Selected California Statutes
Relating to

Youthful Offenders

Including

- The Youth Authority Act
- The Juvenile Court Law
- 1989 Legislative Changes
- The Juvenile Court Rules

STATE OF CALIFORNIA

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FOREWORD

Those who work with young offenders often must refer to the laws affecting their work. The aim of "Selected California Statutes Relating to Youthful Offenders" is to provide quick access to the more important laws in their field. It draws together in one volume selected provisions from several California codes.

We are pleased to compile and publish the 1990 edition. It includes changes made during the first year of the 1989–90 Regular Session of the California Legislature. The changes take effect January 1, 1990, unless otherwise specified in the footnotes following the affected sections. The Judicial Council's Juvenile Court Rules have also been included as a further aid.

An abbreviated legislative history follows each section, which reflects the year of enactment and most recent amendments only. Readers in need of a more comprehensive legislative history, a complete reference of code sections, or a reference for exact quotations of code sections are advised to consult the annotated codes.

Information for ordering additional copies of this book is provided on the inside of the front cover.

For the convenience of readers, the following page contains a table of sections affected by 1989 legislation.

C. A. Terhune, *Director*

Department of the Youth Authority

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200. Chapter title. This chapter shall be known and may be cited as the "Arnold-Kennick Juvenile Court Law."

(Added Stats 1976 ch 1068)

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

(Added Stats 1976 ch 1068)

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

(b) Minors under the jurisdiction of the juvenile court who are in need of protective services shall receive care, treatment and guidance consistent with their best interest and the best interest of the public. Minors under the jurisdiction of the juvenile court as a consequence of delinquent conduct shall, in conformity with the interests of public safety and protection, receive care, treatment and guidance which is consistent with their best interest, which holds them accountable for their behavior, and which is appropriate for their circumstances. This guidance may include punishment that is consistent with the rehabilitative objectives of this chapter. If a minor has been removed from the custody of his or her parents, family preservation and family reunification are appropriate goals for the juvenile court to consider when determining the disposition of a minor under the jurisdiction of the juvenile court as a consequence of delinquent conduct when those goals are consistent with his or her best interests and the best interests of the public.

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

(d) Juvenile courts and other public agencies charged with enforcing, interpreting, and administering the juvenile court law shall consider the safety and protection of the public and the best interests of the minor in all deliberations pursuant to this chapter. Participants in the juvenile justice system shall hold

themselves accountable for its results. They shall act in conformity with a comprehensive set of objectives established to improve system performance in a vigorous and ongoing manner.

(e) As used in this chapter, "punishment" means the imposition of sanctions which include the following:

(1) Payment of a fine by the minor.

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

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

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

(5) Commitment of the minor to the Department of the Youth Authority.

"Punishment," for the purposes of this chapter, does not include retribution.

(Added Stats. 1976 ch 1068; repealed and added Stats 1984 ch 756; most recently amended Stats 1989 ch 569, effective 9/21/89)

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

(Added Stats 1982 ch 978, effective 7/1/82)

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

(Added Stats 1976 ch 1068)

204. Transmitting of information relating to arrest. The Department of Justice shall not knowingly transmit to any person or agency any information relating to an arrest or taking into custody of a minor at the time of such arrest or taking into custody unless such information also includes the disposition resulting therefrom.

"Disposition," as used herein, includes a release of such minor from custody without the filing of an accusatory pleading or the filing of a petition under the provisions of this chapter, a determination of the issue of wardship by the juvenile court, or a determination by the juvenile court that such minor is not a fit subject to be dealt with under the provisions of this chapter.

This section shall not be construed to prohibit the Department of Justice from transmitting fingerprints or photographs of a minor to a law enforcement agency for the purpose of obtaining identification of the minor or from requesting from such agency the history of the minor.

This section shall not be construed to prohibit the Department of Justice from transmitting any information relating to an arrest or taking into custody of a minor received by said bureau prior to the effective date of this section.

(Added Stats 1976 ch 1068)

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

(Added Stats 1976 ch 1068)

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

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

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

No minor described in this section may be held in temporary custody in any building that contains a jail or lockup for the confinement of adults, unless, while in the building, the minor is under continuous supervision and is not permitted to come into or remain in contact with adults in custody in the building. In addition, no minor who is alleged to be within the description of Section 300 may be held in temporary custody in a building that contains a jail or lockup for the confinement of adults, unless the minor is under the direct and continuous supervision of a peace officer or other child protective agency worker, as specified in Section 11165.9 of the Penal Code, until temporary custody and detention of the minor is assumed pursuant to Section 309. However, if a child protective agency worker is not available to supervise the minor as certified by

the law enforcement agency which has custody of the minor, a trained volunteer may be directed to supervise the minor. The volunteer shall be trained and function under the auspices of the agency which utilizes the volunteer. The minor may not remain under the supervision of the volunteer for more than three hours. A county which elects to utilize trained volunteers for the temporary supervision of minors shall adopt guidelines for the training of the volunteers which guidelines shall be approved by the State Department of Social Services. Each county which elects to utilize trained volunteers for the temporary supervision of minors shall report annually to the department on the number of volunteers utilized, the number of minors under their supervision, and the circumstances under which volunteers were utilized.

