenile facility, or for the reconfinement of a ward 18 years of age or older in a juvenile facility as authorized by Section 208.5, or for the reconfinement of a ward 18 years of age or older in a local adult facility as authorized by subdivision (b), or the Division of Juvenile Facilities as authorized by subdivision (c). The ward shall be fully informed by the court of the terms, conditions, responsibilities, and sanctions that are relevant to the order that is adopted by the court. The procedure of the supervision modification hearing, including the detention status of the ward in the event continuances are ordered by the court, shall be consistent with the rules, rights, and procedures applicable to delinquency disposition hearings, as described in Article 17 (commencing with Section 675) of Chapter 2 of Part 1 of Division 2.

(b) Notwithstanding any other law, subject to Chapter 1.6. (commencing with Section 1980), and consistent with the maximum periods of time set forth in Section 731, in any case in which a person who was committed to and discharged from the Department of Corrections and Rehabilitation, Division of Juvenile Facilities to the jurisdiction of the committing court attains 18 years of age prior to being discharged from the division or during the period of supervision by the committing court, the court may, upon a finding that the ward violated his or her conditions of supervision and after consideration of the recommendation of the probation officer and pursuant to a hearing conducted according to the provisions of subdivision (a), order that the person be delivered to the custody of the sheriff for a period not to exceed a total of 90 days, as a custodial sanction consistent with the reentry goals and requirements imposed by the court pursuant to paragraph (6) of subdivision (b) of Section 1766. Notwithstanding any other law, the sheriff may allow the person to come into and remain in contact with other adults in the county jail or in any other county correctional facility in which he or she is housed.

(c) Notwithstanding any other law and subject to Chapter 1.6 (commencing with Section 1980), in any case in which a person who was committed to and discharged from the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, to the jurisdiction of the committing court, the juvenile court may, upon a finding that the ward violated his or her conditions of supervision and after consideration of the recommendation of the probation officer and pursuant to a hearing conducted according to the provisions of subdivision (a), order that the person be returned to the custody of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, for a specified amount of time no shorter than 90 days and no longer than one year. This return shall be a sanction consistent with the reentry goals and requirements imposed by the court pursuant to paragraph (6) of subdivision (b) of Section 1766. A decision to return a ward to the custody of the Division of Juvenile Facilities can only be made pursuant to the court making the following findings: (1) that appropriate local options and programs have been exhausted, and (2) that the ward has available confinement time that is greater than or equal to the length of the return.

(d) Upon ordering a ward to the custody of the Division of Juvenile Facilities, the court shall send to the Division of Juvenile Facilities a copy of its order along with a copy of the ward's probation plans and history while under the supervision of the county.

(e) This section shall become operative on January 1, 2013.

**Leg.H.**

Added Stats 2010 ch 729 § 19 (AB 1628), effective October 19, 2010, operative July 1, 2014. Amended Stats 2012 ch 41 § 107 (SB 1021), effective June 27, 2012, repealed January 1, 2013.

## **§ 1767.36. [Section Repealed 2013.]**

**Leg.H.**

Added Stats 2010 ch 729 § 20 (AB 1628), effective October 19, 2010, operative January 17, 2011, inoperative July 1, 2014, repealed January 1, 2015. Amended Stats 2012 ch 41 § 108 (SB 1021), effective June 27, 2012, repealed January 1, 2013. The repealed section related to discharge of ward on or after January 17, 2011.

## **§ 1769. Discharge of Persons Committed By Authority of Juvenile Court.**

(a) A person who is committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, by a juvenile court shall, except as provided in subdivision (b), be discharged upon the expiration of a two-year period of control or when he or she attains 21 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).

(b) A person who is committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, by a juvenile court and who has been 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 he or she 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).

(c) Notwithstanding subdivision (b), a person who is committed by a juvenile court to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, on or after July 1, 2012, 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 he or she 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). This subdivision does not apply to persons committed to

the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, by a juvenile court prior to July 1, 2012, pursuant to subdivision (b).

**(d)**

**(1)** A person committed by a juvenile court to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, on or after July 1, 2018, 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, shall be discharged upon the expiration of a two-year period of control, of when he or she 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). This subdivision does not apply to a person who is committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, a state hospital, or another appropriate public or private mental health facility, by a juvenile court prior to July 1, 2018, pursuant to subdivision (b) or (c).

**(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 Facilities, 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 (b).

**(e)** The amendments to this section made by Chapter 342 of the Statutes of 2012 apply retroactively.

**Leg.H.**

Added Stats 1941 ch 937 § 1. Amended Stats 1963 ch 1693 § 1; Stats 1976 ch 1071 § 34; Stats 1982 ch 1102 § 2; Stats 1994 ch 452 § 4 (SB 1539), ch 453 § 19 (AB 560); Stats 2012 ch 41 § 109 (SB 1021), effective June 27, 2012, ch 342 § 7 (AB 1481), effective September 17, 2012; Stats 2018 ch 36 § 36 (AB 1812), effective June 27, 2018.

## **§ 1770. Discharge of Misdemeanants.**

Every person convicted of a misdemeanor and committed to the authority shall be discharged upon the expiration of a two-year period of control or when the person reaches his 23d birthday, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800).

**Leg.H.**

Added Stats 1941 ch 937 § 1; Amended Stats 1963 ch 1693 § 2.

## **§ 1771. Discharge of Convicted Felons.**

**(a)** A person who is convicted of a felony and committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, shall be discharged when he or she attains 25 years of age, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800) or unless a petition is filed under Article 5 (commencing with Section 1780). If a petition under Article 5 (commencing with Section 1780) is filed, the division shall retain control until the final disposition of the proceeding under Article 5 (commencing with Section 1780).

**(b)** Notwithstanding subdivision (a), a person who is committed by a juvenile court to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, on or after July 1, 2012, 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). This subdivision does not apply to a person who is committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, by a juvenile court prior to July 1, 2012, pursuant to subdivision (a).

**(c)**

**(1)** Notwithstanding subdivisions (a) or (b), a person who is committed by the juvenile court to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, 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 Facilities, 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, pursuant to subdivision (a).

**(d)** The amendments to this section made by Chapter 342 of the Statutes of 2012 shall apply retroactively.

**Leg.H.**

Added Stats 1941 ch 937 § 1. Amended Stats 1963 ch 1693 § 3; Stats 2012 ch 41 § 110 (SB 1021), effective June 27, 2012, ch 342 § 8 (AB 1481), effective September 17, 2012; Stats 2018 ch 36 § 37 (AB 1812), effective June 27, 2018.

## **§ 1772. Petition for Guilty Verdict to be Set Aside; Eligibility to Serve As Peace Officer; Possession of Firearm; Admissibility in Subsequent Proceeding; Enhancement of Subsequent Offense.**

**(a)** Subject to subdivision (b), every person discharged by the Board of Juvenile Hearings may petition the court that committed him or her, and the court may upon that petition set aside the verdict of guilty and dismiss the accusation or information against the petitioner who shall thereafter be released from all penalties and disabilities resulting from the offense or crime for which he or she was committed, including, but not limited to, penalties or disabilities that affect access to education, employment, or occupational licenses.

**(b)** Notwithstanding subdivision (a), all of the following shall apply to a person described in subdivision (a) or a person honorably discharged by the Board of Juvenile Hearings:

**(1)** The person shall not be eligible for appointment as a peace officer employed by any public agency if that person's appointment would otherwise be prohibited by Section 1029 of the Government Code.

However, that person may be appointed and employed as a peace officer by the Department of Corrections and Rehabilitation, Division of Juvenile Facilities if (A) at least five years have passed since the person's honorable discharge, and the person has had no misdemeanor or felony convictions except for traffic misdemeanors since he or she was honorably discharged by the Board of Juvenile Hearings, or (B) the person was employed as a peace officer by the Division of Juvenile Facilities on or before January 1, 1983. A person who is under the jurisdiction of the Division of Juvenile Facilities or a county probation department shall not be admitted to an examination for a peace officer position with the Division of Juvenile Facilities unless and until the person has been honorably discharged from the jurisdiction of the Board of Juvenile Hearings pursuant to Sections 1177 and 1719.

(2) The person is subject to Chapter 2 (commencing with Section 29800) and Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6 of the Penal Code.

(3) The conviction of the person for an offense listed in subdivision (b) of Section 707 is admissible in a subsequent criminal, juvenile, or civil proceeding if otherwise admissible, if all of the following are true:

(A) The person was 16 years of age or older at the time he or she committed the offense.

(B) The person was found unfit to be dealt with under the juvenile court law pursuant to Section 707 because he or she was alleged to have committed an offense listed in subdivision (b) of Section 707.

(C) The person was tried as an adult and convicted of an offense listed in subdivision (b) of Section 707.

(D) The person was committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities for the offense referred to in subparagraph (C).

(4) The conviction of the person may be used to enhance the punishment for a subsequent offense.

(5) The conviction of a person who is 18 years of age or older at the time he or she committed the offense is admissible in a subsequent civil, criminal, or juvenile proceeding, if otherwise admissible pursuant to law.

(c) Every person discharged from control by the Board of Juvenile Hearings shall be informed of the provisions of this section in writing at the time of discharge.

(d) "Honorably discharged" as used in this section means and includes every person who was granted an honorable discharge by the Board of Juvenile Hearings pursuant to Sections 1177 and 1719.

**Leg.H.**

Added Stats 1941 ch 937 § 1; Amended Stats 1949 ch 235 § 1; Stats 1976 ch 1272 § 2; Stats 1979 ch 860 § 32; Stats 1982 ch 778 § 2; Stats 1994 ch 453 § 20 (AB 560); Amended Stats 2003 ch 4 § 41 (SB 459), effective April 8, 2003; Stats 2010 ch 178 § 99 (SB 1115), effective January 1, 2011, operative January 1, 2012; Amended Stats 2017 ch 683 § 9 (SB 625), effective January 1, 2018.

## **ARTICLE 5**

### **Commitment to State Prison After Expiration of Control**

## **§ 1780. Petition for Reconsideration of Discharge; Review Upon Merits.**

If the date of discharge occurs before the expiration of a period of control equal to the maximum term prescribed by law for the offense of which he or she was convicted, and if the Department of the Youth Authority believes that unrestrained freedom for that person would be dangerous to the public, the Department of the Youth Authority shall petition the court by which the commitment was made.

The petition shall be accompanied by a written statement of the facts upon which the department bases its opinion that discharge from its control at the time stated would be dangerous to the public, but a petition may not be dismissed merely because of its form or an asserted insufficiency of its allegations; every order shall be reviewed upon its merits.

**Leg.H.**

Amended 1979 ch. 860, 2003 ch. 4 (SB 459), effective April 8, 2003, operative January 1, 2004.

## **§ 1781. Notice of Petition Prior to Hearing.**

Upon the filing of a petition under this article, the court shall notify the person whose liberty is involved, and if he or she is a minor, his or her parent or guardian if practicable, of the application and shall afford him or her an opportunity to appear in court with the aid of counsel and of process to compel attendance of witnesses and production of evidence. When he or she is unable to provide his or her own counsel, the court shall appoint counsel to represent him or her.

In the case of any person who is the subject of such a petition and who is under the control of the Youth Authority for the commission of any offense of rape in violation of paragraph (1) or (2) of subdivision (a) of Section 262 or subdivision (2) or subdivision (3) of Section 261 of the Penal Code, or murder, the Department of the Youth Authority shall send written notice of the petition and of any hearing set for the petition to each of the following persons: the attorney for the person who is the subject of the petition, the district attorney of the county from which the person was committed, and the law enforcement agency that investigated the case. The department shall also send written notice to the victim of the rape or the next of kin of the person murdered if he or she requests notice from the department and keeps it apprised of his or her current mailing address. Notice shall be sent at least 30 days before the hearing.

**Leg.H.**

Amended 1981 ch. 588, 1996 ch. 1075, 2003 ch. 4 (SB 459), effective April 8, 2003, operative January 1, 2004.

# **ARTICLE 6**

## **Extended Detention of Dangerous Persons**

## **§ 1800. Request that Prosecuting Attorney File Petition for Extended Detention; Written Statement of Facts; Notice of Decision Not to File Petition.**

(a) Whenever the Division of Juvenile Facilities determines that the discharge of a person from the control of the division at the time required by Section 1766, 1769, 1770, or 1771, as applicable, would be physically

dangerous to the public because of the person's mental or physical deficiency, disorder, or abnormality that causes the person to have serious difficulty controlling his or her dangerous behavior, the division, through the Director of the Division of Juvenile Justice, shall request the prosecuting attorney to petition the committing court for an order directing that the person remain subject to the control of the division beyond that time. The petition shall be filed at least 90 days before the time of discharge otherwise required. The petition shall be accompanied by a written statement of the facts upon which the division bases its opinion that discharge from control of the division at the time stated would be physically dangerous to the public, but the petition may not be dismissed and an order may not be denied merely because of technical defects in the application.

(b) The prosecuting attorney shall promptly notify the Division of Juvenile Facilities of a decision not to file a petition.

**Leg.H.**

Added Stats 1963 ch 1693 § 4. Amended Stats 1970 ch 371 § 2; Stats 1979 ch 860 § 36; Stats 1984 ch 546 § 1. Amended Stats 2003 ch 4 § 45 (SB 459), effective April 8, 2003; Stats 2005 ch 110 § 1 (SB 447), effective July 21, 2005; Stats 2006 ch 538 § 688 (SB 1852), effective January 1, 2007; Stats 2012 ch 41 § 111 (SB 1021), effective June 27, 2012.

## **§ 1800.5. Request by Board of Parole Hearings that Director of the Division of Juvenile Justice Review Case Where Prosecuting Attorney Has Not Been Asked to File Petition; Review by Mental Health Professional; Request by Board for Filing of Petition; Documentation; Timeframe.**

Notwithstanding any other provision of law, the Board of Parole Hearings may request the Director of the Division of Juvenile Justice to review any case in which the Division of Juvenile Facilities has not made a request to the prosecuting attorney pursuant to Section 1800 and the board finds that the ward would be physically dangerous to the public because of the ward's mental or physical deficiency, disorder, or abnormality that causes the person to have serious difficulty controlling his or her dangerous behavior. Upon the board's request, a mental health professional designated by the director shall review the case and thereafter may affirm the finding or order additional assessment of the ward. If, after review, the mental health designee affirms the initial finding, concludes that a subsequent assessment does not demonstrate that a ward is subject to extended detention pursuant to Section 1800, or fails to respond to a request from the board within the timeframe mandated by this section, the board thereafter may request the prosecuting attorney to petition the committing court for an order directing that the person remain subject to the control of the division pursuant to Section 1800 if the board continues to find that the ward would be physically dangerous to the public because of the ward's mental or physical deficiency, disorder, or abnormality that causes the person to have serious difficulty controlling his or her dangerous behavior. The board's request to the prosecuting attorney shall be accompanied by a copy of the ward's file and any documentation upon which the board bases its opinion, and shall include any documentation of the division's review and recommendations made pursuant to this section. Any request for review pursuant to this section shall be submitted to the director not less than 120 days before the date of final discharge, and the review shall be completed and transmitted to the board not more than 15 days after the request has been received.

**Leg.H.**

Added Stats 2003 ch 4 § 46 (SB 459), effective April 8, 2003, operative January 1, 2004. Amended Stats 2005 ch 110 § 2 (SB 447), effective July 21, 2005; Stats 2006 ch 538 § 689 (SB 1852), effective January 1, 2007; Stats 2012 ch 41 § 112 (SB 1021), effective June 27, 2012.

## § 1801. Notice of Petition; Right to Appear; Right to Counsel; Determination by Court.

(a) If a petition is filed with the court for an order as provided in Section 1800 and, upon review, the court determines that the petition, on its face, supports a finding of probable cause, the court shall order that a hearing be held pursuant to subdivision (b). The court shall notify the person whose liberty is involved and, if the person is a minor, his or her parent or guardian (if that person can be reached, and, if not, the court shall appoint a person to act in the place of the parent or guardian) of the hearing, and shall afford the person an opportunity to appear at the hearing with the aid of counsel and the right to cross-examine experts or other witnesses upon whose information, opinion, or testimony the petition is based. The court shall inform the person named in the petition of his or her right of process to compel attendance of relevant witnesses and the production of relevant evidence. When the person is unable to provide his or her own counsel, the court shall appoint counsel to represent him or her.

The probable cause hearing shall be held within 10 calendar days after the date the order is issued pursuant to this subdivision unless the person named in the petition waives this time.

(b) At the probable cause hearing, the court shall receive evidence and determine whether there is probable cause to believe that discharge of the person would be physically dangerous to the public because of his or her mental or physical deficiency, disorder, or abnormality which causes the person to have serious difficulty controlling his or her dangerous behavior. If the court determines there is not probable cause, the court shall dismiss the petition and the person shall be discharged from the control of the authority at the time required by Section 1766, 1769, 1770, 1770.1, or 1771, as applicable. If the court determines there is probable cause, the court shall order that a trial be conducted to determine whether the person is physically dangerous to the public because of his or her mental or physical deficiency, disorder, or abnormality.

**Leg.H.**

1963 ch. 1693, 1984 ch. 546, 1998 ch. 267, 1999 ch. 83, 2005 ch. 110 (SB 447) § 3, effective July 21, 2005.

## § 1801.5. Dangerous Offender—Determination by Jury.

If a trial is ordered pursuant to Section 1801, the trial shall be by jury unless the right to a jury trial is personally waived by the person, after he or she has been fully advised of the constitutional rights being waived, and by the prosecuting attorney, in which case trial shall be by the court. If the jury is not waived, the court shall cause a jury to be summoned and to be in attendance at a date stated, not less than four days nor more than 30 days from the date of the order for trial, unless the person named in the petition waives time. The court shall submit to the jury, or, at a court trial, the court shall answer, the question: Is the person physically dangerous to the public because of his or her mental or physical deficiency, disorder, or abnormality which causes the person to have serious difficulty controlling his or her dangerous behavior? The court's previous order entered pursuant to Section 1801 shall not be read to the jury, nor alluded to in the trial. The person shall be entitled to all rights guaranteed under the federal and state constitutions in criminal proceedings. A unanimous jury verdict shall be required in any jury trial. As to either a court or a jury trial, the standard of proof shall be that of proof beyond a reasonable doubt.

**Leg.H.**

1971 chs. 1337, 1389, 1680, 1984 ch. 546, 1998 ch. 267, 2005 ch. 110 (SB 447) § 4, effective July 21, 2005.

(Repealed January 1, 2017)

## § 1916. California Voluntary Tattoo Removal Program.

(a) The California Voluntary Tattoo Removal Program is hereby established.

(b) To the extent that funds are appropriated for this purpose, the Board of State and Community Corrections may administer the program.

(c) The program shall be designed to serve individuals between 14 and 24 years of age, who are in the custody of the Department of Corrections and Rehabilitation or county probation departments, who are on parole or probation, or who are in a community-based organization serving at-risk youth.

(d) The board shall award grants in a competitive manner and on a geographically diverse basis, serving both northern and southern California.

(e) The Division of Juvenile Facilities of the Department of Corrections and Rehabilitation, county probation departments, community-based organizations, and relevant service providers may apply for the grants authorized by this section.

(f) Funds appropriated for purposes of this section shall be limited to federal funds.

(g) Tattoo removals shall be performed by licensed clinicians who, to the extent feasible, provide their services at a discounted rate, or free of charge.

(h) Grantees shall serve individuals who have gang-related tattoos or tattoos received for identification in trafficking and prostitution that are visible in a professional environment and who are recommended for the program by Department of Corrections and Rehabilitation representatives, parole agents, county probation officers, community-based organizations, or service providers.

(i) Individuals who have gang-related tattoos or tattoos received for identification in trafficking and prostitution that may be considered unprofessional and are visible in a professional work environment, who meet the criteria of subdivision (c), and who meet any of the following criteria may be eligible for participation in the program:

(1) Are actively pursuing secondary or postsecondary education.

(2) Are seeking employment or participating in workforce training programs.

(3) Are scheduled for an upcoming job interview or job placement.

(4) Are participating in a community or public service activity.

(j) Use of funding by grantees shall be limited to the following:

(1) The removal of gang-related tattoos or tattoos received for identification in trafficking and prostitution.

(2) Maintenance or repair of tattoo removal medical devices.

(3) Contracting with licensed private providers to offer the tattoo removal service.

(k) Grantees may also seek additional federal or private funding to execute the provisions of this section, and use those funds to supplement funding received through the program.

(l) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

**Leg.H.**

Added Stats 2011 ch 661 § 1 (AB 1122), effective January 1, 2012, repealed January 1, 2017. Amended Stats 2012 ch 41 § 113 (SB 1021), effective June 27, 2012, repealed January 1, 2017, ch 726 § 2 (AB 1956), effective January 1, 2013, repealed January 1, 2017.

## **DIVISION 5**

### **COMMUNITY MENTAL HEALTH SERVICES**

#### **PART 1.5**

#### **Children's Civil Commitment and Mental Health Treatment Act of 1988**

#### **CHAPTER 1**

#### **GENERAL PROVISIONS**

##### **§ 5585. Title.**

This part shall be known as the Children's Civil Commitment and Mental Health Treatment Act of 1988.

**Leg.H.**

1988 ch. 1202.

##### **§ 5585.10. Construction; Legislative Intent and Purposes.**

This part shall be construed to promote the legislative intent and purposes of this part as follows:

- (a) To provide prompt evaluation and treatment of minors with mental health disorders, with particular priority given to seriously emotionally disturbed children and adolescents.
- (b) To safeguard the rights to due process for minors and their families through judicial review.
- (c) To provide individualized treatment, supervision, and placement services for gravely disabled minors.
- (d) To prevent severe and long-term mental disabilities among minors through early identification, effective family service interventions, and public education.

**Leg.H.**

Added Stats 1988 ch 1202 § 2; Amended Stats 2014 ch 144 § 99 (AB 1847), effective January 1, 2015.

##### **§ 5585.20. Application of Part During Initial Period of Evaluation and Treatment.**

This part shall apply only to the initial 72 hours of mental health evaluation and treatment provided to a minor. Notwithstanding the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000)), unless the context otherwise requires, the definitions and procedures contained in this part shall, for the initial 72 hours of evaluation and treatment, govern the construction of state law governing the civil commitment of minors for involuntary treatment. To the extent that this part conflicts with any other provisions of law, it is the intent of the Legislature that this part shall apply. Evaluation and treatment of a minor beyond the initial 72 hours shall be pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000)).

**Leg.H.**

1988 ch. 1202.

## **§ 5585.21. Promulgation of Regulations.**

The Director of Health Care Services may promulgate regulations as necessary to implement and clarify the provisions of this part as they relate to minors.

**Leg.H.**

Added Stats 1988 ch 1202 § 2. Amended Stats 2012 ch 34 § 111 (SB 1009), effective June 27, 2012; Stats 2013 ch 23 § 40 (AB 82), effective June 27, 2013.

## **§ 5585.22. Development of Educational Materials and Training Curriculum.**

The Director of Health Care Services, in consultation with the County Behavioral Health Directors Association of California, may develop the appropriate educational materials and a training curriculum, and may provide training as necessary to ensure that those persons providing services pursuant to this part fully understand its purpose.

**Leg.H.**

Added Stats 1988 ch 1202 § 2. Amended Stats 2012 ch 34 § 112 (SB 1009), effective June 27, 2012; Stats 2015 ch 455 § 31 (SB 804), effective January 1, 2016.

## **§ 5585.25. “Gravely Disabled Minor”.**

“Gravely disabled minor” means a minor who, as a result of a mental disorder, is unable to use the elements of life that are essential to health, safety, and development, including food, clothing, and shelter, even though provided to the minor by others. Intellectual disability, epilepsy, or other developmental disabilities, alcoholism, other drug abuse, or repeated antisocial behavior do not, by themselves, constitute a mental disorder.

**Leg.H.**

Added Stats 1988 ch 1202 § 2. Amended Stats 2012 ch 448 § 53 (AB 2370), effective January 1, 2013, ch 457 § 53 (SB 1381), effective January 1, 2013.

# **CHAPTER 2**

# **CIVIL COMMITMENT OF MINORS**

## § 5585.50. Involuntary Commitment Upon Application; Civil Liability.

(a) When any minor, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled and authorization for voluntary treatment is not available, a peace officer, member of the attending staff, as defined by regulation, of an evaluation facility designated by the county, or other professional person designated by the county may, upon probable cause, take, or cause to be taken, the minor into custody and place him or her in 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 of minors. The facility shall make every effort to notify the minor's parent or legal guardian as soon as possible after the minor is detained.

(b) The facility shall require an application in writing stating the circumstances under which the minor's condition was called to the attention of the officer, member of the attending staff, or professional person, and stating that the officer, member of the attending staff, or professional person has probable cause to believe that the minor is, as a result of mental disorder, a danger to others, or to himself or herself, or gravely disabled and authorization for voluntary treatment is not available. If the probable cause is based on the statement of a person other than the officer, member of the attending staff, or professional person, the person shall be liable in a civil action for intentionally giving a statement which he or she knows to be false.

**Leg.H.**

Added Stats 1988 ch 1202 § 2. Amended Stats 2012 ch 34 § 113 (SB 1009), effective June 27, 2012; Stats 2013 ch 23 § 41 (AB 82), effective June 27, 2013.

## § 5585.52. Clinical Evaluation.

Any minor detained under the provisions of Section 5585.50 shall receive a clinical evaluation consisting of multidisciplinary professional analyses of the minor's medical, psychological, developmental, educational, social, financial, and legal conditions as may appear to constitute a problem. This evaluation shall include a psychosocial evaluation of the family or living environment, or both. Persons providing evaluation services shall be properly qualified professionals with training or supervised experience, or both, in the diagnosis and treatment of minors. Every effort shall be made to involve the minor's parent or legal guardian in the clinical evaluation.

**Leg.H.**

1988 ch. 1202.

## § 5585.53. Additional Treatment—Family Consultation and Consent—Involuntary Treatment.

If, in the opinion of the professional person conducting the evaluation as specified in Section 5585.52, the minor will require additional mental health treatment, a treatment plan shall be written and shall identify the least restrictive placement alternative in which the minor can receive the necessary treatment. The family, legal guardian, or caretaker and the minor shall be consulted and informed as to the basic recommendations for further treatment and placement requirements. Every effort shall be made to obtain the consent of the minor's parent or legal guardian prior to treatment and placement of the minor. Inability to obtain the consent of the minor's parent or legal guardian shall not preclude the involuntary treatment of a minor who is determined to be gravely disabled or a danger to himself or herself or others. Involuntary treatment shall only be allowed in accordance with the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000)).

**Leg.H.**

1988 ch. 1202.

## **§ 5585.55. Placement In Approved Facility.**

The minor committed for involuntary treatment under this part shall be placed in a mental health facility designated by the county and approved by the State Department of Health Care Services as a facility for 72-hour evaluation and treatment. Except as provided for in Section 5751.7, each county shall ensure that minors under 16 years of age are not held with adults receiving psychiatric treatment under the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000)).

### **Leg.H.**

Added Stats 1988 ch 1202 § 2. Amended Stats 2012 ch 34 § 114 (SB 1009), effective June 27, 2012; Stats 2013 ch 23 § 42 (AB 82), effective June 27, 2013.

## **§ 5585.57. Aftercare Plan.**

A mentally ill minor, upon being considered for release from involuntary treatment, shall have an aftercare plan developed. The plan shall include educational or training needs, provided these are necessary for the minor's well-being.

### **Leg.H.**

1988 ch. 1202.

## **§ 5585.58. Funding.**

This part shall be funded under the Bronzan-McCorquodale Act pursuant to Part 2 (commencing with Section 5600), as part of the county performance contract.

### **Leg.H.**

1988 ch. 1202, 1993 ch. 1245, effective October 11, 1993.

## **§ 5585.59. Part Inapplicable to Legally Emancipated Minors.**

For the purposes of this part, legally emancipated minors requiring involuntary treatment shall be considered adults and this part shall not apply.

### **Leg.H.**

1988 ch. 1202.

## **PART 2**

### **The Bronzan-McCorquodale Act**

#### **CHAPTER 1**

#### **GENERAL PROVISIONS**

## **§ 5600. [See Note Below for Operative Information] Title and Purpose.**

(a) This part shall be known and may be cited as the Bronzan-McCorquodale Act. This part is intended to organize and finance community mental health services for persons with mental health disorders in every county through locally administered and locally controlled community mental health programs. It is furthermore intended to better utilize existing resources at both the state and local levels in order to improve the effectiveness of necessary mental health services; to integrate state-operated and community mental health programs into a unified mental health system; to ensure that all mental health professions be appropriately represented and utilized in the mental health programs; to provide a means for participation by local governments in the determination of the need for and the allocation of mental health resources under the jurisdiction of the state; and to provide a means of allocating mental health funds deposited in the Local Revenue Fund equitably among counties according to community needs.

(b) With the exception of those referring to Short-Doyle Medi-Cal services, any other provisions of law referring to the Short-Doyle Act shall be construed as referring to the Bronzan-McCorquodale Act.

**Leg.H.**

Amended 1991 ch. 89 § 63, effective June 30, 1991; Stats 2014 ch 144 § 100 (AB 1847), effective January 1, 2015.

**1991 Note:**

(a) In the event of a determination by the Commission on State Mandates, which is not appealed by the Director of Finance in accordance with subdivision (c), or a final judicial determination by a California court of appellate jurisdiction that any provision of this act is a state-mandated local program requiring state reimbursement to a local agency or school district within the meaning of Section 6 of Article XIII B of the California Constitution, the provisions of this act shall become inoperative 60 days following the date on which the Commission on State Mandates adopts an estimated statewide cost of reimbursement pursuant to such a commission decision finding a state mandate, or following the date on which the first such judicial determination becomes final.

(b) This section shall be operative only in the event that the estimated statewide cost of reimbursement exceeds one million dollars (\$1,000,000) per year. The estimated cost of reimbursement for purposes of this one million dollar (\$1,000,000) limitation shall be determined by reference to the estimated statewide cost of the mandate adopted by the Commission on State Mandates if the estimate is made and adopted. If the commission has not adopted such a report, the estimated statewide cost of reimbursement shall be determined by the Director of Finance.

(c) This act shall not become inoperative pursuant to subdivision (a) if the Director of Finance files a written Notice of Intent to Appeal with the Commission on State Mandates within 60 days of the adoption of an estimated statewide cost of reimbursement pursuant to a decision by the commission finding that any of the provisions of this act is a state-mandated local program requiring reimbursement within the meaning of Section 6 of Article XIII B of the California Constitution. The Notice of Intent to Appeal specified by this subdivision shall consist of a written notice setting forth the intention of the Director of Finance to seek judicial review of the decision of the Commission on State Mandates that is received by the commission within the time specified. Stats. 1991 ch. 89 § 209, amended by 1993 ch. 728 § 6.

## **§ 5600.1. Mission Statement of Mental Health System.**

The mission of California's mental health system shall be to enable persons experiencing severe and disabling mental illnesses and children with serious emotional disturbances to access services and programs that assist them, in a manner tailored to each individual, to better control their illness, to achieve their personal goals, and to develop skills and supports leading to their living the most constructive and satisfying lives possible in the least restrictive available settings.

**Leg.H.**

Amended 1991 ch. 611 § 35, effective October 7, 1991.

## **§ 5600.2. Goal of Health Care Systems; Factors Included in Goal.**

To the extent resources are available, public mental health services in this state should be provided to priority target populations in systems of care that are client-centered, culturally competent, and fully accountable, and which include the following factors:

(a) Client-Centered Approach. All services and programs designed for persons with mental disabilities should be client centered, in recognition of varying individual goals, diverse needs, concerns, strengths, motivations, and disabilities. Persons with mental disabilities:

(1) Retain all the rights, privileges, opportunities, and responsibilities of other citizens unless specifically limited by federal or state law or regulations.

(2) Are the central and deciding figure, except where specifically limited by law, in all planning for treatment and rehabilitation based on their individual needs. Planning should also include family members and friends as a source of information and support.

(3) Shall be viewed as total persons and members of families and communities. Mental health services should assist clients in returning to the most constructive and satisfying lifestyles of their own definition and choice.

(4) Should receive treatment and rehabilitation in the most appropriate and least restrictive environment, preferably in their own communities.

(5) Should have an identifiable person or team responsible for their support and treatment.

(6) Shall have available a mental health advocate to ensure their rights as mental health consumers pursuant to Section 5521.

(b) Priority Target Populations. Persons with serious mental illnesses have severe, disabling conditions that require treatment, giving them a high priority for receiving available services.

(c) Systems of Care. The mental health system should develop coordinated, integrated, and effective services organized in systems of care to meet the unique needs of children and youth with serious emotional disturbances, and adults, older adults, and special populations with serious mental illnesses. These systems of care should operate in conjunction with an interagency network of other services necessary for individual clients.

(d) Outreach. Mental health services should be accessible to all consumers on a 24-hour basis in times of crisis. Assertive outreach should make mental health services available to homeless and hard-to-reach individuals with mental disabilities.

(e) Multiple Disabilities. Mental health services should address the special needs of children and youth, adults, and older adults with dual and multiple disabilities.

(f) Quality of Service. Qualified individuals trained in the client-centered approach should provide effective services based on measurable outcomes and deliver those services in environments conducive to clients' well-being.

(g) Cultural Competence. All services and programs at all levels should have the capacity to provide services sensitive to the target populations' cultural diversity. Systems of care should:

(1) Acknowledge and incorporate the importance of culture, the assessment of cross-cultural relations, vigilance towards dynamics resulting from cultural differences, the expansion of cultural knowledge, and the adaptation of services to meet culturally unique needs.

(2) Recognize that culture implies an integrated pattern of human behavior, including language, thoughts, beliefs, communications, actions, customs, values, and other institutions of racial, ethnic, religious, or social groups.

(3) Promote congruent behaviors, attitudes, and policies enabling the system, agencies, and mental health professionals to function effectively in cross-cultural institutions and communities.

(h) Community Support. Systems of care should incorporate the concept of community support for individuals with mental disabilities and reduce the need for more intensive treatment services through measurable client outcomes.

(i) Self-Help. The mental health system should promote the development and use of self-help groups by individuals with serious mental illnesses so that these groups will be available in all areas of the state.

(j) Outcome Measures. State and local mental health systems of care should be developed based on client-centered goals and evaluated by measurable client outcomes.

(k) Administration. Both state and local departments of mental health should manage programs in an efficient, timely, and cost-effective manner.

(l) Research. The mental health system should encourage basic research into the nature and causes of mental illnesses and cooperate with research centers in efforts leading to improved treatment methods, service delivery, and quality of life for mental health clients.

(m) Education on Mental Illness. Consumer and family advocates for mental health should be encouraged and assisted in informing the public about the nature of mental illness from their viewpoint and about the needs of consumers and families. Mental health professional organizations should be encouraged to disseminate the most recent research findings in the treatment and prevention of mental illness.

**Leg.H.**

1991 ch. 89, 1991 ch. 611, effective October 7, 1991, 1992 ch. 1374, effective October 28, 1992.

### **§ 5600.3. Categories of Target Populations to be Served by Funds Deposited in Mental Health Account.**

To the extent resources are available, the primary goal of the use of funds deposited in the mental health account of the local health and welfare trust fund should be to serve the target populations identified in the following categories, which shall not be construed as establishing an order of priority:

**(a)**

**(1)** Seriously emotionally disturbed children or adolescents.

**(2)** For the purposes of this part, "seriously emotionally disturbed children or adolescents" means minors under the age of 18 years who have a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, other than a primary substance use disorder or developmental disorder, which results in behavior inappropriate to the child's age according to expected developmental norms. Members of this target population shall meet one or more of the following criteria:

**(A)** As a result of the mental disorder, the child has substantial impairment in at least two of the following areas: self-care, school functioning, family relationships, or ability to function in

the community; and either of the following occur:

- (i) The child is at risk of removal from home or has already been removed from the home.
- (ii) The mental disorder and impairments have been present for more than six months or are likely to continue for more than one year without treatment.
- (B) The child displays one of the following: psychotic features, risk of suicide or risk of violence due to a mental disorder.
- (C) The child has been assessed pursuant to Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of Division 4 of Title 2 of the Education Code and determined to have an emotional disturbance, as defined in paragraph (4) of subdivision (c) of **Section 300.8 of Title 34 of the Code of Federal Regulations**.

**(b)**

(1) Adults and older adults who have a serious mental disorder.

(2) For the purposes of this part, “serious mental disorder” means a mental disorder that is severe in degree and persistent in duration, which may cause behavioral functioning which interferes substantially with the primary activities of daily living, and which may result in an inability to maintain stable adjustment and independent functioning without treatment, support, and rehabilitation for a long or indefinite period of time. Serious mental disorders include, but are not limited to, schizophrenia, bipolar disorder, post-traumatic stress disorder, as well as major affective disorders or other severely disabling mental disorders. This section shall not be construed to exclude persons with a serious mental disorder and a diagnosis of substance abuse, developmental disability, or other physical or mental disorder.

(3) Members of this target population shall meet all of the following criteria:

(A) The person has a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, other than a substance use disorder or developmental disorder or acquired traumatic brain injury pursuant to subdivision (a) of Section 4354 unless that person also has a serious mental disorder as defined in paragraph (2).

**(B)**

(i) As a result of the mental disorder, the person has substantial functional impairments or symptoms, or a psychiatric history demonstrating that without treatment there is an imminent risk of decompensation to having substantial impairments or symptoms.

(ii) For the purposes of this part, “functional impairment” means being substantially impaired as the result of a mental disorder in independent living, social relationships, vocational skills, or physical condition.

(C) As a result of a mental functional impairment and circumstances, the person is likely to become so disabled as to require public assistance, services, or entitlements.

(4) For the purpose of organizing outreach and treatment options, to the extent resources are available, this target population includes, but is not limited to, persons who are any of the following:

(A) Homeless persons who are mentally ill.

**(B)** Persons evaluated by appropriately licensed persons as requiring care in acute treatment facilities including state hospitals, acute inpatient facilities, institutes for mental disease, and crisis residential programs.

**(C)** Persons arrested or convicted of crimes.

**(D)** Persons who require acute treatment as a result of a first episode of mental illness with psychotic features.

**(5)** California veterans in need of mental health services and who meet the existing eligibility requirements of this section, shall be provided services to the extent services are available to other adults pursuant to this section. Veterans who may be eligible for mental health services through the United States Department of Veterans Affairs should be advised of these services by the county and assisted in linking to those services, but the eligible veteran shall not be denied county mental or behavioral health services while waiting for a determination of eligibility for, and availability of, mental or behavioral health services provided by the United States Department of Veterans Affairs.

**(A)** An eligible veteran shall not be denied county mental health services based solely on his or her status as a veteran, including whether or not the person is eligible for services provided by the United States Department of Veterans Affairs.

**(B)** Counties shall refer a veteran to the county veterans service officer, if any, to determine the veteran's eligibility for, and the availability of, mental health services provided by the United States Department of Veterans Affairs or other federal health care provider.

**(C)** Counties should consider contracting with community-based veterans' services agencies, where possible, to provide high-quality, veteran specific mental health services.

**(c)** Adults or older adults who require or are at risk of requiring acute psychiatric inpatient care, residential treatment, or outpatient crisis intervention because of a mental disorder with symptoms of psychosis, suicidality, or violence.

**(d)** Persons who need brief treatment as a result of a natural disaster or severe local emergency.

**Leg.H.**

Added Stats 1991 ch 89 § 68 (AB 1288), effective June 30, 1991, operative term contingent; Amended Stats 1991 ch 611 § 38 (AB 1491), effective October 6, 1991; Stats 1992 ch 1374 § 16 (AB 14), effective October 27, 1992; Stats 2005 ch 221 § 1 (AB 599), effective January 1, 2006; Stats 2006 ch 618 § 2 (AB 2844), effective January 1, 2007; Stats 2008 ch 591 § 1 (AB 3083), effective January 1, 2009; Stats 2015 ch 773 § 61 (AB 403), effective January 1, 2016; Amended Stats 2018 ch 128 § 2 (AB 2325), effective January 1, 2019.

## **§ 5600.35. [See Note Following W&I § 5600 for Operative Information] Statewide Access to Services for Target Population.**

(a) Services should be encouraged in every geographic area to the extent resources are available for clients in the target population categories described in Section 5600.3.

(b) Services to the target populations should be planned and delivered so as to ensure statewide access by members of the target populations, including all ethnic groups in the state.

**Leg.H.**

1991 ch. 89 § 69, effective June 30, 1991.

## § 5600.4. Treatment Option Areas.

Community mental health services should be organized to provide an array of treatment options in the following areas, to the extent resources are available:

(a) Precrisis and Crisis Services. Immediate response to individuals in precrisis and crisis and to members of the individual's support system, on a 24-hour, seven-day-a-week basis. Crisis services may be provided offsite through mobile services. The focus of precrisis services is to offer ideas and strategies to improve the person's situation, and help access what is needed to avoid crisis. The focus of crisis services is stabilization and crisis resolution, assessment of precipitating and attending factors, and recommendations for meeting identified needs.

(b) Comprehensive Evaluation and Assessment. Includes, but is not limited to, evaluation and assessment of physical and mental health, income support, housing, vocational training and employment, and social support services needs. Evaluation and assessment may be provided offsite through mobile services.

(c) Individual Service Plan. Identification of the short and long-term service needs of the individual, advocating for, and coordinating the provision of these services. The development of the plan should include the participation of the client, family members, friends, and providers of services to the client, as appropriate.

(d) Medication Education and Management. Includes, but is not limited to, evaluation of the need for administration of, and education about, the risks and benefits associated with medication. Clients should be provided this information prior to the administration of medications pursuant to state law. To the extent practicable, families and caregivers should also be informed about medications.

(e) Case Management. Client-specific services that assist clients in gaining access to needed medical, social, educational, and other services. Case management may be provided offsite through mobile services.

(f) Twenty-four Hour Treatment Services. Treatment provided in any of the following: an acute psychiatric hospital, an acute psychiatric unit of a general hospital, a psychiatric health facility, an institute for mental disease, a community treatment facility, or community residential treatment programs, including crisis, transitional and long-term programs.

(g) Rehabilitation and Support Services. Treatment and rehabilitation services designed to stabilize symptoms, and to develop, improve, and maintain the skills and supports necessary to live in the community. These services may be provided through various modes of services, including, but not limited to, individual and group counseling, day treatment programs, collateral contacts with friends and family, and peer counseling programs. These services may be provided offsite through mobile services.

(h) Vocational Rehabilitation. Services which provide a range of vocational services to assist individuals to prepare for, obtain, and maintain employment.

(i) Residential Services. Room and board and 24-hour care and supervision.

(j) Services for Homeless Persons. Services designed to assist mentally ill persons who are homeless, or at risk of being homeless, to secure housing and financial resources.

(k) Group Services. Services to two or more clients at the same time.

### Leg.H.

Amended 1991 ch. 611 § 39, effective October 7, 1991, 1992 ch. 1374, effective October 28, 1992, 1993 ch. 1245, effective October 11, 1993.

## **§ 5600.5. Minimum Array of Services for Children and Youth in Target Population.**

The minimum array of services for children and youth meeting the target population criteria established in subdivision (a) of Section 5600.3 should include the following modes of service in every geographical area, to the extent resources are available:

- (a) Precrisis and crisis services.
- (b) Assessment.
- (c) Medication education and management.
- (d) Case management.
- (e) Twenty-four-hour treatment services.
- (f) Rehabilitation and support services designed to alleviate symptoms and foster development of age appropriate cognitive, emotional, and behavioral skills necessary for maturation.

**Leg.H.**

Amended 1991 ch. 611 § 40, effective October 7, 1991, 1992 ch. 1374, effective October 28, 1992.

## **§ 5600.6. [See Note Following W&I § 5600 for Operative Information] Minimum Array of Services for Adults in Target Population.**

The minimum array of services for adults meeting the target population criteria established in subdivision (b) of Section 5600.3 should include the following modes of service in every geographical area, to the extent resources are available:

- (a) Precrisis and crisis services.
- (b) Assessment.
- (c) Medication education and management.
- (d) Case management.
- (e) Twenty-four-hour treatment services.
- (f) Rehabilitation and support services.
- (g) Vocational services.
- (h) Residential services.

**Leg.H.**

1991 ch. 89 § 75, effective June 30, 1991.

## **§ 5600.7. Minimum Array of Services for Older Adults in Target Population.**

The minimum array of services for older adults meeting the target population criteria established in subdivision (b) of Section 5600.3 should include the following modes of service in every geographical area, to the extent resources are available:

- (a) Precrisis and crisis services, including mobile services.
- (b) Assessment, including mobile services.
- (c) Medication education and management.
- (d) Case management, including mobile services.
- (e) Twenty-four-hour treatment services.
- (f) Residential services.
- (g) Rehabilitation and support services, including mobile services.

**Leg.H.**

Amended 1991 ch. 611 § 41, effective October 7, 1991.

## **§ 5600.8. [Section Repealed 2012.]**

**Leg.H.**

Added Stats 2000 ch 93 § 50 (AB 2877), effective July 7, 2000. Amended Stats 2002 ch 1161 § 35 (AB 442), effective September 30, 2002. Repealed Stats 2012 ch 34 § 115 (SB 1009), effective June 27, 2012. The repealed section related to allocation of funds.

## **§ 5600.9. Planning and Delivery of Services.**

(a) Services to the target populations described in Section 5600.3 should be planned and delivered to the extent practicable so that persons in all ethnic groups are served with programs that meet their cultural needs.

(b) Services in rural areas should be developed in flexible ways, and may be designed to meet the needs of the indigent and uninsured who are in need of public mental health services because other private services are not available.

(c) To the extent permitted by law, counties should maximize all available funds for the provision of services to the target populations. Counties are expressly encouraged to develop interagency programs and to blend services and funds for individuals with multiple problems, such as those with mental illness and substance abuse, and children, who are served by multiple agencies. State departments are directed to assist counties in the development of mechanisms to blend funds and to seek any necessary waivers which may be appropriate.

**Leg.H.**

Amended 1991 ch. 611 § 42, effective October 7, 1991.

## **§ 5601. Definitions.**

As used in this part:

(a) "Governing body" means the county board of supervisors or boards of supervisors in the case of counties acting jointly; and in the case of a city, the city council or city councils acting jointly.

**(b)** “Conference” means the County Behavioral Health Directors Association of California as established under former Section 5757.

**(c)** Unless the context requires otherwise, “to the extent resources are available” means to the extent that funds deposited in the mental health account of the local health and welfare fund are available to an entity qualified to use those funds.

**(d)** “Part 1” refers to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000)).

**(e)** “Director of Health Care Services” or “director” means the Director of the State Department of Health Care Services.

**(f)** “Institution” includes a general acute care hospital, a state hospital, a psychiatric hospital, a psychiatric health facility, a skilled nursing facility, including an institution for mental disease as described in Chapter 1 (commencing with Section 5900) of Part 5, an intermediate care facility, a community care facility or other residential treatment facility, or a juvenile or criminal justice institution.

**(g)** “Mental health service” means any service directed toward early intervention in, or alleviation or prevention of, mental disorder, including, but not limited to, diagnosis, evaluation, treatment, personal care, day care, respite care, special living arrangements, community skill training, sheltered employment, socialization, case management, transportation, information, referral, consultation, and community services.

**Leg.H.**

Added Stats 1968 ch 989 § 2, effective July 1, 1969. Amended Stats 1971 ch 1593, operative July 1, 1973; Stats 1977 ch 1252 § 586, operative July 1, 1978; Stats 1979 ch 557 § 7; Stats 1984 ch 1327 § 6, effective September 25, 1984; Stats 1991 ch 89 § 80 (AB 1288), effective June 30, 1991, operative term contingent; Stats 2012 ch 34 § 116 (SB 1009), effective June 27, 2012; Stats 2015 ch 455 § 32 (SB 804), effective January 1, 2016.

## **§ 5602. Establishment of Community Mental Health Services by County Boards; Providing Services to Counties.**

The board of supervisors of every county, or the boards of supervisors of counties acting under the joint powers provisions of Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code shall establish a community mental health service to cover the entire area of the county or counties. Services of the State Department of Health Care Services shall be provided to the county, or counties acting jointly, or, if both parties agree, the state facilities may, in whole or in part, be leased, rented or sold to the county or counties for county operation, subject to terms and conditions approved by the Director of General Services.

**Leg.H.**

Added Stats 1968 ch 989 § 2, operative July 1, 1969. Amended Stats 1970 ch 1627 § 26.2; Stats 1971 ch 1162 § 6; Stats 1973 ch 142 § 73, effective June 30, 1973, operative July 1, 1973; Stats 1977 ch 1252 § 587, operative July 1, 1978; Stats 1984 ch 1327 § 7, effective September 25, 1984; Stats 1991 ch 89 § 81 (AB 1288), effective June 30, 1991, operative term contingent; Stats 2012 ch 34 § 117 (SB 1009), effective June 27, 2012.

## **§ 5604. Mental Health Boards.**

**(a)**

**(1)** Each community mental health service shall have a mental health board consisting of 10 to 15 members, depending on the preference of the county, appointed by the governing body, except that boards

in counties with a population of less than 80,000 may have a minimum of five members. A county with more than five supervisors shall have at least the same number of members as the size of its board of supervisors. This section does not limit the ability of the governing body to increase the number of members above 15.

(2)

(A) The board serves in an advisory role to the governing body, and one member of the board shall be a member of the local governing body. Local mental health boards may recommend appointees to the county supervisors. The board membership should reflect the diversity of the client population in the county to the extent possible.

(B) Fifty percent of the board membership shall be consumers, or the parents, spouses, siblings, or adult children of consumers, who are receiving or have received mental health services. At least 20 percent of the total membership shall be consumers, and at least 20 percent shall be families of consumers.

(C) In addition to consumers and family members referenced in subparagraph (B), counties are encouraged to appoint individuals who have experience with and knowledge of the mental health system. This would include members of the community that engage with individuals living with mental illness in the course of daily operations, such as representatives of county offices of education, large and small businesses, hospitals, hospital districts, physicians practicing in emergency departments, city police chiefs, county sheriffs, and community and nonprofit service providers.

(3)

(A) In counties with a population that is less than 80,000, at least one member shall be a consumer, and at least one member shall be a parent, spouse, sibling, or adult child of a consumer, who is receiving, or has received, mental health services.

(B) Notwithstanding subparagraph (A), a board in a county with a population that is less than 80,000 that elects to have the board exceed the five-member minimum permitted under paragraph (1) shall be required to comply with paragraph (2).

(b) The mental health board shall review and evaluate the local public mental health system, pursuant to Section 5604.2, and advise the governing body on community mental health services delivered by the local mental health agency or local behavioral health agency, as applicable.

(c) The term of each member of the board shall be for three years. The governing body shall equitably stagger the appointments so that approximately one-third of the appointments expire in each year.

(d) If two or more local agencies jointly establish a community mental health service pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the mental health board for the community mental health service shall consist of an additional two members for each additional agency, one of whom shall be a consumer or a parent, spouse, sibling, or adult child of a consumer who has received mental health services.

(e)

(1) Except as provided in paragraph (2), a member of the board or the member's spouse shall not be a full-time or part-time county employee of a county mental health service, an employee of the State Department of Health Care Services, or an employee of, or a paid member of the governing body of, a mental health contract agency.

(2) A consumer of mental health services who has obtained employment with an employer described in paragraph (1) and who holds a position in which the consumer does not have any interest, influence, or authority over any financial or contractual matter concerning the employer may be appointed to the board. The member shall abstain from voting on any financial or contractual issue concerning the member's employer that may come before the board.

(f) Members of the board shall abstain from voting on any issue in which the member has a financial interest as defined in [Section 87103 of the Government Code](#).

(g) If it is not possible to secure membership as specified in this section from among persons who reside in the county, the governing body may substitute representatives of the public interest in mental health who are not full-time or part-time employees of the county mental health service, the State Department of Health Care Services, or on the staff of, or a paid member of the governing body of, a mental health contract agency.

(h) The mental health board may be established as an advisory board or a commission, depending on the preference of the county.

**Leg.H.**

Added Stats 1968 ch 989 § 2, operative November 13, 1968. Amended Stats 1969 ch 722 § 34, effective August 8, 1969, operative July 1, 1969, ch 1120 § 4, operative November 10, 1969; Stats 1970 ch 1627 § 27; Stats 1971 ch 1593 § 384.5, operative July 1, 1973; Stats 1973 ch 1212 § 328, operative July 1, 1974; Stats 1975 ch 1128 § 3; Stats 1976 ch 679 § 1; Stats 1977 ch 726 § 1; Stats 1978 ch 429 § 210, effective July 17, 1978, operative July 1, 1978, ch 852 § 1; Stats 1984 ch 1327 § 9, effective September 25, 1984; Stats 1985 ch 1295 § 1; Stats 1986 ch 179 § 1; Stats 1987 ch 1004 § 2, § 3, operative January 1, 1990; Stats 1990 ch 85 § 1 (SB 945), effective May 9, 1990; Stats 1991 ch 89 § 83 (AB 1288), effective June 30, 1991, operative term contingent; Stats 1992 ch 1374 § 20 (AB 14), effective October 27, 1992; Stats 1993 ch 564 § 2 (SB 43); Stats 1995 ch 712 § 1 (SB 227); Stats 1997 ch 484 § 1 (SB 651), effective September 25, 1997; Stats 2012 ch 34 § 118 (SB 1009), effective June 27, 2012; Stats 2015 ch 127 § 1 (AB 1424), effective January 1, 2016; Stats 2019 ch 460 § 3 (AB 1352), effective January 1, 2020.

## **§ 5604.1. Meetings of Mental Health Board.**

Local mental health advisory boards shall be subject to the provisions of Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, relating to meetings of local agencies.

**Leg.H.**

Amended 1991 ch. 89 § 84, effective June 30, 1991, 1992 ch. 1374, effective October 28, 1992.

## **§ 5604.2. Duties of Mental Health Board.**

(a) The local mental health board shall do all of the following:

(1) Review and evaluate the community's public mental health needs, services, facilities, and special problems in any facility within the county or jurisdiction where mental health evaluations or services are being provided, including, but not limited to, schools, emergency departments, and psychiatric facilities.

(2) Review any county agreements entered into pursuant to Section 5650. The local mental health board may make recommendations to the governing body regarding concerns identified within these agreements.

(3) Advise the governing body and the local mental health director as to any aspect of the local mental health program. Local mental health boards may request assistance from the local patients' rights advocates when reviewing and advising on mental health evaluations or services provided in public facilities with limited access.

**(4)** Review and approve the procedures used to ensure citizen and professional involvement at all stages of the planning process. Involvement shall include individuals with lived experience of mental illness and their families, community members, advocacy organizations, and mental health professionals. It shall also include other professionals that interact with individuals living with mental illnesses on a daily basis, such as education, emergency services, employment, health care, housing, law enforcement, local business owners, social services, seniors, transportation, and veterans.

**(5)** Submit an annual report to the governing body on the needs and performance of the county's mental health system.

**(6)** Review and make recommendations on applicants for the appointment of a local director of mental health services. The board shall be included in the selection process prior to the vote of the governing body.

**(7)** Review and comment on the county's performance outcome data and communicate its findings to the California Behavioral Health Planning Council.

**(8)** This part does not limit the ability of the governing body to transfer additional duties or authority to a mental health board.

**(b)** It is the intent of the Legislature that, as part of its duties pursuant to subdivision (a), the board shall assess the impact of the realignment of services from the state to the county, on services delivered to clients and on the local community.

**Leg.H.**

Added Stats 1968 ch 989 § 2, operative July 1, 1969, as W & I C § 5606. Amended Stats 1978 ch 852 § 4; Stats 1983 ch 1207 § 1.9, effective September 30, 1983; Stats 1984 ch 1327 § 10, effective September 25, 1984; Renumbered by Stats 1985 ch 1295 § 9. Amended Stats 1991 ch 89 § 85 (AB 1288), effective June 30, 1991, operative term contingent, ch 611 § 43 (AB 1491), effective October 6, 1991, operative until July 1, 1993; Stats 1992 ch 1374 § 22 (AB 14), effective October 27, 1992; Stats 1993 ch 564 § 3 (SB 43); Stats 2017 ch 511 § 5 (AB 1688), effective January 1, 2018; Stats 2019 ch 460 § 4 (AB 1352), effective January 1, 2020.

## **§ 5604.3. Expenses of Board Member.**

**(a)** The board of supervisors may pay from any available funds the actual and necessary expenses of the members of the mental health board of a community mental health service incurred incident to the performance of their official duties and functions. The expenses may include travel, lodging, childcare, and meals for the members of an advisory board while on official business as approved by the director of the local mental health program.

**(b)** Governing bodies are encouraged to provide a budget for the local mental health board, using planning and administrative revenues identified in subdivision (c) of Section 5892, that is sufficient to facilitate the purpose, duties, and responsibilities of the local mental health board.

**Leg.H.**

Amended 1991 ch. 89 § 86, effective June 30, 1991, 1992 ch. 1374, effective October 28, 1992; Amended Stats 2019 ch 460 § 5 (AB 1352), effective January 1, 2020.

## **§ 5604.5. Bylaws of Mental Health Board.**

The local mental health board shall develop bylaws to be approved by the governing body which shall do all of the following:

(a) Establish the specific number of members on the mental health board, consistent with subdivision (a) of Section 5604.

(b) Ensure that the composition of the mental health board represents and reflects the diversity and demographics of the county as a whole, to the extent feasible.

(c) Establish that a quorum be one person more than one-half of the appointed members.

(d) Establish that the chairperson of the mental health board be in consultation with the local mental health director.

(e) Establish that there may be an executive committee of the mental health board.

**Leg.H.**

Amended 1991 ch. 89 § 87, effective June 30, 1991, 1992 ch. 1374, effective October 28, 1992; Stats 2019 ch 460 § 6 (AB 1352), effective January 1, 2020.

## **§ 5607. Local Director; Qualifications; Alternate Administrator.**

The local mental health services shall be administered by a local director of mental health services to be appointed by the governing body. He or she shall meet such standards of training and experience as the State Department of Health Care Services, by regulation, shall require. Applicants for these positions need not be residents of the city, county, or state, and may be employed on a full or part-time basis. If a county is unable to secure the services of a person who meets the standards of the State Department of Health Care Services, the county may select an alternate administrator.

**Leg.H.**

Added Stats 1968 ch 989 § 2, operative July 1, 1969. Amended Stats 1971 ch 1593 § 385, operative July 1, 1973; Stats 1977 ch 1252 § 589, operative July 1, 1978; Stats 2012 ch 34 § 119 (SB 1009), effective June 27, 2012.

## **§ 5608. [See Note Following W&I § 5600 for Operative Information] Power and Duties of Local Director.**

The local director of mental health services shall have the following powers and duties:

(a) Serve as chief executive officer of the community mental health service responsible to the governing body through administrative channels designated by the governing body.

(b) Exercise general supervision over mental health services provided under this part.

(c) Recommend to the governing body, after consultation with the advisory board, the provision of services, establishment of facilities, contracting for services or facilities and other matters necessary or desirable in accomplishing the purposes of this division.

(d) Submit an annual report to the governing body reporting all activities of the program, including a financial accounting of expenditures and a forecast of anticipated needs for the ensuing year.

(e) Carry on studies appropriate for the discharge of his or her duties, including the control and prevention of mental disorders.

(f) Possess authority to enter into negotiations for contracts or agreements for the purpose of providing mental health services in the county.

**Leg.H.**

Amended 1991 ch. 89 § 92, effective June 30, 1991.

## **§ 5610. Compliance with Reporting Requirements.**

**(a)** Each county mental health system shall comply with reporting requirements developed by the State Department of Health Care Services, in consultation with the California Behavioral Health Planning Council and the Mental Health Services Oversight and Accountability Commission, which shall be uniform and simplified. The department shall review existing data requirements to eliminate unnecessary requirements and consolidate requirements which are necessary. These requirements shall provide comparability between counties in reports.

**(b)** The department shall develop, in consultation with the Performance Outcome Committee, the California Behavioral Health Planning Council, and the Mental Health Services Oversight and Accountability Commission, pursuant to Section 5611, and with the California Health and Human Services Agency, uniform definitions and formats for a statewide, nonduplicative client-based information system that includes all information necessary to meet federal mental health grant requirements and state and federal Medicaid reporting requirements, and any other state requirements established by law. The data system, including performance outcome measures reported pursuant to Section 5613, shall be developed by July 1, 1992.

**(c)** Unless determined necessary by the department to comply with federal law and regulations, the data system developed pursuant to subdivision (b) shall not be more costly than that in place during the 1990-91 fiscal year.

**(d)**

**(1)** The department shall develop unique client identifiers that permit development of client-specific cost and outcome measures and related research and analysis.

**(2)** The department's collection and use of client information, and the development and use of client identifiers, shall be consistent with clients' constitutional and statutory rights to privacy and confidentiality.

**(3)** Data reported to the department may include name and other personal identifiers. That information is confidential and subject to Section 5328 and any other state and federal laws regarding confidential client information.

**(4)** Personal client identifiers reported to the department shall be protected to ensure confidentiality during transmission and storage through encryption and other appropriate means.

**(5)** Information reported to the department may be shared with local public mental health agencies submitting records for the same person and that information is subject to Section 5328.

**(e)** All client information reported to the department pursuant to Chapter 2 (commencing with Section 4030) of Part 1 of Division 4 and Sections 5328 to 5772.5, inclusive, Chapter 8.9 (commencing with Section 14700), and any other state and federal laws regarding reporting requirements, consistent with Section 5328, shall not be used for purposes other than those purposes expressly stated in the reporting requirements referred to in this subdivision.

**(f)** The department may adopt emergency regulations to implement this section in accordance with 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 adoption of emergency regulations to implement this section that are filed with the Office of Administrative Law within one year of the date on which the act that added this subdivision took

effect shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare and shall remain in effect for no more than 180 days.

**Leg.H.**

Added Stats 1991 ch 89 § 94 (AB 1288), effective June 30, 1991, operative term contingent; Amended Stats 1991 ch 611 § 44 (AB 1491), effective October 6, 1991; Stats 1992 ch 1374 § 29 (AB 14), effective October 27, 1992; Stats 1998 ch 738 § 2 (SB 2098), effective September 22, 1998; Stats 2012 ch 34 § 120 (SB 1009), effective June 27, 2012; Amended Stats 2017 ch 511 § 6 (AB 1688), effective January 1, 2018.

## **§ 5611. [See Note Following W&I § 5600 for Operative Information] Creation of Performance Outcome Committee.**

**(a)** The Director of State Hospitals shall establish a Performance Outcome Committee, to be comprised of representatives from the **Public Law 99-660** Planning Council and the County Behavioral Health Directors Association of California. Any costs associated with the performance of the duties of the committee shall be absorbed within the resources of the participants.

**(b)** Major mental health professional organizations representing licensed clinicians may participate as members of the committee at their own expense.

**(c)** The committee may seek private funding for costs associated with the performance of its duties.

**Leg.H.**

1991 ch. 89 § 96, effective June 30, 1991. Amended Stats 2015 ch 455 § 33 (SB 804), effective January 1, 2016.

## **§ 5612. Purpose of Performance Outcome Committee; Performance Measures to be Used.**

**(a)**

(1) The Performance Outcome Committee shall develop measures of performance for evaluating client outcomes and cost effectiveness of mental health services provided pursuant to this division. The reporting of performance measures shall utilize the data collected by the State Department of Mental Health in the client-specific, uniform, simplified, and consolidated data system. The performance measures shall take into account resources available overall, resource imbalance between counties, other services available in the community, and county experience in developing data and evaluative information.

(2) During the 1992–93 fiscal year, the committee shall include measures of performance for evaluating client outcomes and cost-effectiveness of mental health services provided by state hospitals.

**(b)** The committee should consider outcome measures in the following areas:

- (1) Numbers of persons in identified target populations served.
- (2) Estimated number of persons in identified target populations in need of services.
- (3) Treatment plans development for members of the target population served.
- (4) Treatment plan goals met.
- (5) Stabilization of living arrangements.

- (6) Reduction of law enforcement involvement and jail bookings.
  - (7) Increase in employment or education activities.
  - (8) Percentage of resources used to serve children and older adults.
  - (9) Number of patients' rights advocates and their duties.
  - (10) Quality assurance activities for services, including peer review and medication management.
  - (11) Identification of special projects, incentives, and prevention programs.
- (c) Areas identified for consideration by the committee are for guidance only.

**Leg.H.**

1991 ch. 89 § 98, effective June 30, 1991, 1992 ch. 1374, effective October 28, 1992.

## **§ 5613. [See Note Following W&I § 5600 for Operative Information] Annual Report of Data by County.**

- (a) Counties shall annually report data on performance measures established pursuant to Section 5612 to the local mental health advisory board and to the Director of Health Care Services.
- (b) The Director of Health Care Services shall annually make data on county performance available to the Legislature, and post that data on the department's Internet Web site, by no later than March 15 of each year.

**Leg.H.**

1991 ch. 89 § 100, effective June 30, 1991. Amended Stats 2014 ch 476 § 1 (AB 2679), effective January 1, 2015.

## **§ 5614. Establishing Protocols Relating to Statutory Requirements.**

- (a) The department, in consultation with the Compliance Advisory Committee that shall have representatives from relevant stakeholders, including, but not limited to, local mental health departments, local mental health boards and commissions, private and community-based providers, consumers and family members of consumers, and advocates, shall establish a protocol for ensuring that local mental health departments meet statutory and regulatory requirements for the provision of publicly funded community mental health services provided under this part.

(b) The protocol shall include a procedure for review and assurance of compliance for all of the following elements, and any other elements required in law or regulation:

- (1) Financial maintenance of effort requirements provided for under Section 17608.05.
- (2) Each local mental health board has approved procedures that ensure citizen and professional involvement in the local mental health planning process.
- (3) Children's services are funded pursuant to the requirements of Sections 5704.5 and 5704.6.
- (4) The local mental health department complies with reporting requirements developed by the department.

(5) To the extent resources are available, the local mental health department maintains the program principles and the array of treatment options required under Sections 5600.2 to 5600.9, inclusive.

(6) The local mental health department meets the reporting required by the performance outcome systems for adults and children.

(c) The protocol developed pursuant to subdivision (a) shall focus on law and regulations and shall include, but not be limited to, the items specified in subdivision (b). The protocol shall include data collection procedures so that state review and reporting may occur. The protocol shall also include a procedure for the provision of technical assistance, and formal decision rules and procedures for enforcement consequences when the requirements of law and regulations are not met. These standards and decision rules shall be established through the consensual stakeholder process established by the department.

**Leg.H.**

2000 ch. 93, effective July 7, 2000, 2001 ch. 159.

## **§ 5614.5. Establishing Quality Control Measures; Report to Legislature.**

(a) The department, in consultation with the Quality Improvement Committee which shall include representatives of the California Behavioral Health Planning Council, local mental health departments, consumers and families of consumers, and other stakeholders, shall establish and measure indicators of access and quality to provide the information needed to continuously improve the care provided in California's public mental health system.

(b) The department in consultation with the Quality Improvement Committee shall include specific indicators in all of the following areas:

(1) Structure.

(2) Process, including access to care, appropriateness of care, and the cost effectiveness of care.

(3) Outcomes.

(c) Protocols for both compliance with law and regulations and for quality indicators shall include standards and formal decision rules for establishing when technical assistance, and enforcement in the case of compliance, will occur. These standards and decision rules shall be established through the consensual stakeholder process established by the department.

(d) The department shall report to the legislative budget committees on the status of the efforts in Section 5614 and this section by March 1, 2001. The report shall include presentation of the protocols and indicators developed pursuant to this section or barriers encountered in their development.

**Leg.H.**

Added Stats 2000 ch 93 § 52 (AB 2877), effective July 7, 2000; Amended Stats 2017 ch 511 § 7 (AB 1688), effective January 1, 2018.

## **§ 5615. [See Note Following W&I § 5600 for Operative Information] Continuation of Existing Mental Health Programs.**

If they so elect, cities that were operating independent public mental health programs on January 1, 1990, shall continue to receive direct payments.

**Leg.H.**

Amended 1991 ch. 89 § 102, effective June 30, 1991.

## **§ 5616. [See Note Following W&I § 5600 for Operative Information] Authority of City or Cities to Operate Mental Health Program.**

Nothing in this part shall prevent any city or combination of cities from owning, financing, and operating a mental health program.

**Leg.H.**

Amended 1991 ch. 89 § 104, effective June 30, 1991.

## **§ 5618. Information About Availability of Mental Health Services Offered by Plans.**

Mental health plans shall be responsible for providing information to potential clients, family members, and caregivers regarding specialty Medi-Cal mental health services offered by the mental health plans upon request of the individual. This information shall be written in a manner that is easy to understand and is descriptive of the complete services offered.

**Leg.H.**

2000 ch. 93, effective July 7, 2000.

## **§ 5622. [See Note Following W&I § 5600 for Operative Information] Requirements of Aftercare Plan; Client's Right of Refusal.**

(a) A licensed inpatient mental health facility, as described in subdivision (c) of Section 1262 of the Health and Safety Code, operated by a county or pursuant to a county contract, shall, prior to the discharge of any patient who was placed in the facility, prepare a written aftercare plan. The aftercare plan, to the extent known, shall specify the following:

- (1) The nature of the illness and followup required.
- (2) Medications, including side effects and dosage schedules.

If the patient was given an informed consent form with his or her medications, the form shall satisfy the requirement for information on side effects of the medications.

- (3) Expected course of recovery.
- (4) Recommendations regarding treatment that are relevant to the patient's care.
- (5) Referrals to providers of medical and mental health services.
- (6) Other relevant information.

(b) Any person undergoing treatment at a facility under the Lanterman-Petris-Short Act or a county Bronzan-McCorquodale facility and the person's conservator, guardian, or other legally authorized representative shall be given a written aftercare plan prior to being discharged from the facility. The person shall be advised by facility personnel that he or she may designate another person to receive a copy of the aftercare plan.

(c) A copy of the aftercare plan shall be given to any person designated under subdivision (b). A patient who is released from any local treatment facility described in subdivision (c) of Section 1262 of the Health and Safety Code on a voluntary basis may refuse any or all services under the written aftercare plan.

**Leg.H.**

Amended 1991 ch. 89 § 106, effective June 30, 1991, 1997 ch. 512.

## **§ 5623.5. [See Note Following W&I § 5600 for Operative Information] Prohibition against Denial by County of Prescribed Medication.**

Commencing October 1, 1991, and to the extent resources are available, no county shall deny any person receiving services administered by the county mental health program access to any medication which has been prescribed by the treating physician and approved by the federal Food and Drug Administration and the Medi-Cal program for use in the treatment of psychiatric illness.

**Leg.H.**

1991 ch. 89 § 107, effective June 30, 1991.

# **CHAPTER 2**

## **THE COUNTY PERFORMANCE CONTRACT**

### **§ 5650. Adoption of Proposed Annual County Mental Health Services Performance Contract.**

(a) The State Department of Health Care Services and each county shall have a performance contract for community mental health services, the Mental Health Services Act, the Projects for Assistance in Transition from Homelessness grant, the Community Mental Health Services Block Grant, and other federal grants or other county mental health programs.

(b) The department shall develop the county mental health services performance contract, which shall be effective for an initial period of three years. The department shall provide the three-year performance contract to the county by January 2 of the year the existing performance contract expires. The county shall adopt, execute, and return the performance contract by May 1 of the year the existing contract expires.

(c) The department may extend the term of the contract for two one-year periods. If the department extends the term of the performance contract, the department shall notify the county by January 2 of the year the existing performance contract expires. The county shall adopt, execute, and return the extension to the performance contract by May 1 of the year the existing contract expires.

(d) The department may amend the contract at any time during the term of the contract and the county shall have 90 days from receipt of an amendment to adopt, execute, and return the amendment to the department.

(e) For the purposes of this chapter, provisions of law referring to the county shall be construed to include counties, counties acting jointly, and cities receiving funds pursuant to Section 5701.5.

**Leg.H.**

Added Stats 2018 ch 424 § 13 (SB 1495), effective January 1, 2019.

## **§ 5650.5. [See Note Following W&I § 5600 for Operative Information] References to County Short-Doyle Plan.**

Any other provision of law referring to the county Short-Doyle plan shall be construed as referring to the county mental health services performance contract described in this chapter.

**Leg.H.**

1991 ch. 89 § 113, effective June 30, 1991.

## **§ 5651. Contents and Incidents of Mental Health Services Performance Contract.**

(a) Counties shall comply with the terms of the county mental health services performance contract.

(b) The county mental health services performance contract shall include all of the following provisions:

(1) That the county shall comply with the expenditure requirements of Section 17608.05.

(2) That the county shall provide services to persons receiving involuntary treatment as required by Part 1 (commencing with Section 5000) and Part 1.5 (commencing with Section 5585).

(3) That the county shall comply with all requirements necessary for Medi-Cal reimbursement for mental health treatment services and case management programs provided to Medi-Cal eligible individuals, including, but not limited to, the provisions set forth in Chapter 3 (commencing with Section 5700), and that the county shall submit cost reports and other data to the department in the form and manner determined by the State Department of Health Care Services.

(4) That the local mental health advisory board has reviewed and approved procedures ensuring citizen and professional involvement at all stages of the planning process pursuant to Section 5604.2.

(5) That the county shall comply with all provisions and requirements in law pertaining to patient rights.

(6) That the county shall comply with all requirements in federal law and regulation, and all agreements, certifications, assurances, and policy letters, pertaining to federally funded mental health programs, including, but not limited to, the Projects for Assistance in Transition from Homelessness grant and Community Mental Health Services Block Grant programs.

(7) That the county shall provide all data and information set forth in Sections 5610 and 5664.

(8) That the county, if it elects to provide the services described in Chapter 2.5 (commencing with Section 5670), shall comply with guidelines established for program initiatives outlined in that chapter.

(9) That the county shall comply with all applicable laws and regulations for all services delivered, including all laws, regulations, and guidelines of the Mental Health Services Act.

**(10)** The State Department of Health Care Services' ability to monitor the county's three-year program and expenditure plan and annual update pursuant to Section 5847.

**(11)** Other information determined to be necessary by the director, to the extent this requirement does not substantially increase county costs.

**(c)** The State Department of Health Care Services may include contract provisions for other federal grants or county mental health programs in this performance contract.

**Leg.H.**

Added Stats 1991 ch 89 § 115 (AB 1288), effective June 30, 1991; Amended Stats 1991 ch 611 § 45 (AB 1491), effective October 6, 1991; Stats 2011 ch 43 § 47 (AB 114), effective June 30, 2011; Stats 2012 ch 34 § 122 (SB 1009), effective June 27, 2012; Amended Stats 2018 ch 424 § 14 (SB 1495), effective January 1, 2019.

## **§ 5652.5. [See Note Following W&I § 5600 for Operative Information] Utilization of Existing Private Resources and Facilities.**

(a) Each county shall utilize available private and private nonprofit mental health resources and facilities in the county prior to developing new county-operated resources or facilities when these private and private nonprofit mental health resources or facilities are of at least equal quality and cost as county-operated resources and facilities and shall utilize available county resources and facilities of at least equal quality and cost prior to new private and private nonprofit resources and facilities. All the available local public or private and private nonprofit facilities shall be utilized before state hospitals are used.

(b) Nothing in this section shall prevent a county from restructuring its systems of care in the manner it believes will provide the best overall care.

**Leg.H.**

1991 ch. 89 § 125, effective June 30, 1991.

## **§ 5652.7. Review of Application to Establish New Mental Health Provider.**

A county shall have only 60 days from the date of submission of an application to review and certify or deny an application to establish a new mental health care provider. If an application requires review by the State Department of Health Care Services, the department shall also have only 60 days from the date of submission of the application to review and certify or deny an application to establish a new mental health care provider.

**Leg.H.**

Added Stats 1987 ch 884 § 3. Amended Stats 2012 ch 34 § 123 (SB 1009), effective June 27, 2012.

## **§ 5653. Use of Public and Private Agencies and Funds.**

(a) Optimum use shall be made of appropriate local public and private organizations, community professional personnel, and state agencies. Optimum use shall also be made of federal, state, county, and private funds that may be available for mental health planning.

(b) In order that maximum utilization be made of federal and other funds made available to the Department of Rehabilitation, the Department of Rehabilitation may serve as a contractual provider under the provisions of a

county plan of vocational rehabilitation services for persons with mental health disorders.

**Leg.H.**

Added Stats 1971 ch 1609 § 3. Amended Stats 1975 ch 1128 § 6; Stats 1984 ch 1327 § 30, effective September 25, 1984; Stats 2012 ch 34 § 124 (SB 1009), effective June 27, 2012; Stats 2014 ch 144 § 101 (AB 1847), effective January 1, 2015.

## **§ 5653.1. Contracting with Agencies.**

In conducting evaluation, planning, and research activities, counties may contract with public or private agencies.

**Leg.H.**

Added Stats 1971 ch 1801 § 1. Amended Stats 2012 ch 34 § 125 (SB 1009), effective June 27, 2012.

## **§ 5654. Use of Funds for Consultation and Training.**

In order to serve the increasing needs of children and adolescents with mental and emotional problems, county mental health programs may use funds for the purposes of consultation and training.

**Leg.H.**

Added Stats 1986 ch 770 § 2. Amended Stats 2012 ch 34 § 126 (SB 1009), effective June 27, 2012.

## **§ 5655. Cooperation with County Officials; Consultation Services; Sanctions for Failure to Comply with Code or Regulations.**

All departments of state government and all local public agencies shall cooperate with county officials to assist them in mental health planning. The State Department of Health Care Services shall, upon request and with available staff, provide consultation services to the local mental health directors, local governing bodies, and local mental health advisory boards.

If the Director of Health Care Services considers any county to be failing, in a substantial manner, to comply with any provision of this code or any regulation, the director shall order the county to appear at a hearing, before the director or the director's designee, to show cause why the department should not take action as set forth in this section. The county shall be given at least 20 days' notice of the hearing. The director shall consider the case on the record established at the hearing and make final findings and decision.

If the director determines that there is or has been a failure, in a substantial manner, on the part of the county to comply with any provision of this code or any regulations, and that administrative sanctions are necessary, the department may invoke any, or any combination of, the following sanctions:

(a) Withhold part or all of state mental health funds from the county.

(b) Require the county to enter into negotiations for the purpose of ensuring county compliance with those laws and regulations.

(c) Bring an action in mandamus or any other action in court as may be appropriate to compel compliance. Any action filed in accordance with this section shall be entitled to a preference in setting a date for a hearing.

**Leg.H.**

Added Stats 1971 ch 1609 § 3. Amended Stats 1973 ch 142 § 76, effective June 30, 1973, operative July 1, 1973; Stats 1977 ch 1252 § 594, operative July 1, 1978; Stats 1979 ch 429 § 1.4, effective August 31, 1979; Stats 2012 ch 34 § 127 (SB 1009), effective June 27, 2012.

## **§ 5657. [See Note Following W&I § 5600 for Operative Information] Timing of Invoices from Contractor of Mental Health Services; Penalty for Nonpayment within Time Limit.**

(a) The private organization or private nonprofit organization awarded a contract with the county agency to supply mental health services under this part shall provide an invoice to the county for the amount of the payment due within 60 days of the date the services are supplied, as long as that date is at least 60 days from the date the county has received distribution of mental health funds from the state.

(b) Any county that, without reasonable cause, fails to make any payment within 60 days of the required payment date to a private organization or private nonprofit organization awarded a contract with the county agency to supply mental health services under this part, for an undisputed claim which was properly executed by the claimant and submitted to the county, shall pay a penalty of 0.10 percent of the amount due, per day, from the 61st day after the required payment date.

(c) For the purposes of this section, “required payment date” means any of the following:

(1) The date on which payment is due under the terms of the contract.

(2) If a specific date is not established by contract, the date upon which an invoice is received, if the invoice specifies payment is due upon receipt.

(3) If a specific date is not established by contract or invoice, 60 days after receipt of a proper invoice for the amount of the payment due.

(d) The penalty assessed under this section shall not be paid from the Bronzan-McCorquodale program funds or county matching funds. The penalty provisions of this section shall not apply to the late payment of any federal funds or Medi-Cal funds.

### **Leg.H.**

Amended 1991 ch. 89 § 127, effective June 30, 1991, 2004 ch. 183 (AB 3082).

## **§ 5664. Provision of Reports and Data.**

In consultation with the County Behavioral Health Directors Association of California, the State Department of Health Care Services, the Mental Health Services Oversight and Accountability Commission, the California Behavioral Health Planning Council, and the California Health and Human Services Agency, county behavioral health systems shall provide reports and data to meet the information needs of the state, as necessary.

### **Leg.H.**

Added Stats 1991 ch 89 § 129 (AB 1288), effective June 30, 1991; Amended Stats 2012 ch 34 § 128 (SB 1009), effective June 27, 2012; Stats 2015 ch 455 § 34 (SB 804), effective January 1, 2016; Amended Stats 2017 ch 511 § 8 (AB 1688), effective January 1, 2018.

## **§ 5665. [See Note Following W&I § 5600 for Operative Information] Documentation of Cost Effectiveness of Changes in Fund Allocation Among Service Providers.**

After the development of performance outcome measures pursuant to Section 5610, whenever a county makes a substantial change in its allocation of mental health funds among services, facilities, programs, and providers, it shall, at a regularly scheduled public hearing of the board of supervisors, document that it based its decision on the most cost-effective use of available resources to maximize overall client outcomes, and provide this documentation to the department.

**Leg.H.**

1991 ch. 89 § 131, effective June 30, 1991.

## **§ 5667. “Community Mental Health Centers” Defined.**

(a) A community mental health center shall be considered to be a licensed facility for all purposes, including all provisions of the Health and Safety Code and the Insurance Code.

(b) For purposes of this section, “community mental health center” means any entity that is one of the following:

(1) A city or county mental health program.

(2) A facility funded under the federal Community Mental Health Centers Act, contained in Subchapter 3 (commencing with Section 2681) of Chapter 33 of Title 42 of the United States Code.

(3) A nonprofit agency that has a contract with a county mental health program to provide both of the following:

(A) A comprehensive program of mental health services in an outpatient setting designed to improve the function of persons with diagnosed mental health problems pursuant to procedures governing all aspects of the program formulated with the aid of multidisciplinary staff, including physicians and surgeons, all of whom serve on quality assurance and utilization review committees.

(B) Diagnostic and therapeutic services for individuals with diagnosed mental health problems, together with related counseling.

**Leg.H.**

1993 ch. 788, effective October 4, 1993, 1995 ch. 712.

# **CHAPTER 2.5**

## **PROGRAM INITIATIVES**

### **ARTICLE 1**

#### **Community Residential Treatment System**

## **§ 5670. [See Note Following W&I § 5600 for Operative Information] Legislative Intent.**

(a) It is the intent of the Legislature to encourage the development of a system of residential treatment programs in every county which provides a range of alternatives to institutional care based on principles of residential, community-based treatment.

(b) It is further the intent of the Legislature that community residential mental health programs in the State of California be developed in accordance with the guidelines and principles set forth in this chapter. To this end, counties may implement the community residential treatment system described in this chapter either with available county allocations, or as new moneys become available.

**Leg.H.**

1991 ch. 89 § 134, effective June 30, 1991.

## **§ 5670.5. [See Note Following W&I § 5600 for Operative Information] Criteria for Community Residential Treatment System Program.**

Criteria for community residential treatment system programs are as follows:

(a) Facilities:

(1) Settings, whether residential or day, should be as close to a normal home environment as possible without sacrificing client safety or care.

(2) Residential treatment centers should be relatively small, preferably 15 beds or less, but in any case with the appearance of a noninstitutional setting.

(3) The individual elements of the system should, where possible, be in separate facilities, and not part of one large facility attempting to serve an entire range of clients.

(b) Staffing patterns:

(1) Staffing patterns should reflect, to the maximum extent feasible, at all levels, the cultural, linguistic, ethnic, sexual and other social characteristics of the community the facility serves.

(2) The programs should be designed to use appropriate multidisciplinary professional consultation and staff to meet the specific diagnostic and treatment needs of the clients.

(3) The programs should use paraprofessionals and persons who have been consumers of mental health services where appropriate.

(c) Programs:

(1) The programs should, to the maximum extent feasible, be designed so as to reduce the dependence on medications as a sole treatment tool. Programs in which prescriptions for medication are a component of the program should be subject to the medications-monitoring.

(2) The programs should have a rehabilitation focus which encourages the client to develop the skills to become self-sufficient and capable of increasing levels of independent functioning. Where appropriate, they should include prevocational and vocational programs.

(3) The program should encourage the participation of the clients in the daily operation of the setting in development of treatment and rehabilitation planning and evaluation.

(4) Participation in any element of the system should not preclude the involvement of clients in individual therapy. Individual therapists of clients should, where possible, be directly involved in the development and implementation of a treatment plan, including medication and day program decisions.

(d) Coordination:

The programs should demonstrate specific linkages with one another, and with the general treatment and social service system, as a whole. These connections should not be limited to the mental health system, but should include, whenever possible, community resources utilized by the general population.

**Leg.H.**

1991 ch. 89 § 134, effective June 30, 1991.

## **§ 5671. [See Note Following W&I § 5600 for Operative Information] Required Elements for Community Residential Treatment System Program.**

The following should be the programs in the community residential treatment system. These programs should be designed to provide, at every level, alternatives to institutional settings.

(a) A program for a short-term crisis residential alternative to hospitalization for individuals experiencing an acute episode or crisis requiring temporary removal from their home environment. The program should be available for admissions 24 hours a day, seven days a week. The primary focus of this program should be on reduction of the crisis, on stabilization, and on a diagnostic assessment of the person's existing support system, including recommendations for referrals upon discharge.

The services in the program should include, but not be limited to, provision for direct family work, connections to prevocational and vocational programs, and development of a support system, including income and treatment referrals. This program should be designed for persons who would otherwise be referred to an inpatient unit, either locally or in the state hospital. This program should place an emphasis on stabilization and appropriate referral for further treatment or support services, or both.

(b) A long-term residential treatment program, with a full day treatment component as a part of the program, for persons who may require intensive support for as long as two or three years. This program should be designed to provide a rehabilitation program for the so-called "chronic" patient who needs long-term support in order to develop independent living skills. The clients in this program should be those who would otherwise be living marginally in the community with little or no service support, and who would return many times to the hospital for treatment. It should also serve those who are referred to, and maintained in, state hospitals or nursing homes because they require long-term, intensive support. This program should go beyond maintenance to provide an active rehabilitation focus for these individuals.

The services in this program should include, but not be limited to, intensive diagnostic work, including learning disability assessment, full day treatment program with an active prevocational and vocational component, special education services, outreach to develop linkages with the general social service system, and counseling to aid clients in developing the skills to move toward a less structured setting.

(c) A transitional residential program designed for persons who are able to take part in programs in the general community, but who, without the support of counseling, as well as the therapeutic community, would be at risk of returning to the hospital. This program may employ a variety of staffing patterns and

should be for persons who may be expected to move toward a more independent living setting within approximately three months to one year. The clients should be expected to play a major role in the functioning of the household, and shall be encouraged to accept increasing levels of responsibility, both in the residential community, and in the community as a whole. Residents should be required to be involved in daytime activities outside of the house which are relevant to their personal goals and conducive to their achieving more self-sufficiency.

The services in this program should include, but are not limited to, counseling and ongoing assessment, development of support systems in the community, a day program which encourages interaction between clients and the community-at-large, and an activity program that encourages socialization and utilization of general community resources.

(d) A program for semisupervised, independent, but structured living arrangement for persons who do not need the intensive support of the other system programs, but who, without some support and structure, are at risk to return to a condition requiring hospitalization. The individual apartments or houses should be shared by three to five persons. These small cooperative housing units should function as independent households with direct linkages to staff support in case of emergencies, as well as for regular assessment and evaluation meetings. Individuals may use satellite housing as a transition to independent living, or may remain in this setting indefinitely in order to avoid the need for more intensive settings.

This program should be for persons who only need minimum support in order to live in the community. These individuals may require rent subsidy, as well as the backup of another system, in order to remain in this setting. The satellite units should be as normative as the general living arrangements in the communities in which they are developed.

(e) A program to provide emergency housing or respite care services, or both. These services should be designed for persons with a mental disability in need of temporary housing, but who do not require hospitalization or the more intensive support and treatment of the crisis residential program. Services provided should include, but not be limited to, advocacy, counseling, and linkages to community mental health and other human services, including referrals to vocational and housing opportunities.

(f) A day rehabilitation program which should be designed to provide structured education, training, and support services to promote the development of independent living skills and community support. Services provided should include, but not be limited to, peer support, education services, prevocational and employment services, recreational and social activities, service brokerage and advocacy, orientation to community resources, training in independent living skills, health education including medication education, individual and group counseling, education and counseling services for family members, and crisis intervention.

(g) The program for socialization centers should be designed to serve a broad range of clients, including those in the system programs, when appropriate, as well as persons living in the community in general. This program should be designed to provide regular daytime, evening, and weekend activities for persons who require long-term, structured support, but who do not receive such services in their living setting. Although the socialization center is meant to provide a maintenance support program for those individuals who only wish or require regular socialization opportunities, the programs should also provide the opportunity to develop the skills to move toward more independent functioning.

The services in this program should include, but not be limited to, outings, recreational activities, cultural events, linkages to community resources, as well as prevocational counseling, life skills training, and other rehabilitation efforts. This program should be for persons who would lose contact with a social or treatment system, or both, if left to their isolated living situation, or their ability to participate in activities for the "general public." With this level of support, persons would be able to lead full and active lives, with

the opportunity to develop the skills to move toward independent living. Also included in the program should be adult education support programs which utilize community college and other adult education agencies. These services would provide opportunities to individuals throughout the community residential treatment system and in other living settings, including independent living, to develop skills necessary for independent living through the utilization of resources available to the general population.

(h) An in-home treatment program designed as an alternative to out-of-home placement for individuals who are otherwise not appropriate for, or do not choose to participate in, other elements of the community residential treatment system. This program should be designed for those individuals who would benefit most from a treatment intervention in their home environment. It is a basic premise of this element that treatment should focus on the development of family and other personal and community supports, rather than exclusively on the individual. The goal of the program should be to reintegrate the individual with the family unit, when appropriate, and with the greater community without removing the person from his or her home environment.

The service may be designed as a crisis intervention for persons experiencing an acute episode or an ongoing independent living service, or both, for persons wishing to obtain or maintain housing and services in the community. Services provided should include, but not be limited to, crisis intervention, family work, when appropriate, development of a specific treatment plan, development of an ongoing rehabilitation plan utilizing available resources in the community, and coordination with such services as case management, vocational rehabilitation, schools and other education services, and various special programs which would act as a support system for the individual.

(i) A volunteer-based companion program designed to encourage the development of personal relationships with residents of community care facilities with the goal of motivating and assisting residents to make a successful transition to independent living, or to programs of the community residential treatment system.

The service should be provided primarily by volunteers, including students as a part of a college or university curriculum, who are supervised and coordinated by trained and experienced personnel. Services provided should include, but not be limited to, recreation, one-to-one companionship, advocacy, and assistance in developing the knowledge and use of community resources, including housing and vocational services, and follow up for persons who make the transition to independent living.

**Leg.H.**

1991 ch. 89 § 134, effective June 30, 1991.

**§ 5671.5. [See Note Following W&I § 5600 for Operative Information]  
Additional Criteria for Required Programs Serving Children and Adolescents.**

It is the intent of the Legislature that programs serving children and adolescents should be established under this chapter. Such programs should follow the guidelines and principles set forth in this chapter and in addition should meet the following criteria unique to the population to be served:

- (a) The programs should, to the maximum extent feasible, be designed so as to reduce the disruption and promote the reintegration of the family unit of which the child is a part.
- (b) The programs should have an education focus and should demonstrate specific linkage with community education resources.

- (c) The programs should contain a specific followup component.

**Leg.H.**

1991 ch. 89 § 134, effective June 30, 1991.

## **§ 5672. General Criteria for and Types of Programs Serving Children and Adolescents.**

The types of programs serving children and adolescents referred to in Section 5671.5 are those described in this section. The programs should meet the criteria set forth in this section and in Sections 5671 and 5671.5. Nothing in this section should be construed to waive any licensure requirement pursuant to the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code) for any community care facility.

(a) A program for a short-term crisis residential alternative to hospitalization. The services in this program should include, but not be limited to, provision of direct services to the family, specific linkages with the child's educational system and community educational resources, and development of a support system, including school and treatment referrals. The program should be designed for children and adolescents who would otherwise be referred to a psychiatric inpatient unit. It should be a 24-hour program, with an emphasis on stabilization and appropriate referral for further treatment or support services.

(b) A long-term residential treatment program. This program should have an educational orientation and should reflect the principle that education be available in the least restrictive environment. The program should serve children and adolescents requiring an intensive support system for a period of six to 18 months, who would otherwise be at risk of periodic hospitalization. The program should provide coordinated intervention with the child, family unit, and community education resources, and should include aftercare services to the child and family unit to solidify gains and develop skills in linking with community services.

(c) A transitional residential program. This program may include group homes, foster homes, or homes adapted for preparing adolescents approaching majority to adjust to emancipation.

The services in this program should include, but not be limited to, coordination with community education resources to meet the child's individual need, family services designed to strengthen the family unity of which the child is a part, and aftercare services to reinforce the gains brought about by the program and assist in community adjustment.

(d) A program for a semisupervised, independent but structured living arrangement. This program should apply to older adolescents, who are either emancipated or who would not be returning home from out-of-home placement. The semisupervised living arrangement should require structured living designed to impart those skills necessary for successful independent living as described in subdivision (d) of Section 5671. Adult supervision should be available 24 hours per day.

The services should include, but not be limited to, prevocational and vocational linkages in the community, financial planning which may include rent subsidy assistance, and development of a social support system.

(e)

(1) A day treatment program. This program should provide services to children and adolescents who are residing in their own homes or in out-of-home placements. Schoolsites or other

noninstitutional settings are preferred for this program. A day treatment program for children should offer a multidisciplinary approach and should incorporate education, recreation, and rehabilitation activities. Services provided should be age appropriate and age specific intensive remedial programs, including education, counseling, socialization, and recreational services. To the extent feasible, the client's family should be included in these activities.

(2) Day treatment services should be designed to provide an alternative to residential placement, to provide preventive services in the early stages of family breakdown, and to reduce the need for more costly and lengthy treatment services. Aftercare services should be available to maintain gains and prevent family regression.

(f) A socialization center program. This program should provide a multidisciplinary approach and seek funding from a variety of agencies responsible for providing services, including, but not limited to, school districts and recreation departments. The services should promote community acceptance of clients and the integration of their family units. Family involvement in planning activities and developing support system linkages should be encouraged.

(g) An in-home treatment program. This program should be designed to strengthen the child's ties with the family unit and with the greater community without removing the child from his or her home environment and community educational system.

Services provided should include, but not be limited to, crisis intervention, direct family services, development of specific treatment plans, development of ongoing plans utilizing available resources in the community educational system, and special programs which act as a support system for the child and family unit.

(h) Augmentation of crisis intervention program. This program should provide specifically for evaluation, diagnosis, and disposition planning for children and adolescents in psychiatric crisis.

(i) Case management services program. This program should emphasize prevention services and should be designed to divert to noninstitutional programs children and adolescents at risk of involvement with traditional mental health institutions.

**Leg.H.**

Amended 1991 ch. 611 § 47, effective October 7, 1991.

## **§ 5673. [Section Repealed 2012.]**

**Leg.H.**

Added Stats 1992 ch 434 § 1 (AB 2756). Amended Stats 1994 ch 462 § 2 (SB 1365); Stats 1995 ch 223 § 1 (AB 245), effective July 31, 1995; Stats 2001 ch 745 § 237 (SB 1191), effective October 12, 2001. Repealed Stats 2012 ch 34 § 131 (SB 1009), effective June 27, 2012. The repealed section related to pilot program for provision of community care and treatment for mentally disordered persons.

## **§ 5675. Licensing of Mental Health Rehabilitation Centers; Program Evaluation Measures; Enforcement of Regulations.**

(a) Mental health rehabilitation centers shall only be licensed by the State Department of Health Care Services subsequent to application by counties, county contract providers, or other organizations. In the application for a mental health rehabilitation center, program evaluation measures shall include, but not be limited to:

(1) That the clients placed in the facilities show improved global assessment scores, as measured by preadmission and postadmission tests.

(2) That the clients placed in the facilities demonstrate improved functional behavior as measured by preadmission and postadmission tests.

(3) That the clients placed in the facilities have reduced medication levels as determined by comparison of preadmission and postadmission records.

(b) The State Department of Health Care Services shall conduct annual licensing inspections of mental health rehabilitation centers.

(c) All regulations relating to the licensing of mental health rehabilitation centers, heretofore adopted by the State Department of Mental Health, or its successor, shall remain in effect and shall be fully enforceable by the State Department of Health Care Services with respect to any facility or program required to be licensed as a mental health rehabilitation center, unless and until readopted, amended, or repealed by the Director of Health Care Services. The State Department of Health Care Services shall succeed to and be vested with all duties, powers, purposes, functions, responsibilities, and jurisdiction of the State Department of Mental Health, and its successor, if any, as they relate to licensing mental health rehabilitation centers.

**Leg.H.**

Added Stats 1994 ch 678 § 1 (SB 2017). Amended Stats 1998 ch 686 § 1 (AB 2682); Stats 2000 ch 93 § 54 (AB 2877), effective July 7, 2000; Stats 2001 ch 171 § 29 (AB 430), effective August 10, 2001; Stats 2012 ch 34 § 132 (SB 1009), effective June 27, 2012; Stats 2013 ch 23 § 43 (AB 82), effective June 27, 2013.

## **§ 5675.1. Civil Sanctions; Appeals.**

(a) In accordance with subdivision (b), the State Department of Health Care Services may establish a system for the imposition of prompt and effective civil sanctions for long-term care facilities licensed or certified by the department, including facilities licensed under the provisions of Sections 5675 and 5768, and including facilities certified as providing a special treatment program under Sections 72443 to 72475, inclusive, of Title 22 of the California Code of Regulations.

(b) If the department determines that there is or has been a failure, in a substantial manner, on the part of any such facility to comply with the applicable laws and regulations, the director may impose the following sanctions:

(1) A plan of corrective action that addresses all failure identified by the department and includes timelines for correction.

(2) A facility that is issued a plan of corrective action, and that fails to comply with the plan and repeats the deficiency, may be subject to immediate suspension of its license or certification, until the deficiency is corrected, when failure to comply with the plan of correction may cause a health or safety risk to residents.

(c) The department may also establish procedures for the appeal of an administrative action taken pursuant to this section, including a plan of corrective action or a suspension of license or certification.

**Leg.H.**

Added Stats 2000 ch 93 § 55 (AB 2877), effective July 7, 2000. Amended Stats 2012 ch 34 § 133 (SB 1009), effective June 27, 2012; Stats 2013 ch 23 § 44 (AB 82), effective June 27, 2013.

## § 5675.2. Mental Health Facility Licensing Fund Established; Funding and Fees; Purpose.

(a) There is hereby created in the State Treasury the Mental Health Facility Licensing Fund, from which money, upon appropriation by the Legislature in the Budget Act, shall be expended by the State Department of Health Care Services to fund administrative and other activities in support of the mental health licensing and certification functions of the State Department of Health Care Services. The Mental Health Facility Licensing Fund is the successor to the Licensing and Certification Fund, Mental Health, which fund is hereby abolished. All references in any law to the Licensing and Certification Fund, Mental Health shall be deemed to refer to the Mental Health Facility Licensing Fund.

(b) Commencing January 1, 2005, each new and renewal application for a license to operate a mental health rehabilitation center shall be accompanied by an application or renewal fee.

(c) The amount of the fees shall be determined and collected by the State Department of Health Care Services, but the total amount of the fees collected shall not exceed the actual costs of licensure and regulation of the centers, including, but not limited to, the costs of processing the application, inspection costs, and other related costs.

(d) Each license or renewal issued pursuant to this chapter shall expire 12 months from the date of issuance. Application for renewal of the license shall be accompanied by the necessary fee and shall be filed with the department at least 30 days prior to the expiration date. Failure to file a timely renewal may result in expiration of the license.

(e) License and renewal fees collected pursuant to this section shall be deposited into the Mental Health Facility Licensing Fund.

(f) Fees collected by the State Department of Health Care Services pursuant to this section shall be expended by the State Department of Health Care Services for the purpose of ensuring the health and safety of all individuals providing care and supervision by licensees and to support activities of the department, including, but not limited to, monitoring facilities for compliance with applicable laws and regulations.

(g) The State Department of Health Care Services may make additional charges to the facilities if additional visits are required to ensure that corrective action is taken by the licensee.

**Leg.H.**

Added Stats 2004 ch 509 § 2 (SB 1745). Amended Stats 2006 ch 74 § 59 (AB 1807), effective July 12, 2006; Stats 2012 ch 34 § 134 (SB 1009), effective June 27, 2012; Stats 2013 ch 23 § 45 (AB 82), effective June 27, 2013.

## § 5676. Development of Evaluation and Monitoring Program; Forwarding Copies of Citations to State Department of Health Care Services.

(a) The State Department of Health Care Services, in conjunction with the State Department of Public Health, shall develop a state-level plan for a streamlined and consolidated evaluation and monitoring program for the review of skilled nursing facilities with special treatment programs. The plan shall provide for consolidated reviews, reports, and penalties for these facilities. The plan shall include the cost of, and a timeline for implementing, the plan. The plan shall be developed in consultation with stakeholders, including county mental health programs, consumers, family members of persons residing in long-term care facilities who have serious mental illness, and long-term care providers. The plan shall review resident safety and quality programming,

ensure that long-term care facilities engaged primarily in diagnosis, treatment, and care of persons with mental diseases are available and appropriately evaluated, and ensure that strong linkages are built to local communities and other treatment resources for residents and their families. The plan shall be submitted to the Legislature on or before March 1, 2001.

(b) The State Department of Public Health shall forward to the State Department of Health Care Services copies of citations issued to a skilled nursing facility that has a special treatment program certified by the State Department of Health Care Services.

**Leg.H.**

Added Stats 2000 ch 93 § 56 (AB 2877), effective July 7, 2000. Amended Stats 2012 ch 34 § 135 (SB 1009), effective June 27, 2012.

## **§ 5676.5. Legislative Intent as to Use of Funds; Documentation by Counties; Applications.**

(a) It is the intent of the Legislature to ensure that funds allocated to establish or enhance mental health programs are used to integrate the new or enhanced program into an existing system of care.

(b) Counties that apply for funds to establish or enhance their mental health service system shall document, in the application process, how the new funds blend into an existing system of care and do not supplant existing expenditures.

(c) Applications shall include plans for services and supports, and shall specify how the new or enhanced program blends into an existing array of services. Applications shall demonstrate how a collaborative process involving clients, family members, and other system stakeholders was used to develop the proposal.

(d) Applications shall include a commitment to outcome reporting, as defined by the department, including client benefit outcomes, client and family member satisfaction, system of care access, cost savings, cost avoidance, and cost effectiveness outcomes that measure both short- and long-term cost savings.

(e) Applications shall demonstrate, when appropriate, how the county intends to continue the new or enhanced program when the grant funds have ended.

**Leg.H.**

2000 ch. 93, effective July 7, 2000.

## **ARTICLE 2**

### **Community Support System for Homeless Mentally Disabled Persons**

## **§ 5680. Creation of Community Support System for Homeless Mentally Disabled.**

In order to assist homeless mentally disabled persons to secure, stabilize, and maintain safe and adequate living arrangements in the community, the Legislature hereby establishes the Community Support System for Homeless Mentally Disabled.

**Leg.H.**

1991 ch. 611 § 49, effective October 7, 1991.

## **§ 5681. Legislative Intent.**

(a) It is the intent of the Legislature that when funds are made available, counties should assure the delivery of long-range services and community support assistance to homeless mentally disabled persons and those at risk of becoming homeless.

(b) It is further the intent of the Legislature that specific outreach and service priority be given under this chapter to homeless mentally disabled persons not served by any local or state programs as of September 30, 1985.

**Leg.H.**

1991 ch. 611 § 49, effective October 7, 1991.

## **§ 5682. Goal and Nature of Community Support System.**

The goal of the community support system is to assure that needed community services are provided to homeless mentally disabled persons and those at risk of becoming homeless to stabilize, maintain, and enhance their living in the community. All services of the community support system are offered to these persons on a voluntary basis. The active participation of the clients being provided services is encouraged at all times. Programs are designed to be accessible to the clients intended to be served. No individual service offered should be contingent upon the acceptance of any other community support service or mental health treatment.

**Leg.H.**

1991 ch. 611 § 49, effective October 7, 1991.

## **§ 5683. Services and Function of Community Support System.**

The function of the community support system is to conduct active outreach to homeless mentally disabled persons, to secure and maintain income, housing, food, and clothing for clients, and to develop social skills and prevocational and vocational skills on a voluntary basis. Each community support system is based upon the range of services as may be necessary to meet a client's needs:

(a) Personal assistance to secure and maintain housing, food, clothing, income, and health benefits.

(b) Accessing social and vocational skill development activities when they are available, case management, and crisis intervention, with a focus on finding alternatives to acute inpatient hospital care, services when they are needed.

**Leg.H.**

1991 ch. 611 § 49, effective October 7, 1991.

## **§ 5683.5. Payment and Recoupment of Temporary Funds for Homeless Clients.**

Community support systems may provide temporary funds to their homeless clients for their personal incidental living needs while the clients are in residential placement. Up to seventy-five dollars (\$75) may be made available monthly to each client for this purpose. Local mental health programs shall, to the extent possible, recoup payments from clients after they become eligible for a governmental assistance program,

including, but not limited to, general relief or SSI/SSP funds or otherwise become financially able to repay the county community support system.

**Leg.H.**

1991 ch. 611 § 49, effective October 7, 1991.

## **§ 5685. Authority of County to Determine How Services Are Provided.**

Counties may provide specific services, contract with a public or private agency, or a combination of both. Nothing contained in this article shall prevent a county from developing a consortium model which involves a number of providers performing specific functions. If a county decides to contract out a portion or all of the community support program functions, priority shall be given to providers, public or private, that have demonstrated an ability and desire to the county to work with the population intended to be served and which possess the management skills needed to perform the functions they propose to perform.

**Leg.H.**

1991 ch. 611 § 49, effective October 7, 1991.

## **§ 5685.5. Management of Finances of Mentally Ill Persons by Public Guardian.**

(a) A county may contract with the local office of the public guardian to receive and manage income and benefits for mentally ill persons, regardless of whether the persons are under conservatorship. The case management services described in this section shall be provided only with the consent of the client. The public guardian, under the contracts, may perform functions intended to meet the goals of the community support system listed in Section 5683, and may also include, but not be limited to, all of the following case management services:

- (1) Outreach and casefinding to locate mentally ill persons in need of services.
- (2) Establishing liaison with charitable organizations which serve mentally ill persons.
- (3) Assistance in applying for and obtaining public assistance benefits for which they are eligible.

(b) Any office of the public guardian contracting with the county to provide these management services shall maintain a record of those individuals being assisted, including information about whether the individual is under conservatorship, the type of service assistance provided by the office of the public guardian, and any agencies with which the office of the public guardian is coordinating efforts.

**Leg.H.**

1991 ch. 611 § 49, effective October 7, 1991.

## **§ 5686. Advice Concerning Management of SSI/SSP Funds of Mentally Disabled Person.**

Whenever a county believes that a mentally disabled person may be unable to manage his or her SSI/SSP funds, the county mental health program shall advise the person that he or she may have a trusted family member, relative or friend designated as their representative payee under the SSI/SSP program.

**Leg.H.**

1991 ch. 611 § 49, effective October 7, 1991.

## **§ 5686.5. Maximization of Private and Public Resources; Management of Clients' Personal Funds.**

In order to make the most efficient use of the public funds appropriated for this purpose, counties are encouraged to maximize the use of existing public and private community resources. If voluntarily requested by the client, the community support agency shall help the client learn to manage his or her own money. Any SSI/SSP money, or other personal funds, if managed by the program or by the local office of the public guardian, shall, at all times, be considered as the client's money. Nothing in this section, however, shall prevent a client from purchasing residential care with SSI/SSP funds.

**Leg.H.**

1991 ch. 611 § 49, effective October 7, 1991.

## **§ 5688.6. Transfer and Administration of Funds Appropriated for the Homeless Mentally Disabled; Priorities.**

Any and all funds appropriated for the homeless mentally disabled which have been determined to be unexpended and unencumbered two years after the date the funds were appropriated shall be transferred to the Department of Housing and Community Development. The amount of transfer shall be determined after the State Department of Health Care Services settles county cost reports for the fiscal year the funds were appropriated. The funds transferred to the Department of Housing and Community Development shall be administered in accordance with that department's Special Users Housing Rehabilitation or Emergency Shelter programs to provide low-income transitional and long-term housing for homeless mentally disabled persons. Special priority shall be given to project proposals for homeless mentally disabled persons in the same county from which the funds for the support of the community support system were originally allocated.

**Leg.H.**

Added Stats 1991 ch 611 § 49 (AB 1491), effective October 6, 1991. Amended Stats 2012 ch 34 § 136 (SB 1009), effective June 27, 2012.

## **ARTICLE 3**

### **Community Vocational Rehabilitation System**

## **§ 5690. [See Note Following W&I § 5600 for Operative Information] Legislative Intent.**

It is the intent of the Legislature to, encourage the establishment in each county of a system of community vocational rehabilitation and employment services, for persons with serious psychiatric disabilities. It is further the intent of the Legislature that there be a range of available services whenever possible in each county based on the principle that work is an essential element in the local mental health treatment and support system.

**Leg.H.**

Amended 1991 ch. 89 § 157, effective June 30, 1991.

## **§ 5691. [See Note Following W&I § 5600 for Operative Information] Funds for Implementation and Maintenance of System.**

(a) Counties may implement the community vocational rehabilitation system described in this chapter with existing county allocations, funds available from the Department of Rehabilitation and other state and federal agencies.

(b) It is the intent of the Legislature that on an annual basis five hundred thousand dollars (\$500,000), or 17 percent, whichever is less, of the total federal funds available to the State of California pursuant to Section 611 of the Stewart B. McKinney Homeless Assistance Act, [Public Law 100-77 \(42 U.S.C. Sec. 290aa\)](#) shall be used to fund services pursuant to this chapter for homeless mentally disabled persons and those at risk of becoming homeless who have been identified pursuant to Chapter 2.6 (commencing with Section 5680).

Counties may not use these funds to provide services, including, but not limited to, vocational services, which could be funded by the Department of Rehabilitation.

### **Leg.H.**

Amended 1991 ch. 89 § 158, effective June 30, 1991.

(Operative term contingent)

## **§ 5692. Responsibility for Technical Assistance.**

The State Department of Health Care Services shall, to the extent resources are available, have responsibility for the provision of technical assistance, maximizing federal revenue, and ensuring coordination with other state agencies including implementing and coordinating interagency agreements between the Department of Rehabilitation and the State Department of Health Care Services.

### **Leg.H.**

Added Stats 1991 ch 89 § 160 (AB 1288), effective June 30, 1991, operative term contingent. Amended Stats 2012 ch 34 § 138 (SB 1009), effective June 27, 2012.

## **§ 5692.5. [See Note Following W&I § 5600 for Operative Information] Types of Programs Permitted as System.**

Programs that constitute the community vocational rehabilitation system are of the following types:

(a) Prevocational programs should be, but are not limited to, components of day treatment programs, socialization and activity centers, board-and-care facilities, and skilled nursing-special treatment programs. Prevocational programs may use individual and group counseling, educational groups, volunteer service programs, and other modalities to emphasize to individuals the value of work and their right to employment.

(b) Vocational programs providing linkage and coordination for the system and which provide the following:

(1) Information, outreach, and referral services which provide ongoing liaison with assessment prevocational programs.

(2) Intake and evaluation services which may use vocational testing and analysis of work history to identify vocational strengths, weaknesses, and needs. The assessment findings should be used by the client and the program to negotiate the goals and objectives of an individual vocational plan.

(3) Work experience programs which consist of time-limited work opportunities that enable participants to develop work skills and establish a work history. These programs may include, but not be limited to, agency-operated businesses, work placements in the community, or other activities that provide a realistic work environment.

(4) Individual and group counseling services which are separated from the work experience component; individual counseling to assist clients in resolving problems related to the work situation, to update and renegotiate the individual vocational plan, and to assist clients with nonwork-related problems that affect their participation in the program; group counseling to address Social Security Administration rules and regulations: the effects of medication on work performance, the relationship between work and mental health, attributes and attitudes necessary for successful employment, job-seeking skills, and other related topics.

(5) Job development, placement, and referral services which assist clients in the following areas: obtaining competitive employment; admission to job training or education programs; referral to the Department of Rehabilitation; agency operated competitive employment programs; governmental and private sector affirmative action hiring programs for the disabled; or other specialized employment programs. If employment, training, or education programs are not suitable for a client, the client should be actively referred back to a prevocational program or other mental health program that best meets his or her current needs.

(6) Support services which may include peer support groups and job clubs to assist clients in obtaining and maintaining employment; ongoing client counseling and placement followup; employer training, consultation, and placement followup services; and consultation services to prevocational programs.

(7) The preferred method to deliver the vocational rehabilitation services described in this section is supported employment.

**Leg.H.**

Renumbered from § 5693, 1991 ch. 89 § 161, effective June 30, 1991.

## **§ 5693. [See Note Following W&I § 5600 for Operative Information] Principles for Development of System.**

The following principles should guide development of community vocational rehabilitation systems:

**(a) Work:**

(1) Work should be meaningful, necessary, and have value to the individual performing it.

(2) For individuals participating in vocational programs every effort should be made to pay them the minimum wage. However, in all cases, wages paid shall be in compliance with all relevant state and federal labor laws.

(3) That work will result in the development of attributes that will enhance further employability.

**(b) Staff:**

(1) Staffing patterns at all levels should reflect the cultural, linguistic, ethnic, racial, disability, sexual, and other social characteristics of the community the program serves.

(2) All participating programs should take affirmative action to encourage the application and employment of consumers and former consumers of the mental health system at all program levels.

(3) Programs should be designed to use multidisciplinary professional consultation and staff to meet the specific needs of clients.

(4) When operating a business enterprise, programs should employ individuals with the business, management, supervisorial, trade, and occupational skills necessary for successful operation.

(5) Programs should, where appropriate, employ paraprofessionals.

(6) Programs should develop and implement staff training and development plans for personnel at all levels.

(c) Facilities:

(1) The individual elements of the system should, where possible, be in separate facilities.

(2) Facilities housing vocational and employment programs should be modeled on competitive businesses operating in the community.

(3) Facilities shall be in compliance with all relevant state and federal safety, health, and accessibility regulations.

(d) System:

(1) Counties developing a community vocational rehabilitation system should utilize existing program resources to develop prevocational programs and a referral base for vocational programs.

(2) Individual programs operate most effectively within the context of a complete system. Counties undertaking development of a community vocational rehabilitation system should commit themselves to the implementation of regionally integrated prevocational and vocational programs.

(3) Rural counties, where appropriate, should be encouraged to develop intercounty systems, or to integrate their programs with programs serving other target populations.

(4) The system should have the capacity to deliver services tailored to individual needs. If a program is found to be unsuitable for a client at a specific time, an explanation will be provided to the client and he or she shall be referred to a more suitable program and encouraged to reapply. The system should have policies designed to meet changing client needs and to work with individuals over time to develop their vocational potential.

**Leg.H.**

Renumbered from § 5694, 1991 ch. 89 § 162, effective June 30, 1991.

## **§ 5693.2. Creation of Advisory Group.**

Counties undertaking development of a community vocational rehabilitation system are encouraged to establish an advisory group consisting of primary consumers, parents, representatives from the business community, and other individuals who may provide assistance in developing the system.

**Leg.H.**

1985 ch. 1286, effective September 30, 1985, 1992 ch. 1374, effective October 27, 1992 (amended and renumbered from § 5695).

## **§ 5693.5. [See Note Following W&I § 5600 for Operative Information] Technical Assistance with Development of System.**

The director shall provide technical assistance to those counties developing a community vocational rehabilitation system. In the event that the department lacks sufficient resources to provide technical assistance, it may be provided by contract.

**Leg.H.**

Renumbered from § 5696, 1991 ch. 89 § 163, effective June 30, 1991.

## **ARTICLE 4**

### **Self-Help**

## **§ 5694. [See Note Following W&I § 5600 for Operative Information] Assisting Clients with Creation of Support Groups; Use of Individualized Service Plans.**

Each community support program for the homeless mentally disabled should also assist its clients to establish self-help groups and peer counseling. Each agency should offer each client a written individualized service plan that will specify the services to be provided as a result of discussions with the client and the rights of the client, as well as the expected results or outcomes of the services. Each program should encourage each client to include family members, friends, his or her primary therapist, and his or her physician in the development of his or her individualized service plan.

**Leg.H.**

1991 ch. 89 § 164, effective June 30, 1991.

## **§ 5694.5. [See Note Following W&I § 5600 for Operative Information] Authority of County to Fund Support Group Projects.**

The counties may utilize designated mental health funding pursuant to this part for establishing and maintaining any client self-help mental health projects.

**Leg.H.**

1991 ch. 89 § 164, effective June 30, 1991.

## **ARTICLE 5**

### **Policy Initiatives for Seriously Emotionally Disturbed Children**

## **§ 5694.7. Review and Assessment of Specific Cases That Director Has Received Notice of; Confidentiality of Reviewer's Personal Information.**

When the director of behavioral health in a county is notified pursuant to Section 319.1 or 635.1, or **Section 7572.5 of the Government Code** about a specific case, the county behavioral health director shall assign the responsibility either directly or through contract with a private provider, to review the information and assess whether or not the child is seriously emotionally disturbed as well as to determine the level of involvement in the case needed to assure access to appropriate mental health treatment services and whether appropriate treatment is available through the minor's own resources, those of the family or another private party, including a third-party payer, or through another agency, and to ensure access to services available within the county's program. This determination shall be submitted in writing to the notifying agency within 30 days. If in the course of evaluating the minor, the county behavioral health director determines that the minor may be dangerous, the county behavioral health director may request the court to direct counsel not to reveal information to the minor relating to the name and address of the person who prepared the subject report. If appropriate treatment is not available within the county's Bronzan-McCorquodale program, nothing in this section shall prevent the court from ordering treatment directly or through a family's private resources.

**Leg.H.**

Amended 1991 ch. 356 § 1; Stats 2015 ch 455 § 35 (SB 804), effective January 1, 2016.

## **ARTICLE 6**

### **Regional Facilities for Seriously Emotionally Disturbed Wards**

## **§ 5695. [See Note Following W&I § 5600 for Operative Information] Legislative Findings and Declarations.**

The Legislature finds and declares the following:

(a) The Legislature has declared its intent to provide, at the local level, a range of appropriate mental health services for seriously emotionally disturbed minors. These programs include both outpatient and nonsecure residential care and treatment.

(b) The Legislature recognizes that, while some minors will benefit from this care and treatment, there exists a population within that group who have been adjudged wards of the juvenile court pursuant to Section 602 who are seriously emotionally disturbed, and by lack of behavior control and offense history, are not benefiting from existing programs, including the 24-hour facilities currently being operated under juvenile court law (Chapter 2 (commencing with Section 200) of Part 1 of Division 2).

(c) The Legislature finds that there are no treatment facilities specifically designed and operated to provide both intensive mental health treatment and behavior control to this population of wards in a secure setting. These wards are frequent failures in open residential care and when confined to traditional juvenile justice system facilities, disrupt programming, endanger themselves and others, and require intensive supervision including occasional isolation and provision of a one-to-one supervision ratio. The behavior and needs of this population affect the ability of the existing facilities to meet the program needs of the remainder of the population which is more appropriately detained or committed there.

(d) Psychiatric hospitals frequently refuse to accept these wards because of their offense history or their extremely disruptive behavior, because they do not always meet medical necessity for acute admission, or because the lengths of stay in inpatient programs are too limited in duration. Because of these problems, seriously emotionally disturbed minors adjudged to be wards pursuant to Section 602 do not receive the level of mental health care necessary to interrupt the cycle of emotional disturbance leading to assaultive or self-destructive behavior.

(e) The Legislature therefore declares its intent to establish regional facilities which will provide an additional dispositional resource to the juvenile justice system, and which will demonstrate the feasibility and effectiveness of providing the services described in this chapter to seriously emotionally disturbed minors who have been adjudged wards of the juvenile court pursuant to Section 602 and whose physical and mental treatment needs require a secure facility and program. It is also the intent of the Legislature to secure for the minors committed to such a facility, the protection, custody, care, treatment, and guidance that is consistent with the purpose of the juvenile court law (Chapter 2 (commencing with Section 200) of Part 1 of Division 2).