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

(Added Stats 1976 ch 1068; most recently amended Stats 1989 ch 913)

207. Places of detention. (a) No minor shall be detained in any jail, lockup, juvenile hall, or other secure facility who is taken into custody solely upon the ground that he or she is a person described by Section 601 or adjudged to be such or made a ward of the juvenile court solely upon that ground, except as provided in subdivision (b). If any such minor, other than a minor described in subdivision (b), is detained, he or she shall be detained in a sheltered-care facility or crisis resolution home as provided for in Section 654, or in a nonsecure facility provided for in subdivision (a), (b), (c), or (d) of Section 727.

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

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

(2) For up to 24 hours after having been taken into custody, in order to locate the minor's parent or guardian as soon as possible and to arrange the return of the minor to his or her parent or guardian.

(3) For up to 24 hours after having been taken into custody, in order to locate the minor's parent or guardian as soon as possible and to arrange the return of the minor to his or her parent or guardian, whose parent or guardian is a resident outside of the state wherein the minor was taken into custody, except that the period may be extended to no more than 72 hours when the return of the minor cannot reasonably be accomplished within 24 hours due to the distance of the parents or guardian from the county of custody, difficulty in locating the parents or guardian, or difficulty in locating resources necessary to provide for the return of the minor.

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

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

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

The Youth Authority shall not disclose the name of the detainee, or any personally identifying information contained in reports sent to the Youth Authority under this subdivision.

(Added Stats 1976 ch 1068; most recently amended Stats 1986 ch 1271)

207.1. Conditions of detention. (a) No court, judge, referee, peace officer, or employee of a detention facility shall knowingly detain any minor in a jail or lockup, except as provided in subdivision (b) or (d).

(b) Any minor who is alleged to have committed an offense described in subdivision (b) of Section 707, whose case is transferred to a court of criminal jurisdiction pursuant to Section 707.1 after a finding is made that he or she is not a fit and proper subject to be dealt with under the juvenile court law, may be detained in a jail or other secure facility for the confinement of adults, if all of the following conditions are met:

(1) The juvenile court judge makes a finding at the conclusion of the fitness hearing that the minor's further detention in the juvenile hall would endanger the safety of the public or would be detrimental to the other minors in the juvenile hall.

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

(3) The minor is adequately supervised.

(4) The adult facility has been approved by the Youth Authority as an appropriate place for the detention of minors so transferred.

(c) A minor who is found not to be a fit and proper subject to be dealt with under the juvenile court law shall, upon the conclusion of the fitness hearing, be entitled to be released on bail or on his or her own recognizance upon the same circumstances, terms, and conditions as an adult who is alleged to have committed the same offense.

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

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

(2) The minor is detained in the law enforcement facility for a period that does not exceed six hours.

(3) The minor is informed at the time he or she is securely detained of the purpose of the secure detention, of the length of time the secure detention is expected to last, and of the maximum six-hour period the secure detention is authorized to last.

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

(5) The minor is adequately supervised.

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

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

As used in this subdivision, "law enforcement facility" includes a police station or a sheriff's station, but does not include a jail, as defined in subdivision (i).

(e) The Youth Authority shall assist law enforcement agencies, probation departments, and courts with the implementation of this section by doing all of the following:

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

(2) The Youth Authority shall inquire of the official in charge of each jail or lockup that reported the confinement of a minor in calendar year 1984 or 1985 as to whether the jail or lockup may be used for the future confinement of any minor pursuant to subdivision (b), and if the Youth Authority is informed that the jail or lockup may be so used, it shall inspect the jail or lockup and determine whether it is an appropriate place for the secure detention of minors in conformity with the requirements of law.

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

(f) The Youth Authority may exempt a county that does not have a juvenile hall, or may exempt an offshore law enforcement facility, from compliance with this section for a reasonable period of time, until December 31, 1990, for the purpose of allowing the county or the facility to develop alternatives to the use of jails and lockups for the confinement of minors, if all of the following conditions are met:

(1) The county or the facility submits a written request to the Youth Authority for an extension of time to comply with this section.

(2) The Youth Authority agrees to make available, and the county or the facility agrees to accept, technical assistance to develop alternatives to the use of jails and lockups for the confinement of minors during the period of the extension.

(3) The county or the facility requesting the extension submits to the Youth Authority a written plan for full compliance with this section by September 1, 1987.

As used in this suhdivision and in subdivision (g), "offshore law enforcement facility" and "facility" means a sheriff's station containing a lockup for adults that is located on an island located at least 22 miles from the California coastline.

(g) (1) Under the limited conditions of inclement weather, acts of God, or natural disasters that result in the temporary unavailability of transportation, an extension of the six-hour maximum period of detention set forth in paragraph (2) of subdivision (d) may be granted to a county by the Youth Authority. The extensions may only be granted by the Youth Authority on an individual, case-by-case basis. If the extension is granted, the detention of minors under those conditions shall not exceed the duration of the special conditions, plus a period reasonably necessary to accomplish transportation of the minor to a suitable juvenile facility, not to exceed six hours after the restoration of available transportation.