**Leg.H.**

1991 ch. 89, effective June 30, 1991.

**§ 5695.2. [See Note Following W&I § 5600 for Operative Information]  
Creation of Regional Facilities for Commitment of Minors for Limited Time.**

There may be established, on a regional basis, secure facilities which are physically and programmatically designed for the commitment and ongoing treatment of seriously emotionally disturbed minors who have been adjudged wards of the juvenile court pursuant to Section 602. No minor shall be committed to the facility for more than 18 months from the date of admission.

**Leg.H.**

1991 ch. 89 § 170, effective June 30, 1991.

**§ 5695.5. [See Note Following W&I § 5600 for Operative Information]  
Creation and Purpose of Board of Directors.**

A board of directors for a facility shall be established to provide oversight and direction to the design, implementation, and operation of the facility in order to ensure adherence to the statement of legislative intent in Section 5590 and to the overall goals and objectives of the facility.

**Leg.H.**

1991 ch. 89 § 170, effective June 30, 1991.

**§ 5695.7. Membership of Board; Responsibility for Operation of Facilities.**

(a) The board of directors shall be composed of the chief probation officer and the local mental health directors of each of the participating counties.

(b) The regional facilities shall operate under the administration of the onsite director who shall be directly responsible to the board of directors for adherence to all policies and procedures established by the board and to the intent of the Legislature stated in Section 5695.

**Leg.H.**

Amended 1991 ch. 611 § 52, effective October 6, 1991.

## **§ 5696. [See Note Following W&I § 5600 for Operative Information] Admission Criteria for Regional Facilities.**

Prior to the opening of a regional facility, the board of directors shall develop written admission criteria, approved by the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, for those minors who are most at risk of entering the adult criminal justice system as offenders who have mental health disorders and are at high risk of committing predatory and violent crimes, including, but not limited to, the following requirements:

**(a)** The minor is at the time of commitment between 12 and 18 years of age, he or she has been adjudged to be a ward of the juvenile court pursuant to Section 602, and his or her custody has been placed under the supervision of a probation officer pursuant to Section 727.

**(b)** The ward is seriously emotionally disturbed as is evidenced by a diagnosis from the current edition of the Diagnostic and Statistical Manual of Mental Disorders and evidences behavior inappropriate to the ward's age according to expected developmental norms. Additionally, all of the following must be present:

**(1)** The behavior presents a danger to the community or self and requires intensive supervision and treatment, but the ward is not amenable to other private or public residential treatment programs because his or her behavior requires a secure setting.

**(2)** The symptomology is both severe and frequent.

**(3)** The inappropriate behavior is persistent.

**Leg.H.**

1991 ch. 89 § 170, effective June 30, 1991. Amended Stats 2014 ch 144 § 102 (AB 1847), effective January 1, 2015.

## **§ 5696.2. [See Note Following W&I § 5600 for Operative Information] Wards Not Eligible for Admission to Regional Facilities.**

No ward shall be admitted to any regional facility described in this chapter who meets any of the following criteria:

**(a)** The ward has a primary substance abuse problem.

**(b)** The ward has a primary developmental disability.

**(c)** The ward requires an acute psychiatric hospital setting.

**(d)** The ward can benefit from or requires a level of treatment or confinement not provided at the facility.

- (e) The ward suffers from a medical condition which requires ongoing nursing and medical care, beyond the level that the program can provide.
- (f) The ward is under conservatorship established pursuant to Chapter 3 (commencing with Section 5350) of this part.

**Leg.H.**

1991 ch. 89 § 170, effective June 30, 1991.

(Operative term contingent)

## **§ 5696.5. Establishment of Written Program Standards.**

Prior to the opening of a facility, the board of directors shall establish written program standards and policies and procedures, approved by the Division of Juvenile Facilities that address and include, but are not limited to, the following:

(a) A staffing number and pattern that meets the special behavior, supervision, treatment, health, and educational needs of the population described in this chapter. Staff shall be qualified to provide intensive treatment and services and shall include, at a minimum:

(1) A project or clinical director, a psychiatrist or psychologist, a social worker, a registered nurse, and a recreation or occupational therapist.

(2) A pediatrician and a dentist, and a licensed marriage and family therapist or a licensed professional clinical counselor, or both of those professionals, on an as-needed basis.

(3) Educational staff in sufficient number and with the qualifications needed to meet the population served.

(4) Child care staff in sufficient numbers and with the qualifications needed to meet the special needs of the population.

(b) Programming to meet the needs of all wards admitted, including, but not limited to, all of the following:

(1) Physical examinations on admission and ongoing health care.

(2) Appropriate and closely monitored use of all behavioral management techniques.

(3) The establishment of written, individual treatment and educational plans and goals for each ward within 10 days of admission and which are updated at least quarterly.

(4) Written discharge planning that addresses each ward's continued treatment, educational, and supervision needs.

(5) Regular, written progress records regarding the care and treatment of each ward.

(6) Regular and structured treatment of all wards, including, but not limited to, individual, group and family therapy, psychological testing, medication, and occupational, or recreational therapy.

(7) Access to neurological testing and laboratory work as needed.

(8) The opportunity for regular family contact and involvement.

(9) A periodic review of the continued need for treatment within the facility.

(10) Educational programming, including special education as needed.

**Leg.H.**

Added Stats 1991 ch 89 § 170 (AB 1288), effective June 30, 1991. Amended Stats 2000 ch 140 § 1 (AB 2524); Stats 2011 ch 381 § 46 (SB 146), effective January 1, 2012.

## **§ 5696.7. [See Note Following W&I § 5600 for Operative Information] Referrals for Admission.**

Wards shall be referred for admission to the director of a regional facility following screening and approval through a joint mental health and probation screening committee in the county which refers the minor. This screening process shall be defined in the standards, policies, and procedures governing the operation of the facility. The probation officer shall, in consultation and cooperation with the county mental health staff, process the ward's admission to the facility and implement the discharge plan.

**Leg.H.**

1991 ch. 89 § 170, effective June 30, 1991.

## **§ 5697. [See Note Following W&I § 5600 for Operative Information] Contract with County for Public Education Programs in Facility.**

The regional board of directors shall contract with the county in which the regional facility is located for the provision of a public education program which will meet the educational requirements and needs of the wards admitted to the facility.

**Leg.H.**

1991 ch. 89 § 170, effective June 30, 1991.

## **§ 5697.2. [See Note Following W&I § 5600 for Operative Information] Reporting Requirements.**

The board of directors of a regional facility shall submit to the Director of the Youth Authority, a report which includes, at a minimum, a description of the regional facility, the population to be served, criteria for admission and release, program goals and services, staffing, a postrelease component, appropriate educational programming, an annual evaluation component, and a proposed budget.

**Leg.H.**

1991 ch. 89 § 170, effective June 30, 1991.

## **§ 5697.5. [See Note Following W&I § 5600 for Operative Information] Requirement of Minimum Standards for Operation of Regional Facility.**

The Director of the Youth Authority, in conjunction with the Director of Mental Health, shall adopt rules and regulations to establish, monitor, and enforce minimum standards for regional facilities.

**Leg.H.**

1991 ch. 89 § 170, effective June 30, 1991.

## **ARTICLE 7**

### **System of Care for Seriously Emotionally Disturbed Children and Youth**

#### **§ 5698. [See Note Following W&I § 5600 for Operative Information] Legislative Intent.**

It is the intent of the Legislature to encourage in each county a system of care for seriously emotionally disturbed children and youth. This system of care should be based upon the following principles:

- (a) A defined range of interagency services, blended programs and program standards that facilitate appropriate service delivery in the least restrictive environment as close to home as possible. The system should use available and accessible intensive home and school-based alternatives.
- (b) A defined mechanism to ensure that services are child centered and family focused with parental participation in all aspects of the planning and delivery of service.
- (c) A formalized multiagency policy making council and an interagency case management services council. The roles and responsibilities of these councils should be specified in existing interagency agreements or memoranda of understanding, or both.
- (d) A defined interagency case management system designed to facilitate services to the defined target population.
- (e) A defined mechanism to ensure that services are culturally competent.

**Leg.H.**

1991 ch. 89 § 171, effective June 30, 1991.

## **CHAPTER 2.7**

### **CASE MANAGEMENT FOR CHILDREN WITH SERIOUS EMOTIONAL DISTURBANCE**

#### **§ 5699. Legislative Findings and Declarations.**

- (a) The Legislature finds and declares all of the following:

- (1) That mental health case management services required for children with serious emotional disturbance are different than these services for clients with mental health disorders described in Chapter 2.5 (commencing with Section 5670).

(2) That mental health case management services for children with serious emotional disturbance are not defined in statute.

(3) That the development of mental health case management for these children would ensure comprehensive appraisal and utilization of the most appropriate resources within the children's environment, as well as the maintenance and strengthening of family ties.

(b) It is the intent of the Legislature to encourage the development of mental health case management services for children with serious emotional disturbance who are separated or at risk of being separated from their families and require mental health treatment, to the extent resources are available. It is further the intent of the Legislature that mental health case management for children with serious emotional disturbance in this state be developed in accordance with the definitions and guidelines contained in this chapter.

**Leg.H.**

Renumbered from § 5692, 1991 ch. 611 § 50, effective October 7, 1991. Amended Stats 2014 ch 144 § 103 (AB 1847), effective January 1, 2015.

## **§ 5699.1. Construction.**

Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

**Leg.H.**

Renumbered from § 5692.5, 1991 ch. 611 § 51, effective October 7, 1991.

## **§ 5699.2. Criteria for Minors Eligible for Case Management Services Under Section.**

Children identified for case management services under this section shall be minors under 18 years of age described in Section 5600.3 as seriously emotionally disturbed, and who also meet one or more of the following criteria:

(a) A child who is a ward or dependent of the juvenile court pursuant to Section 300, 601, or 602 and is placed out-of-home.

(b) A child who is a special education student defined in paragraph 8 of subdivision (b) of [Section 300.5 of Title 34 of the Code of Federal Regulations](#) and is receiving residential care pursuant to an individual educational program. This section also includes special education students through age 21 identified in paragraph (4) of [subdivision \(c\) of Section 56026 of the Education Code](#).

(c) An inpatient in a psychiatric hospital, psychiatric health facility, or residential treatment facility receiving services either on a voluntary or involuntary basis.

(d) An outpatient receiving intensive non-24-hour mental health treatment, such as day treatment or crisis services who is "at risk" of psychiatric hospitalization or out-of-home placement for residential treatment.

**Leg.H.**

Renumbered from § 5699, 1991 ch. 611 § 53, effective October 7, 1991, 1992 ch. 1374, effective October 27, 1992.

## **§ 5699.3. "Individual Treatment Plan" Defined.**

“Individual treatment plan” means a plan that includes all of the following:

- (a) An assessment of the minor’s specific capabilities and problems.
- (b) A statement of specific, time-limited objectives for improving the capabilities and resolving the problems. The objectives shall be stated in measurable terms which allow measurement of progress.
- (c) A schedule of the type and amount of services to achieve treatment plan objectives, including identification of the provider or providers of service responsible for attaining each objective.
- (d) A schedule of regular periodic review and reassessment to ascertain that planned services have been provided and that objectives have been reached within the times specified.

**Leg.H.**

Renumbered from § 5699.1, 1991 ch. 611 § 54, effective October 6, 1991.

## **§ 5699.4. Types of Case Management Services.**

On and after January 1, 1987, any county may provide case management services for children with serious emotional disturbance pursuant to this chapter. The case management services may include all of the following:

- (a) Development of an individual treatment plan for each child. The plan shall be collaboratively prepared and reviewed and modified, if necessary, at least annually, by one representative of the mental health program, the parents, legal guardian, conservator, or court appointed social worker or probation officer, and, where appropriate, the minor.
- (b) Assignment of a mental health case manager to each child. The duties of the mental health case manager may include, but not be limited to, all of the following:
  - (1) Coordinating an ecological assessment of the child’s needs which evaluates the child both individually and in relation to his or her family, school, and community environments.
  - (2) Developing, implementing, monitoring, and reviewing each individual treatment plan that addresses the identified needs.
  - (3) Linking and arranging or providing for the needed services.
  - (4) Monitoring the adequacy of the services provided.
  - (5) Advocating for the minor.

**Leg.H.**

Renumbered from § 5699.2, 1991 ch. 611 § 55, effective October 6, 1991.

## **§ 5699.5. [See Note Following W&I § 5600 for Operative Information] Prohibition against Use of State Funds to Provide Services Under Chapter.**

Nothing in this chapter shall be construed to authorize the use of state funds to provide services under this chapter or to enforce the provisions of this chapter.

**Leg.H.**

# CHAPTER 3

## FINANCIAL PROVISIONS

### **§ 5700. [See Note Following W&I § 5600 for Operative Information] Legislative Findings.**

(a) The Legislature recognizes that mental health services provided by county mental health programs are funded from the following general categories or sources of public funding:

(1) Funds received by counties from the Local Revenue Fund and county funds necessary to meet the federal maintenance of effort requirements.

(2) Funds from appropriations made to the department or for which the department is responsible for administering, which are designated for local mental health services.

(3) Reimbursements through the Medi-Cal program for mental health services to Medi-Cal eligible individuals receiving mental health services from county mental health programs.

(4) Funds from county or local appropriations which are designated for local mental health services.

(b) The Legislature further recognizes that there are procedures and requirements which are unique to each category set forth in subdivision (a), as well as procedures and requirements which apply to all four categories.

**Leg.H.**

1991 ch. 89 § 174, effective June 30, 1991.

(Operative term contingent)

### **§ 5701. Distribution of Funding; Deposit of Vehicle License Fees; Allocations.**

(a) To achieve equity of funding, available funding for local mental health programs beyond the funding provided pursuant to Section 17601 shall be distributed to cities, counties, and cities and counties pursuant to the procedures described in subdivision (c) of Section 17606.05.

(b) Funding provided pursuant to **Section 6 of Article XIII B of the California Constitution**, funding provided pursuant to subdivision (c), and funding provided for future pilot projects shall be exempt from the requirements of subdivision (a).

(c) Effective in the 2012–13 fiscal year and each year thereafter:

(1) The State Department of Health Care Services shall annually identify from mental health block grant funds provided by the federal government, the maximum amount that federal law and regulation permit to be allocated to counties and cities and counties pursuant to this subdivision. This section shall apply to any federal mental health block grant funds in excess of the following:

(A) Funds for departmental support.

(B) Amounts awarded to counties and cities and counties for children's systems of care programs pursuant to Part 4 (commencing with Section 5850).

(C) Amounts appropriated by the Legislature for the purposes of this part.

(2) Notwithstanding subdivision (a), annually the State Department of Health Care Services shall allocate to counties and cities and counties the funds identified in paragraph (1), not to exceed forty million dollars (\$40,000,000) in any year. The allocations shall be proportional to each county's and each city and county's percentage of the forty million dollars (\$40,000,000) in Cigarette and Tobacco Products Surtax funds that were allocated to local mental health programs in the 1991–92 fiscal year.

(3) Monthly, the Controller shall allocate funds from the Vehicle License Collection Account of the Local Revenue Fund to counties and cities and counties for mental health services. Allocations shall be made to each county or city and county in the same percentages as described in paragraph (2), until the total of the funds allocated to all counties in each year pursuant to paragraph (2) and this paragraph reaches forty million dollars (\$40,000,000).

(4) Funds allocated to counties and cities and counties pursuant to paragraphs (2) and (3) shall not be subject to Section 17606.05.

(5) Funds that are available for allocation in any year in excess of the forty million dollar (\$40,000,000) limits described in paragraph (2) or (3) shall be deposited into the Mental Health Subaccount of the Local Revenue Fund.

(6) Nothing in this section is intended to, nor shall it, change the base allocation of any city, county, or city and county as provided in Section 17601.

**Leg.H.**

Added Stats 1993 ch 100 § 5 (SB 463), effective July 12, 1993. Amended Stats 1994 ch 1096 § 1 (SB 1795), effective September 28, 1994; Stats 2012 ch 34 § 139 (SB 1009), effective June 27, 2012.

## **§ 5701.1. Utilization Above Funding Level.**

Notwithstanding Section 5701, the State Department of Health Care Services, in consultation with the County Behavioral Health Directors Association of California and the California Behavioral Health Planning Council, may utilize funding from the Substance Abuse and Mental Health Services Administration Block Grant, awarded to the State Department of Health Care Services, above the funding level provided in federal fiscal year 1998, for the development of innovative programs for identified target populations, upon appropriation by the Legislature.

**Leg.H.**

Added Stats 1999 ch 146 § 28 (AB 1107), effective July 22, 1999; Amended Stats 2012 ch 34 § 140 (SB 1009), effective June 27, 2012; Stats 2015 ch 455 § 36 (SB 804), effective January 1, 2016; Amended Stats 2017 ch 511 § 9 (AB 1688), effective January 1, 2018.

(Operative term contingent)

## **§ 5701.2. Records of Transfer of Funds or State Hospital Beds; Records of Allocations.**

**(a)** The State Department of Mental Health, or its successor, the State Department of State Hospitals, shall maintain records of any transfer of funds or state hospital beds made pursuant to Chapter 1341 of the Statutes of 1991.

**(b)** Commencing with the 1991-92 fiscal year, the State Department of Mental Health, or its successor, the State Department of State Hospitals, shall maintain records that set forth that portion of each county's allocation of state mental health moneys that represent the dollar equivalent attributed to each county's state hospital beds or bed days, or both, that were allocated as of May 1, 1991. The State Department of Mental Health, or its successor, the State Department of State Hospitals, shall provide a written summary of these records to the appropriate committees of the Legislature and the County Behavioral Health Directors Association of California within 30 days after the enactment of the annual Budget Act.

**(c)** Nothing in this section is intended to change the counties' base allocations as provided in subdivisions (a) and (b) of Section 17601.

**Leg.H.**

Added Stats 1993 ch 100 § 6 (SB 463), effective July 12, 1993; Amended Stats 2012 ch 24 § 136 (AB 1470), effective June 27, 2012; Stats 2015 ch 455 § 37 (SB 804), effective January 1, 2016.

## **§ 5701.3. [Section Repealed 2012.]**

**Leg.H.**

Added Stats 1991 ch 89 § 174 (AB 1288), effective June 30, 1991. Amended Stats 2002 ch 1167 § 38 (AB 2781), effective September 30, 2002; Stats 2011 ch 43 § 48 (AB 114), effective June 30, 2011, inoperative July 1, 2011, repealed January 1, 2012. The repealed section related to Legislative intent regarding responsibility to fund psychotherapy and mental health services; Stats 2015 ch 455 § 37 (SB 804), effective January 1, 2016.

## **§ 5701.4. [See Note Following W&I § 5600 for Operative Information]**

### **Repayment by Counties of Certain Costs Reimbursed Previously by State.**

Costs that were reimbursed, prior to July 1, 1991, from the local assistance appropriation contained in Item 4440-101-001 of the annual Budget Act, shall be reimbursed from funds received by counties pursuant to this chapter.

**Leg.H.**

1991 ch. 89 § 174, effective June 30, 1991.

## **§ 5701.5. [See Note Following W&I § 5600 for Operative Information]**

### **Funding of City-Operated Bronzan-McCorquodale Programs.**

City-operated Bronzan-McCorquodale programs paid by the state under Section 5615 shall be directly funded in accordance with this chapter.

**Leg.H.**

1991 ch. 89 § 174, effective June 30, 1991.

## **§ 5701.6. [Section Repealed 2012.]**

**Leg.H.**

Added Stats 2004 ch 493 § 6 (SB 1895), effective September 13, 2004. Amended Stats 2011 ch 43 § 49 (AB 114), effective June 30, 2011, inoperative July 1, 2011, repealed January 1, 2012. The repealed section related counties' utilization of money from local revenue fund; reimbursement.

## **§ 5702. [See Note Following W&I § 5600 for Operative Information] “Maintenance of Effort” Defined.**

For the purposes of this part, the definition of maintenance of effort contained in Section 17608.05 shall apply.

**Leg.H.**

1991 ch. 89 § 174, effective June 30, 1991.

## **§ 5703. [See Note Following W&I § 5600 for Operative Information] Additional Appropriations by County for Mental Health Services.**

Nothing in this chapter shall prevent a county, or counties acting jointly, from appropriating additional funds for mental health services. In no event shall counties be required to appropriate more than the amount required under the provisions of this chapter.

**Leg.H.**

1991 ch. 89 § 174, effective June 30, 1991.

## **§ 5704. Deposit and Use of Funds.**

Funds described in paragraphs (1) and (2) of subdivision (a) of Section 5700 shall be deposited in the mental health account of the local health and welfare trust fund and shall only be used to fund expenditures for the costs of mental health services as delineated in regulations promulgated by the department, and shall not be used to fund expenditures for costs excluded by Section 5714 or for costs specifically excluded from funding from this source by any other provision of law.

**Leg.H.**

Amended 1991 ch. 611 § 58, effective October 7, 1991.

## **§ 5704.5. [See Note Following W&I § 5600 for Operative Information] Legislative Intent of Special Consideration of Children’s Services.**

(a) It is the intent of the Legislature that special consideration be given to children’s services in funding county services to expand existing programs or to establish new programs.

(b) A county may not decrease the proportion of its funding expended for children’s services below the proportion expended in the 1983–84 fiscal year unless a determination has been made by the governing body in a noticed public hearing that the need for new or expanded services to persons under age 18 has significantly decreased.

**Leg.H.**

1991 ch. 89 § 174, effective June 30, 1991.

## **§ 5704.6. [See Note Following W&I § 5600 for Operative Information] Required Allocation of Funding Augmentation for Services to Minors.**

(a) Except as provided in subdivision (c), each county shall allocate for services to persons under age 18, 50 percent of the amount of any funding augmentation received for new or expanded mental health programs until the amount expended for mental health services to persons under age 18 equals not less than 25 percent of the county's gross budget for mental health or not less than the percentage of persons under age 18 in the total population of the county, whichever percentage is less. Once achieved, this minimum ratio shall be maintained continuously thereafter.

(b) As used in this section, the term "new or expanded mental health programs" does not include any programs which are required by statute, or programs which provide alternatives to hospitalization for patients of state hospitals.

(c) From each funding augmentation for new or expanded mental health programs, a county may allocate to persons under age 18 an amount less than the percentage required in subdivision (a) when a determination has been made by the governing body in a noticed public hearing that the need for new or expanded services to persons under age 18 does not exist or is less than the need for services to one or more specified groups of adults.

**Leg.H.**

1991 ch. 89 § 174, effective June 30, 1991.

(Operative term contingent)

## **§ 5705. Use of Negotiated Net Amounts as Cost of Services in Contracts between the County and Subprovider of Services.**

(a) Negotiated net amounts may be used as the cost of services in contracts between the county and a subprovider of services. A negotiated net amount shall be determined by calculating the total budget for services for a program or a component of a program, less the amount of projected revenue. All participating government funding sources, except for the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9), shall be bound to that amount as the cost of providing all or part of the total county mental health program as described in the county performance contract for each fiscal year, to the extent that the governmental funding source participates in funding the county mental health programs. Where the State Department of Health Care Services promulgates regulations for determining reimbursement of mental health services allowable under the Medi-Cal program, those regulations shall be controlling as to the rates for reimbursement of mental health services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries. Providers under this subdivision shall report to the State Department of Health Care Services and local mental health programs any information required by the State Department of Health Care Services in accordance with procedures established by the Director of Health Care Services.

(b) Notwithstanding any other provision of this division or Division 9 (commencing with Section 10000), absent a finding of fraud, abuse, or failure to achieve contract objectives, no restrictions, other than any contained in the contract, shall be placed upon a provider's expenditure pursuant to this section.

**Leg.H.**

Added Stats 1991 ch 89 § 174 (AB 1288), effective June 30, 1991. Amended Stats 1991 ch 611 § 59 (AB 1491), effective October 6, 1991; Stats 1996 ch 515 § 1 (AB 2801), effective September 16, 1996; Stats 2011 ch 650 § 6 (SB 946), effective January 1, 2012; Stats 2012 ch 34 § 141 (SB 1009), effective June 27, 2012.

## **§ 5706. [See Note Following W&I § 5600 for Operative Information] Exemption from Public Contract Code for Certain Performance Contract Provisions.**

Notwithstanding any other provision of law, the portions of the county mental health services performance contract which become a contractual arrangement between the county and the department shall be exempt from the requirements contained in the Public Contract Code and the State Administrative Manual, and shall be exempt from approval by the Department of General Services.

### **Leg.H.**

1991 ch. 89 § 174, effective June 30, 1991.

(Operative term contingent)

## **§ 5707. Expenditure of Funds Designated for Local Mental Health Services.**

Funds appropriated to the State Department of Health Care Services which are designated for local mental health services and funds which the State Department of Health Care Services is responsible for allocating or administering, including, but not limited to, federal block grants funds, shall be expended in accordance with this section and Sections 5710 to 5717, inclusive, except when there are conflicting federal requirements, in which case the federal requirements shall be controlling.

### **Leg.H.**

Added Stats 1991 ch 89 § 174 (AB 1288), effective June 30, 1991. Amended Stats 2012 ch 34 § 142 (SB 1009), effective June 27, 2012.

## **§ 5708. [Section Repealed 2012.]**

### **Leg.H.**

Added Stats 1991 ch 89 § 174 (AB 1288), effective June 30, 1991. Amended Stats 1992 ch 1374 § 35 (AB 14), effective October 27, 1992; Stats 2011 ch 650 § 7 (SB 946), effective January 1, 2012. Repealed Stats 2012 ch 34 § 143 (SB 1009), effective June 27, 2012. The repealed section related to stability during transition and use of funding mechanism by counties that contracted with the department during the 1990-91 fiscal year on a negotiated net amount basis.

(Operative term contingent)

## **§ 5709. Fees Charged in Accordance with Ability to Pay.**

**(a)** A county shall not charge fees for Medi-Cal specialty mental health services to Medi-Cal beneficiaries who do not have a share of cost or Medi-Cal beneficiaries who have met their share of cost pursuant to Section 14005.9. Regardless of the funding source involved, a county may charge fees to individuals who are not Medi-Cal beneficiaries and Medi-Cal beneficiaries who have a share of cost that has not been met, in accordance with their ability to pay for community mental health services rendered, but not in excess of actual costs in accordance with Section 14708.

**(b)** This section shall not be construed to waive a county's responsibility to screen for eligibility for Medi-Cal, any other insurance affordability program, or a county health program.

**Leg.H.**

Added Stats 1991 ch 89 § 174 (AB 1288), effective June 30, 1991; Amended Stats 2012 ch 34 § 144 (SB 1009), effective June 27, 2012; Amended Stats 2018 ch 77 § 1 (AB 2393), effective January 1, 2019; Stats 2019 ch 497 § 302 (AB 991), effective January 1, 2020.

(Operative term contingent)

## **§ 5710. Charges Not to Exceed Actual Cost of Service; Adoption of Uniform Patient Fee Schedule.**

(a) Charges for the care and treatment of each patient receiving service from a county mental health program shall not exceed the actual cost thereof as determined or approved by the Director of Health Care Services in accordance with standard accounting practices. The director may include the amount of expenditures for capital outlay or the interest thereon, or both, in his or her determination of actual cost. The responsibility of a patient, his or her estate, or his or her responsible relatives to pay the charges and the powers of the director with respect thereto shall be determined in accordance with Article 4 (commencing with Section 7275) of Chapter 3 of Division 7.

(b) The Director of Health Care Services may delegate to each county all or part of the responsibility for determining the financial liability of patients to whom services are rendered by a county mental health program and all or part of the responsibility for determining the ability of the responsible parties to pay for services to minor children who are referred by a county for treatment in a state hospital. Liability shall extend to the estates of patients and to responsible relatives, including the spouse of an adult patient and the parents of minor children. The Director of Health Care Services may also delegate all or part of the responsibility for collecting the charges for patient fees. Counties may decline this responsibility as it pertains to state hospitals, at their discretion. If this responsibility is delegated by the director, the director shall establish and maintain the policies and procedures for making the determinations and collections. Each county to which the responsibility is delegated shall comply with the policy and procedures.

(c) The director shall prepare and adopt a uniform sliding scale patient fee schedule to be used in all mental health agencies for services rendered to each patient. In preparing the uniform patient fee schedule, the director shall take into account the existing charges for state hospital services and those for community mental health program services. If the director determines that it is not practicable to devise a single uniform patient fee schedule applicable to both state hospital services and services of other mental health agencies, the director may adopt a separate fee schedule for the state hospital services which differs from the uniform patient fee schedule applicable to other mental health agencies.

**Leg.H.**

Added Stats 1991 ch 89 § 174 (AB 1288), effective June 30, 1991. Amended Stats 1995 ch 712 § 3 (SB 227); Stats 2011 ch 650 § 8 (SB 946), effective January 1, 2012; Stats 2012 ch 34 § 145 (SB 1009), effective June 27, 2012.

(Operative term contingent)

## **§ 5713. Advances for Funding Mental Health Services.**

Advances for funding mental health services may be made by the Director of Mental Health from funds appropriated to the department for local mental health programs and services specified in the annual Budget Act. Advances made pursuant to this section shall be made in the form and manner the Director of Mental Health shall determine. When certified by the Director of Mental Health, advances shall be presented to the Controller for payment. Each advance shall be payable from the appropriation made for the fiscal year in which the expenses upon which the advance is based are incurred.

**Leg.H.**

Added Stats 1991 ch 89 § 174 (AB 1288), effective June 30, 1991. Amended Stats 2010 ch 706 § 2 (SB 1392), effective January 1, 2011.

(Operative term contingent)

## **§ 5714. Expenditures for Legal Proceedings Involving Mentally Disordered Persons.**

To continue county expenditures for legal proceedings involving persons with mental health disorders, the following costs incurred in carrying out Part 1 (commencing with Section 5000) of this division shall not be paid for from funds designated for mental health services.

- (a) The costs involved in bringing a person in for 72-hour treatment and evaluation.
- (b) The costs of court proceedings for court-ordered evaluation, including the service of the court order and the apprehension of the person ordered to evaluation when necessary.
- (c) The costs of court proceedings in cases of appeal from 14-day intensive treatment.
- (d) The cost of legal proceedings in conservatorship, other than the costs of conservatorship investigation as defined by regulations of the State Department of Health Care Services.
- (e) The court costs in postcertification proceedings.
- (f) The cost of providing a public defender or other court-appointed attorneys in proceedings for those unable to pay.

**Leg.H.**

Added Stats 1991 ch 89 § 174 (AB 1288), effective June 30, 1991. Amended Stats 1991 ch 611 § 62 (AB 1491), effective October 6, 1991; Stats 2012 ch 34 § 148 (SB 1009), effective June 27, 2012; (Operative term contingent); Stats 2014 ch 144 § 104 (AB 1847), effective January 1, 2015.

## **§ 5715. Retention of Unexpended Funds by County.**

Subject to the approval of the State Department of Health Care Services, at the end of the fiscal year, a county may retain unexpended funds allocated to it by the department from funds appropriated to the department, with the exception of block grant funds, exclusive of the amount required to pay for the care of patients in state hospitals, for 12 months for expenditure for mental health services in accordance with this part.

**Leg.H.**

Added Stats 1991 ch 89 § 174 (AB 1288), effective June 30, 1991. Amended Stats 2012 ch 34 § 149 (SB 1009), effective June 27, 2012.

(Operative term contingent)

## **§ 5717. Items Included in Expenditures Funded from Amounts Allocated to County; Investigations and Audits of Expenditures.**

**(a)** Expenditures that may be funded from amounts allocated to the county by the State Department of Health Care Services from funds appropriated to the department shall include, salaries of personnel, approved facilities and services provided through contract, and operation, maintenance, and service costs, including insurance costs or departmental charges for participation in a county self-insurance program if the charges are not in excess of comparable available commercial insurance premiums and on the condition that any surplus reserves be used to reduce future year contributions; depreciation of county facilities as established in the state's uniform accounting manual, disregarding depreciation on the facility to the extent it was financed by state funds under this part; lease of facilities where there is no intention to, nor option to, purchase; expenses incurred under this act by members of the County Behavioral Health Directors Association of California for attendance at regular meetings of these conferences; expenses incurred by either the chairperson or elected representative of the local mental health advisory boards for attendance at regular meetings of the organization of mental health advisory boards; expenditures included in approved countywide cost allocation plans submitted in accordance with the Controller's guidelines, including, but not limited to, adjustments of prior year estimated general county overhead to actual costs, but excluding allowable costs otherwise compensated by state funding; net costs of conservatorship investigation, approved by the Director of Health Care Services. Except for expenditures made pursuant to Article 6 (commencing with Section 129225) of Chapter 1 of Part 6 of Division 107 of the Health and Safety Code, it shall not include expenditures for initial capital improvements; the purchaser or construction of buildings except for equipment items and remodeling expense as may be provided for in regulations of the State Department of Health Care Services; compensation to members of a local mental health advisory board, except actual and necessary expenses incurred in the performance of official duties that may include travel, lodging, and meals while on official business; or expenditures for a purpose for which state reimbursement is claimed under any other provision of law.

**(b)** The Director of Health Care Services may make investigations and audits of expenditures the director may deem necessary.

**(c)** With respect to funds allocated to a county by the State Department of Health Care Services from funds appropriated to the department, the county shall repay to the state amounts found not to have been expended in accordance with the requirements set forth in this part. Repayment shall be within 30 days after it is determined that an expenditure has been made that is not in accordance with the requirements. In the event that repayment is not made in a timely manner, the department shall offset any amount improperly expended against the amount of any current or future advance payment or cost report settlement from the state for mental health services. Repayment provisions shall not apply to Short-Doyle funds allocated by the department for fiscal years up to and including the 1990–91 fiscal year.

**Leg.H.**

Added Stats 1991 ch 89 § 174 (AB 1288), effective June 30, 1991. Amended Stats 1992 ch 1374 § 37 (AB 14), effective October 27, 1992; Stats 1996 ch 1023 § 465 (SB 1497), effective September 29, 1996; Stats 2012 ch 34 § 151 (SB 1009), effective June 27, 2012; Stats 2015 ch 455 § 38 (SB 804), effective January 1, 2016.

## CHAPTER 3.5

# MENTAL HEALTH MASTER PLAN DEVELOPMENT ACT

## § 5730. Title of Act.

This act is to be known as the Mental Health Master Plan Development Act.

**Leg.H.**

1989 ch. 1313 § 1.

## **§ 5731. Legislative Findings and Declarations.**

The Legislature finds and declares that the mental health system is a large and important segment of California's system of health care. The Legislature further finds and declares all of the following:

(a) **Public Law 99-660** requires that the State Department of Mental Health develop a state plan for the Short-Doyle mental health system which includes all of the following:

(1) Plans developed in response to federal planning requirements shall be submitted to the Legislature.

(2) Evidence of broad participation from concerned citizens and mental health consumers.

(3) An analysis of the needs of seriously and persistently mentally ill adults, severely emotionally disturbed children and homeless mentally ill in California.

(4) Improvements in the mental health delivery system are needed for seriously mentally ill adults, severely emotionally disabled children, and homeless mentally ill.

(5) Given the existing mental health funding base, priorities need to be established for the Short-Doyle community mental health system.

(6) There is no minimum range of treatment services which should be available in every county in California.

(7) Most funding formulas for state mental health programs are not client based.

(8) The state has a special responsibility for the care and treatment of seriously and persistently mentally ill adults, seriously emotionally disturbed minors, and homeless mentally ill who are the most vulnerable and who require consistent supportive services to meet their health and safety needs in the community.

(9) Legislative action is required to ensure that a comprehensive policy is developed which addresses the critical problems and key issues currently facing the mental health system in California.

**Leg.H.**

1989 ch. 1313 § 1.

### **Editor's Note:**

It appears that the Legislature inadvertently created a subsection (a) without creating a subsection (b).

## **§ 5732. Responsibility for Development and Implementation of Master Plan for Mental Health.**

(a) Given the requirements of **Public Law 99-660** and the significant policy issues currently facing the mental health system in California, a master plan for mental health is required which integrates these planning and reform efforts and which establishes priorities for the service delivery system and analyzes critical policy issues.

(b) The California Planning Council's scope shall be expanded to include the development of the Mental Health Master Plan. This Mental Health Master Plan shall be distinct but compatible with the plan mandated by **Public Law 99-660**, the development and implementation of which is the responsibility of the State Department of Mental Health.

(c) Therefore, the California Planning Council required by **Public Law 99-660** shall be expanded to include the following members:

(1) The Speaker of the Assembly shall recommend to the Governor for appointment, one council member.

(2) The Assembly Minority Floor Leader shall recommend to the Governor for appointment, one council member.

(3) The President pro Tempore of the Senate shall recommend to the Governor for appointment, one council member.

(4) The Senate Minority Floor Leader shall recommend to the Governor for appointment, one council member.

(5) The County Supervisors Association of California shall recommend to the Governor for appointment, one council member.

(d) The Mental Health Master Plan shall be completed and submitted to the Legislature and the Governor by October 1, 1991.

**Leg.H.**

1989 ch. 1313 § 1.

## **§ 5733. Required Contents of Master Plan.**

The Mental Health Master Plan shall include, but not be limited to, an analysis of all of the following:

(a) The specific planning elements required by **Public Law 99-660**.

(b) Identification of priority populations to be served and a definition of those priority populations.

(c) Proposed methods of allocating resources which result in the most effective system of care possible for the priority populations.

(d) Proposed methods of evaluating the effectiveness of current service delivery methods and the populations which are best served by these models of care.

(e) Recommendations related to the governance and responsibilities of the state, county, or other administrative structures for the delivery of mental health programs which are cost-effective and provide the highest quality of care.

**Leg.H.**

1989 ch. 1313 § 1.

## **CHAPTER 4**

# OPERATION AND ADMINISTRATION

## § 5750. (Operative term contingent) Administration.

The State Department of Health Care Services shall administer this part and shall adopt standards for the approval of mental health services, and rules and regulations necessary thereto. However, these standards, rules, and regulations shall be adopted only after consultation with the County Behavioral Health Directors Association of California and the California Behavioral Health Planning Council.

### Leg.H.

Added Stats 1968 ch 989 § 2, operative July 1, 1969; Amended Stats 1969 ch 722 § 44, effective August 8, 1969, operative July 1, 1969; Stats 1971 ch 1593 § 401, operative July 1, 1973; Stats 1977 ch 1252 § 618, operative July 1, 1978; Stats 1978 ch 429 § 214, effective July 17, 1978, operative July 1, 1978; Stats 1980 ch 1089 § 17; Stats 1984 ch 1327 § 85, effective September 25, 1984, ch 1329 § 65; Stats 1985 ch 1232 § 27, effective September 30, 1985; Stats 1988 ch 1047 § 4, effective September 20, 1988; Stats 1991 ch 89 § 176 (AB 1288), effective June 30, 1991; Stats 1991 ch 611 § 67 (AB 1491), effective October 6, 1991; Stats 2012 ch 34 § 161 (SB 1009), effective June 27, 2012; Stats 2015 ch 455 § 39 (SB 804), effective January 1, 2016; Amended Stats 2017 ch 511 § 10 (AB 1688), effective January 1, 2018.

## § 5750.1. [Section Repealed 2012.]

### Leg.H.

Added Stats 1987 ch 884 § 6. Amended Stats 1991 ch 89 § 177 (AB 1288), effective June 30, 1991; Stats 1991 ch 611 § 68 (AB 1491), effective October 6, 1991; Stats 2011 ch 650 § 11 (SB 946), effective January 1, 2012. Repealed Stats 2012 ch 34 § 162 (SB 1009), effective June 27, 2012. The repealed section related to applicability of statutory or administrative law changes to existing contracts.

(Operative term contingent)

## § 5751. Regulations Regarding Personnel.

(a) Regulations pertaining to the qualifications of directors of local mental health services shall be administered in accordance with Section 5607. These standards may include the maintenance of records of service which shall be reported to the State Department of Health Care Services in a manner and at times as it may specify.

(b) Regulations pertaining to the position of director of local mental health services, where the local director is other than the local health officer or medical administrator of the county hospitals, shall require that the director be a psychiatrist, psychologist, clinical social worker, marriage and family therapist, professional clinical counselor, registered nurse, or hospital administrator, who meets standards of education and experience established by the Director of Health Care Services. Where the director is not a psychiatrist, the program shall have a psychiatrist licensed to practice medicine in this state and who shall provide to patients medical care and services as authorized by [Section 2051 of the Business and Professions Code](#).

(c) The regulations shall be adopted in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

### Leg.H.

Added Stats 1973 ch 1061 § 10. Amended Stats 1977 ch 1252 § 618.5, operative July 1, 1978; Stats 1978 ch 726 § 1; Stats 1980 ch 972 § 2; Stats 1983 ch 500 § 1; Stats 1991 ch 89 § 178 (AB 1288), effective June 30, 1991; Stats 2002 ch 1013 § 98 (SB 2026); Stats 2011 ch 381 § 47 (SB 146), effective January 1, 2012; Stats 2012 ch 34 § 163 (SB 1009), effective June 27, 2012.

## § 5751.1. Regulations Pertaining to Position and Qualifications of Director of Local Mental Health Services.

Regulations pertaining to the position of director of local mental health services, where the local director is other than the local health officer or medical administrator of the county hospitals, shall require that the director meet the standards of education and experience established by the Director of Health Care Services and that the appointment be open on the basis of competence to all eligible disciplines pursuant to Section 5751. Regulations pertaining to the qualifications of directors of local mental health services shall be administered in accordance with Section 5607.

Where the director of local mental health services is not a psychiatrist, the program shall have a psychiatrist licensed to practice medicine in this state and who shall provide to patients medical care and services as authorized by [Section 2137 of the Business and Professions Code](#).

**Leg.H.**

Added Stats 1973 ch 1061 § 11. Amended Stats 1977 ch 1252 § 619, operative July 1, 1978; Stats 1978 ch 726 § 2; Stats 2012 ch 34 § 164 (SB 1009), effective June 27, 2012.

## § 5751.2. Persons Subject to Licensing Requirements; Waiver.

(a) Except as provided in this section, persons employed or under contract to provide mental health services pursuant to this part, or pursuant to Article 5 (commencing with Section 14680) of Chapter 8.8 of, or Chapter 8.9 (commencing with Section 14700) of, Part 3 of Division 9, shall be subject to all applicable requirements of law regarding professional licensure, and no person shall be employed in local mental health programs pursuant to this part to provide services for which a license is required, unless the person possesses a valid license.

(b) Persons employed as psychologists and clinical social workers, while continuing in their employment in the same class as of January 1, 1979, in the same program or facility, including those persons on authorized leave, but not including intermittent personnel, shall be exempt from the requirements of subdivision (a).

(c)

(1) While registered with the licensing board of jurisdiction for the purpose of acquiring the experience required for licensure, persons employed or under contract to provide mental health services pursuant to this part, or pursuant to Article 5 (commencing with Section 14680) of Chapter 8.8 of, or Chapter 8.9 (Commencing with Section 14700) of, Part 3 of Division 9, as clinical social workers, marriage and family therapists, or professional clinical counselors shall be exempt from subdivision (a). Registration shall be subject to regulations adopted by the appropriate licensing board.

(2) For the purposes of this paragraph, “experience required for licensure” means experience that satisfies the requirements of [Section 4996.23, 4980.43, or 4999.46 of the Business and Professions Code](#).

(d)

(1) The requirements of subdivision (a) shall be waived by the State Department of Health Care Services for persons employed or under contract to provide mental health services as psychologists pursuant to this part, or pursuant to Article 5 (commencing with Section 14680) of Chapter 8.8 of, or Chapter 8.9 (commencing with Section 14700) of, Part 3 of Division 9, who are gaining the experience required for licensure. A waiver granted under this subdivision shall not exceed five years from the date of

employment by, or contract with, a local mental health program for persons in the profession of psychology.

(2) For the purposes of this subdivision, "experience required for licensure" means experience that satisfies the requirements of subdivision (d) of Section 2914 of the Business and Professions Code.

(e) The requirements of subdivision (a) shall be waived by the State Department of Health Care Services for persons employed or under contract to provide mental health services as psychologists, clinical social workers, marriage and family therapists, or professional clinical counselors pursuant to this part, or pursuant to Article 5 (commencing with Section 14680) of Chapter 8.8 of, or Chapter 8.9 (commencing with Section 14700) of, Part 3 of Division 9, who have been recruited for employment from outside this state and whose experience is sufficient to gain admission to a licensing examination. A waiver granted under this subdivision shall not exceed five years from the date of employment by, or contract with, a local mental health program for persons in these four professions who are recruited from outside this state.

(f)

(1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, without taking any further regulatory action, shall implement, interpret, or make specific this section by means of information notices, plan or provider bulletins, or similar instructions until the time that regulations are adopted.

(2) The department shall adopt regulations on or before December 31, 2020, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

**Leg.H.**

Added Stats 1981 ch 412 § 6, effective September 11, 1981, operative January 1, 1984, as W & I C § 5600.2. Amended Stats 1987 ch 227 § 1; Stats 1988 ch 509 § 1; Stats 1989 ch 503 § 1; Stats 1990 ch 962 § 2 (AB 3229); Amended and renumbered W & I C § 5751.2 by Stats 1991 ch 611 § 37 (AB 1491), effective October 6, 1991; Amended and renumbered W & I C § 5603 by Stats 1991 ch 612 § 2 (SB 1112). Renumbered by Stats 1992 ch 1374 § 19 (AB 14), effective October 27, 1992. Amended Stats 1995 ch 712 § 4 (SB 227); Stats 2002 ch 1013 § 99 (SB 2026); Stats 2011 ch 381 § 48 (SB 146), effective January 1, 2012; Stats 2012 ch 34 § 165 (SB 1009), effective June 27, 2012; Stats 2017 ch 151 § 3 (AB 1456), effective July 31, 2017; Stats 2020 ch 279 § 3 (AB 2253), effective January 1, 2021.

## PART 3.1

### Human Resources, Education, and Training Programs

#### § 5820. Intent; Needs Assessment; Five-Year Plan.

(a) It is the intent of this part to establish a program with dedicated funding to remedy the shortage of qualified individuals to provide services to address severe mental illnesses.

(b) Each county mental health program shall submit to the Office of Statewide Health Planning and Development a needs assessment identifying its shortages in each professional and other occupational category in order to increase the supply of professional staff and other staff that county mental health programs anticipate they will require in order to provide the increase in services projected to serve additional individuals and families pursuant to Part 3 (commencing with Section 5800), Part 3.2 (commencing with Section 5830), Part 3.6 (commencing with Section 5840), and Part 4 (commencing with Section 5850) of this division. For purposes of this part, employment in California's public mental health system includes employment in private organizations providing publicly funded mental health services.

(c) The Office of Statewide Health Planning and Development, in coordination with the California Behavioral Health Planning Council, shall identify the total statewide needs for each professional and other occupational category utilizing county needs assessment information and develop a five-year education and training development plan.

(d) Development of the first five-year plan shall commence upon enactment of the initiative. Subsequent plans shall be adopted every five years, with the next five-year plan due as of April 1, 2014.

(e) Each five-year plan shall be reviewed and approved by the California Behavioral Health Planning Council.

**Leg.H.**

Adopted by voters, Prop. 63 § 8, approved November 2, 2004, effective January 1, 2005; Amended Stats 2012 ch 23 § 55 (AB 1467), effective June 27, 2012; Amended Stats 2017 ch 511 § 17 (AB 1688), effective January 1, 2018.

## **§ 5821. Education and Training Policy Development; Appropriate Staffing.**

(a) The California Behavioral Health Planning Council shall advise the Office of Statewide Health Planning and Development on education and training policy development and provide oversight for education and training plan development.

(b) The Office of Statewide Health Planning and Development shall work with the California Behavioral Health Planning Council and the State Department of Health Care Services so that council staff is increased appropriately to fulfill its duties required by Sections 5820 and 5821.

**Leg.H.**

Adopted by voters, Prop. 63 § 8, approved November 2, 2004, effective January 1, 2005; Amended Stats 2012 ch 23 § 56 (AB 1467), effective June 27, 2012; Amended Stats 2017 ch 511 § 18 (AB 1688), effective January 1, 2018.

## **§ 5822. Provisions of Five-year Plan.**

The Office of Statewide Health Planning and Development shall include in the five-year plan:

(a) Expansion plans for the capacity of postsecondary education to meet the needs of identified mental health occupational shortages.

(b) Expansion plans for the forgiveness and scholarship programs offered in return for a commitment to employment in California's public mental health system and make loan forgiveness programs available to current employees of the mental health system who want to obtain Associate of Arts, Bachelor of Arts, master's degrees, or doctoral degrees.

(c) Creation of a stipend program modeled after the federal Title IV-E program for persons enrolled in academic institutions who want to be employed in the mental health system.

(d) Establishment of regional partnerships between the mental health system and the educational system to expand outreach to multicultural communities, increase the diversity of the mental health workforce, to reduce the stigma associated with mental illness, and to promote the use of web-based technologies, and distance learning techniques.

(e) Strategies to recruit high school students for mental health occupations, increasing the prevalence of mental health occupations in high school career development programs such as health science academies, adult schools, and regional occupation centers and programs, and increasing the number of human service academies.

(f) Curriculum to train and retrain staff to provide services in accordance with the provisions and principles of Part 3 (commencing with Section 5800), Part 3.2 (commencing with Section 5830), Part 3.6 (commencing with Section 5840), and Part 4 (commencing with Section 5850) of this division.

(g) Promotion of the employment of mental health consumers and family members in the mental health system.

(h) Promotion of the meaningful inclusion of mental health consumers and family members and incorporating their viewpoint and experiences in the training and education programs in subdivisions (a) through (f).

(i) Promotion of meaningful inclusion of diverse, racial, and ethnic community members who are underrepresented in the mental health provider network.

(j) Promotion of the inclusion of cultural competency in the training and education programs in subdivisions (a) through (f).

**Leg.H.**

Adopted by voters at the 2004 general election, Prop. 63 § 8, effective January 1, 2005. Amended Stats 2012 ch 23 § 57 (AB 1467), effective June 27, 2012.

## **PART 3.2**

### **Innovative Programs**

#### **§ 5830. Innovative Programs; Purposes.**

County mental health programs shall develop plans for innovative programs to be funded pursuant to paragraph (6) of subdivision (a) of Section 5892.

**(a)** The innovative programs shall have the following purposes:

- (1)** To increase access to underserved groups.
- (2)** To increase the quality of services, including better outcomes.
- (3)** To promote interagency collaboration.

**(4)** To increase access to services, including, but not limited to, services provided through permanent supportive housing.

**(b)** All projects included in the innovative program portion of the county plan shall meet the following requirements:

- (1)** Address one of the following purposes as its primary purpose:

(A) Increase access to underserved groups, which may include providing access through the provision of permanent supportive housing.

(B) Increase the quality of services, including measurable outcomes.

(C) Promote interagency and community collaboration.

(D) Increase access to services, which may include providing access through the provision of permanent supportive housing.

(2) Support innovative approaches by doing one of the following:

(A) Introducing new mental health practices or approaches, including, but not limited to, prevention and early intervention.

(B) Making a change to an existing mental health practice or approach, including, but not limited to, adaptation for a new setting or community.

(C) Introducing a new application to the mental health system of a promising community-driven practice or an approach that has been successful in nonmental health contexts or settings.

(D) Participating in a housing program designed to stabilize a person's living situation while also providing supportive services on site.

(c) An innovative project may affect virtually any aspect of mental health practices or assess a new or changed application of a promising approach to solving persistent, seemingly intractable mental health challenges, including, but not limited to, any of the following:

(1) Administrative, governance, and organizational practices, processes, or procedures.

(2) Advocacy.

(3) Education and training for service providers, including nontraditional mental health practitioners.

(4) Outreach, capacity building, and community development.

(5) System development.

(6) Public education efforts.

(7) Research. If research is chosen for an innovative project, the county mental health program shall consider, but is not required to implement, research of the brain and its physical and biochemical processes that may have broad applications, but that have specific potential for understanding, treating, and managing mental illness, including, but not limited to, research through the Cal-BRAIN program pursuant to [Section 92986 of the Education Code](#) or other collaborative, public-private initiatives designed to map the dynamics of neuron activity.

(8) Services and interventions, including prevention, early intervention, and treatment.

(9) Permanent supportive housing development.

(d) If an innovative project has proven to be successful and a county chooses to continue it, the project workplan shall transition to another category of funding as appropriate.

(e) County mental health programs shall expend funds for their innovation programs upon approval by the Mental Health Services Oversight and Accountability Commission.

**Leg.H.**

Adopted by voters, Prop. 63 § 9, approved November 2, 2004, effective January 1, 2005; Amended Stats 2012 ch 23 § 58 (AB 1467), effective June 27, 2012; Amended Stats 2016 ch 43 § 1 (AB 1618), effective July 1, 2016; Stats 2018 ch 227 § 1 (AB 1215), effective January 1, 2019.

## **PART 3.6**

### **Prevention and Early Intervention Programs**

#### **§ 5840. Components of Program.**

**(a)** The State Department of Health Care Services, in coordination with counties, shall establish a program designed to prevent mental illnesses from becoming severe and disabling. The program shall emphasize improving timely access to services for underserved populations.

**(b)** The program shall include the following components:

**(1)** Outreach to families, employers, primary care health care providers, and others to recognize the early signs of potentially severe and disabling mental illnesses.

**(2)** Access and linkage to medically necessary care provided by county mental health programs for children with severe mental illness, as defined in Section 5600.3, and for adults and seniors with severe mental illness, as defined in Section 5600.3, as early in the onset of these conditions as practicable.

**(3)** Reduction in stigma associated with either being diagnosed with a mental illness or seeking mental health services.

**(4)** Reduction in discrimination against people with mental illness.

**(c)** The program shall include mental health services similar to those provided under other programs that are effective in preventing mental illnesses from becoming severe, and shall also include components similar to programs that have been successful in reducing the duration of untreated severe mental illnesses and assisting people in quickly regaining productive lives.

**(d)** The program shall emphasize strategies to reduce the following negative outcomes that may result from untreated mental illness:

**(1)** Suicide.

**(2)** Incarcerations.

**(3)** School failure or dropout.

**(4)** Unemployment.

**(5)** Prolonged suffering.

**(6)** Homelessness.

**(7)** Removal of children from their homes.

**(e)** Prevention and early intervention funds may be used to broaden the provision of community-based mental health services by adding prevention and early intervention services or activities to these services,

including prevention and early intervention strategies that address mental health needs, substance misuse or substance use disorders, or needs relating to cooccurring mental health and substance use services.

(f) In consultation with mental health stakeholders, and consistent with regulations from the Mental Health Services Oversight and Accountability Commission, pursuant to Section 5846, the department shall revise the program elements in Section 5840 applicable to all county mental health programs in future years to reflect what is learned about the most effective prevention and intervention programs for children, adults, and seniors.

**Leg.H.**

Adopted by voters, Prop. 63 § 4, approved November 2, 2004, effective January 1, 2005. Amended Stats 2012 ch 23 § 59 (AB 1467), effective June 27, 2012; Stats 2013 ch 23 § 48 (AB 82), effective June 27, 2013; Stats 2021 ch 584 § 1 (AB 638), effective January 1, 2022.

## **§ 5840.2. Contracting with County Health Program.**

The department shall contract for the provision of services pursuant to this part with each county mental health program in the manner set forth in Section 5897.

**Leg.H.**

Adopted by voters, Prop. 63 § 4, approved November 2, 2004, effective January 1, 2005; Amended Stats 2015 ch 303 § 583 (AB 731), effective January 1, 2016.

## **PART 3.7**

### **Oversight and Accountability**

## **§ 5845. Mental Health Services Oversight and Accountability Commission Established.**

(a) The Mental Health Services Oversight and Accountability Commission is hereby established to oversee Part 3 (commencing with Section 5800), the Adult and Older Adult Mental Health System of Care Act; Part 3.1 (commencing with Section 5820), Human Resources, Education, and Training Programs; Part 3.2 (commencing with Section 5830), Innovative Programs; Part 3.6 (commencing with Section 5840), Prevention and Early Intervention Programs; and Part 4 (commencing with Section 5850), the Children's Mental Health Services Act. The commission shall replace the advisory committee established pursuant to Section 5814. The commission shall consist of 16 voting members as follows:

- (1) The Attorney General or the Attorney General's designee.
- (2) The Superintendent of Public Instruction or the Superintendent's designee.
- (3) The Chairperson of the Senate Committee on Health, the Chairperson of the Senate Committee on Human Services, or another member of the Senate selected by the President pro Tempore of the Senate.
- (4) The Chairperson of the Assembly Committee on Health or another member of the Assembly selected by the Speaker of the Assembly.
- (5) Two persons with a severe mental illness, a family member of an adult or senior with a severe mental illness, a family member of a child who has or has had a severe mental illness, a physician specializing in alcohol and drug treatment, a mental health professional, a county sheriff, a superintendent of a school district, a representative of a labor organization, a representative of an employer with less than

500 employees, a representative of an employer with more than 500 employees, and a representative of a health care service plan or insurer, all appointed by the Governor. In making appointments, the Governor shall seek individuals who have had personal or family experience with mental illness. At least one person appointed pursuant to this paragraph shall have a background in auditing.

**(b)** Members shall serve without compensation, but shall be reimbursed for all actual and necessary expenses incurred in the performance of their duties.

**(c)** The term of each member shall be three years, to be staggered so that approximately one-third of the appointments expire in each year.

**(d)** In carrying out its duties and responsibilities, the commission may do all of the following:

**(1)** Meet at least once each quarter at any time and location convenient to the public as it may deem appropriate. All meetings of the commission shall be open to the public.

**(2)** Within the limit of funds allocated for these purposes, pursuant to the laws and regulations governing state civil service, employ staff, including any clerical, legal, and technical assistance necessary. The commission shall administer its operations separate and apart from the State Department of Health Care Services and the California Health and Human Services Agency.

**(3)** Establish technical advisory committees, such as a committee of consumers and family members.

**(4)** Employ all other appropriate strategies necessary or convenient to enable it to fully and adequately perform its duties and exercise the powers expressly granted, notwithstanding any authority expressly granted to an officer or employee of state government.

**(5)** Enter into contracts.

**(6)** Obtain data and information from the State Department of Health Care Services, the Office of Statewide Health Planning and Development, or other state or local entities that receive Mental Health Services Act funds, for the commission to utilize in its oversight, review, training and technical assistance, accountability, and evaluation capacity regarding projects and programs supported with Mental Health Services Act funds.

**(7)** Participate in the joint state-county decisionmaking process, as contained in Section 4061, for training, technical assistance, and regulatory resources to meet the mission and goals of the state's mental health system.

**(8)** Develop strategies to overcome stigma and discrimination, and accomplish all other objectives of Part 3.2 (commencing with Section 5830), Part 3.6 (commencing with Section 5840), and the other provisions of the Mental Health Services Act.

**(9)** At any time, advise the Governor or the Legislature regarding actions the state may take to improve care and services for people with mental illness.

**(10)** If the commission identifies a critical issue related to the performance of a county mental health program, it may refer the issue to the State Department of Health Care Services pursuant to Section 5655.

**(11)** Assist in providing technical assistance to accomplish the purposes of the Mental Health Services Act, Part 3 (commencing with Section 5800), and Part 4 (commencing with Section 5850) in collaboration with the State Department of Health Care Services and in consultation with the County Behavioral Health Directors Association of California.

**(12)** Work in collaboration with the State Department of Health Care Services and the California Behavioral Health Planning Council, and in consultation with the County Behavioral Health Directors Association of California, in designing a comprehensive joint plan for a coordinated evaluation of client outcomes in the community-based mental health system, including, but not limited to, parts listed in subdivision (a). The California Health and Human Services Agency shall lead this comprehensive joint plan effort.

**(13)** Establish a framework and voluntary standard for mental health in the workplace that serves to reduce mental health stigma, increase public, employee, and employer awareness of the recovery goals of the Mental Health Services Act, and provide guidance to California's employer community to put in place strategies and programs, as determined by the commission, to support the mental health and wellness of employees. The commission shall consult with the Labor and Workforce Development Agency or its designee to develop the standard.

**Leg.H.**

Adopted by voters, Prop. 63 § 10, approved November 2, 2004, effective January 1, 2005. Amended Stats 2009–2010 3d Ex Sess ch 20 § 3 (ABX3 5), effective March 3, 2009; Stats 2012 ch 23 § 60 (AB 1467), effective June 27, 2012; Stats 2013 ch 23 § 49 (AB 82), effective June 27, 2013; Stats 2016 ch 43 § 2 (AB 1618), effective July 1, 2016; Stats 2017 ch 511 § 19 (AB 1688), effective January 1, 2018; Stats 2018 ch 354 § 1 (SB 1113), effective January 1, 2019; Stats 2019 ch 26 § 2 (SB 79), effective June 27, 2019.

## **§ 5846. Issuance of Guidelines for Expenditures; Commission May Provide Technical Assistance.**

(a) The commission shall adopt regulations for programs and expenditures pursuant to Part 3.2 (commencing with Section 5830), for innovative programs, and Part 3.6 (commencing with Section 5840), for prevention and early intervention.

(b) Any regulations adopted by the department pursuant to Section 5898 shall be consistent with the commission's regulations.

(c) The commission may provide technical assistance to any county mental health plan as needed to address concerns or recommendations of the commission or when local programs could benefit from technical assistance for improvement of their plans.

(d) The commission shall ensure that the perspective and participation of diverse community members reflective of California populations and others suffering from severe mental illness and their family members is a significant factor in all of its decisions and recommendations.

**Leg.H.**

Adopted by voters at the 2004 general election, Prop. 63 § 10, effective January 1, 2005. Amended Stats 2009–2010 3d Ex Sess ch 20 § 4 (AB3X5), effective March 3, 2009; Stats 2011 ch 5 § 3 (AB 100), effective March 24, 2011; Stats 2012 ch 23 § 61 (AB 1467), effective June 27, 2012; Stats 2013 ch 23 § 50 (AB 82), effective June 27, 2013.

## **§ 5847. Integrated Plans for Prevention, Innovation, and System of Care Services.**

(a) Each county mental health program shall prepare and submit a three-year program and expenditure plan, and annual updates, adopted by the county board of supervisors, to the Mental Health Services Oversight and Accountability Commission and the State Department of Health Care Services within 30 days after adoption.

**(b)** The three-year program and expenditure plan shall be based on available unspent funds and estimated revenue allocations provided by the state and in accordance with established stakeholder engagement and planning requirements, as required in Section 5848. The three-year program and expenditure plan and annual updates shall include all of the following:

**(1)** A program for prevention and early intervention in accordance with Part 3.6 (commencing with Section 5840).

**(2)** A program for services to children in accordance with Part 4 (commencing with Section 5850), to include a program pursuant to Chapter 4 (commencing with Section 18250) of Part 6 of Division 9 or provide substantial evidence that it is not feasible to establish a wraparound program in that county.

**(3)** A program for services to adults and seniors in accordance with Part 3 (commencing with Section 5800).

**(4)** A program for innovations in accordance with Part 3.2 (commencing with Section 5830).

**(5)** A program for technological needs and capital facilities needed to provide services pursuant to Part 3 (commencing with Section 5800), Part 3.6 (commencing with Section 5840), and Part 4 (commencing with Section 5850). All plans for proposed facilities with restrictive settings shall demonstrate that the needs of the people to be served cannot be met in a less restrictive or more integrated setting, such as permanent supportive housing.

**(6)** Identification of shortages in personnel to provide services pursuant to the above programs and the additional assistance needed from the education and training programs established pursuant to Part 3.1 (commencing with Section 5820).

**(7)** Establishment and maintenance of a prudent reserve to ensure the county program will continue to be able to serve children, adults, and seniors that it is currently serving pursuant to Part 3 (commencing with Section 5800), the Adult and Older Adult Mental Health System of Care Act, Part 3.6 (commencing with Section 5840), Prevention and Early Intervention Programs, and Part 4 (commencing with Section 5850), the Children's Mental Health Services Act, during years in which revenues for the Mental Health Services Fund are below recent averages adjusted by changes in the state population and the California Consumer Price Index.

**(8)** Certification by the county behavioral health director, which ensures that the county has complied with all pertinent regulations, laws, and statutes of the Mental Health Services Act, including stakeholder participation and nonsupplantation requirements.

**(9)** Certification by the county behavioral health director and by the county auditor-controller that the county has complied with any fiscal accountability requirements as directed by the State Department of Health Care Services, and that all expenditures are consistent with the requirements of the Mental Health Services Act.

**(c)** The programs established pursuant to paragraphs (2) and (3) of subdivision (b) shall include services to address the needs of transition age youth 16 to 25 years of age. In implementing this subdivision, county mental health programs shall consider the needs of transition age foster youth.

**(d)** Each year, the State Department of Health Care Services shall inform the County Behavioral Health Directors Association of California and the Mental Health Services Oversight and Accountability Commission of the methodology used for revenue allocation to the counties.

**(e)** Each county mental health program shall prepare expenditure plans pursuant to Part 3 (commencing with Section 5800) for adults and seniors, Part 3.2 (commencing with Section 5830) for innovative programs,

Part 3.6 (commencing with Section 5840) for prevention and early intervention programs, and Part 4 (commencing with Section 5850) for services for children, and updates to the plans developed pursuant to this section. Each expenditure update shall indicate the number of children, adults, and seniors to be served pursuant to Part 3 (commencing with Section 5800), and Part 4 (commencing with Section 5850), and the cost per person. The expenditure update shall include utilization of unspent funds allocated in the previous year and the proposed expenditure for the same purpose.

(f) A county mental health program shall include an allocation of funds from a reserve established pursuant to paragraph (7) of subdivision (b) for services pursuant to paragraphs (2) and (3) of subdivision (b) in years in which the allocation of funds for services pursuant to subdivision (e) are not adequate to continue to serve the same number of individuals as the county had been serving in the previous fiscal year.

(g) The department shall post on its internet website the three-year program and expenditure plans submitted by every county pursuant to subdivision (a) in a timely manner.

(h)

(1) Notwithstanding subdivision (a), a county that is unable to complete and submit a three-year plan or annual update for the 2020–21 fiscal year due to the COVID-19 Public Health Emergency may extend the effective timeframe of its currently approved three-year plan or annual update to include the 2020–21 fiscal year. A county shall submit a three-year program and expenditure plan or annual update to the Mental Health Services Oversight and Accountability Commission and the State Department of Health Care Services by July 1, 2021.

(2) For purposes of this subdivision, “COVID-19 Public Health Emergency” means the federal Public Health Emergency declaration made pursuant to [Section 247d of Title 42 of the United States Code](#) on January 30, 2020, entitled “Determination that a Public Health Emergency Exists Nationwide as the Result of the 2019 Novel Coronavirus,” and any renewal of that declaration.

(i) Notwithstanding paragraph (7) of subdivision (b) and subdivision (f), a county may, during the 2020–21 fiscal year, use funds from its prudent reserve for prevention and early intervention programs created in accordance with Part 3.6 (commencing with Section 5840) and for services to persons with severe mental illnesses pursuant to Part 4 (commencing with Section 5850) for the children’s system of care and Part 3 (commencing with Section 5800) for the adult and older adult system of care. These services may include housing assistance, as defined in Section 5892.5, to the target population specified in Section 5600.3.

(j) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, without taking any further regulatory action, may implement, interpret, or make specific subdivisions (h) and (i) of this section and subdivision (i) of Section 5892 by means of all-county letters or other similar instructions.

**Leg.H.**

Adopted by voters, Prop. 63 § 10, approved November 2, 2004, effective January 1, 2005. Amended Stats 2009–2010 3d Ex Sess ch 20 § 5 (ABX3 5), effective March 3, 2009; Stats 2009 ch 546 § 1 (AB 1571), effective January 1, 2010; Stats 2011 ch 5 § 4 (AB 100), effective March 24, 2011, ch 640 § 1 (AB 989), effective January 1, 2012; Stats 2012 ch 23 § 62 (AB 1467), effective June 27, 2012; Stats 2015 ch 455 § 41 (SB 804), effective January 1, 2016; Stats 2016 ch 43 § 3 (AB 1618), effective July 1, 2016; Stats 2020 ch 13 § 8 (AB 81), effective June 29, 2020.

## **§ 5848. Development of Plan and Updates with Local Stakeholders; Hearings; Content Requirements for Plans; Review of Programs.**

**(a)** Each three-year program and expenditure plan and update shall be developed with local stakeholders, including adults and seniors with severe mental illness, families of children, adults, and seniors with severe mental illness, providers of services, law enforcement agencies, education, social services agencies, veterans, representatives from veterans organizations, providers of alcohol and drug services, health care organizations, and other important interests. Counties shall demonstrate a partnership with constituents and stakeholders throughout the process that includes meaningful stakeholder involvement on mental health policy, program planning, and implementation, monitoring, quality improvement, evaluation, and budget allocations. A draft plan and update shall be prepared and circulated for review and comment for at least 30 days to representatives of stakeholder interests and any interested party who has requested a copy of the draft plans.

**(b)** The mental health board established pursuant to Section 5604 shall conduct a public hearing on the draft three-year program and expenditure plan and annual updates at the close of the 30-day comment period required by subdivision (a). Each adopted three-year program and expenditure plan and update shall include any substantive written recommendations for revisions. The adopted three-year program and expenditure plan or update shall summarize and analyze the recommended revisions. The mental health board shall review the adopted plan or update and make recommendations to the local mental health agency or local behavioral health agency, as applicable, for revisions. The local mental health agency or local behavioral health agency, as applicable, shall provide an annual report of written explanations to the local governing body and the State Department of Health Care Services for any substantive recommendations made by the local mental health board that are not included in the final plan or update.

**(c)** The plans shall include reports on the achievement of performance outcomes for services pursuant to Part 3 (commencing with Section 5800), Part 3.6 (commencing with Section 5840), and Part 4 (commencing with Section 5850) funded by the Mental Health Services Fund and established jointly by the State Department of Health Care Services and the Mental Health Services Oversight and Accountability Commission, in collaboration with the County Behavioral Health Directors Association of California.

**(d)** Mental health services provided pursuant to Part 3 (commencing with Section 5800) and Part 4 (commencing with Section 5850) shall be included in the review of program performance by the California Behavioral Health Planning Council required by paragraph (2) of subdivision (c) of Section 5772 and in the local mental health board's review and comment on the performance outcome data required by paragraph (7) of subdivision (a) of Section 5604.2.

**(e)** The department shall annually post on its internet website a summary of the performance outcomes reports submitted by counties if clearly and separately identified by counties as the achievement of performance outcomes pursuant to subdivision (c).

**(f)** For purposes of this section, "substantive recommendations made by the local mental health board" means any recommendation that is brought before the board and approved by a majority vote of the membership present at a public hearing of the local mental health board that has established its quorum.

**Leg.H.**

Adopted by voters, Prop. 63 § 10, approved November 2, 2004, effective January 1, 2005. Amended Stats 2009 ch 546 § 2 (AB 1571), effective January 1, 2010; Stats 2012 ch 23 § 63 (AB 1467), effective June 27, 2012; Stats 2015 ch 455 § 42 (SB 804), effective January 1, 2016; Stats 2016 ch 43 § 4 (AB 1618), effective July 1, 2016; Stats 2017 ch 511 § 20 (AB 1688), effective January 1, 2018; Stats 2019 ch 460 § 7 (AB 1352), effective January 1, 2020.

## PART 4

### The Children's Mental Health Services Act

# CHAPTER 1

## INTERAGENCY SYSTEM OF CARE

### ARTICLE 11

#### **Services for Children with Severe Mental Illness**

##### **§ 5878.1. Intent and Construction of Article.**

(a) It is the intent of this article to establish programs that ensure services will be provided to severely mentally ill children as defined in Section 5878.2 and that they be part of the children's system of care established pursuant to this part. It is the intent of this act that services provided under this chapter to severely mentally ill children are accountable, developed in partnership with youth and their families, culturally competent, and individualized to the strengths and needs of each child and his or her family.

(b) Nothing in this act shall be construed to authorize any services to be provided to a minor without the consent of the child's parent or legal guardian beyond those already authorized by existing statute.

**Leg.H.**

Adopted by voters at the 2004 general election, Prop. 63 § 5, effective January 1, 2005. Amended Stats 2012 ch 23 § 64 (AB 1467), effective June 27, 2012.

##### **§ 5878.2. Severely Mentally Ill Children.**

For purposes of this article, severely mentally ill children means minors under the age of 18 who meet the criteria set forth in subdivision (a) of Section 5600.3.

**Leg.H.**

[Adopted by Initiative (Prop. 63) at the November 2, 2004, General Election, effective January 1, 2005.]

##### **§ 5878.3. Entitlement Programs; Funding.**

(a) Subject to the availability of funds as determined pursuant to Part 4.5 (commencing with Section 5890) of this division, county mental health programs shall offer services to severely mentally ill children for whom services under any other public or private insurance or other mental health or entitlement program is inadequate or unavailable. Other entitlement programs include but are not limited to mental health services available pursuant to Medi-Cal, child welfare, and special education programs. The funding shall cover only those portions of care that cannot be paid for with public or private insurance, other mental health funds or other entitlement programs.

(b) Funding shall be at sufficient levels to ensure that counties can provide each child served all of the necessary services set forth in the applicable treatment plan developed in accordance with this part, including services where appropriate and necessary to prevent an out of home placement, such as services pursuant to Chapter 4 (commencing with Section 18250) of Part 6 of Division 9.

(c) The State Department of Health Care Services shall contract with county mental health programs for the provision of services under this article in the manner set forth in Section 5897.

**Leg.H.**

Adopted by voters at the 2004 general election, Prop. 63 § 5, effective January 1, 2005. Amended Stats 2012 ch 23 § 65 (AB 1467), effective June 27, 2012.

## **PART 4.5**

### **Mental Health Services Fund**

#### **§ 5890. Mental Health Services Fund Established.**

(a) The Mental Health Services Fund is hereby created in the State Treasury. The fund shall be administered by the state. Notwithstanding **Section 13340 of the Government Code**, all moneys in the fund are, except as provided in subdivision (d) of Section 5892, continuously appropriated, without regard to fiscal years, for the purpose of funding the following programs and other related activities as designated by other provisions of this division:

- (1) Part 3 (commencing with Section 5800), the Adult and Older Adult Mental Health System of Care Act.
- (2) Part 3.2 (commencing with Section 5830), Innovative Programs.
- (3) Part 3.6 (commencing with Section 5840), Prevention and Early Intervention Programs.
- (4) Part 3.9 (commencing with Section 5849.1), No Place Like Home Program.
- (5) Part 4 (commencing with Section 5850), the Children's Mental Health Services Act.

(b) The establishment of this fund and any other provisions of the act establishing it or the programs funded shall not be construed to modify the obligation of health care service plans and disability insurance policies to provide coverage for mental health services, including those services required under **Section 1374.72 of the Health and Safety Code** and **Section 10144.5 of the Insurance Code**, related to mental health parity. This act shall not be construed to modify the oversight duties of the Department of Managed Health Care or the duties of the Department of Insurance with respect to enforcing these obligations of plans and insurance policies.

(c) This act shall not be construed to modify or reduce the existing authority or responsibility of the State Department of Health Care Services.

(d) The State Department of Health Care Services shall seek approval of all applicable federal Medicaid approvals to maximize the availability of federal funds and eligibility of participating children, adults, and seniors for medically necessary care.

(e) Share of costs for services pursuant to Part 3 (commencing with Section 5800) and Part 4 (commencing with Section 5850) of this division, shall be determined in accordance with the Uniform Method of Determining Ability to Pay applicable to other publicly funded mental health services, unless this Uniform Method is replaced by another method of determining copayments, in which case the new method applicable to other mental health services shall be applicable to services pursuant to Part 3 (commencing with Section 5800) and Part 4 (commencing with Section 5850) of this division.

**(f)**

**(1)** The Supportive Housing Program Subaccount is hereby created in the Mental Health Services Fund. Notwithstanding [Section 13340 of the Government Code](#), all moneys in the subaccount are reserved and continuously appropriated, without regard to fiscal years, to the California Health Facilities Financing Authority to provide funds to meet its financial obligations pursuant to any service contracts entered into pursuant to Section 5849.35. Notwithstanding any other law, including any other provision of this section, no later than the last day of each month, the Controller shall, before any transfer or expenditure from the fund for any other purpose for the following month, transfer from the Mental Health Services Fund to the Supportive Housing Program Subaccount an amount that has been certified by the California Health Facilities Financing Authority pursuant to paragraph (3) of subdivision (a) of Section 5849.35, but not to exceed an aggregate amount of one hundred forty million dollars (\$140,000,000) per year. If in any month the amounts in the Mental Health Services Fund are insufficient to fully transfer to the subaccount or the amounts in the subaccount are insufficient to fully pay the amount certified by the California Health Facilities Financing Authority, the shortfall shall be carried over to the next month, to be transferred by the Controller with any transfer required by the preceding sentence. Moneys in the Supportive Housing Program Subaccount shall not be loaned to the General Fund pursuant to [Section 16310](#) or [16381](#) of the [Government Code](#).

**(2)** Prior to the issuance of any bonds pursuant to [Section 15463 of the Government Code](#), the Legislature may appropriate for transfer funds in the Mental Health Services Fund to the Supportive Housing Program Subaccount in an amount up to one hundred forty million dollars (\$140,000,000) per year. Any amount appropriated for transfer pursuant to this paragraph and deposited in the No Place Like Home Fund shall reduce the authorized but unissued amount of bonds that the California Health Facilities Financing Authority may issue pursuant to [Section 15463 of the Government Code](#) by a corresponding amount. Notwithstanding [Section 13340 of the Government Code](#), all moneys in the subaccount transferred pursuant to this paragraph are reserved and continuously appropriated, without regard to fiscal years, for transfer to the No Place Like Home Fund, to be used for purposes of Part 3.9 (commencing with Section 5849.1). The Controller shall, before any transfer or expenditure from the fund for any other purpose for the following month but after any transfer from the fund for purposes of paragraph (1), transfer moneys appropriated from the Mental Health Services Fund to the subaccount pursuant to this paragraph in equal amounts over the following 12-month period, beginning no later than 90 days after the effective date of the appropriation by the Legislature. If in any month the amounts in the Mental Health Services Fund are insufficient to fully transfer to the subaccount or the amounts in the subaccount are insufficient to fully pay the amount appropriated for transfer pursuant to this paragraph, the shortfall shall be carried over to the next month.

**(3)** The sum of any transfers described in paragraphs (1) and (2) shall not exceed an aggregate of one hundred forty million dollars (\$140,000,000) per year.

**(4)** Paragraph (2) shall become inoperative once any bonds authorized pursuant to [Section 15463 of the Government Code](#) are issued.

**Leg.H.**

Adopted by voters, Prop. 63 § 15, approved November 2, 2004, effective January 1, 2005. Amended Stats 2011 ch 5 § 5 (AB 100), effective March 24, 2011; Stats 2012 ch 23 § 66 (AB 1467), effective June 27, 2012; Stats 2016 ch 322 § 15 (AB 1628), effective September 13, 2016. Stats 2017 ch 561 § 275 (AB 1516), effective January 1, 2018. Stats 2018 ch 41 § 6 (AB 1827), effective June 27, 2018, approved by voters, Prop. 2, operative November 6, 2018.

## § 5891. Utilization of Funds; Distribution.

**(a)** The funding established pursuant to this act shall be utilized to expand mental health services. Except as provided in subdivision (j) of Section 5892 due to the state's fiscal crisis, these funds shall not be used to supplant existing state or county funds utilized to provide mental health services. The state shall continue to provide financial support for mental health programs with not less than the same entitlements, amounts of allocations from the General Fund or from the Local Revenue Fund 2011 in the State Treasury, and formula distributions of dedicated funds as provided in the last fiscal year which ended prior to the effective date of this act. The state shall not make any change to the structure of financing mental health services, which increases a county's share of costs or financial risk for mental health services unless the state includes adequate funding to fully compensate for such increased costs or financial risk. These funds shall only be used to pay for the programs authorized in Sections 5890 and 5892. These funds may not be used to pay for any other program. These funds may not be loaned to the General Fund or any other fund of the state, or a county general fund or any other county fund for any purpose other than those authorized by Sections 5890 and 5892.

**(b)**

**(1)** Notwithstanding subdivision (a), and except as provided in paragraph (2), the Controller may use the funds created pursuant to this part for loans to the General Fund as provided in [Sections 16310](#) and [16381 of the Government Code](#). Any such loan shall be repaid from the General Fund with interest computed at 110 percent of the Pooled Money Investment Account rate, with interest commencing to accrue on the date the loan is made from the fund. This subdivision does not authorize any transfer that would interfere with the carrying out of the object for which these funds were created.

**(2)** This subdivision does not apply to the Supportive Housing Program Subaccount created by subdivision (f) of Section 5890 or any moneys paid by the California Health Facilities Financing Authority to the Department of Housing and Community Development as a service fee pursuant to a service contract authorized by Section 5849.35.

**(c)** Commencing July 1, 2012, on or before the 15th day of each month, pursuant to a methodology provided by the State Department of Health Care Services, the Controller shall distribute to each Local Mental Health Service Fund established by counties pursuant to subdivision (f) of Section 5892, all unexpended and unreserved funds on deposit as of the last day of the prior month in the Mental Health Services Fund, established pursuant to Section 5890, for the provision of programs and other related activities set forth in Part 3 (commencing with Section 5800), Part 3.2 (commencing with Section 5830), Part 3.6 (commencing with Section 5840), Part 3.9 (commencing with Section 5849.1), and Part 4 (commencing with Section 5850).

**(d)** Counties shall base their expenditures on the county mental health program's three-year program and expenditure plan or annual update, as required by Section 5847. Nothing in this subdivision shall affect subdivision (a) or (b).

**Leg.H.**

Adopted by voters, Prop. 63 § 15, approved November 2, 2004, effective January 1, 2005. Amended Stats 2008 ch 751 § 73 (AB 1389), effective September 30, 2008; Stats 2009–2010 3d Ex Sess ch 15 § 1 (SBX3 10), effective February 20, 2009, not approved by voters; Stats 2010 ch 706 § 4 (SB 1392), effective January 1, 2011; Stats 2011 ch 5 § 6 (AB 100), effective March 24, 2011; Stats 2012 ch 23 § 67 (AB 1467), effective June 27, 2012; Stats 2016 ch 322 § 16 (AB 1628), effective September 13, 2016.

## § 5892. Usage of Funds.

**(a)** In order to promote efficient implementation of this act, the county shall use funds distributed from the Mental Health Services Fund as follows:

**(1)** In the 2005–06, 2006–07, and 2007–08 fiscal years, 10 percent shall be placed in a trust fund to be expended for education and training programs pursuant to Part 3.1 (commencing with Section 5820).

**(2)** In the 2005–06, 2006–07, and 2007–08 fiscal years, 10 percent for capital facilities and technological needs shall be distributed to counties in accordance with a formula developed in consultation with the County Behavioral Health Directors Association of California to implement plans developed pursuant to Section 5847.

**(3)** Twenty percent of funds distributed to the counties pursuant to subdivision (c) of Section 5891 shall be used for prevention and early intervention programs in accordance with Part 3.6 (commencing with Section 5840).

**(4)** The expenditure for prevention and early intervention may be increased in any county in which the department determines that the increase will decrease the need and cost for additional services to persons with severe mental illness in that county by an amount at least commensurate with the proposed increase.

**(5)** The balance of funds shall be distributed to county mental health programs for services to persons with severe mental illnesses pursuant to Part 4 (commencing with Section 5850) for the children's system of care and Part 3 (commencing with Section 5800) for the adult and older adult system of care. These services may include housing assistance, as defined in Section 5892.5, to the target population specified in Section 5600.3.

**(6)** Five percent of the total funding for each county mental health program for Part 3 (commencing with Section 5800), Part 3.6 (commencing with Section 5840), and Part 4 (commencing with Section 5850), shall be utilized for innovative programs in accordance with Sections 5830, 5847, and 5848.

**(b)**

**(1)** In any fiscal year after the 2007–08 fiscal year, programs for services pursuant to Part 3 (commencing with Section 5800) and Part 4 (commencing with Section 5850) may include funds for technological needs and capital facilities, human resource needs, and a prudent reserve to ensure services do not have to be significantly reduced in years in which revenues are below the average of previous years. The total allocation for purposes authorized by this subdivision shall not exceed 20 percent of the average amount of funds allocated to that county for the previous five fiscal years pursuant to this section.

**(2)** A county shall calculate an amount it establishes as the prudent reserve for its Local Mental Health Services Fund, not to exceed 33 percent of the average community services and support revenue received for the fund in the preceding five years. The county shall reassess the maximum amount of this reserve every five years and certify the reassessment as part of the three-year program and expenditure plan required pursuant to Section 5847.

**(3)** Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the State Department of Health Care Services may allow counties to determine the percentage of funds to allocate across programs created pursuant to Part 4 (commencing with Section 5850) for the children's system of care and Part 3 (commencing with Section 5800) for the adult and older adult system of care for the 2020–21 and 2021–22 fiscal years by means of all-county letters or other similar instructions without taking further regulatory action.

**(c)** The allocations pursuant to subdivisions (a) and (b) shall include funding for annual planning costs pursuant to Section 5848. The total of these costs shall not exceed 5 percent of the total of annual revenues received for the fund. The planning costs shall include funds for county mental health programs to pay for the costs of consumers, family members, and other stakeholders to participate in the planning process and for the planning and implementation required for private provider contracts to be significantly expanded to provide additional services pursuant to Part 3 (commencing with Section 5800) and Part 4 (commencing with Section 5850).

**(d)** Prior to making the allocations pursuant to subdivisions (a), (b), and (c), funds shall be reserved for the costs for the State Department of Health Care Services, the California Behavioral Health Planning Council, the Office of Statewide Health Planning and Development, the Mental Health Services Oversight and Accountability Commission, the State Department of Public Health, and any other state agency to implement all duties pursuant to the programs set forth in this section. These costs shall not exceed 5 percent of the total of annual revenues received for the fund. The administrative costs shall include funds to assist consumers and family members to ensure the appropriate state and county agencies give full consideration to concerns about quality, structure of service delivery, or access to services. The amounts allocated for administration shall include amounts sufficient to ensure adequate research and evaluation regarding the effectiveness of services being provided and achievement of the outcome measures set forth in Part 3 (commencing with Section 5800), Part 3.6 (commencing with Section 5840), and Part 4 (commencing with Section 5850). The amount of funds available for the purposes of this subdivision in any fiscal year is subject to appropriation in the annual Budget Act.

**(e)** In the 2004–05 fiscal year, funds shall be allocated as follows:

**(1)** Forty-five percent for education and training pursuant to Part 3.1 (commencing with Section 5820).

**(2)** Forty-five percent for capital facilities and technology needs in the manner specified by paragraph (2) of subdivision (a).

**(3)** Five percent for local planning in the manner specified in subdivision (c).

**(4)** Five percent for state implementation in the manner specified in subdivision (d).

**(f)** Each county shall place all funds received from the State Mental Health Services Fund in a local Mental Health Services Fund. The Local Mental Health Services Fund balance shall be invested consistent with other county funds and the interest earned on the investments shall be transferred into the fund. The earnings on investment of these funds shall be available for distribution from the fund in future fiscal years.

**(g)** All expenditures for county mental health programs shall be consistent with a currently approved plan or update pursuant to Section 5847.

**(h)**

**(1)** Other than funds placed in a reserve in accordance with an approved plan, any funds allocated to a county that have not been spent for their authorized purpose within three years, and the interest accruing on those funds, shall revert to the state to be deposited into the Reversion Account, hereby established in the fund, and available for other counties in future years, provided, however, that funds, including interest accrued on those funds, for capital facilities, technological needs, or education and training may be retained for up to 10 years before reverting to the Reversion Account.

**(2)**

**(A)** If a county receives approval from the Mental Health Services Oversight and Accountability Commission of a plan for innovative programs, pursuant to subdivision (e) of Section 5830, the county's funds identified in that plan for innovative programs shall not revert to the state pursuant to paragraph (1) so long as they are encumbered under the terms of the approved project plan, including any subsequent amendments approved by the commission, or until three years after the date of approval, whichever is later.

**(B)** Subparagraph (A) applies to all plans for innovative programs that have received commission approval and are in the process at the time of enactment of the act that added this subparagraph, and to all plans that receive commission approval thereafter.

(3) Notwithstanding paragraph (1), funds allocated to a county with a population of less than 200,000 that have not been spent for their authorized purpose within five years shall revert to the state as described in paragraph (1).

(4)

(A) Notwithstanding paragraphs (1) and (2), if a county with a population of less than 200,000 receives approval from the Mental Health Services Oversight and Accountability Commission of a plan for innovative programs, pursuant to subdivision (e) of Section 5830, the county's funds identified in that plan for innovative programs shall not revert to the state pursuant to paragraph (1) so long as they are encumbered under the terms of the approved project plan, including any subsequent amendments approved by the commission, or until five years after the date of approval, whichever is later.

(B) Subparagraph (A) applies to all plans for innovative programs that have received commission approval and are in the process at the time of enactment of the act that added this subparagraph, and to all plans that receive commission approval thereafter.

(i) Notwithstanding subdivision (h) and Section 5892.1, unspent funds allocated to a county, and interest accruing on those funds, which are subject to reversion as of July 1, 2019, and July 1, 2020, shall be subject to reversion on July 1, 2021.

(j) If there are revenues available in the fund after the Mental Health Services Oversight and Accountability Commission has determined there are prudent reserves and no unmet needs for any of the programs funded pursuant to this section, including all purposes of the Prevention and Early Intervention Program, the commission shall develop a plan for expenditures of these revenues to further the purposes of this act and the Legislature may appropriate these funds for any purpose consistent with the commission's adopted plan that furthers the purposes of this act.

**Leg.H.**

Adopted by voters, Prop. 63 § 15, approved November 2, 2004, effective January 1, 2005. Amended Stats 2009–2010 3d Ex Sess ch 15 § 2 (SBX3 10), effective February 20, 2009, not approved by voters; Stats 2011 ch 5 § 7 (AB 100), effective March 24, 2011; Stats 2012 ch 23 § 68 (AB 1467), effective June 27, 2012; Stats 2013 ch 34 § 2 (SB 82), effective June 27, 2013; Stats 2015 ch 455 § 44 (SB 804), effective January 1, 2016; Stats 2017 ch 410 § 1 (AB 727), effective January 1, 2018; Stats 2018 ch 328 § 1 (SB 192), effective January 1, 2019; Stats 2019 ch 26 § 3 (SB 79), effective June 27, 2019; Stats 2020 ch 13 § 9 (AB 81), effective June 29, 2020; Stats 2021 ch 75 § 2 (AB 134), effective July 16, 2021.

## **§ 5892.5. Release Of Unencumbered Mental Health Service Fund Money To County Upon Written Request.**

(a)

(1) The California Housing Finance Agency, with the concurrence of the State Department of Health Care Services, shall release unencumbered Mental Health Services Fund moneys dedicated to the Mental Health Services Act housing program upon the written request of the respective county. The county shall use these Mental Health Services Fund moneys released by the agency to provide housing assistance to the target populations who are identified in Section 5600.3.

(2) For purposes of this section, "housing assistance" means each of the following:

(A) Rental assistance or capitalized operating subsidies.

(B) Security deposits, utility deposits, or other move-in cost assistance.

(C) Utility payments.

(D) Moving cost assistance.

(E) Capital funding to build or rehabilitate housing for homeless, mentally ill persons or mentally ill persons who are at risk of being homeless.

(b) For purposes of administering those funds released to a respective county pursuant to subdivision (a), the county shall comply with all of the requirements described in the Mental Health Services Act, including, but not limited to, Sections 5664, 5847, subdivision (h) of Section 5892, and 5899.

**Leg.H.**

Added Stats 2014 ch 674 § 2 (AB 1929), effective January 1, 2015. Amended Stats 2015 ch 303 § 585 (AB 731), effective January 1, 2016.

## § 5893. Carry Over of Excessive Available Funds; Investment of Funds.

(a) In any year in which the funds available exceed the amount allocated to counties, such funds shall be carried forward to the next fiscal year to be available for distribution to counties in accordance with Section 5892 in that fiscal year.

(b) All funds deposited into the Mental Health Services Fund shall be invested in the same manner in which other state funds are invested. The fund shall be increased by its share of the amount earned on investments.

**Leg.H.**

[Adopted by Initiative (Prop. 63) at the November 2, 2004, General Election, effective January 1, 2005.]

## § 5894. Construction with Other Law.

In the event that Part 3 (commencing with Section 5800) or Part 4 (commencing with Section 5850) of this division, are restructured by legislation signed into law before the adoption of this measure, the funding provided by this measure shall be distributed in accordance with such legislation; provided, however, that nothing herein shall be construed to reduce the categories of persons entitled to receive services.

**Leg.H.**

[Adopted by Initiative (Prop. 63) at the November 2, 2004, General Election, effective January 1, 2005.]

## § 5895. Administration of Funds in Connection with Legislation Affecting Parts 2 or 4.

In the event any provisions of Part 3 (commencing with Section 5800), or Part 4 (commencing with Section 5850) of this division, are repealed or modified so the purposes of this act cannot be accomplished, the funds in the Mental Health Services Fund shall be administered in accordance with those sections as they read on January 1, 2004.

**Leg.H.**

[Adopted by Initiative (Prop. 63) at the November 2, 2004, General Election, effective January 1, 2005.]

## § 5897. Contracting with County Mental Health Programs.

(a) Notwithstanding any other state law, the State Department of Health Care Services shall implement the mental health services provided by Part 3 (commencing with Section 5800), Part 3.6 (commencing with Section 5840), and Part 4 (commencing with Section 5850) through contracts with county mental health programs or counties acting jointly. A contract may be exclusive and may be awarded on a geographic basis. For purposes of this section, a county mental health program includes a city receiving funds pursuant to Section 5701.5.

(b) Two or more counties acting jointly may agree to deliver or subcontract for the delivery of those mental health services. The agreement may encompass all or any part of the mental health services provided pursuant to these parts. Any agreement between counties shall delineate each county's responsibilities and fiscal liability.

(c) The department shall implement the provisions of Part 3 (commencing with Section 5800), Part 3.2 (commencing with Section 5830), Part 3.6 (commencing with Section 5840), and Part 4 (commencing with Section 5850) through the county mental health services performance contract, as specified in Chapter 2 (commencing with Section 5650) of Part 2.

(d) The department shall conduct program reviews of performance contracts to determine compliance. Each county performance contract shall be reviewed at least once every three years, subject to available funding for this purpose.

(e) When a county mental health program is not in compliance with its performance contract, the department may request a plan of correction with a specific timeline to achieve improvements. The department shall post on its Internet Web site any plans of correction requested and the related findings.

(f) Contracts awarded by the State Department of Health Care Services, the State Department of Public Health, the California Behavioral Health Planning Council, the Office of Statewide Health Planning and Development, and the Mental Health Services Oversight and Accountability Commission pursuant to Part 3 (commencing with Section 5800), Part 3.1 (commencing with Section 5820), Part 3.2 (commencing with Section 5830), Part 3.6 (commencing with Section 5840), Part 3.7 (commencing with Section 5845), Part 4 (commencing with Section 5850), and Part 4.5 (commencing with Section 5890), may be awarded in the same manner in which contracts are awarded pursuant to Section 5814 and the provisions of subdivisions (g) and (h) of Section 5814 shall apply to those contracts.

(g) For purposes of Section 14712, the allocation of funds pursuant to Section 5892 that are used to provide services to Medi-Cal beneficiaries shall be included in calculating anticipated county matching funds and the transfer to the State Department of Health Care Services of the anticipated county matching funds needed for community mental health programs.

### Leg.H.

Adopted by voters, Prop. 63 § 15, approved November 2, 2004, effective January 1, 2005; Amended Stats 2012 ch 23 § 69 (AB 1467), effective June 27, 2012; Stats 2014 ch 31 § 45 (SB 857), effective June 20, 2014; Amended Stats 2016 ch 43 § 6 (AB 1618), effective July 1, 2016; Stats 2017 ch 511 § 22 (AB 1688), effective January 1, 2018; Stats 2018 ch 424 § 17 (SB 1495), effective January 1, 2019.

## § 5898. Regulations for Implementation of Act.

The State Department of Health Care Services, in consultation with the Mental Health Services Oversight and Accountability Commission, shall develop regulations, as necessary, for the State Department of, Health Care Services, the Mental Health Services Oversight and Accountability Commission, or designated state and local agencies to implement this act. Regulations adopted pursuant to this section shall be developed with the maximum feasible opportunity for public participation and comments.

**Leg.H.**

Adopted by voters at the 2004 general election, Prop. 63 § 15, effective January 1, 2005. Amended Stats 2011 ch 5 § 8 (AB 100), effective March 24, 2011; Stats 2012 ch 23 § 70 (AB 1467), effective June 27, 2012.

## § 5899. Instructions for Report.

**(a)** The State Department of Health Care Services, in consultation with the Mental Health Services Oversight and Accountability Commission and the County Behavioral Health Directors Association of California, shall develop and administer instructions for the Annual Mental Health Services Act Revenue and Expenditure Report. The instructions shall include a requirement that the county certify the accuracy of this report. With the exception of expenditures and receipts related to the capital facilities and technology needs component described in paragraph (6) of subdivision (d), each county shall adhere to uniform accounting standards and procedures that conform to the Generally Accepted Accounting Principles prescribed by the Controller pursuant to [Section 30200 of the Government Code](#) when accounting for receipts and expenditures of Mental Health Services Act (MHSA) funds in preparing the report. Counties shall report receipts and expenditures related to capital facilities and technology needs using the cash basis of accounting, which recognizes expenditures at the time payment is made. Each county shall electronically submit the report to the department and to the Mental Health Services Oversight and Accountability Commission. The department and the commission shall annually post each county's report in a text-searchable format on its Internet Web site in a timely manner.

**(b)** The department, in consultation with the commission and the County Behavioral Health Directors Association of California, shall revise the instructions described in subdivision (a) by July 1, 2017, and as needed thereafter, to improve the timely and accurate submission of county revenue and expenditure data.

**(c)** The purpose of the Annual Mental Health Services Act Revenue and Expenditure Report is as follows:

**(1)** Identify the expenditures of MHSA funds that were distributed to each county.

**(2)** Quantify the amount of additional funds generated for the mental health system as a result of the MHSA.

**(3)** Identify unexpended funds, and interest earned on MHSA funds.

**(4)** Determine reversion amounts, if applicable, from prior fiscal year distributions.

**(d)** This report is intended to provide information that allows for the evaluation of all of the following:

**(1)** Children's systems of care.

**(2)** Prevention and early intervention strategies.

**(3)** Innovative projects.

**(4)** Workforce education and training.

**(5)** Adults and older adults systems of care.

**(6)** Capital facilities and technology needs.

**(e)** If a county does not submit the annual revenue and expenditure report described in subdivision (a) by the required deadline, the department may withhold MHSA funds until the reports are submitted.

(f) A county shall also report the amount of MHSA funds that were spent on mental health services for veterans.

(g) By October 1, 2018, and by October 1 of each subsequent year, the department shall, in consultation with counties, publish on its Internet Web site a report detailing funds subject to reversion by county and by originally allocated purpose. The report also shall include the date on which the funds will revert to the Mental Health Services Fund.

**Leg.H.**

Added Stats 2012 ch 23 § 71 (AB 1467), effective June 27, 2012; Amended Stats 2015 ch 455 § 45 (SB 804), effective January 1, 2016; Stats 2016 ch 43 § 7 (AB 1618), effective July 1, 2016; Stats 2017 ch 38 § 15 (AB 114), effective July 10, 2017, ch 411 § 1 (AB 974), effective January 1, 2018 (ch 411 prevails); Stats 2017 ch 561 § 276 (AB 1516), effective January 1, 2018. Stats 2018 ch 403 § 1 (SB 688), effective January 1, 2019.

## **DIVISION 6**

### **ADMISSIONS AND JUDICIAL COMMITMENTS**

#### **PART 2**

##### **Judicial Commitments**

#### **CHAPTER 2**

### **COMMITMENT CLASSIFICATION**

#### **ARTICLE 3**

##### **Juvenile Court Wards**

### **§ 6550. Minors Subject to Juvenile Court Jurisdiction.**

If the juvenile court, after finding that the minor is a person described by Section 300, 601, or 602, is in doubt concerning the state of mental health or the mental condition of the person, the court may continue the hearing and proceed pursuant to this article.

**Leg.H.**

1969 ch. 722, effective August 8, 1969, operative July 1, 1969, 1989 ch. 1360.

### **§ 6551. Evaluation; Certification of Mentally Disordered Person for Involuntary Treatment; Commitment of Intellectually Disabled Minor; Return to Juvenile Court; Expense Reimbursement; Suspension of Juvenile Court Jurisdiction.**

(a) If the court is in doubt as to whether the person has a mental health disorder or an intellectual disability, the court shall order the person to be 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, Article 1 (commencing with Section 5150) of Chapter 2 of Part 1 of Division 5 applies, 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 person's mental condition. If the professional person in charge of the facility finds the person is, as a result of a mental health disorder, in need of intensive treatment, the person may be certified for not more than 14 days of involuntary intensive treatment if the conditions set forth in subdivision (c) of Section 5250 and subdivision (b) of Section 5260 are complied with. Thereupon, Article 4 (commencing with Section 5250) of Chapter 2 of Part 1 of Division 5 shall apply to the person. The person may be detained pursuant to Article 4.5 (commencing with Section 5260), or Article 4.7 (commencing with Section 5270.10), or Article 6 (commencing with Section 5300) of Part 1 of Division 5 if that article applies.

(b) If the professional person in charge of the facility finds that the person has an intellectual disability, the juvenile court may direct the filing in any other court of a petition for the commitment of a minor as an intellectually disabled person to the State Department of Developmental Services for placement in a state hospital. In that case, the juvenile court shall transmit to the court in which the petition is filed a copy of the report of the professional person in charge of the facility in which the minor was placed for observation. The court in which the petition for commitment is filed may accept the report of the professional person in lieu of the appointment, or subpoenaing, and testimony of other expert witnesses appointed by the court, if the laws applicable to the commitment proceedings provide for the appointment by court of medical or other expert witnesses or may consider the report as evidence in addition to the testimony of medical or other expert witnesses.

(c) 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 affected with a mental health disorder requiring intensive treatment or an intellectual disability, the professional person in charge of the facility shall return the minor to the juvenile court on or before the expiration of the 72-hour period and the court shall proceed with the case in accordance with the Juvenile Court Law.

(d) 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.

(e) The jurisdiction of the juvenile court over the minor shall be suspended during the time that the minor is subject to the jurisdiction of the court in which the petition for postcertification treatment of an imminently dangerous person or the petition for commitment of an intellectually disabled person is filed or under remand for 90 days for intensive treatment or commitment ordered by the court.

**Leg.H.**

Added Stats 1969 ch 722 § 53, operative July 1, 1969, effective August 8, 1969. Amended Stats 1971 ch 1593 § 425, operative July 1, 1973; Stats 1977 ch 1252 § 644, operative July 1, 1978; Stats 1988 ch 1517 § 16; Stats 2012 ch 34 § 215 (SB 1009), effective June 27, 2012 (ch 34 prevails), ch 448 § 58 (AB 2370), effective January 1, 2013, ch 457 § 58 (SB 1381), effective January 1, 2013; Stats 2013 ch 23 § 53 (AB 82), effective June 27, 2013; Stats 2014 ch 144 § 111 (AB 1847), effective January 1, 2015.

## § 6552. Voluntary Application for Commitment.

A minor who has been declared to be within the jurisdiction of the juvenile court may, with the advice of counsel, make voluntary application for inpatient or outpatient mental health services in accordance with Section 5003. Notwithstanding the provisions of subdivision (b) of Section 6000, 6002, or Section 6004, the juvenile court may authorize the minor to make such application if it is satisfied from the evidence before it that the minor suffers from a mental disorder which may reasonably be expected to be cured or ameliorated by a course of

treatment offered by the hospital, facility or program in which the minor wishes to be placed; and that there is no other available hospital, program, or facility which might better serve the minor's medical needs and best interest. The superintendent or person in charge of any state, or other hospital facility or program may then receive the minor as a voluntary patient. Applications and placements under this section shall be subject to the provisions and requirements of the Short-Doyle Act (Part 2 (commencing with Section 5600), Division 5), which are generally applicable to voluntary admissions.

If the minor is accepted as a voluntary patient, the juvenile court may issue an order to the minor and to the person in charge of the hospital, facility or program in which the minor is to be placed that should the minor leave or demand to leave the care or custody thereof prior to the time he is discharged by the superintendent or person in charge, he shall be returned forthwith to the juvenile court for a further dispositional hearing pursuant to the juvenile court law.

The provisions of this section shall continue to apply to the minor until the termination or expiration of the jurisdiction of the juvenile court.

**Leg.H.**

1976 ch. 445, effective July 10, 1976.

## **ARTICLE 4**

### **Sexually Violent Predators**

#### **§ 6600. Definitions.**

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

**(a)**

**(1)** "Sexually violent predator" means a person who has been convicted of a sexually violent offense against one or more victims and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.

**(2)** For purposes of this subdivision any of the following shall be considered a conviction for a sexually violent offense:

**(A)** A prior or current conviction that resulted in a determinate prison sentence for an offense described in subdivision (b).

**(B)** A conviction for an offense described in subdivision (b) that was committed prior to July 1, 1977, and that resulted in an indeterminate prison sentence.

**(C)** A prior conviction in another jurisdiction for an offense that includes all of the elements of an offense described in subdivision (b).

**(D)** A conviction for an offense under a predecessor statute that includes all of the elements of an offense described in subdivision (b).

**(E)** A prior conviction for which the inmate received a grant of probation for an offense described in subdivision (b).

**(F)** A prior finding of not guilty by reason of insanity for an offense described in subdivision (b).

**(G)** A conviction resulting in a finding that the person was a mentally disordered sex offender.

**(H)** A prior conviction for an offense described in subdivision (b) for which the person was committed to the Division of Juvenile Facilities, Department of Corrections and Rehabilitation pursuant to Section 1731.5.

**(I)** A prior conviction for an offense described in subdivision (b) that resulted in an indeterminate prison sentence.

**(3)** Conviction of one or more of the crimes enumerated in this section shall constitute evidence that may support a court or jury determination that a person is a sexually violent predator, but shall not be the sole basis for the determination. The existence of any prior convictions may be shown with documentary evidence. The details underlying the commission of an offense that led to a prior conviction, including a predatory relationship with the victim, may be shown by documentary evidence, including, but not limited to, preliminary hearing transcripts, trial transcripts, probation and sentencing reports, and evaluations by the State Department of State Hospitals. Jurors shall be admonished that they may not find a person a sexually violent predator based on prior offenses absent relevant evidence of a currently diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.

**(4)** The provisions of this section shall apply to any person against whom proceedings were initiated for commitment as a sexually violent predator on or after January 1, 1996.

**(b)** "Sexually violent offense" means the following acts when committed by force, violence, duress, menace, fear of immediate and unlawful bodily injury on the victim or another person, or threatening to retaliate in the future against the victim or any other person, and that are committed on, before, or after the effective date of this article and result in a conviction or a finding of not guilty by reason of insanity, as defined in subdivision (a): a felony violation of Section 261, 262, 264.1, 269, 286, 287, 288, 288.5, or 289 of, or former **Section 288a of, the Penal Code**, or any felony violation of **Section 207, 209, or 220 of the Penal Code**, committed with the intent to commit a violation of Section 261, 262, 264.1, 286, 287, 288, or 289 of, or former **Section 288a of, the Penal Code**.

**(c)** "Diagnosed mental disorder" includes a congenital or acquired condition affecting the emotional or volitional capacity that predisposes the person to the commission of criminal sexual acts in a degree constituting the person a menace to the health and safety of others.

**(d)** "Danger to the health and safety of others" does not require proof of a recent overt act while the offender is in custody.

**(e)** "Predatory" means an act is directed toward a stranger, a person of casual acquaintance with whom no substantial relationship exists, or an individual with whom a relationship has been established or promoted for the primary purpose of victimization.

**(f)** "Recent overt act" means any criminal act that manifests a likelihood that the actor may engage in sexually violent predatory criminal behavior.

**(g)** Notwithstanding any other provision of law and for purposes of this section, a prior juvenile adjudication of a sexually violent offense may constitute a prior conviction for which the person received a determinate term if all of the following apply:

- (1) The juvenile was 16 years of age or older at the time he or she committed the prior offense.
  - (2) The prior offense is a sexually violent offense as specified in subdivision (b).
  - (3) The juvenile was adjudged a ward of the juvenile court within the meaning of Section 602 because of the person's commission of the offense giving rise to the juvenile court adjudication.
  - (4) The juvenile was committed to the Division of Juvenile Facilities, Department of Corrections and Rehabilitation for the sexually violent offense.
- (h)** A minor adjudged a ward of the court for commission of an offense that is defined as a sexually violent offense shall be entitled to specific treatment as a sexual offender. The failure of a minor to receive that treatment shall not constitute a defense or bar to a determination that any person is a sexually violent predator within the meaning of this article.

**Leg.H.**

Added Stats 1995 ch 763 § 3 (AB 888); Amended Stats 1996 ch 462 § 4 (AB 3130), effective September 13, 1996; Stats 1999 ch 350 § 3 (SB 786), effective September 7, 1999, ch 995 § 2.2 (SB 746); Stats 2000 ch 643 § 1 (AB 2849); Stats 2006 ch 337 § 53 (SB 1128), effective September 20, 2006. Amendment approved by voters, Prop. 83 § 24, effective November 8, 2006; Amended Stats 2014 ch 442 § 15 (SB 1465), effective September 18, 2014; Amended Stats 2018 ch 423 § 128 (SB 1494), effective January 1, 2019.

## **§ 6600.05. Placement of Persons Committed to Secure Facility for Mental Health Treatment.**

(a) Coalinga State Hospital shall be used whenever a person is committed to a secure facility for mental health treatment pursuant to this article and is placed in a state hospital under the direction of the State Department of State Hospitals unless there are unique circumstances that would preclude the placement of a person at that facility. If a state hospital is not used, the facility to be used shall be located on a site or sites determined by the Secretary of the Department of Corrections and Rehabilitation and the Director of State Hospitals. In no case shall a person committed to a secure facility for mental health treatment pursuant to this article be placed at Metropolitan State Hospital or Napa State Hospital.

(b) The State Department of State Hospitals shall be responsible for operation of the facility, including the provision of treatment.

**Leg.H.**

Added Stats 1996 ch 197 § 20 (AB 3483), effective July 22, 1996. Amended Stats 1997 ch 294 § 40 (SB 391), effective August 18, 1997; Stats 1998 ch 961 § 2 (SB 1976), effective September 29, 1998. Amended Stats 2001 ch 171 § 29.5 (AB 430), effective August 10, 2001; Stats 2012 ch 24 § 138 (AB 1470), effective June 27, 2012.

## **§ 6600.1. Sex Offenses Upon Child Under Specified Age.**

If the victim of an underlying offense that is specified in subdivision (b) of Section 6600 is a child under the age of 14, the offense shall constitute a "sexually violent offense" for purposes of Section 6600.

**Leg.H.**

Added Stats 1996 ch 461 § 3 (SB 2161). Amendment approved by voters, Prop. 83 § 25, effective November 8, 2006.

## **§ 6601. Evaluation Prior to Release From Prison; Hiring of Qualified Evaluators; Petition for Commitment; Legislative Reports.**

**(a)**

**(1)** Whenever the Secretary of the Department of Corrections and Rehabilitation determines that an individual who is in custody under the jurisdiction of the Department of Corrections and Rehabilitation, and who is either serving a determinate prison sentence or whose parole has been revoked, may be a sexually violent predator, the secretary shall, at least six months prior to that individual's scheduled date for release from prison, refer the person for evaluation in accordance with this section. However, if the inmate was received by the department with less than nine months of his or her sentence to serve, or if the inmate's release date is modified by judicial or administrative action, the secretary may refer the person for evaluation in accordance with this section at a date that is less than six months prior to the inmate's scheduled release date.

**(2)** A petition may be filed under this section if the individual was in custody pursuant to his or her determinate prison term, parole revocation term, or a hold placed pursuant to Section 6601.3, at the time the petition is filed. A petition shall not be dismissed on the basis of a later judicial or administrative determination that the individual's custody was unlawful, if the unlawful custody was the result of a good faith mistake of fact or law. This paragraph shall apply to any petition filed on or after January 1, 1996.

**(b)** The person shall be screened by the Department of Corrections and Rehabilitation and the Board of Parole Hearings based on whether the person has committed a sexually violent predatory offense and on a review of the person's social, criminal, and institutional history. This screening shall be conducted in accordance with a structured screening instrument developed and updated by the State Department of State Hospitals in consultation with the Department of Corrections and Rehabilitation. If as a result of this screening it is determined that the person is likely to be a sexually violent predator, the Department of Corrections and Rehabilitation shall refer the person to the State Department of State Hospitals for a full evaluation of whether the person meets the criteria in Section 6600.

**(c)** The State Department of State Hospitals shall evaluate the person in accordance with a standardized assessment protocol, developed and updated by the State Department of State Hospitals, to determine whether the person is a sexually violent predator as defined in this article. The standardized assessment protocol shall require assessment of diagnosable mental disorders, as well as various factors known to be associated with the risk of reoffense among sex offenders. Risk factors to be considered shall include criminal and psychosexual history, type, degree, and duration of sexual deviance, and severity of mental disorder.

**(d)** Pursuant to subdivision (c), the person shall be evaluated by two practicing psychiatrists or psychologists, or one practicing psychiatrist and one practicing psychologist, designated by the Director of State Hospitals. If both evaluators concur that the person has a diagnosed mental disorder so that he or she is likely to engage in acts of sexual violence without appropriate treatment and custody, the Director of State Hospitals shall forward a request for a petition for commitment under Section 6602 to the county designated in subdivision (i). Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county pursuant to subdivision (i) who may file a petition for commitment.

**(e)** If one of the professionals performing the evaluation pursuant to subdivision (d) does not concur that the person meets the criteria specified in subdivision (d), but the other professional concludes that the person meets those criteria, the Director of State Hospitals shall arrange for further examination of the person by two independent professionals selected in accordance with subdivision (g).

**(f)** If an examination by independent professionals pursuant to subdivision (e) is conducted, a petition to request commitment under this article shall only be filed if both independent professionals who evaluate the person pursuant to subdivision (e) concur that the person meets the criteria for commitment specified in subdivision (d). The professionals selected to evaluate the person pursuant to subdivision (g) shall inform the person that the purpose of their examination is not treatment but to determine if the person meets certain criteria

to be involuntarily committed pursuant to this article. It is not required that the person appreciate or understand that information.

(g) An independent professional who is designated by the Secretary of the Department of Corrections and Rehabilitation or the Director of State Hospitals for purposes of this section shall not be a state government employee, shall have at least five years of experience in the diagnosis and treatment of mental disorders, and shall include psychiatrists and licensed psychologists who have a doctoral degree in psychology. The requirements set forth in this section also shall apply to any professionals appointed by the court to evaluate the person for purposes of any other proceedings under this article.

(h)

(1) If the State Department of State Hospitals determines that the person is a sexually violent predator as defined in this article, the Director of State Hospitals shall forward a request for a petition to be filed for commitment under this article to the county designated in subdivision (i) no less than 20 calendar days prior to the scheduled release date of the person. Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county pursuant to subdivision (i) who may file a petition for commitment in the superior court.

(2) If a hold is placed pursuant to Section 6601.3 and the State Department of State Hospitals determines that the person is a sexually violent predator as defined in this article, the Director of State Hospitals shall forward a request for a petition to be filed for commitment under this article to the county designated in subdivision (i) no less than 20 calendar days prior to the end of the hold.

(3) The person shall have no right to enforce the time limit set forth in this subdivision and shall have no remedy for its violation.

(i) If the county's designated counsel concurs with the recommendation, a petition for commitment shall be filed in the superior court of the county in which the person was convicted of the offense for which he or she was committed to the jurisdiction of the Department of Corrections and Rehabilitation. The petition shall be filed, and the proceedings shall be handled, by either the district attorney or the county counsel of that county. A person's subsequent conviction for an offense that is not a sexually violent offense committed while in the custody of the Department of Corrections and Rehabilitation or the State Department of State Hospitals that occurs prior to the resolution of a petition filed pursuant to this section shall not change jurisdiction for the petition from the county in which the person was convicted of the offense for which he or she was committed to the jurisdiction of the Department of Corrections and Rehabilitation. If a person is convicted of a subsequent sexually violent offense committed while in the custody of the Department of Corrections and Rehabilitation or the State Department of State Hospitals that occurs prior to the resolution of a petition filed pursuant to this section a subsequent petition for commitment as a sexually violent predator pursuant to this section shall be filed in the superior court of the county in which the person was convicted of the subsequent sexually violent offense. The county board of supervisors shall designate either the district attorney or the county counsel to assume responsibility for proceedings under this article.

(j) An order issued by a judge pursuant to Section 6601.5, finding that the petition, on its face, supports a finding of probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior upon his or her release, shall toll that person's parole pursuant to paragraph (4) of subdivision (a) of Section 3000 of the Penal Code, if that individual is determined to be a sexually violent predator.

(k) Pursuant to subdivision (d), the attorney designated by the county pursuant to subdivision (i) shall notify the State Department of State Hospitals of its decision regarding the filing of a petition for commitment within 15 days of making that decision.

**Leg.H.**

Added Stats 2008 ch 601 § 3 (SB 1546), effective September 30, 2008; Amended Stats 2010 ch 710 § 4 (SB 1201), effective January 1, 2011; Stats 2011 ch 359 § 3 (SB 179), effective January 1, 2012; Stats 2014 ch 442 § 16 (SB 1465), September 18, 2014; Amended Stats 2016 ch 878 § 1 (AB 1906), effective January 1, 2017; Stats 2018 ch 821 § 1 (AB 2661), effective January 1, 2019.

## **§ 6601.3. Retention in Custody for Full Evaluation; Definition of Good Cause.**

**(a)** Upon a showing of good cause, the Board of Parole Hearings may order that a person referred to the State Department of State Hospitals pursuant to subdivision (b) of Section 6601 remain in custody for no more than 45 days beyond the person's scheduled release date for full evaluation pursuant to subdivisions (c) to (i), inclusive, of Section 6601.

**(b)** For purposes of this section, good cause means circumstances where there is a recalculation of credits or a restoration of denied or lost credits by any custodial agency or court, a resentencing by a court, the receipt of the prisoner into custody, or equivalent exigent circumstances that result in there being less than 45 days prior to the person's scheduled release date for the full evaluation described in subdivisions (c) to (i), inclusive, of Section 6601.

**Leg.H.**

Added Stats 1998 ch 19 § 1 (SB 536), effective April 14, 1998. Amended Stats 2000 ch 41 § 1 (SB 451), effective June 26, 2000; Stats 2010 ch 710 § 5 (SB 1201), effective January 1, 2011; Stats 2012 ch 24 § 140 (AB 1470), effective June 27, 2012; Stats 2016 ch 878 § 2 (AB 1906), effective January 1, 2017.

## **§ 6601.5. Probable Cause Hearing—Request for Review; Extension of Detention.**

Upon filing of the petition and a request for review under this section, a judge of the superior court shall review the petition and determine whether the petition states or contains sufficient facts that, if true, would constitute probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior upon his or her release. If the judge determines that the petition, on its face, supports a finding of probable cause, the judge shall order that the person be detained in a secure facility until a hearing can be completed pursuant to Section 6602. The probable cause hearing provided for in Section 6602 shall commence within 10 calendar days of the date of the order issued by the judge pursuant to this section.

**Leg.H.**

1998 ch. 19, effective April 14, 1998, 2000 ch. 41, effective June 26, 2000.

## **§ 6602. Judicial Review; Probable Cause Hearing; Trial.**

**(a)** A judge of the superior court shall review the petition and shall determine whether there is probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior upon his or her release. The person named in the petition shall be entitled to assistance of counsel at the probable cause hearing. Upon the commencement of the probable cause hearing, the person shall remain in custody pending the completion of the probable cause hearing. If the judge determines there is not probable cause, he or she shall dismiss the petition and any person subject to parole shall report to parole. If the judge determines that there is probable cause, the judge shall order that the person remain in custody in a secure facility until a trial is completed and shall order that a trial be conducted to determine whether the person is, by reason of a diagnosed mental disorder, a danger to the health and safety of others in that the person is likely to

engage in acts of sexual violence upon his or her release from the jurisdiction of the Department of Corrections and Rehabilitation or other secure facility.

(b) The probable cause hearing shall not be continued except upon a showing of good cause by the party requesting the continuance.

(c) The court shall notify the State Department of State Hospitals of the outcome of the probable cause hearing by forwarding to the department a copy of the minute order of the court within 15 days of the decision.

**Leg.H.**

Added Stats 1995 ch 763 § 3 (AB 888). Amended Stats 1996 ch 4 § 4 (AB 1496), effective January 25, 1996; Stats 1998 ch 19 § 3 (SB 536), effective April 14, 1998, ch 961 § 4 (SB 1976), effective September 29, 1998; Stats 2000 ch 41 § 3 (SB451), effective June 26, 2000; Stats 2012 ch 24 § 141 (AB 1470), effective June 27, 2012.

## **§ 6602.5. Probable Cause Determination as Prerequisite to Hospitalization.**

(a) No person may be placed in a state hospital pursuant to the provisions of this article until there has been a determination pursuant to Section 6601.3 or 6602 that there is probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior.

(b) The State Department of State Hospitals shall identify each person for whom a petition pursuant to this article has been filed who is in a state hospital on or after January 1, 1998, and who has not had a probable cause hearing pursuant to Section 6602. The State Department of State Hospitals shall notify the court in which the petition was filed that the person has not had a probable cause hearing. Copies of the notice shall be provided by the court to the attorneys of record in the case. Within 30 days of notice by the State Department of State Hospitals, the court shall either order the person removed from the state hospital and returned to local custody or hold a probable cause hearing pursuant to Section 6602.

(c) In no event shall the number of persons referred pursuant to subdivision (b) to the superior court of any county exceed 10 in any 30-day period, except upon agreement of the presiding judge of the superior court, the district attorney, the public defender, the sheriff, and the Director of State Hospitals.

(d) This section shall be implemented in Los Angeles County pursuant to a letter of agreement between the Department of State Hospitals, the Los Angeles County district attorney, the Los Angeles County public defender, the Los Angeles County sheriff, and the Los Angeles County Superior Court. The number of persons referred to the Superior Court of Los Angeles County pursuant to subdivision (b) shall be governed by the letter of agreement.

**Leg.H.**

Added Stats 1998 ch 19 § 4 (SB 536), effective April 14, 1998. Amended Stats 1998 ch 961 § 5 (SB 1976), effective September 29, 1998; Stats 2012 ch 24 § 142 (AB 1470), effective June 27, 2012.

## **§ 6603. Rights of Person Subject to Article; Updated or Replacement Evaluations; Evaluator “No Longer Available to Testify for the Petitioner in Court Proceedings”; Trial Requirements.**

(a) A person subject to this article is entitled to a trial by jury, to the assistance of counsel, to the right to retain experts or professional persons to perform an examination on the person's behalf, and to have access to all relevant medical and psychological records and reports. If the person is indigent, the court shall appoint counsel

to assist that person and, upon the person's request, assist the person in obtaining an expert or professional person to perform an examination or participate in the trial on the person's behalf. Any right that may exist under this section to request DNA testing on prior cases shall be made in conformity with [Section 1405 of the Penal Code](#).

**(b)** The attorney petitioning for commitment under this article has the right to demand that the trial be before a jury.

**(c)** To continue a trial, written notice shall be filed and served on all parties to the proceeding, together with affidavits or declarations detailing specific facts showing that a continuance is necessary.

**(1)** All moving and supporting papers shall be served and filed at least 10 court days before the hearing, except as provided in paragraph (2). The moving and supporting papers served shall be a copy of the papers filed or to be filed with the court.

**(2)** If the written notice is served by mail, the 10-day period of notice before the hearing shall be increased as follows:

**(A)** Five calendar days if the place of mailing and the place of address are within the State of California.

**(B)** Ten calendar days if either the place of mailing or the place of address is outside the State of California, but within the United States.

**(C)** Twenty calendar days if either the place of mailing or the place of address is outside the United States.

**(D)** Two calendar days if the notice is served by facsimile transmission, express mail, or another method of delivery providing for overnight delivery.

**(3)** All papers opposing a continuance motion noticed pursuant to this subdivision shall be filed with the court and a copy shall be served on each party at least four court days before the hearing. All reply papers shall be served on each party at least two court days before the hearing. A party may waive the right to have documents served in a timely manner after receiving actual notice of the request for continuance.

**(4)** If a party makes a motion for a continuance that does not comply with the requirements described in this subdivision, the court shall hold a hearing on whether there is good cause for the failure to comply with those requirements. At the conclusion of the hearing, the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding. If the moving party is unable to show good cause for the failure to give notice, the motion for continuance shall not be granted.

**(5)** Continuances shall be granted only upon a showing of good cause. The court shall not find good cause solely based on the convenience of the parties or a stipulation of the parties. At the conclusion of the motion for continuance, the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding.

**(6)** In determining good cause, the court shall consider the general convenience and prior commitments of all witnesses. The court shall also consider the general convenience and prior commitments of each witness in selecting a continuance date if the motion is granted. The facts as to inconvenience or prior commitments may be offered by the witness or by a party to the case.

**(7)** Except as specified in paragraph (8), a continuance shall be granted only for the period of time shown to be necessary by the evidence considered at the hearing on the motion. If a continuance is granted,

the court shall state on the record the facts proved that justify the length of the continuance.

**(8)** For purposes of this subdivision, “good cause” includes, but is not limited to, those cases in which the attorney assigned to the case has another trial or probable cause hearing in progress. A continuance granted pursuant to this subdivision as the result of another trial or hearing in progress shall not exceed 10 court days after the conclusion of that trial or hearing.

**(d)**

**(1)** If the attorney petitioning for commitment under this article determines that updated evaluations are necessary in order to properly present the case for commitment, the attorney may request the State Department of State Hospitals to perform updated evaluations. If one or more of the original evaluators is no longer available to testify for the petitioner in court proceedings, the attorney petitioning for commitment under this article may request the State Department of State Hospitals to perform replacement evaluations. When a request is made for updated or replacement evaluations, the State Department of State Hospitals shall perform the requested evaluations and forward them to the petitioning attorney and to the counsel for the person subject to this article. However, updated or replacement evaluations shall not be performed except as necessary to update one or more of the original evaluations or to replace the evaluation of an evaluator who is no longer available to testify for the petitioner in court proceedings. These updated or replacement evaluations shall include review of available medical and psychological records, including treatment records, consultation with current treating clinicians, and interviews of the person being evaluated, either voluntarily or by court order. If an updated or replacement evaluation results in a split opinion as to whether the person subject to this article meets the criteria for commitment, the State Department of State Hospitals shall conduct two additional evaluations in accordance with subdivision (f) of Section 6601.

**(2)** For purposes of this subdivision, “no longer available to testify for the petitioner in court proceedings” means that the evaluator is no longer authorized by the Director of State Hospitals to perform evaluations regarding sexually violent predators as a result of any of the following:

**(A)** The evaluator has failed to adhere to the protocol of the State Department of State Hospitals.

**(B)** The evaluator’s license has been suspended or revoked.

**(C)** The evaluator is unavailable pursuant to [Section 240 of the Evidence Code](#).

**(D)** The independent professional or state employee who has served as the evaluator has resigned or retired and has not entered into a new contract to continue as an evaluator in the case, unless this evaluator, in the evaluator’s most recent evaluation of the person subject to this article, opined that the person subject to this article does not meet the criteria for commitment.

**(e)** This section does not prevent the defense from presenting otherwise relevant and admissible evidence.

**(f)** If the person subject to this article or the petitioning attorney does not demand a jury trial, the trial shall be before the court without a jury.

**(g)** A unanimous verdict shall be required in any jury trial.

**(h)** The court shall notify the State Department of State Hospitals of the outcome of the trial by forwarding to the department a copy of the minute order of the court within 72 hours of the decision.

**(i)** This section does not limit any legal or equitable right that a person may have to request DNA testing.

(j) Subparagraph (D) of paragraph (2) of subdivision (d) does not affect the authority of the State Department of State Hospitals to conduct two additional evaluations when an updated or replacement evaluation results in a split opinion.

(k)

(1) Notwithstanding any other law, the evaluator performing an updated evaluation shall include with the evaluation a statement listing all records reviewed by the evaluator pursuant to subdivision (d). The court shall issue a subpoena, upon the request of either party, for a certified copy of these records. The records shall be provided to the attorney petitioning for commitment and the counsel for the person subject to this article. The attorneys may use the records in proceedings under this article and shall not disclose them for any other purpose.

(2) This subdivision does not affect the right of a party to object to the introduction at trial of all or a portion of a record subpoenaed under paragraph (1) on the ground that it is more prejudicial than probative pursuant to [Section 352 of the Evidence Code](#) or that it is not material to the issue of whether the person subject to this article is a sexually violent predator, as defined in subdivision (a) of Section 6600, or to any other issue to be decided by the court. If the relief is granted, in whole or in part, the record or records shall retain any confidentiality that may apply under Section 5328 of this code and [Section 1014 of the Evidence Code](#).

(3) This subdivision does not affect any right of a party to seek to obtain other records regarding the person subject to this article.

(4) Except as provided in paragraph (1), this subdivision does not affect any right of a committed person to assert that records are confidential under Section 5328 of this code or [Section 1014 of the Evidence Code](#).

**Leg.H.**

Added Stats 1995 ch 762 § 3 (SB 1143), ch 763 § 3 (AB 888). Amended Stats 1998 ch 961 § 6 (SB 1976), effective September 29, 1998; Stats 2000 ch 420 § 2 (SB 2018), effective September 13, 2000; Amended Stats 2001 ch 323 § 2 (AB 1142), effective September 24, 2001; Stats 2007 ch 208 § 1 (SB 542), effective January 1, 2008; Stats 2012 ch 440 § 66 (AB 1488), effective September 22, 2012, ch 790 § 1 (SB 760), effective September 29, 2012; Stats 2015 ch 576 § 1 (SB 507), effective January 1, 2016; Stats 2019 ch 606 § 1 (AB 303), effective January 1, 2020.

## **§ 6603.3. Disclosure of Identifying Information by Attorney Proscribed; Exception.**

(a)

(1) Except as provided in paragraph (2), no attorney may disclose or permit to be disclosed to a person subject to this article, family members of the person subject to this article, or any other person, the name, address, telephone number, or other identifying information of a victim or witness whose name is disclosed to the attorney pursuant to Section 6603 and Chapter 1 (commencing with Section 2016.010) of Part 4 of Title 4 of the Code of Civil Procedure, unless specifically permitted to do so by the court after a hearing and showing of good cause.

(2) Notwithstanding paragraph (1), an attorney may disclose or permit to be disclosed, the name, address, telephone number, or other identifying information of a victim or witness to persons employed by the attorney or to a person hired or appointed for the purpose of assisting the person subject to this article in the preparation of the case, if that disclosure is required for that preparation. Persons provided this

information shall be informed by the attorney that further dissemination of the information, except as provided by this section, is prohibited.

(3) A willful violation of this subdivision by an attorney, persons employed by an attorney, or persons appointed by the court is a misdemeanor.

(b) If the person subject to this article is acting as his or her own attorney, the court shall endeavor to protect the name, address, telephone number, or other identifying information of a victim or witness by providing for contact only through a private investigator licensed by the Department of Consumer Affairs and appointed by the court or by imposing other reasonable restrictions, absent a showing of good cause as determined by the court.

**Leg.H.**

Added Stats 2008 ch 155 § 1 (AB 2410), effective January 1, 2009.

## **§ 6603.5. Disclosure of Identifying Information by Employee or Agent of the Department of Corrections and Rehabilitation, the Board of Parole Hearings, or the State Department of State Hospitals Proscribed; Exception.**

No employee or agent of the Department of Corrections and Rehabilitation, the Board of Parole Hearings, or the State Department of State Hospitals shall disclose to any person, except to employees or agents of each named department, the prosecutor, the respondent's counsel, licensed private investigators hired or appointed for the respondent, or other persons or agencies where authorized or required by law, the name, address, telephone number, or other identifying information of a person who was involved in a civil commitment hearing under this article as the victim of a sex offense except where authorized or required by law.

**Leg.H.**

Added Stats 2008 ch 155 § 2 (AB 2410), effective January 1, 2009. Amended Stats 2009 ch 35 § 33 (SB 174), effective January 1, 2010; Stats 2012 ch 440 § 67 (AB 1488), effective September 22, 2012.

## **§ 6603.7. Identification as Jane Doe or John Doe; Jury Instruction.**

(a) Except as provided in Section 6603.3, the court, at the request of the victim of a sex offense relevant in a proceeding under this article, may order the identity of the victim in all records and during all proceedings to be either Jane Doe or John Doe, if the court finds that the order is reasonably necessary to protect the privacy of the person and will not unduly prejudice the party petitioning for commitment under this article or the person subject to this article.

(b) If the court orders the victim to be identified as Jane Doe or John Doe pursuant to subdivision (a), and if there is a jury trial, the court shall instruct the jury at the beginning and at the end of the trial that the victim is being so identified only for the purposes of protecting his or her privacy.

**Leg.H.**

Added Stats 2008 ch 155 § 3 (AB 2410), effective January 1, 2009.

## **§ 6604. Determination of Court or Jury.**

The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. If the court or jury is not satisfied beyond a reasonable doubt that the person is a sexually violent predator, the court shall direct that the person be released at the conclusion of the term for which he or she was initially sentenced, or that the person be unconditionally released at the end of parole, whichever is applicable. If the court or jury determines that the person is a sexually violent predator, the person shall be committed for an indeterminate term to the custody of the State Department of State Hospitals for appropriate treatment and confinement in a secure facility designated by the Director of State Hospitals. The facility shall be located on the grounds of an institution under the jurisdiction of the Department of Corrections and Rehabilitation.

**Leg.H.**

Added Stats 1995 ch 763 § 3 (AB 888). Amended Stats 2000 ch 420 § 3 (SB 2018), effective September 13, 2000; Stats 2006 ch 337 § 55 (SB 1128), effective September 20, 2006. Amendment approved by voters, Prop. 83 § 27, effective November 8, 2006; Stats 2012 ch 24 § 143 (AB 1470), effective June 27, 2012.

## **§ 6604.1. Commencement of Term of Commitment.**

(a) The indeterminate term of commitment provided for in Section 6604 shall commence on the date upon which the court issues the initial order of commitment pursuant to that section.

(b) The person shall be evaluated by two practicing psychologists or psychiatrists, or by one practicing psychologist and one practicing psychiatrist, designated by the State Department of State Hospitals. The provisions of subdivisions (c) to (i), inclusive, of Section 6601 shall apply to evaluations performed for purposes of extended commitments. The rights, requirements, and procedures set forth in Section 6603 shall apply to all commitment proceedings.

**Leg.H.**

Added Stats 1998 ch 19 § 5 (SB 536), effective April 14, 1998. Amended Stats 1998 ch 961 § 7 (SB 1976), effective September 29, 1998; Stats 2000 ch 420 § 4 (SB 2018), effective September 13, 2000; Stats 2006 ch 337 § 56 (SB 1128), effective September 20, 2006. Amendment approved by voters, Prop. 83 § 28, effective November 8, 2006; Stats 2012 ch 440 § 68 (AB 1488), effective September 22, 2012.

## **§ 6604.9. Annual Examination of Committed Person and Report; Petition for Conditional Release or Unconditional Discharge.**

(a) A person found to be a sexually violent predator and committed to the custody of the State Department of State Hospitals shall have a current examination of his or her mental condition made at least once every year. The report shall be in the form of a declaration and shall be prepared by a professionally qualified person. The person may retain or, if he or she is indigent and so requests, the court may appoint, a qualified expert or professional person to examine him or her, and the expert or professional person shall have access to all records concerning the person.

(b) The annual report shall include consideration of whether the committed person currently meets the definition of a sexually violent predator and whether conditional release to a less restrictive alternative, pursuant to Section 6608, or an unconditional discharge, pursuant to Section 6605, is in the best interest of the person and conditions can be imposed that would adequately protect the community.

(c) The State Department of State Hospitals shall file this periodic report with the court that committed the person under this article. A copy of the report shall be served on the prosecuting agency involved in the initial commitment and upon the committed person.

(d) If the State Department of State Hospitals determines that either: (1) the person's condition has so changed that the person no longer meets the definition of a sexually violent predator and should, therefore, be considered for unconditional discharge, or (2) conditional release to a less restrictive alternative is in the best interest of the person and conditions can be imposed that adequately protect the community, the director shall authorize the person to petition the court for conditional release to a less restrictive alternative or for an unconditional discharge. The petition shall be filed with the court and served upon the prosecuting agency responsible for the initial commitment.

(e) The court, upon receipt of the petition for conditional release to a less restrictive alternative, shall consider the petition using procedures described in Section 6608.

(f) The court, upon receiving a petition for unconditional discharge, shall order a show cause hearing, pursuant to the provisions of Section 6605, at which the court may consider the petition and any accompanying documentation provided by the medical director, the prosecuting attorney, or the committed person.

**Leg.H.**

Added Stats 2013 ch 182 § 1 (SB 295), effective January 1, 2014. Amended Stats 2014 ch 71 § 189 (SB 1304), effective January 1, 2015.

## **§ 6605. Petition for Unconditional Discharge; Hearing; Judicial Review of Commitment.**

(a)

(1) The court, upon receiving a petition for unconditional discharge, shall order a show cause hearing at which the court can consider the petition and any accompanying documentation provided by the medical director, the prosecuting attorney, or the committed person.

(2) If the court at the show cause hearing determines that probable cause exists to believe that the committed person's diagnosed mental disorder has so changed that he or she is not a danger to the health and safety of others and is not likely to engage in sexually violent criminal behavior if discharged, then the court shall set a hearing on the issue.

(3) At the hearing, the committed person shall have the right to be present and shall be entitled to the benefit of all constitutional protections that were afforded to him or her at the initial commitment proceeding. The attorney designated by the county pursuant to subdivision (i) of Section 6601 shall represent the state and shall have the right to demand a jury trial and to have the committed person evaluated by experts chosen by the state. The committed person also shall have the right to demand a jury trial and to have experts evaluate him or her on his or her behalf. The court shall appoint an expert if the person is indigent and requests an appointment. The burden of proof at the hearing shall be on the state to prove beyond a reasonable doubt that the committed person's diagnosed mental disorder remains such that he or she is a danger to the health and safety of others and is likely to engage in sexually violent criminal behavior if discharged. Where the person's failure to participate in or complete treatment is relied upon as proof that the person's condition has not changed, and there is evidence to support that reliance, the jury shall be instructed substantially as follows:

"The committed person's failure to participate in or complete the State Department of State Hospitals Sex Offender Commitment Program (SOCOP) are facts that, if proved, may be considered as evidence that the committed person's condition has not changed. The weight to be given that evidence is a matter for the jury to determine."

(b) If the court or jury rules against the committed person at the hearing conducted pursuant to subdivision (a), the term of commitment of the person shall run for an indeterminate period from the date of this ruling and the committed person may not file a new petition until one year has elapsed from the date of the ruling. If the court or jury rules for the committed person, he or she shall be unconditionally released and unconditionally discharged.

(c) If the State Department of State Hospitals has reason to believe that a person committed to it as a sexually violent predator is no longer a sexually violent predator, it shall seek judicial review of the person's commitment pursuant to the procedures set forth in Section 7250 in the superior court from which the commitment was made. If the superior court determines that the person is no longer a sexually violent predator, he or she shall be unconditionally released and unconditionally discharged.

**Leg.H.**

Added Stats 1995 ch 763 § 3 (AB 888). Amended Stats 2006 ch 337 § 57 (SB 1128), effective September 20, 2006. Amendment approved by voters, Prop. 83 § 29, effective November 8, 2006; Stats 2009 ch 61 § 1 (SB 669), effective January 1, 2010; Stats 2012 ch 24 § 144 (AB 1470), effective June 27, 2012; Stats 2013 ch 182 § 2 (SB 295), effective January 1, 2014.

## **§ 6606. Programming and Treatment for Committed Person.**

(a) A person who is committed under this article shall be provided with programming by the State Department of State Hospitals which shall afford the person with treatment for his or her diagnosed mental disorder. Persons who decline treatment shall be offered the opportunity to participate in treatment on at least a monthly basis.

(b) Amenability to treatment is not required for a finding that any person is a person described in Section 6600, nor is it required for treatment of that person. Treatment does not mean that the treatment be successful or potentially successful, nor does it mean that the person must recognize his or her problem and willingly participate in the treatment program.

(c) The programming provided by the State Department of State Hospitals in facilities shall be consistent with current institutional standards for the treatment of sex offenders, and shall be based on a structured treatment protocol developed by the State Department of State Hospitals. The protocol shall describe the number and types of treatment components that are provided in the program, and shall specify how assessment data will be used to determine the course of treatment for each individual offender. The protocol shall also specify measures that will be used to assess treatment progress and changes with respect to the individual's risk of reoffense.

(d) Notwithstanding any other provision of law, except as to requirements relating to fire and life safety of persons with mental illness, and consistent with information and standards described in subdivision (c), the State Department of State Hospitals is authorized to provide the programming using an outpatient/day treatment model, wherein treatment is provided by licensed professional clinicians in living units not licensed as health facility beds within a secure facility setting, on less than a 24-hour a day basis. The State Department of State Hospitals shall take into consideration the unique characteristics, individual needs, and choices of persons committed under this article, including whether or not a person needs antipsychotic medication, whether or not a person has physical medical conditions, and whether or not a person chooses to participate in a specified course of offender treatment. The State Department of State Hospitals shall ensure that policies and procedures are in place that address changes in patient needs, as well as patient choices, and respond to treatment needs in a timely fashion. The State Department of State Hospitals, in implementing this subdivision, shall be allowed by the State Department of Public Health to place health facility beds at Coalinga State Hospital in suspense in order to meet the mental health and medical needs of the patient population. Coalinga State Hospital may remove all or any portion of its voluntarily suspended beds into active license status by request to the State Department of Public

Health. The facility's request shall be granted unless the suspended beds fail to comply with current operational requirements for licensure.

(e) The department shall meet with each patient who has chosen not to participate in a specific course of offender treatment during monthly treatment planning conferences. At these conferences the department shall explain treatment options available to the patient, offer and re-offer treatment to the patient, seek to obtain the patient's cooperation in the recommended treatment options, and document these steps in the patient's health record. The fact that a patient has chosen not to participate in treatment in the past shall not establish that the patient continues to choose not to participate.

**Leg.H.**

Added Stats 1995 ch 763 § 3 (AB 888). Amended Stats 2005 ch 80 § 20 (AB 131), effective July 19, 2005; Stats 2012 ch 24 § 145 (AB 1470), effective June 27, 2012.

## **§ 6607. Report and Recommendation for Conditional Release by Director.**

(a) If the Director of State Hospitals determines that the person's diagnosed mental disorder has so changed that the person is not likely to commit acts of predatory sexual violence while under supervision and treatment in the community, the director shall forward a report and recommendation for conditional release in accordance with Section 6608 to the county attorney designated in subdivision (i) of Section 6601, the attorney of record for the person, and the committing court.

(b) When a report and recommendation for conditional release is filed by the Director of State Hospitals pursuant to subdivision (a), the court shall set a hearing in accordance with the procedures set forth in Section 6608.

**Leg.H.**

Added Stats 1995 ch 763 § 3 (AB 888). Amended Stats 2012 ch 440 § 69 (AB 1488), effective September 22, 2012.

## **§ 6608. Petition for Conditional Release; Hearing; Conditional Release Program; Burden of Proof; Petition for Unconditional Discharge After one Year.**

(a) A person who has been committed as a sexually violent predator shall be permitted to petition the court for conditional release with or without the recommendation or concurrence of the Director of State Hospitals. If a person has previously filed a petition for conditional release without the concurrence of the director and the court determined, either upon review of the petition or following a hearing, that the petition was frivolous or that the committed person's condition had not so changed that he or she would not be a danger to others in that it is not likely that he or she will engage in sexually violent criminal behavior if placed under supervision and treatment in the community, the court shall deny the subsequent petition unless it contains facts upon which a court could find that the condition of the committed person had so changed that a hearing was warranted. Upon receipt of a first or subsequent petition from a committed person without the concurrence of the director, the court shall endeavor whenever possible to review the petition and determine if it is based upon frivolous grounds and, if so, shall deny the petition without a hearing. The person petitioning for conditional release under this subdivision shall be entitled to assistance of counsel in all hearings under this section. The person petitioning for conditional release shall serve a copy of the petition on the State Department of State Hospitals at the time the petition is filed with the court.

(b) The procedure for a conditional release hearing in a case where the county of domicile has not yet been determined shall be as follows:

(1) If the court deems the petition not frivolous pursuant to subdivision (a), the court shall give notice to the attorney designated in subdivision (i) of Section 6601, the retained or appointed attorney for the committed person, and the Director of State Hospitals of its intention to set a conditional release hearing. The person petitioning for conditional release, the Director of State Hospitals, and the designated attorney of the county of commitment shall notify the court within 30 court days of receipt of this notice if it appears that a county other than the county of commitment may be the county of domicile.

(2) If no county other than the county of commitment appears to be the county of domicile, the court shall determine, consistent with Section 6608.5, that the county of commitment is the county of domicile.

(3) If it appears or there are allegations that one or more counties, other than the county of commitment, may be the county of domicile, the court shall set a hearing to determine the county of domicile, consistent with the provisions of Section 6608.5. The court shall, at least 30 court days prior to the hearing, give notice of the domicile hearing to the persons listed in paragraph (1) and to the designated attorney for any county that is alleged to be the county of domicile. Persons listed in this paragraph and paragraph (1) may, at least 10 court days prior to the hearing, file and serve declarations, documentary evidence, and other pleadings, that are specific only to the issue of domicile. The court may, consistent with Section 6608.5, decide the issue of domicile solely on the pleadings, or additionally permit, in the interests of justice, argument and testimony.

(4) After determining the county of domicile pursuant to paragraph (2) or (3), the court shall set a date for a conditional release hearing and shall give notice of the hearing at least 30 court days before the hearing to the persons described in paragraph (1) and the designated attorney for the county of domicile.

(5)

(A) If the county of domicile is different than the county of commitment, the designated attorney for the county of domicile and the designated attorney for the county of commitment may mutually agree that the designated attorney for the county of domicile will represent the state at the conditional release hearing. If the designated attorneys do not make this agreement, the designated attorney for the county of commitment will represent the state at the conditional release hearing.

(B) At least 20 court days before the conditional release hearing, the designated attorney for the county of commitment shall give notice to the parties listed in paragraph (1) and to the court whether the state will be represented by the designated attorney of the county of domicile or the designated attorney of the county of commitment.

(C) The designated attorney for the county of domicile and the designated attorney for the county of commitment should cooperate with each other to ensure that all relevant evidence is submitted on behalf of the state. No attorney other than the designated attorney for the county representing the state shall appear on behalf of the state at the conditional release hearing.

(6) The court's determination of a county of domicile shall govern the current and any subsequent petition for conditional release under this section.

(7) For the purpose of this subdivision, the term "county of domicile" shall have the same meaning as defined in Section 6608.5.

(8) For purposes of this section, the term "designated attorney of the county of commitment" means the attorney designated in subdivision (i) of Section 6601 in the county of commitment.

(9) For purposes of this section, the term “designated attorney for the county of domicile” means the attorney designated in subdivision (i) of Section 6601 in the county of domicile.

(c) The proceedings for a conditional release hearing in a case where the court has previously determined the county of domicile shall be as follows:

(1) If the court determines, pursuant to subdivision (a), that the petition is not frivolous, the court shall give notice of the hearing date at least 30 days prior to the hearing to the designated attorneys for the county of domicile and the county of commitment, the retained or appointed attorney for the petitioner, and the Director of State Hospitals.

(2) Representation of the state at the conditional release hearing shall be pursuant to paragraph (5) of subdivision (b).

(d)

(1) If a committed person has been conditionally released by a court to a county other than the county of domicile, and the jurisdiction of the person has been transferred to that county, pursuant to subdivision (g) of Section 6608.5, the notice specified in paragraph (1) of subdivision (c) shall be given to the designated attorney of the county of placement, who shall represent the state in any further proceedings.

(2) The term “county of placement” means the county where the court has placed a person who is granted conditional release.

(e) If the petition for conditional release is made without the consent of the director of the treatment facility, no action shall be taken on the petition by the court without first obtaining the written recommendation of the director of the treatment facility.

(f) A hearing upon the petition shall not be held until the person who is committed has been under commitment for confinement and care in a facility designated by the Director of State Hospitals for not less than one year from the date of the order of commitment. A hearing upon the petition shall not be held until the community program director designated by the State Department of State Hospitals submits a report to the court that makes a recommendation as to the appropriateness of placing the person in a state-operated forensic conditional release program.

(g) The court shall hold a hearing to determine whether the person committed would be a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior due to his or her diagnosed mental disorder if under supervision and treatment in the community. The attorney designated pursuant to paragraph (5) of subdivision (b) shall represent the state and may have the committed person evaluated by experts chosen by the state. The committed person shall have the right to the appointment of experts, if he or she so requests. If the court at the hearing determines that the committed person would not be a danger to others due to his or her diagnosed mental disorder while under supervision and treatment in the community, the court shall order the committed person placed with an appropriate forensic conditional release program operated by the state for one year. A substantial portion of the state-operated forensic conditional release program shall include outpatient supervision and treatment. The court shall retain jurisdiction of the person throughout the course of the program, except as provided in subdivision (g) of Section 6608.5.

(h) Before placing a committed person in a state-operated forensic conditional release program, the community program director designated by the State Department of State Hospitals shall submit a written recommendation to the court stating which forensic conditional release program is most appropriate for supervising and treating the committed person. If the court does not accept the community program director's recommendation, the court shall specify the reason or reasons for its order on the record. The procedures

described in Sections 1605 to 1610, inclusive, of the Penal Code shall apply to the person placed in the forensic conditional release program.

(i) If the court determines that the person should be transferred to a state-operated forensic conditional release program, the community program director, or his or her designee, shall make the necessary placement arrangements and, within 30 days after receiving notice of the court's finding, the person shall be placed in the community in accordance with the treatment and supervision plan unless good cause for not doing so is presented to the court.

(j) If the court denies the petition to place the person in an appropriate forensic conditional release program, the person may not file a new application until one year has elapsed from the date of the denial.

(k) In a hearing authorized by this section, the committed person shall have the burden of proof by a preponderance of the evidence, unless the report required by Section 6604.9 determines that conditional release to a less restrictive alternative is in the best interest of the person and that conditions can be imposed that would adequately protect the community, in which case the burden of proof shall be on the state to show, by a preponderance of the evidence, that conditional release is not appropriate.

(l) Time spent in a conditional release program pursuant to this section shall not count toward the term of commitment under this article unless the person is confined in a locked facility by the conditional release program, in which case the time spent in a locked facility shall count toward the term of commitment.

(m) After a minimum of one year on conditional release, the committed person, with or without the recommendation or concurrence of the Director of State Hospitals, may petition the court for unconditional discharge. The court shall use the procedures described in subdivisions (a) and (b) of Section 6605 to determine if the person should be unconditionally discharged from commitment on the basis that, by reason of a diagnosed mental disorder, he or she is no longer a danger to the health and safety of others in that it is not likely that he or she will engage in sexually violent criminal behavior.

**Leg.H.**

Added Stats 1995 ch 763 § 3 (AB 888). Amendment approved by voters, Prop. 83 § 30, effective November 8, 2006. Amended Stats 2007 ch 571 § 3 (AB 1172), effective January 1, 2008; Stats 2012 ch 24 § 146 (AB 1470), effective June 27, 2012; Stats 2013 ch 182 § 3 (SB 295), effective January 1, 2014; Stats 2014 ch 877 § 1 (AB 1607), effective January 1, 2015.

## **§ 6608.5. Placement of Person Conditionally Released in County of Domicile; Extraordinary Circumstances; Assistance of County Agency or Program in Securing Housing; Concerns in Recommending Specific Outpatient Placement.**

(a) A person who is conditionally released pursuant to this article shall be placed in the county of the domicile of the person prior to the person's incarceration, unless both of the following conditions are satisfied:

(1) The court finds that extraordinary circumstances require placement outside the county of domicile.

(2) The designated county of placement was given prior notice and an opportunity to comment on the proposed placement of the committed person in the county, according to procedures set forth in Section 6609.1.

(b)

**(1)** For the purposes of this section, “county of domicile” means the county where the person has his or her true, fixed, and permanent home and principal residence and to which he or she has manifested the intention of returning whenever he or she is absent. For the purposes of determining the county of domicile, the court shall consider information found on a California driver’s license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person’s name and address, or information contained in an arrest record, probation officer’s report, trial transcript, or other court document. If no information can be identified or verified, the county of domicile of the individual shall be considered to be the county in which the person was arrested for the crime for which he or she was last incarcerated in the state prison or from which he or she was last returned from parole.

**(2)** In a case where the person committed a crime while being held for treatment in a state hospital, or while being confined in a state prison or local jail facility, the county wherein that facility was located shall not be considered the county of domicile unless the person resided in that county prior to being housed in the hospital, prison, or jail.

**(c)** For the purposes of this section, “extraordinary circumstances” means circumstances that would inordinately limit the department’s ability to effect conditional release of the person in the county of domicile in accordance with Section 6608 or any other provision of this article, and the procedures described in **Sections 1605 to 1610, inclusive, of the Penal Code**.

**(d)** The county of domicile shall designate a county agency or program that will provide assistance and consultation in the process of locating and securing housing within the county for persons committed as sexually violent predators who are about to be conditionally released under Section 6608. Upon notification by the department of a person’s potential or expected conditional release under Section 6608, the county of domicile shall notify the department of the name of the designated agency or program, at least 60 days before the date of the potential or expected release.

**(e)** In recommending a specific placement for community outpatient treatment, the department or its designee shall consider all of the following:

**(1)** The concerns and proximity of the victim or the victim’s next of kin.

**(2)** The age and profile of the victim or victims in the sexually violent offenses committed by the person subject to placement. For purposes of this subdivision, the “profile” of a victim includes, but is not limited to, gender, physical appearance, economic background, profession, and other social or personal characteristics.

**(f)** Notwithstanding any other law, a person released under this section shall not be placed within one-quarter mile of any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, if either of the following conditions exist:

**(1)** The person has previously been convicted of a violation of Section 288.5 of, or subdivision (a) or (b), or paragraph (1) of **subdivision (c) of Section 288 of, the Penal Code**.

**(2)** The court finds that the person has a history of improper sexual conduct with children.

**(g)** If the court determines that placement of a person in the county of his or her domicile pursuant to subdivision (a) is not appropriate, the court shall consider the following circumstances in designating his or her placement in a county for conditional release:

**(1)** If and how long the person has previously resided or been employed in the county.

**(2)** If the person has next of kin in the county.

**(h)**

**(1)** Except as provided in paragraph (2), if the committed person is ordered to be conditionally released in a county other than the county of commitment, the court shall order that jurisdiction of the person and all records related to the case be transferred to the court of the county of placement. Upon transfer of jurisdiction to the county of placement, the designated attorney of the county of placement shall represent the state in all further proceedings.

**(2)** The designated attorney of the county of commitment shall serve written notice upon the designated attorney for the county of placement within 15 court days of an order to place a committed person in the county of placement. The designated attorney of the county of placement may file an affidavit with the court in the county of commitment objecting to the transfer of jurisdiction within 15 court days after receiving the notice. If the affidavit objecting to the transfer of jurisdiction is timely filed, the court shall not transfer jurisdiction. If an affidavit objecting to the transfer of jurisdiction is not timely filed, paragraph (1) shall apply.

**(3)** For the purpose of this section, “county of placement” means the county where the court orders the committed person to be placed for conditional release.

**(4)** For the purpose of this section, “designated attorney of the county of placement” means the attorney designated in subdivision (l) of Section 6601 in the county of placement.

**(5)** This section shall not be construed to negate or in any way affect the decision of the court of the county of commitment to conditionally release the committed person in the county of placement.

**Leg.H.**

Added Stats 2004 ch 222 § 1 (AB 493), effective August 12, 2004; Amended Stats 2005 ch 162 §§ 1, 1.5 (AB 893), effective January 1, 2006, ch 486 § 1.5 (SB 723), effective January 1, 2006; Stats 2014 ch 877 § 2 (AB 1607), effective January 1, 2015; Amended Stats 2017 ch 39 § 1 (AB 255), effective January 1, 2018.

## **§ 6608.7. Interagency Agreement or Contract for Monitoring Sexually Violent Predators.**

The State Department of State Hospitals may enter into an interagency agreement or contract with the Department of Corrections and Rehabilitation or with local law enforcement agencies for services related to supervision or monitoring of sexually violent predators who have been conditionally released into the community under the forensic conditional release program pursuant to this article.

**Leg.H.**

Added Stats 2005 ch 137 § 1 (SB 383), effective January 1, 2006; Amended Stats 2014 ch 442 § 17 (SB 1465), effective September 18, 2014.

## **§ 6608.8. Conditional Release Contract.**

**(a)** For any person who is proposed for community outpatient treatment under the forensic conditional release program, the department shall provide to the court a copy of the written contract entered into with any public or private person or entity responsible for monitoring and supervising the patient’s outpatient placement and treatment program. This subdivision does not apply to subcontracts between the contractor and clinicians providing treatment and related services to the person.

(b) The terms and conditions of conditional release shall be drafted to include reasonable flexibility to achieve the aims of conditional release, and to protect the public and the conditionally released person.

(c) The court in its discretion may order the department to, notwithstanding Section 4514 or 5328, provide a copy of the written terms and conditions of conditional release to the sheriff or chief of police, or both, that have jurisdiction over the proposed or actual placement community.

(d)

(1) Except in an emergency, the department or its designee shall not alter the terms and conditions of conditional release without the prior approval of the court.

(2) The department shall provide notice to the person committed under this article and the district attorney or designated county counsel of any proposed change in the terms and conditions of conditional release.

(3) The court on its own motion, or upon the motion of either party to the action, may set a hearing on the proposed change. The hearing shall be held as soon as is practicable.

(4) If a hearing on the proposed change is held, the court shall state its findings on the record. If the court approves a change in the terms and conditions of conditional release without a hearing, the court shall issue a written order.

(5) In the case of an emergency, the department or its designee may deviate from the terms and conditions of the conditional release if necessary to protect public safety or the safety of the person. If a hearing on the emergency is set by the court or requested by either party, the hearing shall be held as soon as practicable. The department, its designee, and the parties shall endeavor to resolve routine matters in a cooperative fashion without the need for a formal hearing.

(e) Notwithstanding any provision of this section, including, but not limited to, subdivision (d), matters concerning the residential placement, including any changes or proposed changes in the residence of the person, shall be considered and determined pursuant to Section 6609.1.

**Leg.H.**

Added Stats 2006 ch 339 § 1 (AB 1683), effective January 1, 2007. Amended Stats 2007 ch 302 § 20 (SB 425), effective January 1, 2008.

## **§ 6609. Release of Sexually Violent Predator Information to Requesting Chief of Police or County Sheriff.**

Within 10 days of a request made by the chief of police of a city or the sheriff of a county, the State Department of State Hospitals shall provide the following information concerning each person committed as a sexually violent predator who is receiving outpatient care in a conditional release program in that city or county: name, address, date of commitment, county from which committed, date of placement in the conditional release program, fingerprints, and a glossy photograph no smaller than 31/8 x 31/8 inches in size, or clear copies of the fingerprints and photograph.

**Leg.H.**

1996 ch. 462, effective September 13, 1996. Amended Stats 2014 ch 442 § 18 (SB 1465), effective September 18, 2014.

## § 6609.1. Community Outpatient Treatment for Person Committed as Sexually Violent Predator, Notice.

(a)

(1) When the State Department of State Hospitals makes a recommendation to the court for community outpatient treatment for any person committed as a sexually violent predator, or when a person who is committed as a sexually violent predator pursuant to this article has petitioned a court pursuant to Section 6608 for conditional release under supervision and treatment in the community pursuant to a conditional release program, or has petitioned a court pursuant to Section 6608 for subsequent unconditional discharge, and the department is notified, or is aware, of the filing of the petition, and when a community placement location is recommended or proposed, the department shall notify the sheriff or chief of police, or both, the district attorney, or the county's designated counsel, that have jurisdiction over the following locations:

(A) The community in which the person may be released for community outpatient treatment.

(B) The community in which the person maintained his or her last legal residence as defined by Section 3003 of the Penal Code.

(C) The county that filed for the person's civil commitment pursuant to this article.

(2) The department shall also notify the Sexually Violent Predator Parole Coordinator of the Department of Corrections and Rehabilitation, if the person is otherwise subject to parole pursuant to Article 1 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code. The department shall also notify the Department of Justice.

(3) The notice shall be given when the department or its designee makes a recommendation under subdivision (e) of Section 6608 or proposes a placement location without making a recommendation, or when any other person proposes a placement location to the court and the department or its designee is made aware of the proposal.

(4) The notice shall be given at least 30 days prior to the department's submission of its recommendation to the court in those cases in which the department recommended community outpatient treatment under Section 6607, or in which the department or its designee is recommending or proposing a placement location, or in the case of a petition or placement proposal by someone other than the department or its designee, within 48 hours after becoming aware of the petition or placement proposal.

(5) The notice shall state that it is being made under this section and include all of the following information concerning each person committed as a sexually violent predator who is proposed or is petitioning to receive outpatient care in a conditional release program in that city or county:

(A) The name, proposed placement address, date of commitment, county from which committed, proposed date of placement in the conditional release program, fingerprints, and a glossy photograph no smaller than 3 $\frac{1}{8}$ " by 3 $\frac{1}{8}$  inches in size, or clear copies of the fingerprints and photograph.

(B) The date, place, and time of the court hearing at which the location of placement is to be considered and a proof of service attesting to the notice's mailing in accordance with this subdivision.

(C) A list of agencies that are being provided this notice and the addresses to which the notices are being sent.

**(b)** Those agencies receiving the notice referred to in paragraphs (1) and (2) of subdivision (a) may provide written comment to the department and the court regarding the impending release, placement, location, and conditions of release. All community agency comments shall be combined and consolidated. The written comment shall be filed with the court at the time that the comment is provided to the department. The written comment shall identify differences between the comment filed with the court and that provided to the department, if any. In addition, a single agency in the community of the specific proposed or recommended placement address may suggest appropriate, alternative locations for placement within that community. A copy of the suggested alternative placement location shall be filed with the court at the time that the suggested placement location is provided to the department. The State Department of State Hospitals shall issue a written statement to the commenting agencies and to the court within 10 days of receiving the written comments with a determination as to whether to adjust the release location or general terms and conditions, and explaining the basis for its decision. In lieu of responding to the individual community agencies or individuals, the department's statement responding to the community comment shall be in the form of a public statement.

**(c)** The agencies' comments and department's statements shall be considered by the court which shall, based on those comments and statements, approve, modify, or reject the department's recommendation or proposal regarding the community or specific address to which the person is scheduled to be released or the conditions that shall apply to the release if the court finds that the department's recommendation or proposal is not appropriate.

**(d)**

**(1)** When the State Department of State Hospitals makes a recommendation to pursue recommitment, makes a recommendation not to pursue recommitment, or seeks a judicial review of commitment status pursuant to subdivision (f) of Section 6605, of any person committed as a sexually violent predator, it shall provide written notice of that action to the sheriff or chief of police, or both, and to the district attorney, that have jurisdiction over the following locations:

**(A)** The community in which the person maintained his or her last legal residence as defined by **Section 3003 of the Penal Code**.

**(B)** The community in which the person will probably be released, if recommending not to pursue recommitment.

**(C)** The county that filed for the person's civil commitment pursuant to this article.

**(2)** The State Department of State Hospitals shall also notify the Sexually Violent Predator Parole Coordinator of the Department of Corrections and Rehabilitation, if the person is otherwise subject to parole pursuant to Article 1 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code. The State Department of State Hospitals shall also notify the Department of Justice. The notice shall be made at least 15 days prior to the department's submission of its recommendation to the court.

**(3)** Those agencies receiving the notice referred to in this subdivision shall have 15 days from receipt of the notice to provide written comment to the department regarding the impending release. At the time that the written comment is made to the department, a copy of the written comment shall be filed with the court by the agency or agencies making the comment. Those comments shall be considered by the department, which may modify its decision regarding the community in which the person is scheduled to be released, based on those comments.

**(e)**

**(1)** If the court orders the release of a sexually violent predator, the court shall notify the Sexually Violent Predator Parole Coordinator of the Department of Corrections and Rehabilitation. The Department

of Corrections and Rehabilitation shall notify the Department of Justice, the State Department of State Hospitals, the sheriff or chief of police or both, and the district attorney, that have jurisdiction over the following locations:

(A) The community in which the person is to be released.

(B) The community in which the person maintained his or her last legal residence as defined in [Section 3003 of the Penal Code](#).

(2) The Department of Corrections and Rehabilitation shall make the notifications required by this subdivision regardless of whether the person released will be serving a term of parole after release by the court.

(f) If the person is otherwise subject to parole pursuant to Article 1 (commencing with Section 300) of Chapter 8 of Title 1 of Part 3 of the Penal Code, to allow adequate time for the Department of Corrections and Rehabilitation to make appropriate parole arrangements upon release of the person, the person shall remain in physical custody for a period not to exceed 72 hours or until parole arrangements are made by the Sexually Violent Predator Parole Coordinator of the Department of Corrections and Rehabilitation, whichever is sooner. To facilitate timely parole arrangements, notification to the Sexually Violent Predator Parole Coordinator of the Department of Corrections and Rehabilitation of the pending release shall be made by telephone or facsimile and, to the extent possible, notice of the possible release shall be made in advance of the proceeding or decision determining whether to release the person.

(g) The notice required by this section shall be made whether or not a request has been made pursuant to Section 6609.

(h) The time limits imposed by this section are not applicable when the release date of a sexually violent predator has been advanced by a judicial or administrative process or procedure that could not have reasonably been anticipated by the State Department of State Hospitals and where, as the result of the time adjustments, there is less than 30 days remaining on the commitment before the inmate's release, but notice shall be given as soon as practicable.

(i) In the case of any subsequent community placement or change of community placement of a conditionally released sexually violent predator, notice required by this section shall be given under the same terms and standards as apply to the initial placement, except in the case of an emergency where the sexually violent predator must be moved to protect the public safety or the safety of the sexually violent predator. In the case of an emergency, the notice shall be given as soon as practicable, and the affected communities may comment on the placement as described in subdivision (b).

(j) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

**Leg.H.**

Added Stats 1996 ch 462 § 8 (AB 3130), effective September 13, 1996; Amended Stats 1998 ch 19 § 6 (SB 536), effective April 14, 1998, ch 961 § 9 (SB 1976), effective September 29, 1998; Stats 1999 ch 83 § 201 (SB 966); Stats 2002 ch 139 § 1 (AB 1967); Amended Stats 2004 ch 425 § 1 (AB 2450); Stats 2007 ch 571 § 4 (AB 1172), effective January 1, 2008; Stats 2012 ch 440 § 70 (AB 1488), effective September 22, 2012.

## **§ 6609.2. Notice by Law Enforcement Official to Appropriate Person; Liability.**

(a) When any sheriff or chief of police is notified by the State Department of State Hospitals of its recommendation to the court concerning the disposition of a sexually violent predator pursuant to subdivision (a) or (b) of Section 6609.1, that sheriff or chief of police may notify any person designated by the sheriff or chief of police as an appropriate recipient of the notice.

(b) A law enforcement official authorized to provide notice pursuant to this section, and the public agency or entity employing the law enforcement official, shall not be liable for providing or failing to provide notice pursuant to this section.

**Leg.H.**

Added Stats 1996 ch 462 § 9 (AB 3130), effective September 13, 1996. Amended Stats 1998 ch 19 § 7 (SB 536), effective April 14, 1998, ch 961 § 10 (SB 1976), effective September 29, 1998; Stats 2012 ch 440 § 71 (AB 1488), effective September 22, 2012.

## **§ 6609.3. Notification to Persons Described in Penal Code § 679.03; Mailing Address Update Requirement.**

(a) At the time a notice is sent pursuant to subdivisions (a) and (b) of Section 6609.1, the sheriff, chief of police, or district attorney notified of the release shall also send a notice to persons described in **Section 679.03 of the Penal Code** who have requested a notice, informing those persons of the fact that the person who committed the sexually violent offense may be released together with information identifying the court that will consider the conditional release, recommendation regarding recommitment, or review of commitment status pursuant to subdivision (f) of Section 6605. When a person is approved by the court to be conditionally released, notice of the community in which the person is scheduled to reside shall also be given only if it is (1) in the county of residence of a witness, victim, or family member of a victim who has requested notice, or (2) within 100 miles of the actual residence of a witness, victim, or family member of a victim who has requested notice. If, after providing the witness, victim, or next of kin with the notice, there is any change in the release date or the community in which the person is to reside, the sheriff, chief of police, or the district attorney shall provide the witness, victim, or next of kin with the revised information.

(b) At the time a notice is sent pursuant to subdivision (c) of Section 6609.1 the Department of Corrections shall also send a notice to persons described in **Section 679.03 of the Penal Code** who have requested a notice informing those persons of the fact that the person who committed the sexually violent offense has been released.

(c) In order to be entitled to receive the notice set forth in this section, the requesting party shall keep the sheriff, chief of police, and district attorney who were notified under **Section 679.03 of the Penal Code**, informed of his or her current mailing address.

**Leg.H.**

1996 ch. 462, effective September 13, 1996, 1997 ch. 17 (repeal of Article 4 (§§ 6600–6609.3) made inoperative by amendment to § 6600.05 by 1997 ch. 294), 1998 ch. 19, effective April 14, 1998, ch. 961, effective September 29, 1998.

## **DIVISION 9**

## **PUBLIC SOCIAL SERVICES**

### **PART 2**

#### **Administration**

## CHAPTER 2

# STATE DEPARTMENT OF SOCIAL SERVICES

## ARTICLE 2

### Powers and Duties

#### **§ 10609.4. State Department of Social Services Responsibilities and Reporting.**

(a) On or before July 1, 2000, the State Department of Social Services, in consultation with county and state representatives, foster youth, and advocates, shall do both of the following:

(1) Develop statewide standards for the implementation and administration of the Independent Living Program established pursuant to the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272).

(2) Define the outcomes for the Independent Living Program and the characteristics of foster youth enrolled in the program for data collection purposes.

(b) Consistent with federal law and reporting requirements, each county department of social services shall submit to the department an annual Independent Living Program report, which shall include the following:

(1) An accounting of federal and state funds expended for implementation of the program. A county shall spend no more than 30 percent of federal Independent Living Program funds on housing. Expenditures shall be related to the specific purposes of the program. It is the intent of the Legislature that the department, in consultation with counties, shall develop a process for reporting that satisfies federal law and reporting requirements. Program purposes may include, but are not limited to, all of the following:

(A) Enabling participants to seek a high school diploma or its equivalent or to take part in appropriate vocational training, and providing job readiness training and placement services, or building work experience and marketable skills, or both.

(B) Providing training in daily living skills, budgeting, locating and maintaining housing, and career planning.

(C) Providing for individual and group counseling.

(D) Integrating and coordinating services otherwise available to participants.

(E) Providing each participant with a written transitional independent living plan that will be based on an assessment of his or her needs, that includes information provided by persons who have been identified by the participant as important to the participant in cases in which the participant has been in out-of-home placement for six months or longer from the date the participant entered foster care, consistent with the participant's best interests, and that will be incorporated into his or her case plan.

(F) Providing participants who are within 90 days of attaining 18 years of age, or older as the state may elect under Section 475(8)(B) (iii) of the federal Social Security Act ([42 U.S.C. Sec. 675\(8\)\(B\) \(iii\)](#)), including those former foster care youth receiving Independent Living Program Aftercare Services, the opportunity to complete the exit transition plan as required by paragraph (16) of subdivision (f) of Section 16501.1.

(G) Providing participants with other services and assistance designed to improve independent living.

(H) Convening persons who have been identified by the participant as important to him or her for the purpose of providing information to be included in his or her written transitional independent living plan.

(2) Counties shall ensure timely and accurate data entry into the Child Welfare Services/Case Management System (CWS/CMS) for all youth receiving services pursuant to this section.

(3) Counties shall ensure that eligible foster care youth continue to receive information about, and are provided with an opportunity to complete, the National Youth in Transition Database (NYTD) survey, based on an updated process that shall be developed jointly by the department, in consultation with counties to ensure maximum participation in the survey completion and compliance with federal requirements, as follows:

(A) Counties shall provide information to the youth about the NYTD survey within 60 days prior to the date the current or former foster youth is required to be offered the survey.

(B) Within 45 days following the youth in foster care turning 17 years of age, counties shall ensure that each youth has an opportunity to complete the NYTD survey as required by federal law.

(C) Counties shall contact the youth who completed the survey at age 17, in order to request that they complete the followup survey before their 19th and 21st birthdays.

(D) Counties shall provide opportunities for current and former eligible foster youth to take the NYTD survey online at child welfare services and probation offices.

(c) The county department of social services in a county that provides transitional housing placement services pursuant to paragraph (2) of subdivision (a) of Section 11403.2 shall include in its annual Independent Living Program report a description of currently available transitional housing resources in relation to the number of emancipating pregnant or parenting foster youth in the county, and a plan for meeting any unmet transitional housing needs of the emancipating pregnant or parenting foster youth.

(d) In consultation with the department, a county may use different methods and strategies to achieve the standards and outcomes of the Independent Living Program developed pursuant to subdivision (a).

(e) In consultation with the County Welfare Directors Association, the California Youth Connection, and other stakeholders, the department shall develop and adopt emergency regulations, no later than July 1, 2012, in accordance with [Section 11346.1 of the Government Code](#) that counties shall be required to meet when administering the Independent Living Program and that are achievable within existing program resources and any federal funds available for case management and case plan review functions for nonminor dependents, as provided for in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 ([Public Law 110-351](#)). The initial adoption of 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 and safety, or general welfare. Initial emergency regulations and the first readoption of those regulations shall be exempt from review by the Office of Administrative Law. The initial emergency regulations and the first readoption of

those regulations authorized by this subdivision shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each shall remain in effect for no more than 180 days.

(f) The department, in consultation with representatives of the Legislature, the County Welfare Directors Association, the Chief Probation Officers of California, the Judicial Council, representatives of tribes, the California Youth Connection, former foster youth, child advocacy organizations, labor organizations, dependency counsel for children, juvenile justice advocacy organizations, foster caregiver organizations, and researchers, shall review and develop modifications needed to the Independent Living Program to also serve the needs of nonminor dependents, as defined in subdivision (v) of Section 11400, eligible for services pursuant to Section 11403. These modifications shall include the exit transition plan required to be completed within the 90-day period immediately prior to the date the nonminor participant attains the age that would qualify the participant for federal financial participation, as described in Section 11403, pursuant to [Section 675\(5\)\(H\) of Title 42 of the United States Code](#). 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, through June 30, 2012, the department shall prepare for implementation of the applicable provisions of this section by publishing all-county letters or similar instructions from the director by October 1, 2011, to be effective January 1, 2012.

(g) Beginning in the 2011–12 fiscal year and for each fiscal year thereafter, funding and expenditures for programs and activities required under this section shall be in accordance with the requirements provided in [Sections 30025](#) and [30026.5](#) of the Government Code.

**Leg.H.**

Added Stats 1999 ch 147 § 9, effective July 22, 1999. Amended Stats 2002 ch 271 § 1 (AB 1979); Stats 2003 ch 813 § 10 (AB 408). Amended Stats 2004 ch 810 § 8 (AB 2807); Stats 2005 ch 629 § 1 (SB 436), effective January 1, 2006; Stats 2010 ch 559 § 30 (AB 12), effective January 1, 2011; Stats 2012 ch 35 § 75 (SB 1013), effective June 27, 2012.

## **§ 10609.5. Child Welfare Services Budgeting—Evaluation of Current Methodology; Factors; Advisory Group.**

(a) The department shall contract with an appropriate and qualified entity to conduct an evaluation of the adequacy of the current child welfare services budgeting methodology and make recommendations for revising the budgeting methodology, including appropriate caseload levels, supportive services, and preventative services, in order to accurately and adequately fund the system. This evaluation shall, at a minimum, consider the impact of the following factors on the budgeting methodology:

(1) The current state and federal statutory and regulatory environment for child welfare services.

(2) The state of the art advancements and best child welfare practice, such as family conferencing and wraparound services.

(3) The impact of the child welfare services case management system on the workload of workers in the system.

(4) The nature and degree of the problems experienced by families in need of child welfare services, and the service needs of abused and neglected children and their families.

(5) The impact on workload of obtaining timely medical, mental health, educational, and developmental assessments of children in the child welfare system, and coordinating with other systems to meet the children's needs.

(b) The department shall convene an advisory group that shall include representatives of the County Welfare Directors Association, the California State Association of Counties, child welfare services consumers,

children's advocacy organizations, and child welfare social worker organizations. The advisory group shall do both of the following:

- (1) Provide oversight over the process of selecting an entity to conduct an evaluation under subdivision (a).
- (2) Provide oversight over, and technical assistance to, the entity selected to conduct the evaluation under subdivision (a).

**Leg.H.**

1998 ch. 785, 2001 ch. 745, effective October 12, 2001.

## **§ 10609.7. Legislative Findings and Declarations.**

(a) The Legislature finds and declares all of the following:

(1) The department has convened the Child Welfare Services Stakeholders Group for the purpose of making recommendations to redesign California's child welfare system to create and sustain a flexible system, comprising public and private partnerships, that provides a comprehensive system of support for families and communities to ensure the well-being of every child.

(2) In the first year of the stakeholders group, there was significant attention brought to the carrying capacity of direct service professionals through the development of an implementation plan of child welfare services workload study pursuant to Section 10609.5.

(3) The stakeholders group has convened a series of working groups, including the Human Resources Workgroup, whose tasks are to develop core strategies and recommendations resulting in a high capacity, competent, satisfied child welfare services workforce able to perform the essential functions of the redesigned child welfare system.

(4) In the second year, the Human Resources Workgroup report found that workload issues have not appreciably declined and that for the child welfare services redesign to be successful, workforce considerations need to be at the forefront of all redesign efforts.

(5) The stakeholders group and its Human Resources Workgroup have entered the third year of the redesign process for the state's child welfare services.

(b) It is the intent of the Legislature that the Human Resources Workgroup of the Child Welfare Services Stakeholders Group include in its next planned report the core strategies needed to establish minimum caseload standards under the redesigned child welfare services system for all service areas.

(c) It is the intent of the Legislature that the Human Resources Workgroup also make recommendations for implementing the new caseload standards, including a recommendation that would achieve at least 20 percent of the caseload reductions annually over a specified period of time, as required under the newly recommended standards.

**Leg.H.**

2002 ch. 635 (AB 364).

## **§ 10609.8. Comparison of Governor's Proposed Budget for Child Welfare Services Program to Recommended Caseload Standards.**

On an annual basis, at the time of budget hearings, the State Department of Social Services shall provide information to the budget committees of the Legislature comparing the Governor's proposed statewide budget for the child welfare services program, including the augmentation and hold harmless funds, to the caseload standards recommended by the evaluation required under Section 10609.5, updated for an analysis of cost-of-doing-business increases and to account for the use of child welfare services funding for noncase-carrying activities, based on information supplied by counties, and measured on a statewide basis. The department shall consult with representatives of the County Welfare Directors Association in the development of statewide cost-of-doing-business increases and the average proportion of expenditures on noncase-carrying activities.

**Leg.H.**

2005 ch. 78 (SB 68) § 21, effective July 19, 2005.

## **§ 10618.6. Request of Consumer Credit Disclosure; Assistance to Child in Foster Care Placement or Nonminor Dependents.**

**(a)**

**(1)** When a child in a foster care placement reaches his or her 14th birthday, and each year thereafter, while the child is under the jurisdiction of the juvenile court, the county welfare department, county probation department, or, if an automated process is available, the State Department of Social Services, shall inquire of each of the three major credit reporting agencies as to whether the child has any consumer credit history.

**(2)** If the State Department of Social Services makes the inquiry, it shall notify the county welfare department or county probation department in the county having jurisdiction over the child of the results of that inquiry.

**(3)** Pursuant to the federal Child and Family Services Improvement and Innovation Act ([Public Law 112-34](#)) and the federal Fair Credit Reporting Act ([15 U.S.C. Sec. 1681 et seq.](#)), if an inquiry performed pursuant to this subdivision indicates that a child has a consumer credit history with any major credit reporting agency, the responsible county welfare department or county probation department shall request a consumer credit report from that credit reporting agency.

**(b)** For a nonminor dependent, the county welfare department or county probation department shall assist the young adult, on a yearly basis while the nonminor dependent is under the jurisdiction of the juvenile court, with requesting the consumer credit report from each of the three major credit reporting agencies, pursuant to the free annual disclosure provision of the federal Fair Credit Reporting Act ([15 U.S.C. Sec. 1681 et seq.](#)).

**(c)** The county social worker or county probation officer shall ensure that the child or nonminor dependent receives assistance with interpreting the consumer credit report and resolving any inaccuracies. The assistance may include, but is not limited to, referring the youth to a governmental or nonprofit agency that provides consumer credit services. This section does not require the social worker or probation officer to be the individual providing the direct assistance with interpreting the consumer credit disclosure or resolving the inaccuracies.

**(d)** Notwithstanding any other law, in order to make an inquiry or to request a consumer credit report for youth pursuant to this section, the county welfare department, county probation department, or, if an automated process is available, the State Department of Social Services may release necessary information to a credit reporting agency.

**(e)** No later than February 1, 2016, the State Department of Social Services shall provide information to the Assembly Committee on Budget, the Senate Budget and Fiscal Review Committee, and the appropriate

legislative policy committees regarding the implementation of this section, including, but not limited to, any state and county barriers to obtaining credit reports as required by the federal Child and Family Services Improvement and Innovation Act (Public Law 112-34).

**Leg.H.**

Added Stats 2006 ch 387 § 1 (AB 2985), effective January 1, 2007; Amended Stats 2011 ch 32 § 41 (AB 106), effective June 29, 2011; Stats 2012 ch 847 § 2 (SB 1521), effective January 1, 2013; Stats 2014 ch 762 § 1 (AB 1658), effective January 1, 2015; Stats 2015 ch 425 § 20 (SB 794), effective January 1, 2016.

## **CHAPTER 5**

## **RECORDS**

### **§ 10850. Confidentiality of Records; Exceptions; Violation as Misdemeanor.**

**(a)** Except as otherwise provided in this section, all applications and records concerning any individual made or kept by a public officer or agency in connection with the administration of any provision of this code relating to any form of public social services for which grants-in-aid are received by this state from the United States government shall be confidential, and shall not be open to examination for any purpose not directly connected with the administration of that program, or any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of that program. The disclosure of information that identifies, by name or address, an applicant for, or recipient of, these grants-in-aid to any committee or legislative body is prohibited, except as provided in subdivision (b).

**(b)** Except as otherwise provided in this section, a person shall not publish or disclose or permit or cause to be published or disclosed a list of persons receiving public social services. Any county welfare department in this state may release lists of applicants for, or recipients of, public social services, to any other county welfare department or the State Department of Social Services, and these lists or any other records shall be released when requested by any county welfare department or the State Department of Social Services. These lists or other records shall only be used for purposes directly connected with the administration of public social services or to notify a public social service recipient of their potential eligibility for other benefits and services not administered by the State Department of Social Services, including, but not limited to, education and access to critical public health services and poverty-alleviating benefits, as determined by the State Department of Social Services. Except for those purposes, a person shall not publish, disclose, or use or permit or cause to be published, disclosed, or used any confidential information pertaining to an applicant or recipient.

**(c)** Any county welfare department and the State Department of Social Services shall provide any governmental entity that is authorized by law to conduct an audit or similar activity in connection with the administration of public social services, including any committee or legislative body so authorized, with access to any public social service applications and records described in subdivision (a) to the extent of the authorization. Those committees, legislative bodies, and other entities may only request or use these records for the purpose of investigating the administration of public social services, and shall not disclose the identity of any applicant or recipient except in the case of a criminal or civil proceeding conducted in connection with the administration of public social services.

**(d)** This section does not prohibit the furnishing of this information to other public agencies to the extent required for verifying eligibility or for other purposes directly connected with the administration of public social services, or to county superintendents of schools or superintendents of school districts only as necessary for the

administration of federally assisted programs providing assistance in cash or in-kind or services directly to individuals on the basis of need. Any person knowingly and intentionally violating this subdivision is guilty of a misdemeanor.

(e) In the context of a petition for the appointment of a conservator for a person who is receiving, or has received, aid from a public agency, as indicated above, or in the context of a criminal prosecution for a violation of **Section 368 of the Penal Code** both of the following shall apply:

(1) An adult protective services employee or ombudsman may answer truthfully at any proceeding related to the petition or prosecution, when asked if the employee or ombudsman is aware of information that they believe is related to the legal mental capacity of that aid recipient or the need for a conservatorship for that aid recipient. If the adult protective services employee or ombudsman states that they are aware of such information, the court may order the adult protective services employee or ombudsman to testify about personal observations and to disclose all relevant agency records.

(2) The court may order the adult protective services employee or ombudsman to testify about personal observations and to disclose any relevant agency records if the court has other independent reason to believe that the adult protective services employee or ombudsman has information that would facilitate the resolution of the matter.

(f) The State Department of Social Services may make rules and regulations governing the custody, use, and preservation of all records, papers, files, and communications pertaining to the administration of the laws relating to public social services under its jurisdiction. The rules and regulations shall be binding on all departments, officials, and employees of the state, or of any political subdivision of the state, and may provide for giving information to, or exchanging information with, agencies, public or political subdivisions of the state, and may provide for giving information to, or exchanging information with, agencies, public or private, that are engaged in planning, providing, or securing social services for, or on behalf of, recipients or applicants; and for making case records available for research purposes, provided that making these case records available will not result in the disclosure of the identity of applicants for, or recipients of, public social services and will not disclose any personal information in a manner that would link the information disclosed to the individual to whom it pertains, unless the department has complied with **subdivision (t) of Section 1798.24 of the Civil Code**.

(g) A person, including every public officer and employee, who knowingly secures or possesses, other than in the course of official duty, an official list or a list compiled from official sources, published or disclosed in violation of this section, of persons who have applied for, or who have been granted, any form of public social services for which state or federal funds are made available to the counties is guilty of a misdemeanor.

(h) This section does not prohibit an employee of a county welfare department from disclosing confidential information concerning a public social services applicant or recipient to a state or local law enforcement agency investigating or gathering information regarding a criminal act committed in a welfare department office, a criminal act against a county or state welfare worker, or a criminal act witnessed by a county or state welfare worker while involved in the administration of public social services at any location. Further, this section does not prohibit an employee of a county welfare department from disclosing confidential information concerning a public social services applicant or recipient to a state or local law enforcement agency investigating or gathering information regarding a criminal act intentionally committed by the applicant or recipient against an off-duty county or state welfare worker in retaliation for an act performed in the course of the welfare worker's duty when the person committing the offense knows, or reasonably should know, that the victim is a state or county welfare worker. These criminal acts shall include only those that are in violation of state or local law. Disclosure of confidential information pursuant to this subdivision shall be limited to the applicant's or recipient's name, physical description, and address.

(i) The provisions of this section shall be operative only to the extent permitted by federal law and shall not apply to, but exclude, Chapter 7 (commencing with Section 14000) and Chapter 8 (commencing with Section 14200) of this division, and for which a grant-in-aid is received by this state from the United States government pursuant to Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.).

(j)

(1) Public social services, as defined in Section 10051, includes publicly funded health care services administered or supervised by the department or the State Department of Health Care Services, except that, as used in this section, it does not include the Medi-Cal program. This subdivision does not affect or alter the exclusions contained in subdivision (i) or the confidentiality provisions contained in Section 14100.2.

(2) This subdivision clarifies existing law.

**Leg.H.**

Added Stats 1965 ch 1784 § 5. Amended Stats 1969 ch 1445 § 2; 1971 ch 578 § 19, effective August 13, 1971, operative October 1, 1971; Stats 1973 ch 1212 § 387, operative July 1, 1974; Stats 1975 ch 924 § 1, effective September 20, 1975; Stats 1977 ch 488 § 1; Stats 1978 ch 429 § 238 (ch 246 prevails), ch 246 § 1; Stats 1980 ch 353 § 1, ch 1159 § 1, effective September 29, 1980, ch 1159 § 1.2, effective September 29, 1980, operative January 1, 1981; Stats 1994 ch 591 § 1; Stats 1995 ch 766 § 42; Stats 1997 ch 724 § 35; Stats 2005 ch 241 § 3 (SB 13), effective January 1, 2006; Stats 2013 ch 658 § 1 (SB 346), effective January 1, 2014; Stats 2021 ch 15 § 4 (SB 86), effective April 16, 2021.

## PART 3

### Aid and Medical Assistance

#### CHAPTER 2

## AID TO FAMILIES WITH DEPENDENT CHILDREN

### ARTICLE 4.5

#### Kinship Guardianship Assistance Payment Program

## § 11360. Establishment of Program.

Effective on the date that the director executes a declaration pursuant to Section 11217, the department shall establish a state-funded Kinship Guardianship Assistance Payment Program as specified in this article.

**Leg.H.**

Added Stats 2010 ch 559 § 34 (AB 12), effective January 1, 2011.

(First of two; Operative term contingent)

## § 11361. Legislative Findings and Declarations.

The Legislature finds and declares that the continuation of the state-funded Kinship Guardianship Assistance Payment Program is intended to enhance family preservation and stability by recognizing that some dependent children and wards of the juvenile court who are not otherwise eligible under Subtitle IV-E (commencing with Section 470) of the federal Social Security Act ([42 U.S.C. Sec. 670 et seq.](#)) are in long-term, stable placements with relatives funded under the CalWORKs program pursuant to Section 11450, that these placements are the permanent plan for the child, that dependencies can be dismissed pursuant to Section 366.3 with legal guardianship granted to the relative, and that there is no need for continued governmental intervention in the family life through ongoing, scheduled court and social services supervision of the placement. Continuation of the state-funded Kin-GAP Program is necessary to ensure that wards and dependent children of the juvenile court whose placement in the home of an approved relative is funded under the CalWORKs program are equally eligible for the benefits derived from legal permanency with the related guardian and that the state can maximize improvements to federal permanency outcome measures by exiting nonfederally eligible youth to the state's subsidized kinship guardianship program.

**Leg.H.**

Added Stats 2010 ch 559 § 34 (AB 12), effective January 1, 2011.

(First of two; Operative term contingent)

## § 11362. Definitions.

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

**(a)** “Kinship Guardianship Assistance Payments (Kin-GAP)” means the state-funded aid provided under the terms of this article on behalf of children in kinship care who are not eligible for federally funded Kin-GAP pursuant to Section 11385.

**(b)** “Kinship guardian” means a person who (1) has been appointed the legal guardian of a dependent child pursuant to Section 360 or 366.26, or a ward of the juvenile court pursuant to subdivision (d) of Section 728 and (2) is a relative of the child.

**(c)** “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.

**Leg.H.**

Added Stats 2010 ch 559 § 34 (AB 12), effective January 1, 2011.

## § 11363. Eligibility for State-Funded Kin-Gap Aid; Continuation of Payments; Effect of Termination of Guardianship.

**(a)** Aid in the form of state-funded Kin-GAP shall be provided under this article on behalf of any child under 18 years of age and to any eligible youth under 19 years of age, as provided in Section 11403, who satisfies all of the following conditions:

**(1)** Has been adjudged a dependent child of the juvenile court pursuant to Section 300, or, effective October 1, 2006, a ward of the juvenile court pursuant to Section 601 or 602.

(2) Has been residing for at least six consecutive months in the approved home of the prospective relative guardian while under the jurisdiction of the juvenile court or a voluntary placement agreement.

(3) Has had a kinship guardianship established pursuant to Section 360 or 366.26.

(4) Has had his or her dependency jurisdiction terminated after January 1, 2000, pursuant to Section 366.3, or his or her wardship terminated pursuant to subdivision (e) of Section 728, concurrently or subsequently to the establishment of the kinship guardianship.

(b) If the conditions specified in subdivision (a) are met and, subsequent to the termination of dependency jurisdiction, any parent or person having an interest files with the juvenile court a petition pursuant to Section 388 to change, modify, or set aside an order of the court, Kin-GAP payments shall continue unless and until the juvenile court, after holding a hearing, orders the child removed from the home of the guardian, terminates the guardianship, or maintains dependency jurisdiction after the court concludes the hearing on the petition filed under Section 388.

(c) A child or nonminor former dependent or ward shall be eligible for Kin-GAP payments if he or she meets one of the following age criteria:

(1) He or she is under 18 years of age.

(2) He or she is under 21 years of age and has a physical or mental disability that warrants the continuation of assistance.

(3) Through December 31, 2011, he or she satisfies the conditions of Section 11403, and on and after January 1, 2012, he or she satisfies the conditions of Section 11403.01.

(4) He or she satisfies the conditions as described in subdivision (d).

(d) Commencing January 1, 2012, state-funded Kin-GAP payments shall continue for youths who have attained 18 years of age and who are under 19 years of age, if they reached 16 years of age before the Kin-GAP negotiated agreement payments commenced, and as described in Section 10103.5. Effective January 1, 2013, Kin-GAP payments shall continue for youths who have attained 18 years of age and are under 20 years of age, if they reached 16 years of age before the Kin-GAP negotiated agreement payments commenced, and as described in Section 10103.5. Effective January 1, 2014, Kin-GAP payments shall continue for youths who have attained 18 years of age and are under 21 years of age, if they reached 16 years of age before the Kin-GAP negotiated agreement payments commenced. To be eligible for continued payments, the youth shall satisfy one or more of the conditions specified in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(e)

(1) Termination of the guardianship with a kinship guardian shall terminate eligibility for Kin-GAP unless the conditions in Section 11403 apply. However, an alternate guardian or coguardian is appointed pursuant to Section 366.3 who is also a kinship guardian, the alternate or coguardian shall be entitled to receive Kin-GAP on behalf of the child pursuant to this article. A new period of six months of placement with the alternate guardian or coguardian shall not be required if that alternate guardian or coguardian has been assessed pursuant to Section 361.3, subdivision (a) of Section 361.4, and paragraph (2), and the court terminates dependency jurisdiction. If a nonminor former dependent is receiving Kin-GAP after 18 years of age and the nonminor former dependent's former guardian dies, the nonminor former dependent may petition the court for a hearing pursuant to Section 388.1.

(2)

**(A)** In addition to the state-level criminal records check described in paragraph (2) of subdivision (a) of Section 361.4, the county welfare department shall require each prospective alternate guardian or coguardian, and any other person over 18 years of age living in the home, to be fingerprinted, and shall secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation.

**(B)** If the criminal records check indicates that the prospective alternate guardian or coguardian 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 case shall not be eligible for Kin-GAP funding.

**(C)** If the prospective alternate guardian or coguardian has been convicted of a crime other than a minor traffic violation or arrested for an offense specified in subdivision (e) of Section 1522 of the Health and Safety Code, except for the civil penalty language, the criminal background check provisions specified in subdivisions (d) to (g), inclusive, of Section 1522 of the Health and Safety Code shall apply, and an exemption shall be issued prior to issuance of any Kin-GAP funding. Exemptions from the criminal records clearance requirements set forth in this section may be granted by the county using the exemption criteria specified in subdivision (g) of Section 1522 of the Health and Safety Code and any applicable written directives or regulations adopted by the department.

**(3)** A prospective alternate guardian or coguardian shall not be required to be approved as a resource family pursuant to Section 16519.5 for the sole purpose of receiving Kin-GAP funding on behalf of an eligible child in the care of the prospective alternate guardian or coguardian.

**Leg.H.**

Added Stats 2010 ch 559 § 34 (AB 12), effective January 1, 2011; Amended Stats 2011 ch 459 § 24 (AB 212), effective October 4, 2011; Stats 2012 ch 846 § 36 (AB 1712), effective January 1, 2013; Stats 2015 ch 303 § 591 (AB 731), effective January 1, 2016; Amended Stats 2018 ch 910 § 29 (AB 1930), effective January 1, 2019.

(Second of two: Operative date contingent)

## **§ 11364. Payments; Written Assistance Agreement; Rates.**

**(a)** In order to receive payments under this article, the county child welfare agency, probation department, Indian tribe, consortium of tribes, or tribal organization that has entered into an agreement pursuant to Section 10553.1, shall negotiate and enter into a written, binding, kinship guardianship assistance agreement with the relative guardian of an eligible child, and provide the relative guardian with a copy of the agreement.

**(b)** The agreement shall specify, at a minimum, all of the following:

**(1)** The amount of and manner in which the kinship guardianship assistance payment will be provided under the agreement, and that the amount is subject to any applicable increases pursuant to cost-of-living adjustments established by statute, and the manner in which the agreement may be adjusted periodically, but no less frequently than every two years, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child.

**(2)** Additional services and assistance for which the child and relative guardian will be eligible under the agreement.

**(3)** A procedure by which the relative guardian may apply for additional services, as needed, including the filing of a petition under Section 388 to have dependency jurisdiction resumed pursuant to subdivision (b) of Section 366.3.

**(4)** That the agreement shall remain in effect regardless of the state of residency of the relative guardian.

**(5)** The responsibility of the relative guardian for reporting changes in the needs of the child or the circumstances of the relative guardian that affect payment.

**(6)** For guardianships established on and after January 1, 2012, payment shall be made for reasonable and verified nonrecurring expenses associated with obtaining legal guardianship not to exceed the amount specified in federal law. Reimbursement shall not be made for costs otherwise reimbursed from other sources, including the foster care maintenance payment. The agreement shall indicate the maximum amount, the purpose of the expense, and the process for obtaining reimbursement of the nonrecurring expenses to be paid.

**(c)** In accordance with the Kin-GAP agreement, the relative guardian shall be paid an amount of aid based on the child's needs otherwise covered in AFDC-FC payments and the circumstances of the relative guardian, but that shall not exceed the foster care maintenance payment that would have been paid based on the age-related state-approved foster family home care rate and any applicable specialized care increment for a child placed in a licensed or approved family home pursuant to subdivisions (a) to (d), inclusive, of Section 11461. In addition, the rate paid for a child eligible for a Kin-GAP payment shall include an amount equal to the clothing allowance, as set forth in subdivision (f) of Section 11461, including any applicable rate adjustments. For a child eligible for a Kin-GAP payment who is a teen parent, the rate shall include the two-hundred-dollar (\$200) monthly payment made to the relative caregiver in a whole family foster home pursuant to paragraph (3) of subdivision (d) of Section 11465.

**(d)** Commencing on the effective date of the act that added this subdivision, and notwithstanding subdivision (c), in accordance with the Kin-GAP agreement, the relative guardian shall be paid an amount of aid based on the child's needs otherwise covered in AFDC-FC payments and the circumstances of the relative guardian, as follows:

**(1)** For cases in which the dependency has been dismissed pursuant to Section 366.3 or wardship has been terminated pursuant to subdivision (d) of Section 728, concurrently or subsequently to establishment of the guardianship, on or before June 30, 2011, or the date specified in a final order, for which the time to appeal has passed, issued by a court of competent jurisdiction in California State Foster Parent Association, et al. v. William Lightbourne, et al. (U.S. Dist. Ct. No. C 07-05086 WHA), whichever is earlier, the rate paid shall not exceed the basic foster care maintenance payment rate structure in effect prior to the effective date specified in the order described in this paragraph.

**(2)** For cases in which dependency has been dismissed pursuant to Section 366.3 or wardship has been terminated pursuant to subdivision (d) of Section 728, concurrently or subsequently to establishment of the guardianship, on or after July 1, 2011, or the date specified in the order described in paragraph (1), whichever is earlier, and through December 31, 2016, the rate paid shall not exceed the basic foster care maintenance payment rate structure effective and available as of December 31, 2016.

**(3)** For cases in which dependency has been dismissed pursuant to Section 366.3 or wardship has been terminated pursuant to Section 728, concurrently or subsequently to establishment of the guardianship, on or after January 1, 2017, the rate paid shall not exceed the home-based family care rate structure developed pursuant to subdivision (g) of Section 11461 and Section 11463.

**(4)** Beginning with the 2011-12 fiscal year, the Kin-GAP benefit payments rate structure shall be adjusted annually by the percentage change in the California Necessities Index, as set forth in paragraph (2) of subdivision (g) of Section 11461, without requiring a new agreement.

(5) In addition to the rate paid for a child eligible for a Kin-GAP payment, a specialized care increment, if applicable, as set forth in subdivision (e) of Section 11461, also shall be paid.

(6) In addition to the rate paid for a child eligible for a Kin-GAP payment, a clothing allowance, as set forth in subdivision (f) of Section 11461, also shall be paid.

(7) For a child eligible for a Kin-GAP payment who is a teen parent, the rate shall include the two-hundred-dollar (\$200) monthly payment made to the relative caregiver in a whole family foster home pursuant to paragraph (3) of subdivision (d) of Section 11465.

(e) The county child welfare agency, probation department, Indian tribe, consortium of tribes, or tribal organization that entered into an agreement pursuant to Section 10553.1 shall provide the relative guardian with information, in writing, on the availability of the Kin-GAP program with an explanation of the difference between these benefits and Adoption Assistance Program benefits and AFDC-FC benefits. The agency shall also provide the relative guardian with information on the availability of mental health services through the Medi-Cal program or other programs.

(f) The county child welfare agency, probation department, Indian tribe, consortium of tribes, or tribal organization, as appropriate, shall assess the needs of the child and the circumstances of the related guardian and is responsible for determining that the child meets the eligibility criteria for payment.

(g) Payments on behalf of a child who is a recipient of Kin-GAP benefits and who is also a consumer of regional center services shall be based on the rates established by the State Department of Social Services pursuant to Section 11464.

**Leg.H.**

Added Stats 2010 ch 559 § 34 (AB 12), effective January 1, 2011; Amended Stats 2011 ch 32 § 47 (AB 106), effective June 29, 2011, ch 459 § 25 (AB 212), effective October 4, 2011; Stats 2012 ch 846 § 37 (AB 1712), effective January 1, 2013; Amended Stats 2018 ch 35 § 20 (AB 1811), effective June 27, 2018; Stats 2018 ch 454 § 3 (SB 876), effective September 17, 2018.

## § 11365. [Section Repealed 2011.]

**Leg.H.**

Added Stats 2010 ch 559 § 34 (AB 12), effective January 1, 2011. Repealed Stats 2011 ch 459 § 26 (AB 212), effective October 4, 2011. The repealed section related to payment on per child basis.

## § 11366. Effect on Medi-Cal Eligibility.

A child who is eligible to receive Medi-Cal benefits with no share of cost shall maintain that eligibility notwithstanding the receipt of state-funded Kin-GAP by his or her kinship guardian.

**Leg.H.**

Added Stats 2010 ch 559 § 34 (AB 12), effective January 1, 2011.

## § 11367. Supplemental Clothing Allowance.

The supplemental clothing allowance shall be paid pursuant to paragraph (5) of subdivision (f) of Section 11461.

**Leg.H.**

Added Stats 2010 ch 559 § 34 (AB 12), effective January 1, 2011.

(First of two; Operative term contingent)

## § 11369. Implementation and Regulations.

**(a)** Notwithstanding the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement the applicable provisions of the state-funded Kin-GAP Program through all-county letters or similar instructions from the director.

**(b)** The director shall adopt regulations as otherwise necessary, to implement the applicable provisions of the Kin-GAP Program. Emergency regulations to implement the applicable provisions of this act 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 2010 ch 559 § 34 (AB 12), effective January 1, 2011.

(First of two; Operative term contingent)

## § 11370. Written Agreement for State-Funded Kin-GAP Program; Process.

The county welfare department or probation department or Indian tribe, as appropriate, at the time of the Kin-GAP annual redetermination, shall meet with the relative guardian and the nonfederally eligible child and enter into a written agreement for the state-funded Kin-GAP program as described in Section 11364. This process shall continue for at least 12 calendar months or until all state-funded Kin-GAP cases as of the effective date described have been processed.

**Leg.H.**

Added Stats 2010 ch 559 § 34 (AB 12), effective January 1, 2011.

(First of two; Operative term contingent)

## § 11371. Guardian Income.

Income to the child, including the state-funded Kin-GAP payment, shall not be considered income to the kinship guardian for purposes of determining the kinship guardian's eligibility for any other aid program, unless required by federal law as a condition of the receipt of federal financial participation.

**Leg.H.**

Added Stats 2010 ch 559 § 34 (AB 12), effective January 1, 2011.

(First of two; Operative term contingent)

## § 11372. Exemption from Requirements.

**(a)** Notwithstanding any other provision of law, the state-funded Kinship Guardianship Assistance Payment Program implemented under this article is exempt from the provisions of Chapter 2 (commencing with Section 11200) of Part 3.

**(b)** A person who is a kinship guardian under this article, and who has met the requirements of Section 361.4, shall be exempt from Chapter 4.6 (commencing with Section 10830) of Part 2 governing the statewide fingerprint imaging system. A guardian who is also an applicant for or a recipient of benefits under the CalWORKs program, Chapter 2 (commencing with Section 11200) of Part 3, or CalFresh, Chapter 10 (commencing with Section 18900) of Part 6 shall comply with the statewide fingerprint imaging system requirements applicable to those programs.

**(c)** Any exemptions exercised pursuant to this section shall be implemented in accordance with Section 11369.

**Leg.H.**

Added Stats 2010 ch 559 § 34 (AB 12), effective January 1, 2011; Amended Stats 2011 ch 501 § 12 (AB 6), effective January 1, 2012.

(First of two; Operative term contingent)

## § 11374. County's Responsibility for Payments; Overlapping Benefits.

**(a)** Each county that formally had court ordered jurisdiction under Section 300, 601, or 602 over a child receiving benefits under the state-funded Kin-GAP Program shall be responsible for paying the child's aid regardless of where the child actually resides.

**(b)** Notwithstanding any other law, when a child receiving benefits under the Approved Relative Caregiver Funding Program (ARC) pursuant to Section 11461.3 becomes eligible for benefits under the state-funded Kin-GAP Program during any month, the child shall continue to receive benefits under the ARC program, as appropriate, through the day that the juvenile court dismisses the dependency or terminates the wardship, and Kin-GAP payments shall begin the day following the day that the juvenile court dismisses the dependency or terminates the wardship.

**Leg.H.**

Added Stats 2010 ch 559 § 34 (AB 12), effective January 1, 2011. Amended Stats 2019 ch 27 § 53 (SB 80), effective June 27, 2019; Stats 2020 ch 370 § 273 (SB 1371), effective January 1, 2021.

## § 11375. Effects of Receipt of Kin-GAP Benefits.

The following shall apply to any child or nonminor in receipt of state-funded Kin-GAP benefits:

**(a)** He or she is eligible to request and receive independent living services pursuant to Section 10609.3.

**(b)** He or she may retain cash savings, not to exceed ten thousand dollars (\$10,000), including interest, in addition to any other property accumulated pursuant to Section 11257 or 11257.5.

**(c)** He or she shall have earned income disregarded pursuant to Section 11008.15.

**Leg.H.**

Added Stats 2010 ch 559 § 34 (AB 12), effective January 1, 2011.

## § 11376. Providing Medically Necessary Specialty Mental Health Services to Certain Foster Child.

A foster child who has become the subject of a legal guardianship, who is receiving assistance under the Kin-GAP Program under this article or under Article 4.7 (commencing with Section 11385), including Medi-Cal, and whose foster care court supervision has been terminated, shall be provided medically necessary specialty mental health services by the local mental health plan in the county of residence of his or her legal guardian, pursuant to all of the following:

- (a) The host county mental health plan shall be responsible for submitting the treatment authorization request (TAR) to the mental health plan in the county of origin.
- (b) The requesting public or private service provider shall prepare the TAR.
- (c) The county of origin shall retain responsibility for authorization and reauthorization of services utilizing an expedited TAR process.

**Leg.H.**

Added Stats 2010 ch 559 § 34 (AB 12), effective January 1, 2011.

## § 11378. Legislative Intent; Transition to Federally Funded Kin-GAP; Continuity of Aid.

(a) It is the intent of the Legislature to provide a seamless and minimally intrusive process to allow an otherwise federally eligible child who is receiving assistance payments under this article to access the benefits of federally funded Kin-GAP pursuant to Article 4.7 (commencing with Section 11385). The transition to federally funded Kin-GAP shall be accomplished with minimal disruption to the existing relative guardian and the child, and with no break in the continuity of assistance payments.

(b) Effective on the date that the director executes the declaration described in Section 11379, at the time of the annual redetermination of the state-funded Kin-GAP benefits, the county shall determine whether the child was receiving federal AFDC-FC payments prior to receiving Kin-GAP, while a dependent child or ward of the juvenile court. Those children determined to have previously received AFDC-FC payments shall be reassigned to the county social worker, who shall inform the relative guardian, and the child if over 12 years of age, of the benefits of transitioning to federal Kin-GAP and the process for making the transition. The process described in this subdivision shall continue for at least 12 calendar months, or until all state-funded Kin-GAP cases as of the effective date described in this subdivision have been processed.

(c) Upon completion of the negotiated Kin-GAP agreement and confirmation that the child satisfies the conditions for federal financial participation, the child shall be eligible for federally funded Kin-GAP pursuant to Article 4.7 (commencing with Section 11385).

(d) The county shall terminate the state-funded Kin-GAP payment made pursuant to the former Article 4.5 (commencing with Section 11360), and with no break in the continuity of aid, shall commence payments under the federal Kin-GAP program pursuant to Article 4.7 (commencing with Section 11385).

**Leg.H.**

Added Stats 2010 ch 559 § 34 (AB 12), effective January 1, 2011.

(Operative date contingent)

## § 11379. Operative Date of Article.

This article shall become operative on the date that the Director of Social Services executes the declaration required pursuant to Section 11217, stating that increased federal financial participation from the Emergency Contingency Fund for State Temporary Assistance for Needy Families (TANF) Programs is no longer available pursuant to the federal American Recovery and Reinvestment Act of 2009 (ARRA) ([Public Law 111-5](#)) or subsequent federal legislation, including an amendment to the ARRA, that maintains or extends increased federal financial participation.

**Leg.H.**

Added Stats 2010 ch 559 § 34 (AB 12), effective January 1, 2011.

## Article 4.7

### Kinship Guardianship Assistance Payments for Children

## § 11385. Department's Exercise of Option; Rate; Legislative Intent.

(a) On and after the date that the director executes a declaration pursuant to Section 11217, the State Department of Social Services shall exercise its option under [Section 671\(a\)\(28\) of Title 42 of the United States Code](#) to enter into kinship guardianship assistance agreements to provide federally funded kinship guardianship assistance payments on behalf of children to grandparents and other relatives who have assumed legal guardianship of the children for whom they have cared as approved relative caregivers and for whom they have committed to care on a permanent basis, as provided in [Section 673\(d\) of Title 42 of the United States Code](#).

(b) A kinship guardianship assistance payment made under this article on behalf of a child shall not exceed the rate for children placed in a licensed or approved home pursuant to Section 11461.

(c) It is the intent of the Legislature to ensure that relative guardians of children in long-term, stable placements who previously were receiving kinship guardianship assistance payments on behalf of those children under Article 4.5 (commencing with Section 11360) shall instead receive assistance under this article to the extent that those children are otherwise eligible under Subtitle IV-E (commencing with Section 470 of the federal Social Security Act ([42 U.S.C. Sec. 670 et seq.](#)))).

(d) It is the intent of the Legislature that no county currently participating in the Child Welfare Demonstration Capped Allocation Project be adversely impacted by the department's exercise of its option under [Section 671\(a\)\(28\) of Title 42 of the United States Code](#) to enter into kinship assistance agreements as provided in [Section 673\(d\) of Title 42 of the United States Code](#). Therefore, the department shall negotiate with the United States Department of Health and Human Services on behalf of those counties that are currently participating in the demonstration project to ensure that those counties receive reimbursement for these new programs outside of the provisions of those counties' waiver under Subtitle IV-E (commencing with Section 470 of the federal Social Security Act ([42 U.S.C. Sec. 670 et seq.](#)))).

**Leg.H.**

Added Stats 2010 ch 559 § 37 (AB 12), effective January 1, 2011.

## § 11386. Eligibility for Aid; Conditions.

Aid shall be provided under this article on behalf of a child under 18 years of age, and to any eligible youth under 19 years of age, as provided in Section 11403, under all of the following conditions:

**(a)** The child satisfies both of the following requirements:

**(1)** He or she has been removed from his or her home pursuant to a voluntary placement agreement, or as a result of judicial determination, including being adjudged a dependent child of the court, pursuant to Section 300, or a ward of the court, pursuant to Section 601 or 602, to the effect that continuation in the home would be contrary to the welfare of the child.

**(2)** He or she has been eligible for federal foster care maintenance payments under Article 5 (commencing with Section 11400) while residing for at least six consecutive months in the approved home of the prospective relative guardian while under the jurisdiction of the juvenile court or a voluntary placement agreement.

**(b)** Being returned to the parental home or being adopted are not appropriate permanency options for the child.

**(c)** The child demonstrates a strong attachment to the relative guardian, and the relative guardian has a strong commitment to caring permanently for the child and, with respect to the child who has attained 12 years of age, the child has been consulted regarding the kinship guardianship arrangement.

**(d)** The child has had a kinship guardianship established pursuant to Section 360 or 366.26.

**(e)** The child has had his or her dependency jurisdiction terminated pursuant to Section 366.3, or his or her wardship terminated pursuant to subdivision (d) of Section 728, concurrently or subsequently to the establishment of the kinship guardianship.

**(f)** If the conditions specified in subdivisions (a) to (e), inclusive, are met and, subsequent to the termination of dependency jurisdiction, any parent or person having an interest files with the juvenile court a petition pursuant to Section 388 to change, modify, or set aside an order of the court, Kin-GAP payments shall continue unless and until the juvenile court orders the child removed from the home of the guardian, terminates the guardianship, or maintains dependency jurisdiction after the court concludes the hearing on the petition filed under Section 388.

**(g)** A child or nonminor former dependent or ward shall be eligible for Kin-GAP payments if he or she meets one of the following age criteria:

**(1)** He or she is under 18 years of age.

**(2)** He or she is under 21 years of age and has a physical or mental disability that warrants the continuation of assistance.

**(3)** Through December 31, 2011, he or she satisfies the conditions of Section 11403, and on and after January 1, 2012, he or she satisfies the conditions of Section 11403.01.

**(4)** He or she satisfies the conditions described in subdivision (h).

**(h)** Effective January 1, 2012, Kin-GAP payments shall continue for youths who have attained 18 years of age and are under 19 years of age, if they reached 16 years of age before the Kin-GAP negotiated agreement payments commenced, and as described in Section 10103.5. Effective January 1, 2013, Kin-GAP payments shall continue for youths who have attained 18 years of age and are under 20 years of age, if they reached 16 years of age before the Kin-GAP negotiated agreement payments commenced, and as described in Section 10103.5. Effective January 1, 2014, Kin-GAP payments shall continue for youths who

have attained 18 years of age and are under 21 years of age, if they reached 16 years of age before the Kin-GAP negotiated agreement payments commenced. To be eligible for continued payments, the youth shall satisfy one or more of the conditions specified in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(i)

(1) Termination of the guardianship with a kinship guardian shall terminate eligibility for Kin-GAP, unless the conditions of Section 11403 apply. However, if a successor guardian is appointed pursuant to Section 366.3 who is also a kinship guardian, the successor guardian shall be entitled to receive Kin-GAP on behalf of the child pursuant to this article if the reason for the appointment of the successor guardian is the death or incapacity of the kinship guardian and the successor guardian is named in the kinship guardianship assistance agreement or amendment to the agreement. A new period of six months of placement with the successor guardian shall not be required if that successor guardian has been assessed pursuant to Section 361.3, subdivision (a) of Section 361.4, and paragraph (2), and the court terminates dependency jurisdiction, subject to federal approval of amendments to the state plan.

(2)

(A) In addition to the state-level criminal records check described in paragraph (2) of subdivision (a) of Section 361.4, the county welfare department shall require each prospective successor guardian, and any other person over 18 years of age living in the home, to be fingerprinted, and shall secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation.

(B) If the criminal records check indicates that the prospective successor guardian 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 case shall not be eligible for Kin-GAP funding.

(C) If the proposed successor guardian has been convicted of a crime other than a minor traffic violation or arrested for an offense specified in subdivision (e) of Section 1522 of the Health and Safety Code, except for the civil penalty language, the criminal background check provisions specified in subdivisions (d) to (g), inclusive, of Section 1522 of the Health and Safety Code shall apply, and an exemption shall be issued prior to issuance of any Kin-GAP funding. Exemptions from the criminal records clearance requirements set forth in this section may be granted by the county using the exemption criteria specified in subdivision (g) of Section 1522 of the Health and Safety Code and any applicable written directives or regulations adopted by the department.

(3) A prospective successor guardian shall not be required to be approved as a resource family pursuant to Section 16519.5 for the sole purpose of receiving Kin-GAP funding on behalf of an eligible child in the care of the prospective successor guardian.

**Leg.H.**

Added Stats 2010 ch 559 § 37 (AB 12), effective January 1, 2011; Amended Stats 2011 ch 459 § 27 (AB 212), effective October 4, 2011; Stats 2012 ch 846 § 38 (AB 1712), effective January 1, 2013; Stats 2015 ch 425 § 21 (SB 794), effective January 1, 2016; Amended Stats 2018 ch 910 § 30 (AB 1930), effective January 1, 2019.

## **§ 11387. Federal Financial Participation for Payments; County's Responsibility; Written Agreement Required; Contents; Rate for**

## Payments.

**(a)** In order to receive federal financial participation for payments under this article, the county child welfare agency or probation department, Indian tribe, consortium of tribes, or tribal organization that entered into an agreement pursuant to Section 10553.1 shall negotiate and enter into a written, binding, kinship guardianship assistance agreement with the relative guardian of an eligible child, and provide the relative guardian with a copy of the agreement. The negotiated agreement shall be executed prior to establishment of the guardianship.

**(b)** The agreement shall specify, at a minimum, all of the following:

**(1)** The amount of and manner in which the kinship guardianship assistance payment will be provided under the agreement, that the amount is subject to any applicable increases pursuant to cost-of-living adjustments established by statute and the manner in which the agreement may be adjusted periodically, but no less frequently than every two years, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child.

**(2)** Additional services and assistance for which the child and relative guardian will be eligible under the agreement.

**(3)** A procedure by which the relative guardian may apply for additional services, as needed, including, but not limited to, the filing of a petition under Section 388 to have dependency jurisdiction resumed pursuant to subdivision (b) of Section 366.3.

**(4)** The agreement shall provide that it shall remain in effect regardless of the state of residency of the relative guardian.

**(5)** The responsibility of the relative guardian for reporting changes in the needs of the child or the circumstances of the relative guardian that affect payment.

**(6)** For a guardianship established on and after January 1, 2012, payment shall be made for reasonable and verified nonrecurring expenses associated with obtaining legal guardianship not to exceed the amount specified in federal law. Reimbursement shall not be made for costs otherwise reimbursed from other sources, including the foster care maintenance payment. The agreement shall indicate the maximum amount, the purpose of the expense, and the process for obtaining reimbursement of the nonrecurring expenses to be paid.

**(c)** In accordance with the Kin-GAP agreement, the relative guardian shall be paid an amount of aid based on the child's needs otherwise covered in AFDC-FC payments and the circumstances of the relative guardian but that shall not exceed the foster care maintenance payment that would have been paid based on the age-related stateapproved foster family home care rate and any applicable specialized care increment for a child placed in a licensed or approved family home pursuant to subdivisions (a) to (d), inclusive, of Section 11461. In addition, the rate paid for a child eligible for a Kin-GAP payment shall include an amount equal to the clothing allowance, as set forth in subdivision (f) of Section 11461, including any applicable rate adjustments. For a child eligible for a Kin- GAP payment who is a teen parent, the rate shall include the two-hundred-dollar (\$200) monthly payment made to the relative caregiver in a whole family foster home pursuant to paragraph (3) of subdivision (d) of Section 11465.

**(d)** Commencing on the effective date of the act that added this subdivision, and notwithstanding subdivision (c), in accordance with the Kin-GAP agreement the relative guardian shall be paid an amount of aid based on the child's needs otherwise covered in AFDC-FC payments and the circumstances of the relative guardian, as follows:

**(1)** For cases in which the dependency has been dismissed pursuant to Section 366.3 or wardship has been terminated pursuant to subdivision (e) of Section 728, concurrently or subsequently to establishment of the guardianship, on or before June 30, 2011, or the date specified in a final order, for which the time to appeal has passed, issued by a court of competent jurisdiction in California State Foster Parent Association et al. v. William Lightbourne, et al. (U.S. Dist. Ct. No. C 07-05086 WHA), whichever is earlier, the rate paid shall not exceed the basic foster care maintenance payment rate structure in effect prior to the effective date specified in the order described in this paragraph.

**(2)** For cases in which dependency has been dismissed pursuant to Section 366.3 or wardship has been terminated pursuant to subdivision (d) of Section 728, concurrently or subsequently to establishment of the guardianship, on or after July 1, 2011, or the date specified in the order described in paragraph (1), whichever is earlier, and through December 31, 2016, the rate paid shall not exceed the basic foster care maintenance payment rate structure effective and available as of December 31, 2016.

**(3)** For cases in which dependency has been dismissed pursuant to Section 366.3 or wardship has been terminated pursuant to Section 728, concurrently or subsequently to establishment of the guardianship, on or after January 1, 2017, the rate paid shall not exceed the home-based family care rate structure developed pursuant to subdivision (g) of Section 11461 and Section 11463.

**(4)** Beginning with the 2011-12 fiscal year, the Kin-GAP benefit payment rate structure shall be adjusted annually by the percentage change in the California Necessities Index, as set forth in paragraph (2) of subdivision (g) of Section 11461, without requiring a new agreement.

**(5)** In addition to the rate paid for a child eligible for a Kin-GAP payment, a specialized care increment, if applicable, as set forth in subdivision (e) of Section 11461, shall be paid.

**(6)** In addition to the rate paid for a child eligible for a Kin-GAP payment, a clothing allowance, as set forth in subdivision (f) of Section 11461, shall be paid.

**(7)** For a child eligible for a Kin-GAP payment who is a teen parent, the rate shall include the two-hundred-dollar (\$200) monthly payment made to the relative caregiver in a whole family foster home pursuant to paragraph (3) of subdivision (d) of Section 11465.

**(e)** The county child welfare agency or probation department, Indian tribe, consortium of tribes, or tribal organization that entered into an agreement pursuant to Section 10553.1 shall provide the relative guardian with information, in writing, on the availability of the federal Kin-GAP program with an explanation of the difference between these benefits and Adoption Assistance Program benefits and AFDC-FC benefits. The agency shall also provide the relative guardian with information on the availability of mental health services through the Medi-Cal program or other programs.

**(f)** The county child welfare agency, probation department, or Indian tribe, as appropriate, shall assess the needs of the child and the circumstances of the related guardian and is responsible for determining that the child meets the eligibility criteria for payment.

**(g)** Payments on behalf of a child who is a recipient of Kin-GAP benefits and who is also a consumer of regional center services shall be based on the rates established by the State Department of Social Services pursuant to Section 11464.

#### **Leg.H.**

Added Stats 2010 ch 559 § 37 (AB 12), effective January 1, 2011; Amended Stats 2011 ch 32 § 48 (AB 106), effective June 29, 2011, ch 459 § 28 (AB 212), effective October 4, 2011; Stats 2012 ch 846 § 39 (AB 1712), effective January 1, 2013; Amended Stats 2018 ch 35 § 21 (AB 1811), effective June 27, 2018; Stats 2018 ch 454 § 4 (SB 876), effective September 17, 2018.

## § 11388. Arrangement for the Siblings; Payment at Per Child Rate.

If a federally eligible child described in Section 11386 has one or more siblings who are not so described, the child and any sibling of the child may be placed in the same kinship guardianship arrangement, in accordance with [Section 671\(a\)\(31\) of Title 42 of the United States Code](#), if the county child welfare department or probation department or Indian tribe that entered into an agreement pursuant to Section 10553.1 and the prospective relative guardian agree on the appropriateness of the arrangement for the siblings. Kinship guardianship assistance payments may be paid on behalf of each sibling, at a per-child rate, placed in accordance with this section.

### Leg.H.

Added Stats 2010 ch 559 § 37 (AB 12), effective January 1, 2011.

## § 11389. Effect on Kin-GAP Eligibility.

A child eligible for a Kin-GAP payment under this article is categorically eligible for Medi-Cal at no share of cost pursuant to Section 473(b)(3) of the federal Social Security Act ([42 U.S.C. Sec. 673\(b\)\(3\)](#)).

### Leg.H.

Added Stats 2010 ch 559 § 37 (AB 12), effective January 1, 2011.

## § 11390. Statewide Fingerprint Imaging System; Exemptions; Guardian Income; County's Responsibility for Payments; Overlapping Benefits; Effects of Receipt of Kin-Gap Benefits.

(a) A person who is a kinship guardian under this article, and who has met the requirements of Section 361.4, is exempt from identity verification requirements for the CalWORKs program. A guardian who is also an applicant for, or a recipient of, benefits under the CalWORKs program shall comply with the identity verification requirements for the CalWORKs program, as those statutory and regulatory requirements existed on October 1, 2018.

(b) Any exemptions exercised pursuant to this section shall be implemented in accordance with Section 11393.

(c) Income to the child, including the Kin-GAP payment, shall not be considered income to the kinship guardian for purposes of determining the kinship guardian's eligibility for any other aid program, unless required by federal law as a condition of the receipt of federal financial participation.

(d) Each county that formally had court-ordered jurisdiction under Section 300 or Section 601 or 602 over a child receiving benefits under the Kin-GAP Program shall be responsible for paying the child's aid regardless of where the child actually resides.

(e) Notwithstanding any other law, when a child receiving benefits under the AFDC-FC program becomes eligible for benefits under the Kin-GAP Program during any month, the child shall continue to receive benefits under the AFDC-FC program, as appropriate, through the day that the juvenile court dismisses the dependency or terminates the wardship, and Kin-GAP payments shall begin the day following the day that the juvenile court dismisses the dependency or terminates the wardship.

(f) All of the following shall apply to any child or nonminor in receipt of Kin-GAP benefits:

(1) The child or nonminor is eligible to request and receive independent living services pursuant to Section 10609.3.

(2) The child or nonminor may retain cash savings, not to exceed ten thousand dollars (\$10,000), including interest, pursuant to Section 11155.5.

(3) The child or nonminor shall have earned income disregarded pursuant to Section 11008.15.

**Leg.H.**

Added Stats 2010 ch 559 § 37 (AB 12), effective January 1, 2011. Amended Stats 2011 ch 227 § 53 (AB 1400), effective January 1, 2012; Stats 2019 ch 27 § 54 (SB 80), effective June 27, 2019.

## § 11391. Definitions.

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

(a) “Kinship Guardianship Assistance Payments (Kin-GAP)” means the aid provided on behalf of children eligible for federal financial participation under **Section 671(a)(28) of Title 42 of the United States Code** in kinship care under the terms of this article.

(b) “Kinship guardian” means a person who meets both of the following criteria:

(1) He or she has been appointed the legal guardian of a dependent child pursuant to Section 366.26 or Section 360 or a ward of the juvenile court pursuant to subdivision (d) of Section 728.

(2) He or she is a relative of the child.

(c) “Relative,” subject to federal approval of amendments to the state plan, means any of the following:

(1) 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.

(2) An adult who meets the definition of an approved, nonrelated extended family member, as described in Section 362.7.

(3) An adult who is either a member of the Indian child’s tribe, or an Indian custodian, as defined in **Section 1903(6) of Title 25 of the United States Code**.

(4) An adult who is the current foster parent of a child under the juvenile court’s jurisdiction, who has established a significant and family-like relationship with the child, and the child and the county child welfare agency, probation department, Indian tribe, consortium of tribes, or tribal organization that has entered into an agreement pursuant to Section 10553.1 identify this adult as the child’s permanent connection.

(d) “Sibling” means a child related to the identified eligible child by blood, adoption, or affinity through a common legal or biological parent.

**Leg.H.**

Added Stats 2010 ch 559 § 37 (AB 12), effective January 1, 2011. Amended Stats 2012 ch 846 § 40 (AB 1712), effective January 1, 2013.

## **§ 11392. Continuing Eligibility; Annual Redetermination of Eligibility; Written Negotiated Agreement Required.**

On and after the date that the director executes a declaration pursuant to Section 11217, for purposes of eligibility under this article, children who are currently receiving Kin-GAP pursuant to Article 4.5 (commencing with Section 11360) and who were determined eligible under Subtitle IV-E (commencing with Section 470 of the federal Social Security Act ([42 U.S.C. Sec. 670 et seq.](#))) as dependent children of the juvenile court placed in foster care with an approved relative and who remain under the court's jurisdiction pursuant to Section 366.4 shall be deemed to meet the eligibility criteria as described in [Section 673\(d\) of Title 42 of the United States Code](#). On and after the date that the director executes a declaration pursuant to Section 11217, the county child welfare department, probation department, or Indian tribe, as appropriate, at the time of each Subtitle IV-E eligible child's Kin-GAP annual redetermination, shall meet with the relative guardian and child and enter into the written negotiated agreement as described in Section 11387.

**Leg.H.**

Added Stats 2010 ch 559 § 37 (AB 12), effective January 1, 2011.

## **§ 11393. Implementation and Regulations.**

(a) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) the department may implement the applicable provisions of the federally funded Kin-GAP Program through all-county letters or similar instructions from the director.

(b) The department shall develop both the all-county letter instructions and regulations in consultation with concerned stakeholders, including, but not limited to, the County Welfare Directors Association, the Chief Probation Officers of California, representatives of California Indian tribes, the California Youth Connection, former foster youth, child advocacy organizations, labor organizations, foster caregiver organizations, and researchers.

(c) The director shall adopt regulations as otherwise necessary, to implement the applicable provisions of the federally funded Kin-GAP Program. Emergency regulations to implement the applicable provisions of this act 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 2010 ch 559 § 37 (AB 12), effective January 1, 2011.

## **ARTICLE 5**

### **Aid to Families with Dependent Children—Foster Care**

#### **§ 11401. Eligibility.**

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

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

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

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

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

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

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

**(c)** The child has been voluntarily placed by the child's parent or guardian pursuant to Section 11401.1.

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

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

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

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

**(1)**

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

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

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

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

**(2)**

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

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

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

**(3)**

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

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

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

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

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

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

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

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

**(4)** With respect to a nonminor dependent, in addition to meeting the conditions specified in paragraph (1), the requirements of **Section 675(8)(B) of Title 42 of the United States Code** have been satisfied. With respect to a former nonminor dependent who reenters foster care placement by signing

the voluntary reentry agreement, as set forth in subdivision (z) of Section 11400, the requirements for AFDC-FC eligibility of **Section 672(a)(3)(A) of Title 42 of the United States Code** are satisfied based on the nonminor's status as a child-only case, without regard to the parents, legal guardians, or others in the assistance unit in the home from which the nonminor was originally removed.

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

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

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

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

**Leg.H.**

Added Stats 1980 ch 1166 § 11. Amended Stats 1981 ch 619 § 1; Stats 1983 ch 309 § 8, ch 551 § 4, effective July 28, 1983; Stats 1984 ch 1608 § 8, effective September 30, 1984, ch 1747 § 3; Stats 1985 ch 353 § 2, 1274 § 14, effective September 30, 1985; Stats 1987 ch 1022 § 11; Stats 1991 ch 1203 § 8 (SB 1125); Stats 1998 ch 1056 § 22 (AB 2773); Stats 1999 ch 83 § 205 (SB 966); Stats 2001 ch 653 § 15 (AB 1695), effective October 10, 2001; Stats 2004 ch 468 § 5 (AB 129); Stats 2005 ch 630 § 5 (SB 500), effective January 1, 2006; Stats 2009–2010 8th Ex Sess ch 4 § 2 (SBX8 4), effective June 10, 2010; Stats 2011 ch 459 § 30 (AB 212), effective October 4, 2011; Stats 2017 ch 707 § 5 (AB 604), effective January 1, 2018; Stats 2021 ch 622 § 3 (AB 640), effective January 1, 2022.

## § 11404.1. Periodic Reviews and Permanency Planning Hearings Required for Foster Care Placements.

In order to be eligible for AFDC-FC, the child shall receive a periodic review no less frequently than once every six months and a permanency hearing within 12 months after the date the child entered foster care, pursuant to Section 361.49. The child shall also receive permanency planning hearings periodically, but no less frequently than once each 12 months thereafter, as required by subdivision (d) of Section 366.3 throughout the period of foster care placement. Periodic reviews and permanency planning hearings shall not be required for a child who is residing with a nonrelated legal guardian.

**Leg.H.**

Added Stats 1982 ch 977 § 9, effective September 13, 1982, operative October 1, 1982. Amended Stats 1984 ch 1608 § 9, effective September 30, 1984. Amended Stats 1996 ch 1138 § 6 (AB 2154); Stats 1998 ch 1056 § 23 (AB 2773); Stats 1999 ch 887 § 6 (SB 1270); Stats 2009 ch 120 § 5 (AB 706), effective August 6, 2009.

## ARTICLE 7

### Enforcement

## § 11476.6. Reporting of Certain Data Concerning Notification of Support Payments.

Each local child support agency shall submit to the department data revealing the range and median time periods by which notification of the receipt of child support payments collected on behalf of a family receiving

aid under this chapter is made to the local welfare department. The data shall contain the number and percentage of cases in which the payments described herein are conveyed within the time period prescribed by federal law.

**Leg.H.**

1986 ch. 1402 § 9.5, 1999 ch. 478, 2004 ch. 193 (SB 111).

## **§ 11477. Applicant's Assignment of Rights to Support; Applications Before or After October 1, 2009; Order of Distribution for Preassistance and Postassistance Arrears; Cooperation in Establishing Paternity and in Obtaining Support.**

As a condition of eligibility for aid paid under this chapter, each applicant or recipient shall do all of the following:

**(a)**

**(1)** Do either of the following:

**(A)** For applications received before October 1, 2009, assign to the county any rights to support from any other person the applicant or recipient may have on his or her own behalf or on behalf of any other family member for whom the applicant or recipient is applying for or receiving aid, not exceeding the total amount of cash assistance provided to the family under this chapter. Receipt of public assistance under this chapter operates as an assignment by operation of law. An assignment of support rights to the county shall also constitute an assignment to the state. If support rights are assigned pursuant to this subdivision, the assignee may become an assignee of record by the local child support agency or other public official filing with the court clerk an affidavit showing that an assignment has been made or that there has been an assignment by operation of law. This procedure does not limit any other means by which the assignee may become an assignee of record.

**(B)** For applications received on or after October 1, 2009, assign to the county any rights to support from any other person the applicant or recipient may have on his or her own behalf, or on behalf of any other family member for whom the applicant or recipient is applying for or receiving aid. The assignment shall apply only to support that accrues during the period of time that the applicant is receiving assistance under this chapter, and shall not exceed the total amount of cash assistance provided to the family under this chapter. Receipt of public assistance under this chapter shall operate as an assignment by operation of law. An assignment of support rights to the county shall also constitute an assignment to the state. If support rights are assigned pursuant to this subdivision, the assignee may become an assignee of record by the local child support agency or other public official filing with the court clerk an affidavit showing that an assignment has been made or that there has been an assignment by operation of law. This procedure does not limit any other means by which the assignee may become an assignee of record.

**(2)** Support that has been assigned pursuant to paragraph (1) and that accrues while the family is receiving aid under this chapter shall be permanently assigned until the entire amount of aid paid has been reimbursed.

**(3)** If the federal government does not permit states to adopt the same order of distribution for preassistance and postassistance child support arrears that are assigned on or after October 1, 1998,

support arrears that accrue before the family receives aid under this chapter that are assigned pursuant to this subdivision shall be assigned as follows:

(A) Child support assigned prior to January 1, 1998, shall be permanently assigned until aid is no longer received and the entire amount of aid has been reimbursed.

(B) Child support assigned on or after January 1, 1998, but prior to October 1, 2000, shall be temporarily assigned until aid under this chapter is no longer received and the entire amount of aid paid has been reimbursed or until October 1, 2000, whichever comes first.

(C) On or after October 1, 2000, support assigned pursuant to this subdivision that was not otherwise permanently assigned shall be temporarily assigned to the county until aid is no longer received.

(D) On or after October 1, 2000, support that was temporarily assigned pursuant to this subdivision shall, when a payment is received from the federal tax intercept program, be temporarily assigned until the entire amount of aid paid has been reimbursed.

(4) If the federal government permits states to adopt the same order of distribution for preassistance and postassistance child support arrears, child support arrears shall be assigned, as follows:

(A) Child support assigned pursuant to this subdivision prior to October 1, 1998, shall be assigned until aid under this chapter is no longer received and the entire amount has been reimbursed.

(B) On or after October 1, 1998, child support assigned pursuant to this subdivision that accrued before the family receives aid under this chapter and that was not otherwise permanently assigned shall be temporarily assigned until aid under this chapter is no longer received.

(C) On or after October 1, 1998, support that was temporarily assigned pursuant to this subdivision shall, when a payment is received from the federal tax intercept program, be temporarily assigned until the entire amount of aid paid has been reimbursed.

(b)

(1) Cooperate with the county welfare department and local child support agency in establishing the paternity of a child of the applicant or recipient born out of wedlock with respect to whom aid is claimed, and in establishing, modifying, or enforcing a support order with respect to a child of the individual for whom aid is requested or obtained, unless the applicant or recipient qualifies for a good cause exception pursuant to Section 11477.04. The granting of aid shall not be delayed or denied if the applicant is otherwise eligible, completes the necessary forms, and agrees to cooperate with the local child support agency in securing support and determining paternity, if applicable. The local child support agency shall have staff available, in person or by telephone, at all county welfare offices and shall conduct an interview with each applicant to obtain information necessary to establish paternity and establish, modify, or enforce a support order at the time of the initial interview with the welfare office. The local child support agency shall make the determination of cooperation. If the applicant or recipient attests under penalty of perjury that he or she cannot provide the information required by this subdivision, the local child support agency shall make a finding regarding whether the individual could reasonably be expected to provide the information before the local child support agency determines whether the individual is cooperating. In making the finding, the local child support agency shall consider all of the following:

(A) The age of the child for whom support is sought.

- (B) The circumstances surrounding the conception of the child.
- (C) The age or mental capacity of the parent or caretaker of the child for whom aid is being sought.
- (D) The time that has elapsed since the parent or caretaker last had contact with the alleged father or obligor.
- (2) Cooperation includes all of the following:
- (A) Providing the name of the alleged parent or obligor and other information about that person if known to the applicant or recipient, such as address, social security number, telephone number, place of employment or school, and the names and addresses of relatives or associates.
- (B) Appearing at interviews, hearings, and legal proceedings, provided the applicant or recipient is provided with reasonable advance notice of the interview, hearing, or legal proceeding and does not have good cause not to appear.
- (C) If paternity is at issue, submitting to genetic tests, including genetic testing of the child, if necessary.
- (D) Providing any additional information known to, or reasonably obtainable by, the applicant or recipient necessary to establish paternity or to establish, modify, or enforce a child support order.
- (3) A recipient or applicant shall not be required to sign a voluntary declaration of paternity, as set forth in Chapter 3 (commencing with Section 7570) of Part 2 of Division 12 of the Family Code, as a condition of cooperation.

(c)

- (1) This section does not apply if all of the adults are excluded from the assistance unit pursuant to Section 11251.3, 11454, or 11486.5, or if all eligible adults have been subject to Section 11327.5 for at least 12 consecutive months.
- (2) It is the intent of the Legislature that the regular receipt of child support in the preceding reporting period be considered in determining reasonably anticipated income for the following reporting period.
- (3) In accordance with Sections 11265.2 and 11265.46, if the income of an assistance unit described in paragraph (1) includes reasonably anticipated income derived from child support, the amount established in [Section 17504 of the Family Code](#) and [Section 11475.3 of the Welfare and Institutions Code](#) of any amount of child support received each month shall not be considered income or resources and shall not be deducted from the amount of aid to which the assistance unit otherwise would be eligible.

**Leg.H.**

Added Stats 1975 ch 924 § 15, effective September 20, 1975. Amended Stats 1976 ch 1298 § 1; Stats 1977 ch 1252 § 808, operative July 1, 1978; Stats 1979 ch 1030 § 13; Stats 1981–82 1st Ex Sess ch 3 § 37, effective February 17, 1982; Stats 1982 ch 497 § 182.5, operative July 1, 1983; Stats 1997 ch 270 § 149 (AB 1542), effective August 11, 1997, operative January 1, 1998; Stats 1998 ch 902 § 52 (AB 2772); Stats 1999 ch 478 § 35 (AB 196); Stats 2000 ch 808 § 125 (AB 1358), effective September 28, 2000; Stats 2007 ch 488 § 2 (AB 176), effective January 1, 2008; Stats 2014 ch 29 § 75 (SB 855), effective June 20, 2014, ch 685 § 10 (SB 873), effective September 27, 2014; Stats 2015 ch 20 § 21 (SB 79), effective June 24, 2015, ch 303 § 595 (AB 731), effective January 1, 2016 (ch 20 prevails); Stats 2016 ch 86 § 316 (SB 1171), effective January 1, 2017.

## **§ 11477.02. Good Cause Exception to Cooperation Requirement; Child Support Services Suspended Pending Good Cause Determination; Resumption of Child Support Services and Protective Measures; Reduction of Grant by 25% During Failure to Cooperate.**

Prior to referral of any individual or recipient, or that person's case, to the local child support agency for child support services under [Section 17400](#) or [17404 of the Family Code](#), the county welfare department shall determine if an applicant or recipient has good cause for noncooperation, as set forth in Section 11477.04. If the applicant or recipient claims a good cause exception at any subsequent time to the county welfare department or the local child support agency, the local child support agency shall suspend child support services until the county welfare department determines the good cause claim, as set forth in Section 11477.04. If good cause is determined to exist, the local child support agency shall suspend child support services until the applicant or recipient requests their resumption, and shall take such other measures as are necessary to protect the applicant or recipient and the children. If the applicant or recipient is the parent of the child for whom aid is sought and the parent is found to have not cooperated without good cause as provided in Section 11477.04, the applicant's or recipient's family grant shall be reduced by 25 percent for such time as the failure to cooperate lasts.

**Leg.H.**

1997 ch. 270, effective August 11, 1997, operative August 18, 1997, 1999 ch. 478, 2000 ch. 808, effective September 28, 2000.

## **§ 11477.04. Noncooperation by Applicant or Recipient; Good Cause Determination; Conditions Under Which Good Cause Shall be Found; Examples of Supporting Evidence; Sworn Statement to Establish Abuse; Written Independent, Reasonable Basis Required to Find Recipient Not Credible; Referral of Good-Cause and At-Risk Applicants and Recipients to Appropriate Services.**

(a) An applicant or a recipient shall be considered to be cooperating in good faith with the county welfare department or the local child support agency for purposes of Section 11477 and shall be eligible for aid, if otherwise eligible, if he or she cooperates or has good cause for noncooperation. The county welfare department shall make the good cause determination.

(b) Good cause shall be found if any of the following conditions exist:

(1) Efforts to establish paternity or establish, modify, or enforce a support obligation would increase the risk of physical, sexual, or emotional harm to the child for whom support is being sought.

(2) Efforts to establish paternity or establish, modify, or enforce a support obligation would increase the risk of abuse, as defined in Section 11495.1, to the parent or caretaker with whom the child is living.

(3) The child for whom support is sought was conceived as a result of incest or rape. A conviction for incest or rape is not necessary for this paragraph to apply.

(4) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction.

- (5) The applicant or recipient is currently being assisted by a public or licensed private adoption agency to resolve the issue of whether to keep the child or relinquish the child for adoption.
- (6) The applicant or recipient is cooperating in good faith but is unable to identify or assist in locating the alleged father or obligor.

(7) Any other reason that would make efforts to establish paternity or establish, modify, or enforce a support obligation contrary to the best interests of the child.

(c) Evidence supporting a claim for good cause includes, but is not limited to, the following:

(1) Police, governmental agency, or court records, documentation from a domestic violence program or a legal, clerical, medical, mental health, or other professional from whom the applicant or recipient has sought assistance in dealing with abuse, physical evidence of abuse, or any other evidence that supports the claim of good cause.

(2) Statements under penalty of perjury from individuals, including the applicant or recipient, with knowledge of the circumstances that provide the basis for the good cause claim.

(3) Birth certificates or medical, mental health, rape crisis, domestic violence program, or law enforcement records that indicate that the child was conceived as the result of incest or rape.

(4) Court documents or other records that indicate that legal proceedings for adoption are pending before a court of competent jurisdiction.

(5) A written statement from a public or licensed private adoption agency that the applicant or recipient is being assisted by the agency to resolve the issue of whether to keep the child or relinquish the child for adoption.

(d) A sworn statement by a victim shall be sufficient to establish abuse unless the agency documents in writing an independent, reasonable basis to find the recipient not credible.

(e) Applicants or recipients who inquire about or claim good cause, or otherwise indicate that they or their children are at risk of abuse, shall be given referrals by the county welfare department to appropriate community, legal, medical, and support services. Followup by the applicant or recipient on those referrals shall not affect eligibility for assistance under this chapter or the determination of cooperation.

**Leg.H.**

1997 ch. 270, effective August 11, 1997, operative August 18, 1997, 1999 ch. 478.

## **§ 11477.1. Prohibition against Polygraph Tests Without Written Notice and Consent.**

No polygraph tests shall be administered to any applicant or recipient of aid under this chapter for the purposes of enforcement of Title IV-D of the Social Security Act, without written notice to applicant or recipient that such test is not required and without written consent thereto by such applicant or recipient.

**Leg.H.**

1975 ch. 924.

## § 11478.1. Confidentiality of Child Recovery and Support Enforcement Records; Disclosure; “Putative Parent”.

(a) It is the intent of the Legislature to protect individual rights of privacy, and to facilitate and enhance the effectiveness of the child and spousal support enforcement program, by ensuring the confidentiality of support enforcement and child abduction records, and to thereby encourage the full and frank disclosure of information relevant to all of the following:

- (1) The establishment or maintenance of parent and child relationships and support obligations.
- (2) The enforcement of the child support liability of absent parents.
- (3) The enforcement of spousal support liability of the spouse or former spouse to the extent required by the state plan under Section 11475.2 of this code and Part 6 (commencing with Section 5700.101) of Division 9 of the Family Code.
- (4) The location of absent parents.
- (5) The location of parents and children abducted, concealed, or detained by them.

(b)

(1) Except as provided in subdivision (c), all files, applications, papers, documents, and records established or maintained by any public entity pursuant to the administration and implementation of the child and spousal support enforcement program established pursuant to Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code and this article, shall be confidential, and shall not be open to examination or released for disclosure for any purpose not directly connected with the administration of the child and spousal support enforcement program. No public entity shall disclose any file, application, paper, document, or record, or the information contained therein, except as expressly authorized by this section.

(2) In no case shall information be released or the whereabouts of one party or the child disclosed to another party, or to the attorney of any other party, if a protective order has been issued by a court or administrative agency with respect to the former party, a good cause claim under Section 11477.04 has been approved or is pending, or the public agency responsible for establishing paternity or enforcing support has reason to believe that the release of the information may result in physical or emotional harm to the former party or the child.

(3) Notwithstanding any other provision of law, a proof of service filed by the district attorney shall not disclose the address where service of process was accomplished. Instead, the district attorney shall keep the address in the district attorney's own records. The proof of service shall specify that the address is on record at the district attorney's office and that the address may be released only upon an order from the court pursuant to paragraph (6) of subdivision (c). The district attorney shall, upon request by a party served, release to that person the address where service was effected.

(c) Disclosure of the information described in subdivision (b) is authorized as follows:

(1) All files, applications, papers, documents, and records as described in subdivision (b) shall be available and may be used by a public entity for all administrative, civil, or criminal investigations, actions, proceedings, or prosecutions conducted in connection with the administration of the child and spousal support enforcement program approved under Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code, and any other plan or program described in **Section 303.21 of Title 45 of the Code of Federal Regulations** and to the county welfare department responsible for

administering a program operated under a state plan pursuant to Subpart 1 or 2 of Part B or Part E of Subchapter IV of Chapter 7 of Title 42 of the United States Code.

(2) A document requested by a person who wrote, prepared, or furnished the document may be examined by or disclosed to that person or the person's designee.

(3) The payment history of an obligor pursuant to a support order may be examined by or released to the court, the obligor, or the person on whose behalf enforcement actions are being taken or that person's designee.

(4) Income and expense information of either parent may be released to the other parent for the purpose of establishing or modifying a support order.

(5) Public records subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) may be released.

(6) After a noticed motion and a finding by the court, in a case in which establishment or enforcement actions are being taken, that release or disclosure to the obligor or obligee is required by due process of law, the court may order a public entity that possesses an application, paper, document, or record as described in subdivision (b) to make that item available to the obligor or obligee for examination or copying, or to disclose to the obligor or obligee the contents of that item. Article 9 (commencing with Section 1040) of Chapter 4 of Division 8 of the Evidence Code shall not be applicable to proceedings under this part. At any hearing of a motion filed pursuant to this section, the court shall inquire of the district attorney and the parties appearing at the hearing if there is reason to believe that release of the requested information may result in physical or emotional harm to a party. If the court determines that harm may occur, the court shall issue any protective orders or injunctive orders restricting the use and disclosure of the information as are necessary to protect the individuals.

(7) To the extent not prohibited by federal law or regulation, information indicating the existence or imminent threat of a crime against a child; location of a concealed, detained, or abducted child; or the location of the concealing, detaining, or abducting person, may be disclosed to any district attorney, any appropriate law enforcement agency, or to any state or county child protective agency, or may be used in any judicial proceedings to prosecute that crime or to protect the child.

(8)

(A) The social security number, most recent address, and the place of employment of the absent parent may be released to an authorized person as defined in [Section 653\(c\) of Title 42 of the United States Code](#), only if the authorized person has filed a request for the information, and only if the information has been provided to the California Parent Locator Service by the federal Parent Locator Service pursuant to [Section 653 of Title 42 of the United States Code](#).

(B) The information described in subparagraph (A) may be disclosed to the county child welfare agency and the county probation department responsible for administering a program operated under a state plan pursuant to Subpart 1 (commencing with Section 621) or 2 (commencing with Section 629) of Part B of, or pursuant to Part E (commencing with Section 670) of, Subchapter IV of Chapter 7 of Title 42 of the United States Code. Information exchanged between the California Parent Locator Service or the California Child Support Automation System, or its replacement, and the county welfare agency shall be through automated processes to the maximum extent feasible.

(C) On or before July 1, 2013, the State Department of Social Services and the Department of Child Support Services shall issue an all-county letter or similar instruction explaining that county

child welfare and probation agencies are entitled to the information described in paragraph (9) of subdivision (c) of Section 17212 and subdivision (c) of Section 17506 of the Family Code.

**(d)**

**(1)** “Administration and implementation of the child and spousal support enforcement program,” as used in this section, means the carrying out of the state and local plans for establishing, modifying, and enforcing child support obligations, enforcing spousal support orders, and determining paternity pursuant to Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code and this article.

**(2)** For purposes of this section, “obligor” means any person owing a duty of support.

**(3)** As used in this chapter, “putative parent” shall refer to any person reasonably believed to be the parent of a child for whom the local child support agency is attempting to establish paternity or establish, modify, or enforce support pursuant to [Section 17400 of the Family Code](#).

**(e)** Any person who willfully, knowingly, and intentionally violates this section is guilty of a misdemeanor.

**(f)** Nothing in this section shall be construed to compel the disclosure of information relating to a deserting parent who is a recipient of aid under a public assistance program for which federal aid is paid to this state, if that information is required to be kept confidential by the federal law or regulations relating to the program.

**Leg.H.**

Added Stats 1991 ch 943 § 2 (AB 1524). Amended Stats 1992 ch 163 § 147 (AB 2641) (ch 1192 prevails), ch 1192 § 2 (AB 973), effective September 29, 1992; Stats 1993 ch 219 § 231 (AB 1500); Stats 1997 ch 599 § 56 (AB 573); Stats 1998 ch 858 § 10 (AB 2169), ch 1056 § 24.5 (AB 2773); Stats 2012 ch 637 § 5 (AB 1751), effective January 1, 2013; Stats 2015 ch 493 § 15 (SB 646), effective January 1, 2016; Stats 2021 ch 615 § 437 (AB 474), effective January 1, 2022.

## **§ 11479. Investigation and Other Actions by District Attorney Regarding Paternity in Adoption Context.**

In all cases in which the paternity of the child has not been established to the satisfaction of the county department, the county department shall refer the applicant to the local child support agency at the time the application is signed. Upon the advice of a county department that a child is being considered for adoption, and regardless of whether or not the whereabouts of the parent is known, the local child support agency shall delay the investigation and other action with respect to the case until advised that the adoption is no longer under consideration. The local child support agency shall conduct such investigation as the agency considers necessary, and where he or she deems it appropriate, the agency may bring an action under Chapter 4 (commencing with Section 7630) of Part 3 of Division 12 of the Family Code. When the cause is at issue, it shall be set for trial at the earliest possible date and shall take precedence over all other cases except older matters of the same character and matters to which precedence may be given by law.

**Leg.H.**

Amended 1980 ch. 676 § 351, 1994 ch. 1269, 1999 ch. 478.

## **§ 11480. Unlawful Receipt or Use of AFDC Grant—Penalty.**

Any person other than a needy child, who willfully and knowingly receives or uses any part of an aid grant paid pursuant to this chapter for a purpose other than support of the needy children and the caretaker involved, is guilty of a misdemeanor.

**Leg.H.**

1965 ch. 1784.

## **§ 11481. Prosecution of Individual Causing AFDC Recipient to Become Ward of Court.**

If the district attorney, during the course of any investigation made by him pursuant to this article, determines that any person has committed any act or has omitted the performance of any duty, which act or omission causes or tends to cause or encourage any child receiving aid under this chapter to come within the provisions of Sections 300, 601, or 602 of this code, the district attorney shall prosecute such person under the provisions of **Section 272 of the Penal Code**.

**Leg.H.**

1965 ch. 1784, 1979 ch. 373.

## **§ 11481.5. Effectiveness Evaluation of Welfare Fraud Hotline Pilot Project.**

The department shall evaluate the effectiveness of a 24-hour welfare fraud hotline pilot project, to assess greater public involvement and assistance in welfare fraud detection.

**Leg.H.**

1984 ch. 1448 § 3.5.

## **§ 11482. Fraudulent Representation or Nondisclosure in Attempt to Obtain or Continue to Receive Aid.**

Any person other than a needy child, who willfully and knowingly, with the intent to deceive, makes a false statement or representation or knowingly fails to disclose a material fact to obtain aid, or who, knowing he or she is not entitled thereto, attempts to obtain aid or to continue to receive aid to which he or she is not entitled, or a larger amount than that to which he or she is legally entitled, is guilty of a misdemeanor, except as specified in Section 11482.5 and shall be subject to prosecution under the provisions of Chapter 9 (commencing with Section 10980) of Part 2.

**Leg.H.**

1965 ch. 1784, 1983 ch. 1235, 1984 ch. 1448.

## **§ 11482.5. Multiple Applications for Aid; Use of False Identity; Application in Name of Fictitious or Nonexistent Person.**

Any person who knowingly makes more than one application for aid with the intent of establishing multiple entitlements for any person for the same period, or who makes an application for aid by claiming a false identity for any person or by making an application for a fictitious or nonexistent person, is guilty of a felony and shall be subject to prosecution under the provisions of Chapter 9 (commencing with Section 10980) of Part 2.

**Leg.H.**

1983 ch. 1235, 1984 ch. 1448.

## **§ 11483. Fraudulently Obtaining Aid.**

Except as specified in Section 11483.5, whenever any person has, by means of false statement or representation or by impersonation or other fraudulent device, obtained aid for a child not in fact entitled thereto, the person obtaining such aid shall be subject to prosecution under the provisions of Chapter 9 (commencing with Section 10980) of Part 2.

When the allegation is limited to failure to report not more than two thousand dollars (\$2,000) of income or resources, or the failure to report the presence of an additional person or persons in the household, all actions necessary to secure restitution shall be brought against persons in violation of Section 10980. The action for restitution may be satisfied by sending a registered letter requesting restitution to the last address at which the person was receiving public assistance.

**Leg.H.**

1965 ch. 1784, 1970 ch. 693, 1977 ch. 165, effective June 29, 1977, operative July 1, 1977, 1979 chs. 373, 1170, 1171, 1983 ch. 1092, effective September 27, 1983, operative January 1, 1984, 1983 ch. 711, 1984 ch. 1448.

## **§ 11483.5. Fraudulently Obtaining Aid on Basis of Multiple Application, Use of False Identity, or Application in Name of Fictitious or Nonexistent Person.**

Any person who obtains more than one aid payment for any person as a result of knowingly making more than one application for aid with the intent of establishing multiple entitlements for that person during the same period, or who obtains aid for any person by making an application claiming a false identity or by making an application for a fictitious or nonexistent person, is guilty of a felony, and shall be subject to prosecution under the provisions of Chapter 9 (commencing with Section 10980) of Part 2.

**Leg.H.**

1983 ch. 1235, 1984 ch. 1448.

## **§ 11484. Cooperation with Investigator.**

On request, all state, county, and local agencies shall cooperate with an investigator of an agency whose primary function is to detect, prevent, or prosecute public assistance fraud, by providing all information on hand relative to the location and prosecution of any person who has, by means of false statement or representation or by impersonation or other fraudulent device, obtained aid, or attempted to obtain aid for an individual under this chapter. That information is subject to confidentiality requirements under Chapter 5 (commencing with Section 10850) of Part 2. For purposes of this section, "information" shall not include taxpayer return information as defined in [Section 19549 of the Revenue and Taxation Code](#), unless disclosure of this information is expressly authorized pursuant to Article 2 (commencing with Section 19501) of Chapter 7 of Part 10.2 of the Revenue and Taxation Code.

**Leg.H.**

2000 ch. 808, effective September 28, 2000.

## **§ 11485. Notification Requirement When Divorce or Separate Maintenance Action Involves Prior or Pending Award of Child**

## Support.

If, to the knowledge of the court, aid has been applied for or granted to a child of parents who are engaged in a divorce or separate maintenance action which is pending, or if the court at any stage of the litigation believes that within the near future there is a likelihood that aid will be applied for on behalf of the child, the court shall direct the clerk to notify the local child support agency and the county department of the pending action.

In any case in which aid has been applied for on behalf of the child, and the county department has knowledge that an action for divorce or separate maintenance has been filed, it shall be the duty of the county director to notify the court that aid is being paid or has been applied for, and to furnish to it such information as is available to the county department as to the financial resources of the parents which might be applied to child support.

The enforcement remedies provided the local child support agency under this article shall not preclude the use of any other remedy which he has under the law to enforce this article.

**Leg.H.**

1965 ch. 1784, 1999 ch. 478.

## § 11486. Sanctions for Fraudulent Acts in Connection With Application for or Receipt of Aid.

(a) The needs of any individual who is a member of a family applying for, or receiving, aid under this chapter shall not be taken into account in making the determination under Section 11450 with respect to his or her family beginning on the date, or at any time thereafter, the individual is found in state or federal court or pursuant to an administrative hearing decision, including any determination made on the basis of a plea of guilty or nolo contendere, to have committed any of the following acts:

(1) Making a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from two or more states or counties.

(2) Submitting documents for nonexistent children, or submitting false documents for the purpose of showing ineligible children to be eligible for aid.

(3) When there has been a receipt of cash benefits that exceeds ten thousand dollars (\$10,000) as a result of intentionally and willfully doing any of the following acts for the purpose of establishing or maintaining the family's eligibility for aid or increasing or preventing a reduction in the amount of aid:

(A) Making a false or misleading statement or misrepresenting, concealing, or withholding facts.

(B) Committing any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.

(b) The needs of any individual who is a member of a family applying for, or receiving, aid under this chapter shall not be taken into account in making the determination under Section 11450 with respect to his or her family for the following periods beginning on the date or any time thereafter the individual is convicted of a felony in state or federal court, including any determination made on the basis of a plea of guilty or nolo contendere, for committing fraud in the receipt or attempted receipt of aid:

(1) For two years, if the amount of aid is less than two thousand dollars (\$2,000).

(2) For five years, if the amount of aid is two thousand dollars (\$2,000) or more but is less than five thousand dollars (\$5,000).

(3) Permanently, if the amount of aid is five thousand dollars (\$5,000) or more.

(c)

(1) Except as provided in subdivisions (a) and (b), the needs of any individual who is a member of a family applying for, or receiving, aid under this chapter to whom paragraph (2) applies shall not be taken into account in making the determination under Section 11450 with respect to his or her family for the following periods:

(A) For a period of six months upon the first occasion of any offense referred to in paragraph (2).

(B) For a period of 12 months upon the second occasion of any of those offenses referred to in paragraph (2).

(C) Permanently, upon the third occasion of any offense referred to in subdivision (b) and paragraph (2).

(2) Except as provided in subdivisions (a), (b), and (d), paragraph (1) shall apply to any individual who is found by a federal or state court, or pursuant to a special administrative hearing meeting the requirements of regulations adopted by the United States Secretary of Health and Human Services, including any determination made on the basis of a plea of guilty or nolo contendere, to have done any of the following acts for the purpose of establishing or maintaining the family's eligibility for aid or increasing, or preventing a reduction in, the amount of that aid:

(A) Making a false or misleading statement or misrepresenting, concealing, or withholding facts.

(B) Committing any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.

(d)

(1) Except as provided in subdivisions (a) and (b), and notwithstanding subdivision (c), the needs of any individual who is a member of a family applying for, or receiving, aid under this chapter to whom paragraph (2) applies shall not be taken into account in making the determination under Section 11450 with respect to his or her family for the following periods:

(A) For a period of two years upon the first occasion of any offense referred to in paragraph (2).

(B) For a period of four years upon the second occasion of any offense referred to in paragraph (2).

(C) Permanently, upon the third occasion of any offense referred to in subdivision (b) and paragraph (2).

(2) Paragraph (1) shall apply to any individual who is found by a federal or state court, or pursuant to a special administrative hearing meeting the requirements of regulations adopted by the United States Secretary of Health and Human Services, including any determination made on the basis of a plea of guilty or nolo contendere, to have submitted more than one application for the same type of aid for the same period of time, for the purpose of receiving more than one grant of aid in order to establish or maintain the family's eligibility for aid or increasing, or preventing a reduction in, the amount of that aid.

(e) Proceedings against any individual alleged to have committed an offense described in subdivision (c) or (d) may be held either by hearing, pursuant to Section 10950 and in conformity with the regulations of the United States Secretary of Health and Human Services, if appropriate, or by referring the matter to the appropriate authorities for civil or criminal action in court.

(f) The department shall coordinate any action taken under this section with any corresponding actions being taken under CalFresh in any case where the factual issues involved arise from the same or related circumstances.

(g) Any period for which sanctions are imposed under this section shall remain in effect, without possibility of administrative stay, unless and until the findings upon which the sanctions were imposed are subsequently reversed by a court of appropriate jurisdiction, but in no event shall the duration of the period for which the sanctions are imposed be subject to review.

(h) Sanctions imposed under this section shall be in addition to, and not in substitution for, any other sanctions which may be provided for by law with respect to the offenses for which the sanctions are imposed.

(i) The department shall adopt regulations to ensure that any investigations made under this chapter are conducted throughout the state in such a manner as to protect the confidentiality of the current or former working recipient.

(j) Each county shall receive an amount equal to 12.5 percent of the actual amount of aid under this chapter repaid or recovered by a county, as determined by the Director of the Department of Finance resulting from the detection of fraud.

**Leg.H.**

Added Stats 1997 ch 270 § 153 (AB 1542), effective August 11, 1997, operative January 1, 1998. Amended Stats 2002 ch 1022 § 45 (AB 444), effective September 28, 2002; Stats 2011 ch 227 § 57 (AB 1400), effective January 1, 2012.

## **§ 11486.3. Examination of Sanction Policy, Implementation and Effect; Development of Recommendations; Report.**

(a) The department, in consultation with system stakeholders, including county welfare departments, shall examine the CalWORKs sanction policy, its implementation, and effect on work participation, including but not limited to all of the following:

- (1) The characteristics of the persons being sanctioned.
- (2) The reason participants are being sanctioned.
- (3) The length of time in sanctioned status.
- (4) Positive and negative sanction outcomes.
- (5) County variances in sanction policies, rates, and outcomes.
- (6) The relationship between sanction rates and work participation.
- (7) The impact of sanctions on families and their ability to become self-sufficient.
- (8) Adequacy of procedures to resolve noncompliance prior to the implementation of sanctions.

(b) The department shall develop recommendations to improve the effectiveness of sanctions in achieving participant compliance, assisting families in becoming self-sufficient, and other desired program outcomes.

(c) The department shall report its findings and recommendations to the appropriate fiscal and policy committees of the Legislature by April 1, 2005.

**Leg.H.**

2004 ch. 229 (SB 1104), effective August 16, 2004.

## **§ 11486.5. Loss of Eligibility for Aid; Flight to Avoid Prosecution; Violation of Parole or Probation; Effect of Presidential Pardon.**

(a) An individual shall not be eligible for aid under this chapter if he or she is either:

(1) Fleeing to avoid prosecution, or custody and confinement after conviction, under the laws of the place from which the individual is fleeing, for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual is fleeing, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that state.

(2) Violating a condition of probation or parole imposed under federal law or the law of any state.

(b) Subdivision (a) shall not apply with respect to conduct of an individual for any month beginning after the President of the United States grants a pardon with respect to the conduct.

**Leg.H.**

1997 ch. 270, effective August 11, 1997, operative January 1, 1998.

## **§ 11487. When Aid Repaid to State, State Entitled to Amount Received or Recovered; Exceptions; Suspension of County Share of Funds.**

(a) Whenever any aid under this chapter is repaid to the state by means of child support collections, the state shall be entitled to the amount received or recovered, except to the extent that county and federal funds were expended. If funds advanced by the federal government were paid, the federal government shall be entitled to a share of the amount received or recovered, proportionate to the amount of federal funds paid. Except as provided in subdivision (b), if funds were paid by a county, the county shall be entitled to a share of the amount received or recovered, proportionate to the amount of county funds paid.

(b) For the 2011–12 and 2012–13 fiscal years, the county share of funds received or recovered pursuant to subdivision (a) shall instead be suspended and these funds shall be retained by the state.

**Leg.H.**

Added Stats 1965 ch 1784 § 5. Amended Stats 1971 ch 578 § 31, effective August 13, 1971, operative October 1, 1971; Stats 1975 ch 924 § 17, effective September 20, 1975; Stats 2011 ch 8 § 30 (SB 72), effective March 24, 2011, ch 32 § 57 (AB 106), effective June 29, 2011; Stats 2012 ch 47 § 31 (SB 1041), effective June 27, 2012.

## **§ 11487.1. When Aid Repaid to County: State and Federal Government Entitled to Share of Amount Received or Recovered.**

Except as provided in Sections 11457 and 11487, whenever any aid under this chapter is repaid to a county or recovered by a county, the state shall be entitled to a share of the amount received or recovered, proportionate to the amount of state funds paid, and, if funds advanced by the federal government were paid, the federal government shall be entitled to a share of the amount received or recovered, proportionate to the amount of federal funds paid.

**Leg.H.**

Added Stats 2011 ch 32 § 58 (AB 106), effective June 29, 2011.

## **§ 11487.5. Reimbursement of County for Recovery of Overpayments Under § 11004.**

(a) Notwithstanding any other provision of law, including Sections 11487 and 15204.5, the department shall implement a program in any participating county whereby the county shall be reimbursed for overpayment recoveries under Section 11004 as follows:

(1) Reimbursement shall be made to a participating county based on a plan of operations for a program of overpayment recoveries that is approved by the department. No operating plan shall be approved by the department unless the plan contains assurances that the participating county will maintain a centralized unit or designate a person or persons to perform the overpayment recovery activities.

(2) Reimbursement shall be made for all allowable administrative costs incurred, as defined by the department, to make a recovery of overpayments under Section 11004, not to exceed the state's share of the overpayments recovered by the county.

(b) For purposes of this section, "participating county" means any county in which the welfare director applies to the department for participation in the program prescribed by this section.

(c) This section shall be implemented when both of the following have occurred:

(1) The federal government has made funding available for the activities described in this section.

(2) The Department of Finance has examined the annual projection of costs and savings for these activities certified by the director, and has determined that during each fiscal year in which the director proposes to implement these provisions the savings to the General Fund from increased overpayment recoveries equals or exceeds the additional costs to the state.

**Leg.H.**

1996 ch. 206 § 13, effective July 22, 1996, 2001 ch. 745, effective October 12, 2001.

## **ARTICLE 7.5**

### **Family Violence Option: Domestic Violence and Welfare**

## **§ 11495. Legislative Intent to Enact Federal Option Concerning Victims of Domestic Violence.**

It is the intent of the Legislature in enacting this article to adopt a family violence provision by enacting the federal option concerning victims of domestic violence provided for in the Temporary Assistance to Needy

Families program pursuant to Section 402(a)(7) of the Social Security Act (42 U.S.C. Sec. 602(a)(7)). By adopting this provision, the Legislature recognizes that some individuals who may need public assistance have been or are victims of abuse, and intends to ensure that applicants and recipients who are past or present victims of abuse are not placed at further risk or unfairly penalized by CalWORKs requirements and procedures. The Legislature intends that, in implementing this article, program requirements not be created or applied in such a way as to encourage a victim to remain with the abuser. It is also the intent of the Legislature that CalWORKs recipients participate in welfare-to-work activities, to the full extent of their abilities, including participation in counselling and treatment programs, as appropriate, to enable the recipient to obtain unsubsidized employment and move towards self-sufficiency.

**Leg.H.**

Added Stats 1997 ch 270 § 155 (AB 1542), effective August 11, 1997, operative January 1, 1998.

## **§ 11495.1. Task Force to Develop Protocols for Handling Cases Involving Abuse Victims.**

(a) The department shall convene a task force including, but not limited to, district attorney domestic violence units, county departments of social services, the County Welfare Directors Association of California, the California State Association of Counties, statewide domestic violence prevention groups, local domestic violence prevention advocates, and service providers, the State Department of Health Care Services, the State Department of Public Health, and the California Emergency Management Agency. The department shall develop, in consultation with the task force, protocols on handling cases in which recipients are past or present victims of abuse. The protocols shall define domestic abuse, and shall address training standards and curricula, individual case assessments, confidentiality procedures, notice procedures and counseling or other appropriate participation requirements as part of an overall plan to transition from welfare-to-work. The protocol shall specify how counties shall do the following:

(1) Identify applicants and recipients of assistance under this chapter who have been or are victims of abuse, including those who self-identify, while protecting confidentiality.

(2) Refer these individuals to supportive services.

(3) Waive, on a case-by-case basis, for so long as necessary, pursuant to a determination of good cause under paragraph (2) of subdivision (f) of Section 11320.3, any program requirements that would make it more difficult for these individuals or their children to escape abuse, and that would be detrimental or unfairly penalize past or present victims of abuse. Requirements that may be waived include, but are not limited to, time limits on receipt of assistance, work requirements, educational requirements, paternity establishment and child support cooperation requirements.

(b) The department shall issue regulations describing the protocol identified in subdivision (a) no later than January 1, 1999.

(c) Waivers of time limits granted pursuant to this section shall not be implemented if federal statutes or regulations clarify that abuse victims are included in the 20 percent hardship exemptions and that no good cause waivers of the 20 percent limit will be granted to the state for victims of abuse, thereby incurring a penalty to the state.

(d) Waivers of the work requirements granted pursuant to this section shall not be implemented if federal statutes or regulations clarify that the state will be penalized for failing to meet work participation requirements due to granting waivers to abuse victims.

**Leg.H.**

Added Stats 1997 ch 270 § 155 (AB 1542), effective August 11, 1997, operative January 1, 1998. Amended Stats 2012 ch 34 § 220 (SB 1009), effective June 27, 2012.

## § 11495.12. Definition of Abuse.

For purposes of this article, until regulations are adopted pursuant to Section 11495.1, the term “abuse” means battering or subjecting a victim to extreme cruelty by (1) physical acts that resulted in or threatened to result in physical injury, (2) sexual abuse, (3) sexual activity involving a child in the home, (4) being forced to participate in nonconsensual sexual acts or activities, (5) threats of, or attempts at, physical or sexual abuse, (6) mental abuse, (7) neglect or deprivation of medical care, or (8) stalking.

**Leg.H.**

1997 ch. 270, effective August 11, 1997, operative August 18, 1997.

## § 11495.15. Conditions for Waivers.

A county may waive a program requirement for a recipient who has been identified as a past or present victim of abuse when it has been determined that good cause exists pursuant to paragraph (2) of subdivision (f) of Section 11320.3. Until implementation of the regulations required pursuant to subdivision (b) of Section 11495.1, a county may utilize standards, procedures, and protocols currently available, and shall identify them in its county plan. Waivers shall be reevaluated in accordance with other routine periodic reevaluations by the county.

**Leg.H.**

1997 ch. 270, effective August 11, 1997, operative August 18, 1997, 1998 ch. 902.

## § 11495.25. Sufficiency of Evidence to Establish Abuse.

Sworn statements by a victim of past or present abuse shall be sufficient to establish abuse unless the agency documents in writing an independent, reasonable basis to find the recipient not credible. Evidence may also include, but is not limited to: police, government agency, or court records or files; documentation from a domestic violence program, legal, clerical, medical or other professional from whom the applicant or recipient has sought assistance in dealing with abuse; or other evidence, such as a statement from any other individual with knowledge of the circumstances that provide the basis for the claim, physical evidence of abuse, or any other evidence that supports the statement.

**Leg.H.**

Added Stats 1997 ch 270 § 155 (AB 1542), effective August 11, 1997, operative January 1, 1998. Amended Stats 2006 ch 538 § 703 (SB 1852), effective January 1, 2007.

## § 11495.40. Model Curriculum.

The department shall adopt a model curriculum for domestic violence and sexual abuse prevention training, based on the statewide protocol, in consultation with the task force identified in Section 11495.1. County welfare agencies shall determine which staff will be trained.

**Leg.H.**

1997 ch. 270, effective August 11, 1997, operative August 18, 1997.

(Operative term contingent)

## § 14705. Application of Section to Mental Health Services.

(a)

(1) This section, shall apply to specialty mental health services provided by counties to Medi-Cal eligible individuals. Counties shall provide services to Medi-Cal beneficiaries and seek the maximum federal reimbursement possible for services rendered to persons with mental illnesses.

(2) To the extent permitted under federal law and Section 5892, funds distributed to the counties from the Mental Health Subaccount, the Mental Health Equity Subaccount, and the Vehicle License Collection Account of the Local Revenue Fund, funds from the Mental Health Account and the Behavioral Health Subaccount of the Local Revenue Fund 2011, funds from the Mental Health Services Fund, and any other funds from which the Controller makes distributions to the counties may be used to pay for services provided by these funds that the counties can then certify as public expenditures in order to achieve the maximum federal reimbursement possible for services pursuant to this chapter.

(3) The standards and guidelines for the administration of specialty mental health services to Medi-Cal eligible persons shall be consistent with federal Medicaid requirements, as specified in the approved Medicaid state plan and waivers to ensure full and timely federal reimbursement to counties for services that are rendered and claimed consistent with federal Medicaid requirements.

(b) With regard to each person receiving specialty mental health services from a mental health plan, the mental health plan shall verify whether the person is Medi-Cal eligible and, if determined to be Medi-Cal eligible, the person shall be referred when appropriate to a facility, clinic, or program that is certified for Medi-Cal reimbursement.

(c) With regard to county operated facilities, clinics, or programs for which claims are submitted to the department for Medi-Cal reimbursement for specialty mental health services to Medi-Cal eligible individuals, the county shall ensure that all requirements necessary for Medi-Cal reimbursement for these services are complied with, including, but not limited to, utilization review and the submission of yearend cost reports by December 31 following the close of the fiscal year.

(d) Counties shall certify to the state that they have incurred public expenditures prior to requesting the reimbursement of federal funds.

(e) This section shall become operative on July 1, 2012.

**Leg.H.**

Added Stats 2011 ch 651 § 2 (AB 1297), effective January 1, 2012, operative July 1, 2012, as W & I C § 5718. Amended and renumbered by Stats 2012 ch 32 § 152 (SB 109), effective June 27, 2012, operative July 1, 2012. Amended Stats 2012 ch 34 § 182 (SB 1009), effective June 27, 2012.

(Operative term contingent)

## § 14705.5. Written Certification.

Each public or private facility or agency providing local specialty mental health services pursuant to a county performance contract plan shall make a written certification within 30 days after a patient is admitted to the facility as a patient or first given services by such a facility or agency, to the local mental health director of

the county, stating whether or not each of these patients is presumed to be eligible for specialty mental health services under the Medi-Cal program.

**Leg.H.**

Added Stats 1991 ch 89 § 174 (AB 1288), effective June 30, 1991 as W & I C § 5719. Amended and renumbered by Stats 2012 ch 34 § 153 (SB 1009), effective June 27, 2012, operative July 1, 2012. Amended Stats 2012 ch 34 § 182 (SB 1009), effective June 27, 2012.

## **§ 14705.6. [Section Repealed 2013].**

**Leg.H.**

Added Stats 1993 ch 640 § 3 (SB 369). Amended Stats 2004 ch 193 § 224 (SB 111) as W & I C § 5719.5. Amended and renumbered by Stats 2012 ch 34 § 154 (SB 1009), effective June 27, 2012, operative July 1, 2012, inoperative July 1, 2012, repealed January 1, 2013. Inoperative July 1, 2012, and repealed operative January 1, 2013, by its own terms. The repealed section related to written certification.

(Operative term contingent)

## **§ 14705.7. Contract between Mental Health Plans and Providers on Negotiated Net Amount Basis; Prohibited Rates; Reimbursements.**

Mental health plans may contract with providers on a negotiated net amount basis in the same manner as set forth in Section 5705. Negotiated net amounts or rates shall not be in contracts between the state and mental health plans for specialty mental health services. Reimbursement to mental health plans that have certified public expenditures shall be consistent with federal Medicaid requirements for calculating upper payment limits, as specified in the approved Medicaid state plan and waivers.

**Leg.H.**

Added Stats 1991 ch 89 § 174 (AB 1288), effective June 30, 1991 as W & I C § 5716. Amended Stats 1991 ch 611 § 63 (AB 1491), effective October 6, 1991; Stats 1992 ch 1374 § 36 (AB 14), effective October 27, 1992; Stats 2011 ch 650 § 9 (SB 946), effective January 1, 2012. Amended and renumbered by Stats 2012 ch 34 § 150 (SB 1009), effective June 27, 2012. Amended Stats 2012 ch 34 § 182 (SB 1009), effective June 27, 2012.

(Operative term contingent)

## **§ 14706. Responsibility for Conducting Investigations and Audits.**

(a) The department shall have responsibility, for conducting investigations and audits of claims and reimbursements for expenditures for specialty mental health services provided by mental health plans to Medi-Cal eligible individuals.

(b) The amount of the payment or repayment of federal funds in accordance with audit findings pertaining to Medi-Cal specialty mental health services shall be determined by the department pursuant to the existing administrative appeals process of the department.

**Leg.H.**

Added Stats 1991 ch 89 § 174 (AB 1288), effective June 30, 1991 as W & I C § 5722. Amended Stats 1991 ch 611 § 65 (AB 1491), effective October 6, 1991. Amended and renumbered by Stats 2012 ch 34 § 157 (SB 1009), effective June 27, 2012, operative July 1, 2012. Amended Stats 2012 ch 34 § 182 (SB 1009), effective June 27, 2012.

(Operative term contingent)

## § 14707. Procedure for Federal Audit Exception.

(a) In the case of federal audit exceptions, the department shall follow federal audit appeal processes unless the department, in consultation with the County Behavioral Health Directors Association of California, determines that those appeals are not cost beneficial.

(b) Whenever there is a final federal audit exception against the state resulting from expenditure of federal funds by individual counties, the department may offset federal reimbursement and request the Controller's office to offset the distribution of funds to the counties from the Mental Health Subaccount, the Mental Health Equity Subaccount, and the Vehicle License Collection Account of the Local Revenue Fund, funds from the Mental Health Account and the Behavioral Health Subaccount of the Local Revenue Fund 2011, and any other mental health realignment funds from which the Controller makes distributions to the counties by the amount of the exception. The department shall provide evidence to the Controller that the county has been notified of the amount of the audit exception no less than 30 days before the offset is to occur. The department shall involve the appropriate counties in developing responses to any draft federal audit reports that directly impact the county.

### Leg.H.

Added Stats 1991 ch 89 § 174 (AB 1288), effective June 30, 1991 as W & I C § 5711. Amended Stats 1991 ch 611 § 60 (AB 1491), effective October 6, 1991. Amended and renumbered by Stats 2012 ch 34 § 146 (SB 1009), effective June 27, 2012. Amended Stats 2012 ch 34 § 182 (SB 1009), effective June 27, 2012 (Operative term contingent); Stats 2015 ch 455 § 56 (SB 804), effective January 1, 2016.

(Operative term contingent)

## § 14707.5. Development of Performance Outcome System for Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Mental Health Services; Plan; Advisory Committee; Objectives; Stakeholder Advisory Committee; Updated Performance Outcomes System Plan.

(a) It is the intent of the Legislature to develop a performance outcome system for Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) mental health services that will improve outcomes at the individual and system levels and will inform fiscal decisionmaking related to the purchase of services.

(b) The State Department of Health Care Services, in collaboration with the California Health and Human Services Agency, and in consultation with the Mental Health Services Oversight and Accountability Commission, shall create a plan for a performance outcome system for EPSDT mental health services provided to eligible Medi-Cal beneficiaries under the age of 21 pursuant to [42 U.S.C. Section 1396d\(a\)\(4\)\(B\)](#).

(1) Commencing no later than September 1, 2012, the department shall convene a stakeholder advisory committee comprised of representatives of child and youth clients, family members, providers, counties, and the Legislature. This consultation shall inform the creation of a plan for a performance outcome system for EPSDT mental health services.

(2) In developing a plan for a performance outcomes system for EPSDT mental health services, the department shall consider the following objectives, among others:

(A) High quality and accessible EPSDT mental health services for eligible children and youth, consistent with federal law.

(B) Information that improves practice at the individual, program, and system levels.

(C) Minimization of costs by building upon existing resources to the fullest extent possible.

(D) Reliable data that are collected and analyzed in a timely fashion.

(3) At a minimum, the plan for a performance outcome system for EPSDT mental health services shall consider evidence-based models for performance outcome systems, such as the Child and Adolescent Needs and Strengths (CANS), federal requirements, including the review by the External Quality Review Organization (EQRO), and, timelines for implementation at the provider, county, and state levels.

(c) The State Department of Health Care Services shall provide the performance outcomes system plan, including milestones and timelines, for EPSDT mental health services described in subdivision (a) to all fiscal committees and appropriate policy committees of the Legislature no later than October 1, 2013.

(d) The State Department of Health Care Services shall propose how to implement the performance outcomes system plan for EPSDT mental health services described in subdivision (a) no later than January 10, 2014.

(e) Commencing no later than February 1, 2014, the department shall convene a stakeholder advisory committee comprised of advocates for and representatives of, child and youth clients, family members, managed care health plans, providers, counties, and the Legislature. The committee shall develop methods to routinely measure, assess, and communicate program information regarding informing, identifying, screening, assessing, referring, and linking Medi-Cal eligible beneficiaries to mental health services and supports. The committee shall also review health plan screenings for mental health illness, health plan referrals to Medi-Cal fee-for-service providers, and health plan referrals to county mental health plans, among others. The committee shall make recommendations to the department regarding performance and outcome measures that will contribute to improving timely access to appropriate care for Medi-Cal eligible beneficiaries.

(1) The department shall incorporate into the performance outcomes system established pursuant to this section the screenings and referrals described in this subdivision, including milestones and timelines, and shall provide an updated performance outcomes system plan to all fiscal committees and the appropriate policy committees of the Legislature no later than October 1, 2014.

(2) The department shall propose how to implement the updated performance systems outcome plan described in paragraph (1) no later than January 10, 2015.

**Leg.H.**

Added Stats 2012 ch 34 § 248 (SB 1009), effective June 27, 2012. Amended Stats 2012 ch 34 § 182 (SB 1009), effective June 27, 2012; Stats 2013 ch 23 § 67 (AB 82), effective June 27, 2013.

(Operative term contingent)

## **§ 14708. Establishment of Amount of Reimbursement for Local Mental Health Services; Rates.**

(a) For purposes of federal reimbursement to counties that have certified to the state that they have incurred certified public expenditures, the reimbursement amounts shall be consistent with federal Medicaid requirements for calculating federal upper payment limits, as specified in the approved Medicaid state plan and waivers.

(b) If the reimbursement methodology utilizes federal upper payment limits and the total cost of services exceeds the state maximum rates in effect for the 2011–12 fiscal year, a county may use certified public expenditures to claim the costs of services that exceed the state maximum rates, up to the federal upper payment limits. If a county chooses to claim costs that exceed the state maximum rates with certified public expenditures,

the county shall use only local funds, and not state funds, to claim the portion of the costs over the state maximum rates. As a condition of receiving reimbursement up to the federal upper payment limits, a county shall enter into and maintain an agreement with the department implementing this subdivision.

(c) Notwithstanding this section, in the event that a health facility has entered into a negotiated rate agreement pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 4 of Division 9, the facility's rates shall be governed by that agreement.

(d) This section shall become operative on July 1, 2012.

**Leg.H.**

Added Stats 2011 ch 651 § 4 (AB 1297), effective January 1, 2012, operative July 1, 2012 as W & I C § 5720. Amended and renumbered Stats 2012 ch 34 § 155 (SB 1009), effective June 27, 2012, operative July 1, 2012. Amended Stats 2012 ch 34 § 182 (SB 1009), effective June 27, 2012.

(Operative term contingent)

## **§ 14709. Providers of Mental Health Services as Providers of Basic Health Services.**

The provisions of subdivision (a) of Section 14000 shall not be construed to prevent providers of specialty mental health services pursuant to this chapter from also being providers of medical assistance mental health services for the purposes of Chapter 7 (commencing with Section 14000). Clinics providing Medi-Cal specialty mental health services pursuant to this chapter shall be required to be certified as a condition to reimbursement for providing those medical assistance mental health services.

**Leg.H.**

Added Stats 1991 ch 89 § 174 (AB 1288), effective June 30, 1991 as W & I C § 5723. Amended and renumbered by Stats 2012 ch 34 § 158 (SB 1009), effective June 27, 2012, operative July 1, 2012. Amended Stats 2012 ch 34 § 182 (SB 1009), effective June 27, 2012.

(Operative term contingent)

## **§ 14710. Deduction of Fees from Costs of Providing Services.**

Except as otherwise provided in this section, in determining the amounts which may be paid, fees paid by persons receiving services or fees paid on behalf of persons receiving services by the federal government, by the Medi-Cal program set forth in Chapter 7 (commencing with Section 14000), and by other public or private sources, shall be deducted from the costs of providing services. However, a mental health plan may negotiate a contract that permits a specialty mental health care provider to retain unanticipated funds above the budgeted contract amount, provided that the unanticipated revenues are utilized for the specialty mental health services specified in the contract. If a provider is permitted by contract to retain unanticipated revenues above the budgeted amount, the specialty mental health provider shall specify the services funded by those revenues in the yearend cost report submitted to the mental health plan. A mental health plan shall not permit the retention of any fees paid by private resources on behalf of Medi-Cal beneficiaries without having those fees deducted from the costs of providing services. Whenever feasible, persons with mental illness who are eligible for specialty mental health services under the Medi-Cal program shall be treated in a facility approved for reimbursement in that program. General unrestricted or undesignated private charitable donations and contributions made to charitable or nonprofit organizations shall not be considered as "fees paid by persons" or "fees paid on behalf of persons receiving services" under this section and the contributions shall not be applied in determining the amounts to be paid. These unrestricted contributions shall not be used in part or in whole to defray the costs or the allocated costs of the Medi-Cal program.

**Leg.H.**

Added Stats 1991 ch 89 § 174 (AB 1288), effective June 30, 1991 as W & I C § 5721. Amended Stats 1991 ch 611 § 64 (AB 1491), effective October 6, 1991. Amended and renumbered by Stats 2012 ch 34 § 156 (SB 1009), effective June 27, 2012, operative July 1, 2012. Amended Stats 2012 ch 34 § 182 (SB 1009), effective June 27, 2012.

(Operative term contingent)

## **§ 14711. Development of Ratesetting Methodology for Use in Short-Doyle Medi-Cal System.**

**(a)** The department shall develop, in consultation with the County Behavioral Health Directors Association of California, a reimbursement methodology for use in the Medi-Cal claims processing and interim payment system that maximizes federal funding and utilizes, as much as practicable, federal Medicaid and Medicare reimbursement principles. The department shall work with the federal Centers for Medicare and Medicaid Services in the development of the methodology required by this section.

**(b)** Reimbursement amounts developed through the methodology required by this section shall be consistent with federal Medicaid requirements and the approved Medicaid state plan and waivers.

**(c)** Administrative costs shall be claimed separately in a manner consistent with federal Medicaid requirements and the approved Medicaid state plan and waivers and shall be limited to 15 percent of the total actual cost of direct client services.

**(d)** The cost of performing quality assurance and utilization review activities shall be reimbursed separately and shall not be included in administrative cost.

**(e)** The reimbursement methodology established pursuant to this section shall be based upon certified public expenditures, which encourage economy and efficiency in service delivery.

**(f)** The reimbursement amounts established for direct client services pursuant to this section shall be based on increments of time for all noninpatient services.

**(g)** The reimbursement methodology shall not be implemented until it has received any necessary federal approvals.

**(h)** This section shall become operative on July 1, 2012.

**Leg.H.**

Added Stats 2011 ch 651 § 6 (AB 1297) as W & I C § 5724, effective January 1, 2012, operative July 1, 2012. Amended and renumbered Stats 2012 ch 34 (SB 1009) § 160, effective June 27, 2012, operative July 1, 2012. Amended Stats 2012 ch 34 (SB 1009) § 182, effective June 27, 2012; Stats 2015 ch 455 § 57 (SB 804), effective January 1, 2016.

## **PART 4**

### **Services for the Care of Children**

#### **CHAPTER 1**

##### **FOSTER CARE PLACEMENT**

## § 16000. Legislative Intent.

(a) It is the intent of the Legislature to preserve and strengthen a child's family ties whenever possible, removing the child 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 a child is removed from the physical custody of his or her parents, preferential consideration shall be given whenever possible to the placement of the child with the relative as required by [Section 7950 of the Family Code](#). If the child is removed from his or her own family, it is the purpose of this chapter to secure as nearly as possible for the child the custody, care, and discipline equivalent to that which should have been given to the child by his or her parents. It is further the intent of the Legislature to reaffirm its commitment to children who are in out-of-home placement to live in the least restrictive family setting promoting normal childhood experiences that is suited to meet the child's or youth's individual needs, and to live as close to the child's family as possible pursuant to subdivision (c) of Section 16501.1. Family reunification services shall be provided for expeditious reunification of the child with his or her family, as required by law. If reunification is not possible or likely, a permanent alternative shall be developed.

(b) It is further the intent of the Legislature that all children live with a committed, permanent, and nurturing family. Services and supports should be tailored to meet the needs of the individual child and family being served, with the ultimate goal of maintaining the family, or when this is not possible, transitioning the child or youth to a permanent family or preparing the child or youth for a successful transition into adulthood. When needed, short-term residential therapeutic program services are a short-term, specialized, and intensive intervention that is just one part of a continuum of care available for children, youth, young adults, and their families.

(c) It is further the intent of the Legislature to ensure that all pupils in foster care and those who are homeless as defined by the federal McKinney-Vento Homeless Assistance Act ([42 U.S.C. Sec. 11301 et seq.](#)) have the opportunity to meet the challenging state pupil academic achievement standards to which all pupils are held. In fulfilling their responsibilities to pupils in foster care, educators, county placing agencies, care providers, advocates, and the juvenile courts shall work together to maintain stable school placements and to ensure that each pupil is placed 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.

### Leg.H.

Added Stats 1990 ch 1370 § 1 (SB 615). Amended Stats 1993 ch 1089 § 30 (AB 2129); Stats 2000 ch 745 § 3 (AB 2307); Stats 2003 ch 862 § 15 (AB 490); Stats 2015 ch 773 § 105 (AB 403), effective January 1, 2016; Stats 2016 ch 612 § 113 (AB 1997), effective January 1, 2017.

## § 16000.1. Legislative Findings, Declaration and Intent.

(a) The Legislature finds and declares all of the following:

(1) The state has a duty to care for and protect the children that the state places into foster care, and as a matter of public policy, the state assumes an obligation of the highest order to ensure the safety of children in foster care.

(2) A judicial order establishing jurisdiction over a child placed into foster care supplants or limits parental or previous adult authority.

(3) Nothing in this section is intended to change the balance of liability between the state and the counties as it existed prior to the decision of the [California Court of Appeal in County of Los Angeles v. Superior Court of Los Angeles: Real Party in Interest Terrell R. \(2002\) 102 Cal.App.4th 627](#), as established

by the decision of the California Court of Appeal in *Scott v. County of Los Angeles* (1994) 27 Cal.App.4th 125. Furthermore, nothing in this section is intended to increase or decrease the liability of the state as it existed prior to the Terrell R. case.

(b)

(1) It is the intent of the Legislature that nothing in the decision of the California Court of Appeal in *County of Los Angeles v. Superior Court of Los Angeles: Real Party in Interest Terrell R.* (2002) 102 Cal.App.4th 627, shall be held to change the standards of liability and immunity for injuries to children in protective custody that existed prior to that decision.

(2) It is the intent of the Legislature to confirm the state's duty to comply with all requirements under Part B of Title IV of the Social Security Act (42 U.S.C. Sec. 620 et seq.) and Part E of Title IV of the Social Security Act (42 U.S.C. Sec. 670 et seq.) that are relevant to the protection and welfare of children in foster care.

**Leg.H.**

2003 ch. 847 (AB 1151).

## § 16000.5. Foster Care Programs for Indian Children.

The Legislature finds and declares all of the following:

(a) The Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351) provides Indian tribes with the option, effective October 1, 2009, to operate a foster care, adoption assistance, and, at tribal option, a kinship guardianship assistance program under Title IV-E of the Social Security Act (42 U.S.C. Sec. 671 et seq.). The federal government will share the costs of a tribe operating an approved Title IV-E program.

(b) It shall be the policy of the state to maximize the opportunities for Indian tribes to operate foster care programs for Indian children pursuant to the federal Fostering Connections to Success and Increasing Adoptions Act of 2008.

**Leg.H.**

Added Stats 2009 ch 124 § 1 (AB 770), effective January 1, 2010.

## § 16000.6. State Department of Social Services to Work with Indian Tribe, Organization, or Consortium to Administer Foster Care Program.

The State Department of Social Services shall negotiate in good faith with the Indian tribe, organization, or consortium in the state that requests development of an agreement with the state to administer all or part of the programs under Title IV-E of the Social Security Act (42 U.S.C. Sec. 671 et seq.) on behalf of the Indian children who are under the authority of the tribe, organization, or consortium.

**Leg.H.**

Added Stats 2009 ch 124 § 2 (AB 770), effective January 1, 2010.

## **§ 16001. Technical Assistance to County Placement Agency; Legislative Intent for Out-of-County and Out-of-State Placements.**

**(a)** The State Department of Social Services shall provide technical assistance to encourage and facilitate the county placement agency's evaluation of placement needs and the development of needed placement resources and programs. County placement agencies shall, on a regular basis, conduct an evaluation of the county's placement resources and programs in relation to the needs of children and nonminor dependents placed in out-of-home care. County placement agencies shall examine the adequacy of existing placement resources and programs and identify the type of additional placement resources and programs needed. The county placement agency shall specifically examine both of the following:

**(1)** Placements that are out of county and shall determine the reason the placement was necessary, and identify the additional placement resources and programs which need to be developed and available to allow a child to remain within the county and as close as possible to their home.

**(2)** The county's ability to meet the emergency housing needs of nonminor dependents in order to ensure that all nonminor dependents have access to immediate housing upon reentering foster care or for periods of transition between placements.

**(b)** The department shall also support the development and operation of a consortia of county placement agencies on a regional basis for the purpose of developing specialized programs serving a multicounty area.

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

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

**Leg.H.**

Added Stats 1993 ch 1089 ch § 31 (AB 2129). Amended Stats 2020 ch 141 § 4 (AB 1979), effective January 1, 2021.

## **§ 16001.5. Department of Social Service to Distribute Information Promoting Self-Esteem to Foster Children.**

The State Department of Social Services shall annually distribute information declaring the importance of promoting self-esteem with respect to foster children to all of the following:

- (a)** Each county independent living program administrator.
- (b)** Each licensed foster family agency, group home, and small family home.
- (c)** Each county welfare department.
- (d)** Each county director of child protective services.
- (e)** Each county director of social services.
- (f)** Each county foster home services director.

(g) The Director of the Community Care Licensing Division of the State Department of Social Services.

(h) The Director of State Adoptions Branch of the State Department of Social Services.

**Leg.H.**

1997 ch. 542.

## **§ 16001.7. Use of Foster Youth in Development of Policy; Responsibilities of Youth Connection; Use of Funds.**

(a) The department shall promote the participation of current and former foster youth in the development of state foster care and child welfare policy. Subject to the availability of funds, the department shall contract with the California Youth Connection to provide technical assistance and outreach to current and former foster youth. In executing this contract, the responsibilities of the California Youth Connection shall include, but are not limited to, all of the following:

- (1) Providing leadership training to current and former foster youth between the ages of 14 and 21 years.
- (2) Providing outreach and technical assistance to current and former foster youth to form and maintain California Youth Connection chapters, including recruiting and training adult volunteer supporters.
- (3) Enabling foster youth to be represented in policy discussions pertinent to foster care and child welfare issues.
- (4) Enhancing the well-being of foster youth and increasing public understanding of foster care and child welfare issues.
- (5) Developing educational materials and forums related to foster care.

(b) Funds provided to the California Youth Connection pursuant to the contract shall not be used for activities not allowed under federal law relating to the receipt of federal financial participation for independent living services, including, but not limited to, lobbying and litigation.

**Leg.H.**

2000 ch. 108, effective July 10, 2000.

## **§ 16001.8. Working Group Regarding Rights Of Minors And Nonminors In Foster Care; Responsibilities; Composition.**

(a) The State Department of Social Services shall convene a working group regarding the rights of all minors and nonminors in foster care, as specified in Section 16001.9, in order to educate foster youth, foster care providers, and others. Responsibilities of the working group shall include all of the following:

- (1) By January 1, 2018, make recommendations to the Legislature for revising the rights based on a review of state law.
- (2) By July 1, 2018, develop standardized information regarding the revised rights in an age-appropriate manner and reflective of any relevant licensing requirements with respect to the foster care

providers' responsibilities to adequately supervise children in care.

(3) By July 1, 2018, develop recommendations regarding methods for disseminating the standardized information specified in paragraph (2), including whether to require the signature of a foster child verifying that he or she has received and understands his or her rights.

(4) By July 1, 2018, develop recommendations for measuring and improving, if necessary, the degree to which foster youth are adequately informed of their rights.

(b) The working group shall be composed of all of the following:

(1) The Office of the State Foster Care Ombudsperson.

(2) The bureau at the Department of Justice whose mission is to protect the rights of children.

(3) The County Welfare Directors Association of California.

(4) The Chief Probation Officers of California.

(5) The County Behavioral Health Directors Association of California.

(6) Current and former foster youth.

(7) Foster parents and caregivers.

(8) Foster children advocacy groups.

(9) Foster care provider associations.

(10) Any other interested parties.

**Leg.H.**

Added Stats 2016 ch 851 § 1 (AB 1067), effective January 1, 2017.

## **§ 16001.9. Rights of Minors and Nonminors in Foser Care; Interpretation Limitation.**

(a) It is the policy of the state that all minors and nonminors in foster care shall have the following rights:

(1) To live in a safe, healthy, and comfortable home where he or she is treated with respect.

(2) To be free from physical, sexual, emotional, or other abuse, or corporal punishment.

(3) To receive adequate and healthy food, adequate clothing, and, for youth in group homes, an allowance.

(4) To receive medical, dental, vision, and mental health services.

(5) To be free of the administration of medication or chemical substances, unless authorized by a physician.

(6) To contact family members, unless prohibited by court order, and social workers, attorneys, foster youth advocates and supporters, Court Appointed Special Advocates (CASAs), and probation officers.

**(7)** To visit and contact brothers and sisters, unless prohibited by court order.

**(8)** To contact the Community Care Licensing Division of the State Department of Social Services or the State Foster Care Ombudsperson regarding violations of rights, to speak to representatives of these offices confidentially, and to be free from threats or punishment for making complaints.

**(9)** To make and receive confidential telephone calls and send and receive unopened mail, unless prohibited by court order.

**(10)** To attend religious services and activities of his or her choice.

**(11)** To maintain an emancipation bank account and manage personal income, consistent with the child's age and developmental level, unless prohibited by the case plan.

**(12)** To not be locked in a room, building, or facility premises, unless placed in a community treatment facility.

**(13)** To attend school and participate in extracurricular, cultural, and personal enrichment activities, consistent with the child's age and developmental level, with minimal disruptions to school attendance and educational stability.

**(14)** To work and develop job skills at an age-appropriate level, consistent with state law.

**(15)** To have social contacts with people outside of the foster care system, including teachers, church members, mentors, and friends.

**(16)** To attend Independent Living Program classes and activities if he or she meets the age requirements.

**(17)** To attend court hearings and speak to the judge.

**(18)** To have storage space for private use.

**(19)** To be involved in the development of his or her own case plan and plan for permanent placement. This involvement includes, but is not limited to, the development of case plan elements related to placement and gender affirming health care, with consideration of their gender identity.

**(20)** To review his or her own case plan and plan for permanent placement, if he or she is 12 years of age or older and in a permanent placement, and to receive information about his or her out-of-home placement and case plan, including being told of changes to the plan.

**(21)** To be free from unreasonable searches of personal belongings.

**(22)** To the confidentiality of all juvenile court records consistent with existing law.

**(23)** 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.

**(24)** To be placed in out-of-home care according to their gender identity, regardless of the gender or sex listed in their court or child welfare records.

**(25)** To have caregivers and child welfare personnel who have received instruction on 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.

**(26)** At 16 years of age or older, to have access to existing information regarding the educational options available, including, but not limited to, the coursework necessary for vocational and postsecondary educational programs, and information regarding financial aid for postsecondary education.

**(27)** To have access to age-appropriate, medically accurate information about reproductive health care, the prevention of unplanned pregnancy, and the prevention and treatment of sexually transmitted infections at 12 years of age or older.

**(b)** This section does not require and shall not be interpreted to require a foster care provider to take any action that would impair the health and safety of children in out-of-home placement.

**(c)** The State Department of Social Services and each county welfare department are encouraged to work with the Student Aid Commission, the University of California, the California State University, and the California Community Colleges to receive information pursuant to paragraph (26) of subdivision (a).

**Leg.H.**

Added Stats 2001 ch 683 § 3 (AB 899); Amended Stats 2003 ch 331 § 5 (AB 458); Stats 2004 ch 668 § 5 (SB 1639); Stats 2005 ch 640 § 9 (AB 1412), effective January 1, 2006; Stats 2008 ch 557 § 3 (AB 3015), effective January 1, 2009; Stats 2010 ch 557 § 3 (SB 1353), effective January 1, 2011; Stats 2012 ch 639 § 3 (AB 1856), effective January 1, 2013; Stats 2013 ch 338 § 2 (SB 528), effective January 1, 2014; Stats 2015 ch 805 § 2 (SB 731), effective January 1, 2016; Amended Stats 2018 ch 385 § 2 (AB 2119), effective January 1, 2019.

## **§ 16002. Legislative Intent Regarding Maintenance of Sibling Contact.**

**(a)**

**(1)** It is the intent of the Legislature to maintain the continuity of the family unit, and ensure the preservation and strengthening of the child's family ties by ensuring that when siblings have been removed from their home, either as a group on one occurrence or individually on separate occurrences, the siblings will be placed together, unless it has been determined that placement together is contrary to the safety or well-being of any sibling. The Legislature recognizes that in order to ensure the placement of a sibling group in the same foster care placement, placement resources need to be expanded.

**(2)** It is also the intent of the Legislature to preserve and strengthen a child's sibling relationship so that when a child has been removed from the child's home and the child has a sibling or siblings who remain in the custody of a parent subject to the court's jurisdiction, the court has the authority to develop a visitation plan for the siblings, unless it has been determined that visitation is contrary to the safety or well-being of any sibling.

**(b)** The responsible local agency shall make a diligent effort in all out-of-home placements of dependent children and wards in foster care, including those with relatives, to place siblings together in the same placement, and to develop and maintain sibling relationships. If siblings are not placed together in the same home, the social worker or probation officer shall explain why the siblings are not placed together and what efforts the social worker or probation officer is making to place the siblings together or why making those efforts would be contrary to the safety and well-being of any of the siblings. When placement of siblings together in the same home is not possible, a diligent effort shall be made, and a case plan prepared, to provide for ongoing and frequent interaction among siblings until family reunification is achieved, or, if parental rights are terminated, as part of developing the permanent plan for the child. If the court determines by clear and convincing evidence that sibling interaction is contrary to the safety and well-being of any of the siblings, the reasons for the determination shall be noted in the court order, and interaction shall be suspended. The physical capacity of the

home shall not be the sole reason to deny placement of a sibling group if each child in the home has an age-appropriate place to sleep and there are no other safety risks.

(c) When there has been a judicial suspension of sibling interaction, the reasons for the suspension shall be reviewed at each periodic review hearing pursuant to Section 366 or 727.3. In order for the suspension to continue, the court shall make a renewed finding that sibling interaction is contrary to the safety or well-being of either child. When the court determines that sibling interaction can be safely resumed, that determination shall be noted in the court order and the case plan shall be revised to provide for sibling interaction.

(d) If the case plan for the child has provisions for sibling interaction, the child, or the child's parent or legal guardian, shall have the right to comment on those provisions. If a person wishes to assert a sibling relationship with a dependent child or ward, the person may file a petition in the juvenile court having jurisdiction over the dependent child pursuant to subdivision (b) of Section 388 or the ward in foster care pursuant to Section 778.

(e) If parental rights are terminated and the court orders a dependent child or ward to be placed for adoption, the county adoption agency or the State Department of Social Services shall take all of the following steps to facilitate ongoing sibling contact, except in those cases provided in subdivision (b) where the court determines by clear and convincing evidence that sibling interaction is contrary to the safety or well-being of the child:

(1) Include in training provided to prospective adoptive parents information about the importance of sibling relationships to the adopted child and counseling on methods for maintaining sibling relationships.

(2) Provide prospective adoptive parents with information about siblings of the child, except the address where the siblings of the children reside. However, this address may be disclosed by court order for good cause shown.

(3)

(A) To the extent practicable, the county placing agency shall convene a meeting with the child, the sibling or siblings of the child, the prospective adoptive parent or parents, and a facilitator for the purpose of deciding whether to voluntarily execute a postadoption sibling contact agreement pursuant to [Section 8616.5 of the Family Code](#) on a date after termination of parental rights and prior to finalization of the adoption. The county placing agency may comply with the requirements of this paragraph by allowing a nonprofit organization authorized to provide permanency placement and postadoption mediation for adoptive and birth families to facilitate the meeting and develop the agreement.

(B) The county placing agency is not required to convene a meeting to decide whether to voluntarily execute a postadoption sibling contact agreement pursuant to [Section 8616.5 of the Family Code](#) in either of the following circumstances:

(i) The county placing agency determines that such a meeting or postadoption sibling contact agreement would be contrary to the safety and well-being of the child.

(ii) The child requests that a meeting shall not occur.

(C) The child may petition the court for an order requiring the county placing agency to convene a meeting to decide whether to voluntarily execute a postadoption sibling contact agreement pursuant to [Section 8616.5 of the Family Code](#). If the court determines by a preponderance of the evidence that a postadoption sibling contact agreement or a meeting for the purpose of deciding whether to voluntarily execute such an agreement is contrary to the safety and well-being of the child, the

reasons for the determination shall be noted in the court order, and the meeting is not required to occur.

(D) Counsel to the child and counsel to the siblings who are dependents of the court shall be notified of, and may attend, both the meeting and the hearing described in this paragraph.

(E) This paragraph shall not require attendance by a child, sibling, or other party at a meeting to decide whether to voluntarily execute a postadoption sibling contact agreement pursuant to [Section 8616.5 of the Family Code](#) if the child, sibling, or other party cannot be located or does not wish to attend the meeting. This paragraph shall not prohibit a county placing agency from convening a meeting if not all of the parties are secured to attend.

(f) Information regarding sibling interaction, contact, or visitation that has been authorized or ordered by the court shall be provided to the foster parent, relative caretaker, or legal guardian of the child as soon as possible after the court order is made, in order to facilitate the interaction, contact, or visitation.

(g) 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.

(h) The court documentation on sibling placements required under this section shall not require the modification of existing court order forms until the Child Welfare Services/Case Management System (CWS/CMS) is implemented on a statewide basis.

**Leg.H.**

Added Stats 1993 ch 1089 § 32 (AB 2129). Amended Stats 1994 ch 663 § 4 (SB 17); Stats 1998 ch 1072 § 3 (AB 2196); Stats 2000 ch 909 § 8 (AB 1987); Stats 2003 ch 812 § 4 (SB 591); Stats 2010 ch 560 § 2 (AB 743), effective January 1, 2011; Stats 2012 ch 35 § 102 (SB 1013), effective June 27, 2012; Stats 2014 ch 772 § 17 (SB 1460), effective January 1, 2015; Stats 2014 ch 773 § 10.5 (SB 1099), effective January 1, 2015; Stats 2015 ch 425 § 22 (SB 794), effective January 1, 2016; Stats 2016 ch 719 § 4 (SB 1060), effective January 1, 2017; Stats 2021 ch 581 § 2 (AB 366), effective January 1, 2022.

## **§ 16002.5. Maintaining Continuity, Supporting and Preserving, Family Units of Dependent Minor Parents and Nonminor Dependent Parents and Their Children.**

It is the intent of the Legislature to maintain the continuity of the family unit and to support and preserve families headed by minor parents and nonminor dependent parents who are themselves under the jurisdiction of the juvenile court by ensuring that minor parents and nonminor dependent parents and their children are placed together in as family-like a setting as possible, unless it has been determined that placement together poses a risk to the child. It is also the intent of the Legislature to ensure that complete and accurate data on parenting minor and nonminor dependents is collected, and that the State Department of Social Services shall ensure that the following information is publicly available on a quarterly basis by county about parenting minor and nonminor dependents: total number of parenting minor and nonminor dependents in each county, their age, their ethnic group, their placement type, their time in care, the number of children they have, and whether their children are court dependents.

(a) To the greatest extent possible, minor parents and nonminor dependent parents and their children shall be provided with access to existing services for which they may be eligible, that are specifically targeted at supporting, maintaining, and developing both the parent-child bond and the dependent parent's ability to provide a permanent and safe home for the child. Examples of these services may include, but are not limited to, child care, parenting classes, child development classes, and frequent visitation.

**(b)** Child welfare agencies may provide minor parents and nonminor dependent parents with access to social workers or resource specialists who have received training on the needs of teenage parents and available resources, including, but not limited to, maternal and child health programs, child care, and child development classes. Child welfare agencies are encouraged to update the case plans for pregnant and parenting dependents within 60 calendar days of the date the agency is informed of a pregnancy. When updating the case plan, child welfare agencies may hold a specialized conference to assist pregnant or parenting foster youth and nonminor dependents with planning for healthy parenting and identifying appropriate resources and services, and to inform the case plan. The specialized conference shall include the pregnant or parenting minor or nonminor dependent, family members, and other supportive adults, and the specially trained social worker or resource specialist. The specialized conference may include other individuals, including, but not limited to, a public health nurse, a community health worker, or other personnel with a comprehensive knowledge of available maternal and child resources, including public benefit programs. Participation in the specialized conference shall be voluntary on the part of the foster youth or nonminor dependent and assistance in identifying and accessing resources shall not be dependent on participation in the conference.

**(c)** The minor parents and nonminor dependent parents shall be given the ability to attend school, complete homework, and participate in age and developmentally appropriate activities unrelated to and separate from parenting.

**(d)** Child welfare agencies, local educational agencies, and child care resource and referral agencies may make reasonable and coordinated efforts to ensure that minor parents and nonminor dependent parents who have not completed high school have access to school programs that provide onsite or coordinated child care.

**(e)** Foster care placements for minor parents and nonminor dependent parents and their children shall demonstrate a willingness and ability to provide support and assistance to minor parents and nonminor dependent parents and their children, shall support the preservation of the family unit, and shall refer a minor parent or nonminor dependent parent to preventive services to address any concerns regarding the safety, health, or well-being of the child, and to help prevent, whenever possible, the filing of a petition to declare the child a dependent of the juvenile court pursuant to Section 300.

**(f)** Contact between the child, the custodial parent, and the noncustodial parent shall be facilitated if that contact is found to be in the best interest of the child.

**(g)** For the purpose of this section, “child” refers to the child born to the minor parent.

**(h)** For the purpose of this section, “minor parent” refers to a dependent child who is also a parent.

**(i)** For the purpose of this section, “nonminor dependent parent” refers to a nonminor dependent, as described in subdivision (v) of Section 11400, who also is a parent.

**Leg.H.**

Added Stats 2004 ch 841 § 3 (SB 1178); Amended Stats 2012 ch 846 § 46 (AB 1712), effective January 1, 2013; Stats 2013 ch 338 § 3 (SB 528), effective January 1, 2014; Stats 2015 ch 511 § 3 (AB 260), effective January 1, 2016.

## **§ 16004.5. Development of Placement Resources for Family Units of Dependent Minor Parents and Their Children.**

**(a)** The Legislature finds and declares that there is an urgent need to develop placement resources to permit minor parents and their children to remain together in out-of-home care when the minor parent is removed from the custody of his or her parents due to abuse or neglect.

(b) To the greatest extent possible, child welfare agencies, in conjunction with providers and the state, and in conjunction with ongoing development of placements and the allocation of existing placement resources, shall identify and utilize whole family placements and other placement models that provide supportive family focused care for dependent teens and their children. In identifying these placements, child welfare agencies shall work with providers and stakeholders to identify and develop programs and program models designed to meet these goals.

(c) In order to effectively plan, identify, and develop needed resources, and effectively address the needs of this population, the department and local child welfare agencies are encouraged to collect data on the number of minors in foster care who give birth and the number of minor parents who remain in placement with their minor children. The department shall aggregate the data annually.

(d) In order to recruit, train, and retain qualified and supportive foster care providers for this population, the department and local child welfare agencies, in consultation with other interested stakeholders, are encouraged to collect information to be used to develop a more cost-effective infant supplemental payment rate structure that more adequately reimburses caregivers for the costs of infant care and teen parent mentoring.

**Leg.H.**

2004 ch. 841 (SB 1178).

## **§ 16005. Siblings Assigned to Same Social Worker; Exceptions.**

Siblings shall be assigned to the same social worker when there is a prospective adoptive family that intends to adopt the children as a sibling group, unless the responsible local agency finds that assigning the siblings to the same social worker would not be in the best interest of the child or the siblings or the operation of the county office.

**Leg.H.**

2001 ch. 353.

## **§ 16010. Case Plan to Include Health and Education Records of Minor or Nonminor Dependent.**

**(a)**

(1) When a child is placed in foster care, the case plan for each child recommended pursuant to Section 358.1 shall include a summary of the health and education information or records, including mental health information or records, of the child. The summary may be maintained in the form of a health and education passport, or a comparable format designed by the child protective agency. The health and education summary shall include, but not be limited to, the names and addresses of the child's health, dental, and education providers; the child's grade level performance; the child's school record; assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement; the number of school transfers the child has already experienced; the child's educational progress, as demonstrated by factors, including, but not limited to, academic proficiency scores; credits earned toward graduation; a record of the child's immunizations and allergies; the child's known medical problems; the child's current medications, past health problems, and hospitalizations; a record of the child's relevant mental health history; the child's known mental health condition and medications; and any other relevant mental health, dental, health, and education information concerning the child determined to be appropriate by the Director of Social Services. The health and education summary may also include the name and contact information of the person or persons currently holding the right to

make educational decisions for the child; the name and contact information for the educational liaison, as described in subdivision (c) of Section 48853.5 of the Education Code, of the child's local educational agency; and the contact information for the nearest foster youth services coordinating program. If any other law imposes more stringent information requirements, then that section shall prevail.

(2) In instances where 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 evaluation.

(b) Additionally, a court report or assessment required pursuant to subdivision (g) of Section 361.5, Section 366.1, subdivision (d) of Section 366.21, or subdivision (c) of Section 366.22 shall include a copy of the current health and education summary described in subdivision (a), including the name and contact information of the person or persons currently holding the right to make educational decisions for the child. With respect to a nonminor dependent, as described in subdivision (v) of Section 11400, a copy of the current health and education summary shall be included in the court report only if and when the nonminor dependent consents in writing to its inclusion.

(c) As soon as possible, but not later than 30 days after initial placement of a child into foster care, the child protective agency shall provide the caregiver with the child's current health and education summary as described in subdivision (a). For each subsequent placement of a child or nonminor dependent, the child protective agency shall provide the caregiver with a current summary as described in subdivision (a) within 48 hours of the placement. With respect to a nonminor dependent, as described in subdivision (v) of Section 11400, the social worker or probation officer shall advise the young adult of the social worker's or probation officer's obligation to provide the health and education summary to the new caregiver and the court, and shall discuss with the youth the benefits and liabilities of sharing that information.

(d)

(1) Notwithstanding Section 827 or any other law, the child protective agency may disclose any information described in this section to a prospective caregiver or caregivers prior to placement of a child if all of the following requirements are met:

(A) The child protective agency intends to place the child with the prospective caregiver or caregivers.

(B) The prospective caregiver or caregivers are willing to become the adoptive parent or parents of the child.

(C) The prospective caregiver or caregivers have an approved adoption assessment or home study, a foster family home license, certification by a licensed foster family agency, or approval pursuant to the requirements in Sections 361.3 and 361.4.

(2) In addition to the information required to be provided under this section, the child protective agency may disclose to the prospective caregiver specified in paragraph (1), placement history or underlying source documents that are provided to adoptive parents pursuant to subdivisions (a) and (b) of Section 8706 of the Family Code.

(e) The child's caregiver shall be responsible for reviewing and receiving pupil records pursuant to subdivision (a) of Section 49069.3 of the Education Code for the purposes specified in subdivision (b) of Section 49069.3 of the Education Code. The child's caregiver shall be responsible for obtaining and maintaining accurate and thorough information from physicians and educators for the child's summary as described in subdivision (a) during the time that the child is in the care of the caregiver. On each required visit, the child protective agency or

its designee foster family agency shall inquire of the caregiver whether there is any new information that should be added to the child's summary as described in subdivision (a). The child protective agency shall update the summary with the information as appropriate, but not later than the next court date or within 48 hours of a change in placement. The child protective agency or its designee foster family agency shall take all necessary steps to assist the caregiver in obtaining relevant health and education information for the child's health and education summary as described in subdivision (a). These steps shall include, but are not limited to, obtaining educational information to share with caregivers, providing appropriate notation on documentation caregivers receive that confirms their status as approved caregivers and their right to access information, and explaining caregiver rights and responsibilities with regard to accessing educational information under [Sections 49069.3](#) and [56055 of the Education Code](#). The caregiver of a nonminor dependent, as described in subdivision (v) of Section 11400, is not responsible for obtaining and maintaining the nonminor dependent's health and educational information, but may assist the nonminor dependent with any recordkeeping that the nonminor requests of the caregiver.

(f) At the initial hearing, the court shall direct each parent to provide to the child protective agency complete medical, dental, mental health, and educational information, and medical background, of the child and of the child's mother and the child's biological father if known. The Judicial Council shall create a form for the purpose of obtaining health and education information from the child's parents or guardians at the initial hearing. The court shall determine at the hearing held pursuant to Section 358 whether the medical, dental, mental health, and educational information has been provided to the child protective agency.

**Leg.H.**

Added Stats 1990 ch 1370 § 1 (SB 615); Amended Stats 1999 ch 552 § 2 (SB 543); Stats 2001 ch 353 § 5 (AB 538); Stats 2010 ch 557 § 4 (SB 1353), effective January 1, 2011. Stats 2012 ch 846 § 47 (1712), effective January 1, 2013, 849 § 7.5 (AB 1909), effective January 1, 2013; Stats 2015 ch 554 § 7 (AB 224), effective January 1, 2016; Amended Stats 2017 ch 829 § 9 (SB 233), effective January 1, 2018.

## **§ 16010.2. Foster Care Children; Plan for Ongoing Oversight and Coordination of Health Care Services.**

(a) The department, in consultation with pediatricians, other health care experts, including public health nurses, and experts in and recipients of child welfare services, including parents, shall develop a plan for the ongoing oversight and coordination of health care services for a child in a foster care placement. The plan shall ensure a coordinated strategy to identify and respond to the health care needs of foster children, including mental health and dental needs, consistent with Section 205 of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 ([Public Law 110-351](#)).

**(b)**

(1) The right of minors and nonminors in foster care to health care and mental health care described in paragraph (4) of subdivision (a) of Section 16001.9 includes covered gender affirming health care and gender affirming mental health care. This right is subject to existing laws governing consent to health care for minors and nonminors and does not limit, add, or otherwise affect applicable laws governing consent to health care.

(2) The department shall, in consultation with the State Department of Health Care Services and other stakeholders, develop guidance and describe best practices to identify, coordinate, and support foster youth seeking access to gender affirming health care and gender affirming mental health care and shall incorporate current guidance on ensuring access to Medi-Cal services for transgender beneficiaries. This consultation may be incorporated into existing departmental workgroups focused on foster youth rights or

on foster youth sexual orientation, gender identity, and gender expression. The department shall issue written guidance by January 1, 2020.

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

**(A)** “Gender affirming health care” means medically necessary health care that respects the gender identity of the patient, as experienced and defined by the patient, and may include, but is not limited to, the following:

**(i)** Interventions to suppress the development of endogenous secondary sex characteristics.

**(ii)** Interventions to align the patient’s appearance or physical body with the patient’s gender identity.

**(iii)** Interventions to alleviate symptoms of clinically significant distress resulting from gender dysphoria, as defined in the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition.

**(B)** “Gender affirming mental health care” means mental health care or behavioral health care that respects the gender identity of the patient, as experienced and defined by the patient, and may include, but is not limited to, developmentally appropriate exploration and integration of identity, reduction of distress, adaptive coping, and strategies to increase family acceptance.

**Leg.H.**

Added Stats 2009 ch 339 § 6 (SB 597), effective January 1, 2010; Amended Stats 2018 ch 385 § 3 (AB 2119), effective January 1, 2019.

## § 16010.4. Legislative Findings and Declarations.

The Legislature finds and declares all of the following:

**(a)** Foster parents are one of the most important sources of information about the children in their care. Courts, lawyers, and social workers should have the benefit of caregivers’ perceptions. Both federal and state law recognize the importance of foster parents’ participation in juvenile court proceedings. Federal law requires that foster parents and other caregivers receive expanded opportunities for notice, the right to participate in dependency court review and permanency hearings, and the right to communicate concerns to the courts. State law similarly provides that caregivers may submit their concerns to courts in writing.

**(b)** It is in the children’s best interests that their caregivers are privy to important information about them. This information is necessary to obtain social and health services for children, enroll children in school and extracurricular activities, and update social workers and court personnel about important developments affecting foster children.

**(c)** Most school districts and extracurricular organizations require proof of age before enrolling a child in their programs. Moreover, caregivers are required to obtain a medical appointment for their foster children within the first month of receiving the children into their homes. It would therefore be in both the children’s and the caregivers’ best interests to be provided with any available medical information, medications and instructions for use, and identifying information about the children upon receiving the children into their homes.

**(d)** Caregivers should have certain basic information in order to provide for the needs of children placed in their care, including all of the following:

(1) The name, mailing address, telephone number, facsimile number, and email address of the child's social worker and the social worker's supervisor.

(2) The name, mailing address, telephone number, facsimile number, and email address of the child's attorney and court-appointed special advocate (CASA), if any.

(3) The name, address, and department number of the juvenile court in which the child's juvenile court case is pending.

(4) The case number assigned to the child's juvenile court case.

(5) A copy of the child's birth certificate, passport, or other identifying documentation of age as may be required for enrollment in school and extracurricular activities.

(6) The child's State Department of Social Services identification number.

(7) The child's Medi-Cal identification number or group health insurance plan number.

(8) Medications or treatments in effect for the child at the time of placement, and instructions for their use.

(9) A plan outlining the child's needs and services, including information on family and sibling visitation.

(10) A copy of the health and education summary as required under Section 16010, with the name and current contact information of the person or persons currently holding the right to make educational decisions for the child.

(e) Caregivers should have knowledge of all of the following:

(1) Their right to receive notice of all review and permanency hearings concerning the child during the placement.

(2) Their right to attend those hearings or submit information they deem relevant to the court in writing.

(3) The "Caregiver Information Form" (Judicial Council Form JV-290), which allows the caregiver to provide information directly to the court.

(4) Information about and referrals to any existing services, including transportation, translation, training, forms, and other available services.

(5) The caregiver's obligation to cooperate with any reunification, concurrent, or permanent planning for the child.

(6) Any known siblings or half-siblings of the child, whether the child has, expects, or desires to have contact or visitation with any or all siblings, and how and when caregivers facilitate the contact or visitation.

(7) The importance of the caregiver's role in education, educational protections specific to foster youth under state and federal law, and the rights and obligations of caregivers to access and maintain educational and health information, including the requirements under [Sections 49069.3, 49076, and 56055](#) of the Education Code and Section 16010 of this code.

(f) Courts should know, at the earliest possible date, the interest of the caretaker in providing legal permanency for the child.

**Leg.H.**

Added Stats 2003 ch 812 § 5 (SB 591); Amended Stats 2016 ch 812 § 1 (AB 2767), effective January 1, 2017. Stats 2017 ch 829 § 10 (SB 233), effective January 1, 2018.

## **§ 16010.5. Required Information to be Provided Upon Placement of Child into Foster Care or Kinship Care.**

(a) When initially placing a child into foster care or kinship care, and within 48 hours of any subsequent placement of that child, the placing agency shall provide to the child's caretaker both of the following:

(1) Prescribed medications for the child that are in the possession of the placing agency, with instructions for the use of the medication.

(2) Information regarding any treatments that are known to the placing agency and that are in effect for the child at the time of the placement.

(b) As soon as possible after placing a child into foster care or kinship care, and no later than 30 days after placing the child, the placing agency shall provide to the child's caregiver any available documentation or proof of the child's age that may be required for enrollment in school or activities that require proof of age.

(c) Within 30 days of receiving a copy of a child's birth certificate or passport, a placing agency shall provide a copy of that document to the child's caregiver.

(d) Nothing shall preclude the placing agency from providing the name, mailing address, telephone number, and facsimile number of the child's attorney and the child's court-appointed special advocate, if any, to the child or the child's caregiver upon their request.

**Leg.H.**

2003 ch. 812 (SB 591).

## **§ 16010.6. Placement Agency Notification to Attorney of Placement of Dependent Child; Placement of Child Outside United States; Issuance of Order; Placement Resulting in Separation of Siblings; Notice; Attorney to Provide Contact Information.**

(a) As soon as a placing agency makes a decision with respect to a placement or a change in placement of a dependent child, but not later than the close of the following business day, the placing agency shall notify the child's attorney and provide to the child's attorney information regarding the child's address, telephone number, and caregiver.

(b)

(1) A placing agency shall not make a placement or a change in placement of a child outside the United States before a judicial finding that the placement is in the best interest of the child, except as required by federal law or treaty.

**(2)** The placing agency shall carry the burden of proof and 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, 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 a 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 placing agency to make a placement outside the United States. A child subject to this subdivision shall not leave the United States before 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 a federally recognized American Indian tribe or Alaskan Natives.

**(6)** This section does not apply to the placement of a dependent child with a parent.

**(c)** Absent exigent circumstances, as soon as a placing agency becomes aware of the need for a change in placement of a dependent child or ward that will result in the separation of siblings currently placed together, the placing agency shall notify the child’s attorney and the child’s siblings’ attorney of this proposed separation no less than 10 calendar days before the planned change of placement so that the attorneys may investigate the circumstances of the proposed separation. If the placing agency first becomes aware, by written notification from a foster family agency, group home, or other foster care provider, of the need for a change in placement for a dependent child or ward that will result in the separation of siblings currently placed together, and that the child or children shall be removed within seven days, notice shall be provided to the attorneys by the end of the next business day after the receipt of notice from the provider. In an emergency, the placing agency shall provide notice as soon as possible, but no later than the close of the first business day following the change of placement. This notification shall be sufficient notice for the purposes of subdivision (a).

**(d)** When the required notice is given before a change in placement, the notice shall include information regarding the child’s address, telephone number, and caregiver or any one or more of these items of information to the extent that this information is known at the time that the placing agency provides notice to the child’s attorney. When the required notice is given after the change in placement, notice shall include information regarding the child’s address, telephone number, and caregiver.

**(e)** The Judicial Council shall adopt a rule of court directing the attorney for a child for whom a dependency petition has been filed, upon receipt from the agency responsible for placing the child of the name, address, and telephone number of the child’s caregiver, to timely provide the attorney’s contact information to the caregiver and, if the child is 10 years of age or older, to the child. This rule does not preclude an attorney from giving contact information to a child who is younger than 10 years of age.

(f) When the placing agency becomes aware that a dependent child or a nonminor dependent is an undocumented immigrant, the placing agency shall notify the dependent child's or nonminor dependent's attorney that the dependent child or nonminor dependent is an undocumented immigrant. Electronic or telephonic notice shall be provided to the attorney within five business days of learning of the dependent child's or nonminor dependent's immigration status.

**Leg.H.**

Added Stats 2010 ch 560 § 4 (AB 743), effective January 1, 2011. Amended Stats 2012 ch 144 § 3 (AB 2209), effective January 1, 2013; Stats 2014 ch 772 § 18 (SB 1460), effective January 1, 2015; Stats 2021 ch 528 § 4 (AB 829), effective January 1, 2022.

## **§ 16010.8. Legislative Intent that Child Shall Not Reside in Group Care for Longer Than Year.**

It is the intent of the Legislature that no child or youth in foster care reside in group care for longer than one year. The State Department of Social Services shall provide updates to the Legislature, commencing no later than January 1, 2014, regarding the outcomes of assessments of children and youth who have been in group homes for longer than one year and the corresponding outcomes of transitions, or plans to transition, them into family settings.

**Leg.H.**

Added Stats 2013 ch 21 § 41 (AB 74), effective June 27, 2013.

## **§ 16011. Los Angeles County Passport System.**

(a) Subject to the conditions prescribed by this section, Los Angeles County may pursue the development and evaluation of a pilot Internet-based health and education passport system. The system shall be known as the Passport System. The Passport System shall collect and maintain health and education records for foster children under the supervision of the county social services or probation department, as required by Section 16010. The Passport System shall initially be conducted as a limited pilot project in a subset of Los Angeles County, and upon successful evaluation, may be expanded statewide.

(1) Los Angeles County shall be responsible for the planning, development, and implementation of the Passport System. Los Angeles County is responsible for the development of the advance planning document (APD) as prescribed by federal regulations, requesting funding consistent with the child welfare services program. The APD shall include, but not be limited to, the design of an interface between the web-based Passport System and the Child Welfare Services/Case Management System (CWS/CMS) so that information entered into the Passport System shall automatically and permanently reside in the CWS/CMS. In addition, the APD shall include the scope of the pilot project, the evaluation plan pursuant to subdivisions (b) and (d), and the county shall address a plan for compliance with pertinent provisions in state and federal law requiring that privacy of confidential information be maintained.

(2) The department shall review and, upon approval by the appropriate state agencies, shall transmit the APD to the federal Department of Health and Human Services. The department shall facilitate assistance as appropriate to gain federal approval of the APD. Implementation of the pilot system shall be contingent upon federal approval of the APD and of the request for federal funding consistent with the child welfare services program. It shall also be contingent upon assurance by the United States Secretary of Health and Human Services that the federal funding for the CWS/CMS shall not be adversely impacted by the development and implementation of the Passport System. If the department is unable to gain federal approval of the pilot project by January 1, 2004, authorization for the pilot project established by this section shall cease.

(3) The Passport System shall provide real-time access to health, mental health, and educational information by health and mental health care providers, educators, licensed or approved foster care givers, and local agency staff in order to improve the accuracy and reliability of information necessary to ensure receipt of appropriate services for children in foster care, to improve health and educational outcomes, and to reduce and eliminate the risk of inadequate treatment by service providers, multiple immunizations, other severe health and education problems, and death.

(4) The Passport System shall meet all the operational and administrative needs of local participating agencies; be scalable and flexible to interface with and integrate data from multiple Los Angeles County and other county departments and state agencies that provide services to children, using data matching algorithms that provide a high level of confidence and reliability; maximize the use and availability of information in a secured and reliable environment; allow relevant county staff, health, mental health, education providers, and licensed or approved foster care givers to update or view appropriate data through a web-enabled application via the Internet; contain fire walls and safeguards to ensure that only authorized persons inquire and update only those cases which they have been authorized to access; and to ensure the integrity and confidentiality of the system.

(b) Prior to commencement of the pilot project, Los Angeles County, in consultation with the department, shall develop a pilot evaluation plan subject to approval by the department and the United States Secretary of Health and Human Services. The plan shall include, but is not limited to, identification of measurable objectives, and benefits that the pilot project is expected to achieve, the methodology, and plan criteria for evaluating the pilot project.

(c) The pilot plan shall include a strategy to incentivize health, mental health, and educational providers servicing foster children to utilize and update the Internet-based system.

(d) Implementation of the interface between the Internet-based Passport System and the CWS/CMS shall be contingent upon approval of federal reimbursement consistent with the child welfare services program. Funding shall be subject to the sharing ratios that apply to the administration of child welfare services programs. Any funds appropriated for this purpose not expended in the 2001–02 fiscal year shall be available for the purposes of this section as expenditure in subsequent years. After one year of operation of the pilot project, Los Angeles County shall complete a pilot evaluation as described in the pilot evaluation plan. The results of the evaluation shall be provided to the chairpersons of the fiscal and policy committees of each house of the Legislature, the Chairperson of the Joint Legislative Budget Committee, and the Department of Finance.

**Leg.H.**

2001 ch. 125, effective July 30, 2001, 2002 ch. 1022 (AB 444), effective September 28, 2002.

## **§ 16012. [Section Repealed 2007.]**

**Leg.H.**

Added Stats 2001 ch 694 § 2 (SB 841). Repealed January 1, 2007, by its own terms. The repealed section related to technical assistance and training provided by the department.

## **§ 16013. Fair and Equal Access of Persons Caring for Foster Children to Programs, Services, Benefits, and Licensing Processes; Nondiscrimination.**

(a) It is the policy of this state that all persons engaged in providing care and services to foster children, including, but not limited to, foster parents, adoptive parents, relative caregivers, and other caregivers

contracting with a county welfare department, shall have fair and equal access to all available programs, services, benefits, and licensing processes, and shall not be subjected to discrimination or harassment on the basis of their clients' or their own actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

(b) Nothing in this section shall be interpreted to create or modify existing preferences for foster placements or to limit the local placement agency's ability to make placement decisions for a child based on the child's best interests.

**Leg.H.**

Added Stats 2003 ch 331 § 7 (AB 458). Amended Stats 2008 ch 557 § 5 (AB 3015), effective January 1, 2009.

## **§ 16014. Legislative Intent to Maximize Federal Funding.**

(a) It is the intent of the Legislature to maximize federal funding for foster youth services provided by local educational agencies.

(b) The State Department of Education and the State Department of Social Services shall collaborate with the County Welfare Directors Association, representatives from local educational agencies, and representatives of private, nonprofit foster care providers to establish roles and responsibilities, claiming requirements, and sharing of eligibility information eligible for funding under Part E (commencing with Section 470) of Title IV of the federal Social Security Act ([42 U.S.C. Sec. 301 et seq.](#)). These state agencies shall also assist counties and local educational agencies in drafting memorandums of understanding between agencies to access funding for case management activities associated with providing foster youth services for eligible children. That federal funding shall be an augmentation to the current program and shall not supplant existing state general funds allocated to this program.

(c) School districts shall be responsible for 100 percent of the nonfederal share of payments received under that act.

**Leg.H.**

2004 ch. 914 (AB 1858).

# **CHAPTER 2**

## **COUNTY ADOPTION AGENCIES**

## **§ 16100. Functions of County in Connection with Adoption; Home-Finding and Placement Functions; Authority of County Adoption Agency; Contract for Adoption Services.**

(a) Any county may perform the home-finding and placement functions, to investigate, examine, and make reports upon petitions for adoption filed in the superior court, to act as a placement agency in the placement of children for adoption, to accept relinquishments for adoption, and to perform such other functions in connection with adoption as the department deems necessary, or to do any of them. Nothing in this section shall be construed to authorize a county adoption agency, as provided in subdivision (d), to provide intercountry adoption services.

(b) Notwithstanding any other law, a county adoption agency performing the functions specified in subdivision (a) may contract for services described in subdivision (a) from any licensed private adoption agency that the private adoption agency is licensed to provide pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code. A licensed county adoption agency may also contract for services described in subdivision (a) from any out-of-state licensed public or private adoption agency that is licensed pursuant to the laws of that state. Any services contracted for shall substantially meet the standards and criteria established in California adoption regulations as determined by the licensed county adoption agency. These services shall be contracted for in order to facilitate adoptive placement of a specified category of children for whom the licensed county adoption agency has determined it cannot provide adequate services.

(c) Counties that elect not to provide the adoption services specified in subdivision (a) may contract with the department or another county adoption agency to provide those services.

**Leg.H.**

Added Stats 1965 ch 1784 § 5. Amended Stats 1972 ch 1148 § 14, operative July 1, 1973; Stats 1973 ch 1203 § 8; Stats 1977 ch 1252 § 878, operative July 1, 1978; Stats 1984 ch 1116 § 9, effective September 13, 1984; Stats 1992 ch 163 § 155 (AB 2641), operative January 1, 1994; Stats 1996 ch 1083 § 7 (AB 1524); Stats 1998 ch 1056 § 25 (AB 2773); Stats 2012 ch 35 § 103 (SB 1013), effective June 27, 2012.

## **§ 16101. State Reimbursement of County Administrative Costs; Deduction; Funding and Expenditures for Programs and Activities.**

(a) Prior to the 2011–12 fiscal year, The cost of administering the adoption programs undertaken by a county under license issued pursuant to Section 16100 of this code shall be borne by the state in the amount found necessary by the department for proper and efficient administration. The state shall reimburse the county for all such necessary administrative costs, after deducting therefrom the amount of fees collected by the county agency pursuant to [Section 8716 of the Family Code](#).

(b) Beginning in the 2011–12 fiscal year, and each fiscal year thereafter, funding and expenditures for programs and activities under the section for the purposes of administering the adoption programs shall be in accordance with the requirements provided in [Sections 30025](#) and [30026.5 of the Government Code](#).

**Leg.H.**

Added Stats 1965 ch 1784 § 5. Amended Stats 1968 ch 879 § 2; Stats 1990 ch 1363 § 17 (AB 3532), operative July 1, 1991; Stats 1992 ch 163 § 156 (AB 2641), operative January 1, 1994; Stats 2012 ch 35 § 104 (SB 1013), effective June 27, 2012.

## **§ 16105. Federal Grant to be Applied to Defer the Cost of Administration of Adoption Program or of Care of Children Relinquished for Adoption.**

If any grants-in-aid are made by the federal government for the cost of administering an adoption program, or for the cost of care of children relinquished for adoption, the amount of the federal grant shall be applied to defer the cost of administration or of care.

**Leg.H.**

Added Stats 1965 ch 1784 § 5. Amended Stats 2012 ch 35 § 105 (SB 1013), effective June 27, 2012.

## **§ 16106. Reimbursement by State for Costs Incurred Under §§ 8805 and 8918.**

The state shall reimburse each county for the cost of care of any child placed under the custody of a county department pursuant to [Section 8805 or 8918 of the Family Code](#). County claims for reimbursement of expenses incurred pursuant to [Section 8805 or 8918 of the Family Code](#) shall be filed with the department at the time and in the manner specified by the department, and the claims shall be subject to audit by the department. Whenever a claim covering a prior fiscal year is found to have been in error, adjustment may be made on a current claim without the necessity of applying adjustment to the appropriation for the prior fiscal year.

**Leg.H.**

Amended 1990 ch. 1363 § 18, operative July 1, 1991, 1992 ch. 163, operative January 1, 1994.

## **CHAPTER 2.1**

### **AID FOR ADOPTION OF CHILDREN**

#### **§ 16115. Name of Aid Under Chapter.**

Aid under this chapter shall be known as the Adoption Assistance Program.

**Leg.H.**

Amended 1982 ch. 977 § 18, effective September 13, 1982.

#### **§ 16115.5. Legislative Intent.**

It is the intent of the Legislature in enacting this chapter to benefit children residing in foster homes by providing the stability and security of permanent homes, and in so doing, achieve a reduction in foster home care. It is not the intent of this chapter to increase expenditures but to provide for payments to adoptive parents to enable them to meet the needs of children who meet the criteria established in Sections 16116, 16120, and 16121.

**Leg.H.**

Amended 1986 ch. 1517 § 1, effective September 30, 1986, 1993 ch. 1087, effective October 11, 1993.

#### **§ 16118. Responsibilities of Department and County; Funding and Expenditures for Programs and Activities.**

(a) The department shall establish and administer the program to be carried out by the department or the county pursuant to this chapter. The department shall adopt any regulations necessary to carry out the provisions of this chapter.

(b) The department shall keep the records necessary to evaluate the program's effectiveness in encouraging and promoting the adoption of children eligible for the Adoption Assistance Program.

(c) The department or the county responsible for providing financial aid in the amount determined in Section 16120 shall have responsibility for certifying that the child meets the eligibility criteria and for

determining the amount of financial assistance needed by the child and the adopting family.

(d) The department shall actively seek and make maximum use of federal funds that may be available for the purposes of this chapter. In accordance with federal law, any savings realized from the change in federal funding for adoption assistance resulting from the enactment of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 ([Public Law 110-351](#)) shall be spent for the provision of foster care and adoption services, and the counties shall annually report to the department how these savings are spent, including any expenditures for postadoption services. Not less than 30 percent of these savings shall be spent on postadoption services, postguardianship services, and services to support and sustain positive permanent outcomes for children who otherwise might enter into foster care. Of that 30-percent amount, at least two-thirds shall be spent on postadoption and postguardianship services. The process for submitting this information shall be developed by the department, in consultation with counties. All gifts or grants received from private sources for the purpose of this chapter shall be used to offset public costs incurred under the program established by this chapter.

(e) For purposes of this chapter, the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid in the amount determined in Sections 16120 and 16120.1 shall be the county that, at the time of the adoptive placement, would otherwise be responsible for making a payment pursuant to Section 11450 under the CalWORKs program or Section 11461 under the Aid to Families with Dependent Children-Foster Care program if the child were not adopted. When the child has been voluntarily relinquished for adoption prior to a determination of eligibility for this payment, the responsible county shall be the county in which the relinquishing parent resides. The responsible county for all other eligible children shall be the county where the child is physically residing prior to placement with the adoptive family. The responsible county shall certify eligibility on a form prescribed by the department.

(f) Beginning in the 2011–12 fiscal year, and for each fiscal year thereafter, funding and expenditures for programs and activities under this section shall be in accordance with the requirements provided in [Sections 30025 and 30026.5 of the Government Code](#).

**Leg.H.**

Added Stats 1968 ch 1322 § 1, operative January 1, 1969. Amended Stats 1969 ch 261 § 2; Stats 1971 ch 123 § 3, ch 1724 § 3, effective December 14, 1971; Stats 1982 ch 977 § 22, effective September 13, 1982, operative October 1, 1982; Stats 1986 ch 767 § 5, ch 1517 § 3, effective September 30, 1986; Stats 1992 ch 722 § 130 (SB 485), effective September 14, 1992, operative October 1, 1992; Stats 1993 ch 1087 § 3 (AB 930), effective October 10, 1993; Stats 1999 ch 83 § 207 (SB 966), ch 547 § 1 (AB 390) (ch 547 prevails); Stats 2009 ch 222 § 1 (AB 154), effective January 1, 2010; Stats 2012 ch 35 § 106 (SB 1013), effective June 27, 2012; Stats 2015 ch 425 § 24 (SB 794), effective January 1, 2016.

## **§ 16119. Information on Availability of Assistance Program Benefits.**

(a) At the time application for adoption of a child who is potentially eligible for Adoption Assistance Program benefits is made, and at the time immediately prior to the finalization of the adoption decree, the department, county adoption agency, or the licensed adoption agency, whichever is appropriate, shall provide the prospective adoptive family with information, in writing, on the availability of Adoption Assistance Program benefits, with an explanation of the difference between these benefits and foster care payments. The department, county adoption agency, or the licensed adoption agency shall also provide the prospective adoptive family with information, in writing, on the availability of reimbursement for the nonrecurring expenses incurred in the adoption of the Adoption Assistance Program eligible child. The department, county adoption agency, or licensed adoption agency shall also provide the prospective adoptive family with information on the availability of mental health services through the Medi-Cal program or other programs, including information, in writing, regarding the importance of working with mental health providers that have specialized adoption or permanency clinical training and experience if the family needs clinical support, and a description of the desirable clinical expertise the family should look for when choosing an adoption—or permanency-competent mental health

professional. The department, county adoption agency, or licensed adoption agency shall also provide information regarding the federal adoption tax credit for any individual who is adopting or considering adopting a child in foster care, in accordance with Section 403 of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 ([Public Law 110-351](#)).

**(b)** The department, county adoption agency, or licensed adoption agency shall encourage families that elect not to sign an adoption assistance agreement to sign a deferred adoption assistance agreement.

**(c)** The department or the county, whichever is responsible for determining the child's eligibility for the Adoption Assistance Program, shall assess the needs of the child and the circumstances of the family.

**(d)**

**(1)** The amount of an adoption assistance cash benefit, if any, shall be a negotiated amount based upon the needs of the child and the circumstances of the family. There shall be no means test used to determine an adoptive family's eligibility for the Adoption Assistance Program, or the amount of adoption assistance payments. In those instances where an otherwise eligible child does not require a cash benefit, Medi-Cal eligibility may be established for the child, as needed.

**(2)** For purposes of paragraph (1), "circumstances of the family" includes the family's ability to incorporate the child into the household in relation to the lifestyle, standard of living, and future plans and to the overall capacity to meet the immediate and future plans and needs, including education, of the child.

**(e)** The department, county adoption agency, or licensed adoption agency shall inform the prospective adoptive family regarding the county responsible for providing financial aid to the adoptive family in an amount determined pursuant to Sections 16120 and 16120.1.

**(f)** The department, county adoption agency, or licensed adoption agency shall inform the prospective adoptive family that the adoptive parents will continue to receive benefits in the agreed upon amount unless one of the following occurs:

**(1)** The department or county adoption agency determines that the adoptive parents are no longer legally responsible for the support of the child.

**(2)** The department or county adoption agency determines that the child is no longer receiving support from the adoptive family.

**(3)** The adoption assistance payment exceeds the amount that the child would have been eligible for in a licensed foster home, or a resource family at the basic rate, inclusive of any level of care rate determination.

**(4)** The adoptive parents demonstrate a need for an increased payment.

**(5)** The adoptive parents voluntarily reduce or terminate payments.

**(6)** The adopted child has an extraordinary need that was not anticipated at the time the amount of the adoption assistance was originally negotiated.

**(g)** The department, county adoption agency, or licensed adoption agency shall inform the prospective adoptive family of their potential eligibility for a federal tax credit under [Section 23 of the Internal Revenue Code of 1986 \(26 U.S.C. Sec. 23\)](#) and a state tax credit under [Section 17052.25 of the Revenue and Taxation Code](#).

**Leg.H.**

Added Stats 1968 ch 1322 § 1, operative January 1, 1969; Amended Stats 1971 ch 123 § 4, ch 1724 § 4, effective December 14, 1971; Stats 1986 ch 767 § 6; Stats 1987 ch 978 § 1; Stats 1989 ch 1376 § 1; Stats 1992 ch 722 § 131 (SB 485), effective September 14, 1992, operative October 1, 1992; Stats 1993 ch 1087 § 4 (AB 930), effective October 10, 1993; Stats 1999 ch 547 § 2 (AB 390), ch 905 § 1 (AB 1225), effective October 10, 1999, operative until January 1, 2000, § 2 (AB 1225), effective October 10, 1999, operative January 1, 2000; Stats 2009 ch 222 § 2 (AB 154), effective January 1, 2010, ch 339 § 7.5 (SB 597), effective January 1, 2010; Stats 2012 ch 35 § 107 (SB 1013), effective June 27, 2012; Amended Stats 2017 ch 714 § 2 (AB 1006), effective January 1, 2018. Stats 2017 ch 732 § 95.5 (AB 404), effective January 1, 2018 (ch 732 prevails).

## § 16120. Conditions for Eligibility for Benefits.

A child is eligible for Adoption Assistance Program benefits if all of the conditions specified in subdivisions (a) to (l), inclusive, are met or if the conditions specified in subdivision (m) are met.

(a) It has been determined that the child cannot or should not be returned to the home of the child's parents as evidenced by a petition for termination of parental rights, a court order terminating parental rights, or a signed relinquishment, or, in the case of a tribal customary adoption, if the court has given full faith and credit to a tribal customary adoption order as provided for pursuant to paragraph (2) of subdivision (e) of Section 366.26, or, in the case of a nonminor dependent the court has dismissed dependency or transitional jurisdiction subsequent to the approval of the nonminor dependent, adoption petition pursuant to subdivision (f) of Section 366.31.

(b) The child has at least one of the following characteristics that are barriers to the child's adoption:

(1) Adoptive placement without financial assistance is unlikely because of membership in a sibling group that should remain intact or by virtue of race, ethnicity, color, language, three years of age or older, or parental background of a medical or behavioral nature that can be determined to adversely affect the development of the child.

(2) Adoptive placement without financial assistance is unlikely because the child has a mental, physical, emotional, or medical disability that has been certified by a licensed professional competent to make an assessment and operating within the scope of that licensee's profession. This paragraph shall also apply to children with a developmental disability, as defined in subdivision (a) of Section 4512, including those determined to require out-of-home nonmedical care, as described in Section 11464.

(c) The need for an adoption subsidy is evidenced by an unsuccessful search for an adoptive home to take the child without financial assistance, as documented in the case file of the prospective adoptive child. The requirement for this search shall be waived when it would be against the best interest of the child because of the existence of significant emotional ties with prospective adoptive parents while in the care of these persons as a foster child.

(d) The child satisfies any of the following criteria:

(1) The child is under 18 years of age.

(2) The child is under 21 years of age and has a mental or physical handicap that warrants the continuation of assistance.

(3) Effective January 1, 2012, the child is under 19 years of age, effective January 1, 2013, the child is under 20 years of age, and effective January 1, 2014, the child is under 21 years of age and as described in Section 10103.5, and has attained 16 years of age before the adoption assistance agreement became effective, and one or more of the conditions specified in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403 applies.

(e) The adoptive family is responsible for the child pursuant to the terms of an adoptive placement agreement or a final decree of adoption and has signed an adoption assistance agreement.

(f) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.

(g) The department or the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid, and the prospective adoptive parent, prior to or at the time the adoption decree is issued by the court, have signed an adoption assistance agreement that stipulates the need for, and the amount of, Adoption Assistance Program benefits.

(h) The prospective adoptive parent or any adult living in the prospective adoptive home has completed the criminal background check requirements pursuant to [Section 671\(a\)\(20\)\(A\)](#) and [\(C\) of Title 42 of the United States Code](#).

(i) To be eligible for state funding, the child is the subject of an agency adoption, as defined in [Section 8506 of the Family Code](#), and was any of the following:

(1) Under the supervision of a county welfare department as the subject of a legal guardianship or juvenile court dependency.

(2) Relinquished for adoption to a licensed California private or public adoption agency, or another public agency operating a Title IV-E program on behalf of the state, and would have otherwise been at risk of dependency as certified by the responsible public child welfare agency.

(3) Committed to the care of the department pursuant to [Section 8805](#) or [8918 of the Family Code](#).

(4) The child is an Indian child and the subject of an order of adoption based on tribal customary adoption of an Indian child, as described in Section 366.24. Notwithstanding [Section 8600.5 of the Family Code](#), for purposes of this subdivision a tribal customary adoption shall be considered an agency adoption.

(j) To be eligible for federal funding, in the case of a child who is not an applicable child for the federal fiscal year, as defined in subdivision (n), the child satisfies any of the following criteria:

(1) Prior to the finalization of an agency adoption, as defined in [Section 8506 of the Family Code](#), or an independent adoption, as defined in [Section 8524 of the Family Code](#), is filed, the child has met the requirements to receive federal supplemental security income benefits pursuant to Subchapter 16 (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.

(2) The child was removed from the home of a specified relative and the child would have been AFDC eligible in the home of removal according to Section 606 or [607 of Title 42 of the United States Code](#), as those sections were in effect on July 16, 1996, in the month of the voluntary placement agreement or in the month court proceedings are initiated to remove the child, resulting in a judicial determination that continuation in the home would be contrary to the child's welfare. The child must have been living with the specified relative from whom the child was removed within six months of the month the voluntary placement agreement was signed or the petition to remove was filed.

(3) The child was voluntarily relinquished to a licensed public or private adoption agency, or another public agency operating a Title IV-E program on behalf of the state, and there is a petition to the court to remove the child from the home within six months of the time the child lived with a specified relative and a subsequent judicial determination that remaining in the home would be contrary to the child's welfare.

(4) Title IV-E foster care maintenance was paid on behalf of the child's minor parent and covered the cost of the minor parent's child while the child was in the foster family home or child care institution with the minor parent.

(5) The child is an Indian child and the subject of an order of adoption based on tribal customary adoption of an Indian child, as described in Section 366.24.

(k) To be eligible for federal funding, in the case of a child who is an applicable child for the federal fiscal year, as defined in subdivision (n), the child meets any of the following criteria:

(1) At the time of initiation of adoptive proceedings, was in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to either of the following:

(A) An involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child.

(B) A voluntary placement agreement or a voluntary relinquishment.

(2) The child meets all medical or disability requirements of Title XVI with respect to eligibility for supplemental security income benefits.

(3) The child was residing in a foster family home or a child care institution with the child's minor parent, and the child's minor parent was in the foster family home or child care institution pursuant to either of the following:

(A) An involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child.

(B) A voluntary placement agreement or voluntary relinquishment.

(4) The child is an Indian child and the subject of an order of adoption based on tribal customary adoption of an Indian child, as described in Section 366.24.

(5) The nonminor dependent, as described in subdivision (v) of Section 11400, is the subject of an adoption pursuant to subdivision (f) of Section 366.31.

(l)

(1) The child is a citizen of the United States or a qualified immigrant. If the child is a qualified immigrant who entered the United States on or after August 22, 1996, and is placed with an unqualified immigrant, the child must meet the five-year residency requirement pursuant to [Section 673\(a\)\(2\)\(B\) of Title 42 of the United States Code](#), unless the child is a member of one of the excepted groups pursuant to [Section 1612\(b\) of Title 8 of the United States Code](#).

(2) For purposes of this subdivision, a "qualified immigrant" means a person who meets the definition of the term defined in [Section 1641 of Title 8 of the United States Code](#).

(m) A child or nonminor shall be eligible for Adoption Assistance Program benefits if the following conditions are met:

(1) The child or nonminor received Adoption Assistance Program benefits with respect to a prior adoption and the child or nonminor is again available for adoption because the prior adoption was dissolved and the parental rights of the adoptive parents were terminated or because the child's or nonminor's adoptive parents died and the child or nonminor meets the special needs criteria described in subdivisions (a) to (c), inclusive. When a nonminor is receiving Adoption Assistance Program benefits after 18 years of age and the nonminor's adoptive parents die, the juvenile court may resume dependency jurisdiction over the nonminor pursuant to Section 388.1.

(2) To receive federal funding, the citizenship requirements in subdivision (l).

**(n)**

**(1)** Except as provided in this subdivision, “applicable child” means a child for whom an adoption assistance agreement is entered into under this section during any federal fiscal year described in this subdivision if the child attained the applicable age for that federal fiscal year before the end of that federal fiscal year.

- (A)** For federal fiscal year 2010, the applicable age is 16 years.
- (B)** For federal fiscal year 2011, the applicable age is 14 years.
- (C)** For federal fiscal year 2012, the applicable age is 12 years.
- (D)** For federal fiscal year 2013, the applicable age is 10 years.
- (E)** For federal fiscal year 2014, the applicable age is eight years.
- (F)** For federal fiscal year 2015, the applicable age is six years.
- (G)** For federal fiscal year 2016, the applicable age is four years.
- (H)** For federal fiscal year 2017, the applicable age is two years.
- (I)** For October 1, 2017, to December 31, 2017, any age.
- (J)** Effective January 1, 2018, to June 30, 2024, the applicable age is two years.
- (K)** Effective July 1, 2024, and thereafter, any age.

**(2)** Beginning with the 2010 federal fiscal year, the term “applicable child” shall include a child of any age on the date on which an adoption assistance agreement is entered into on behalf of the child under this section if the child meets both of the following criteria:

- (A)** The child has been in foster care under the responsibility of the state for at least 60 consecutive months.
- (B)** The child meets the requirements of subdivision (k).

**(3)** Beginning with the 2010 federal fiscal year, an applicable child shall include a child of any age on the date that an adoption assistance agreement is entered into on behalf of the child under this section, without regard to whether the child is described in paragraph (2), if the child meets all of the following criteria:

- (A)** The child is a sibling of a child who is an applicable child for the federal fiscal year, under subdivision (n) or paragraph (2).
- (B)** The child is to be placed in the same adoption placement as an “applicable child” for the federal fiscal year who is their sibling.
- (C)** The child meets the requirements of subdivision (k).

**Leg.H.**

Added Stats 2009–2010 4th Ex Sess ch 4 § 35 (ABX4 4), effective July 28, 2009. Amended Stats 2009 ch 287 § 19 (AB 1325), effective January 1, 2010, operative July 1, 2010, repealed January 1, 2014; Stats 2010 ch 559 § 58 (AB 12), effective January 1, 2011, repealed January 1, 2014; Stats 2011 ch 459 § 39 (AB 212), effective October 4, 2011, repealed January 1, 2014; Stats 2012 ch 35 § 108 (SB 1013), effective June 27, 2012, ch 846 § 48 (AB 1712), effective January 1, 2013; Stats 2013 ch 487 § 8 (AB 787), effective January 1, 2014;

Stats 2015 ch 303 § 628 (AB 731), effective January 1, 2016; Stats 2018 ch 910 § 41 (AB 1930), effective January 1, 2019; Stats 2021 ch 296 § 78 (AB 1096), effective January 1, 2022.

## **§ 16120.05. Adoption Assistance Agreement.**

The adoption assistance agreement shall, at a minimum, specify the amount and duration of assistance, and that the amount is subject to any applicable increases pursuant to the cost-of-living adjustments established by statute. The date for reassessment of the child's needs shall be set at the time of the initial negotiation of the adoption assistance agreement, and shall, thereafter be set at each subsequent reassessment. The interval between any reassessments may not exceed two years.

The adoption assistance agreement shall also specify the responsibility of the adopting family for reporting changes in circumstances that might negatively affect their ability to provide for the identified needs of the child.

**Leg.H.**

Added Stats 1993 ch 1087 § 7 (AB 930), effective October 10, 1993. Amended Stats 1999 ch 547 § 3 (AB 390); Stats 2011 ch 32 § 66 (AB 106), effective June 29, 2011.

## **§ 16120.1. Direct Reimbursement of Reasonable Nonrecurring Expenses.**

Upon the authorization of the department or, where appropriate, the county responsible for determining the child's or nonminor dependent's Adoption Assistance Program eligibility status and for providing financial aid, the responsible county shall directly reimburse eligible individuals for reasonable nonrecurring expenses, as defined by the department, incurred as a result of the adoption of a special needs child, as defined in subdivisions (a) to (c), inclusive, and subdivision (l), of Section 16120. Reimbursements shall conform to the eligibility criteria and claiming procedures established by the department and shall be subject to the following conditions:

- (a) The amount of the payment shall be determined through agreement between the adopting parent or parents and the department or the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid. The agreement shall indicate the nature and the amount of the nonrecurring expenses to be paid. Payments shall be limited to an amount not to exceed four hundred dollars (\$400) for each placement eligible for the Adoption Assistance Program.
- (b) There shall be no income eligibility requirement for an adoptive parent or adoptive parents in determining whether payments for nonrecurring expenses shall be made.