A county that receives an extension under this paragraph shall comply with the requirements set forth in subdivision (d). The county shall also provide a written report to the Youth Authority that specifies when the inclement weather, act of God, or natural disaster ceased to exist, when transportation availability was restored, and when the minor was delivered to a suitable juvenile facility. In the event that the minor was detained for a period in excess of 72 hours, the Youth Authority shall verify the information contained in the report.

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

An offshore law enforcement facility that receives an extension under this paragraph shall comply with the requirements set forth in subdivision (d). The facility shall also provide a written report to the Youth Authority that specifies when the next mode of transportation became available, and when the minor was

delivered to a suitable juvenile facility. In the event that the minor was detained for a period in excess of 24 hours, the Youth Authority shall verify the information contained in the report.

As used in this paragraph, "offshore law enforcement facility" means a sheriff's station containing a lockup for adults that is located on an island at least 22 miles from the California coastline.

(3) At least annually, the Youth Authority shall review and report on extensions sought and granted under this subdivision. If, upon that review, the Youth Authority determines that a county has sought extension resulting in the excessive confinement of minors in adult facilities, or that a county is engaged in a pattern and practice of seeding extensions, it shall require the county to submit a detailed explanation of the reasons for the extensions sought and an assessment of the need for a conveniently located and suitable juvenile facility. Upon receiving this information, the Youth Authority shall make available, and the county shall accept, technical assistance for the purpose of developing suitable alternatives to the confinement of minors in adult lockup. Based upon the information provided by the county, the Youth Authority may also place limits on, or refuse to grant, future extensions requested by the county under this subdivision.

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

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

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

(j) Nothing in this section shall be deemed to prevent a peace officer or employee of an adult detention facility or jail from escorting a minor into the detention facility or jail for the purpose of administering an evaluation, test, or chemical test pursuant to Section 23157 of the Vehicle Code, if all of the following conditions are met:

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

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

(3) The evaluation, test, or chemical test administered pursuant to Section 23157 of the Vehicle Code is performed as expeditiously as possible, so that the

minor is not unnecessarily delayed within the adult detention facility or jail. Upon completion of the evaluation, test, or chemical test, the minor shall be removed from the detention facility or jail as soon as reasonably possible. No minor shall be held in custody in an adult detention facility or jail under the authority of this paragraph for a period in excess of two hours.

(Added Stats 1986 ch 1271; most recently amended Stats 1989 ch 1327, eff. 10/2/89)

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

(Added Stats 1981 ch 697)

208. Contact with adult prisoners. (a) When any person under 18 years of age is detained in or sentenced to any institution in which adults are confined, it shall be unlawful to permit such person to come or remain in contact with such adults.

(b) No person who is a ward or dependent child of the juvenile court who is detained in or committed to any state hospital or other state facility shall be permitted to come or remain in contact with any adult person who has been committed to any state hospital or other state facility as a mentally disordered sex offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6, or with any adult person who has been charged in an accusatory pleading with the commission of any sex offense for which registration of the convicted offender is required under Section 290 of the Penal Code and who has been committed to any state hospital or other state facility pursuant to Section 1026 or 1370 of the Penal Code.

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

(Added Stats 1976 ch 1068; most recently amended Stats 1977 ch 806)

208.5. Commingling; Age Maximum. Notwithstanding any other provision of law, in any case in which a minor who is detained in or committed to a county institution established for the purpose of housing juveniles attains the age of 18 prior to or during the period of detention or confinement he or she may be allowed to come or remain in contact with those juveniles until the age of 19, at which time he or she, upon the recommendation of the probation officer, shall be delivered to the custody of the sheriff for the remainder of the time he or she remains in custody, unless the juvenile court orders continued detention in a juvenile facility. The person shall he advised of his or her ability to petition the court for continued detention in a juvenile facility at the time of his or her attainment of the age of 19. Notwithstanding any other provision of law, the

sheriff may allow such a 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.

(Added Stats 1984 ch 207; amended by stats 1986 ch 676)

209. Inspection of jails and lockups. (a) The judge of the juvenile court of a county, or, if there is more than one such judge, any of the judges of the juvenile court shall, at least annually, inspect any jail, juvenile hall, or lockup which, in the preceding calendar year, was used for confinement, for more than 24 hours pursuant to subdivision (b) or (g) of Section 207.1, of any minor. The judge shall note in the minutes of the court whether the jail, juvenile hall, or lockup is a suitable place for confinement of minors.

The Department of the Youth Authority shall likewise conduct an annual inspection of each jail, juvenile hall, lockup, or special purpose juvenile hall situated in this state which, during the preceding calendar year, was used for confinement, for more than 24 hours pursuant to subdivision (b) or (g) of Section 207.1, of any minor.

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

The custodian of each jail, juvenile hall, and lockup shall make such reports as may be required by the department or the juvenile court to effectuate the purposes of this section.

(b) The Department of the Youth Authority may inspect any law enforcement facility which contains a lockup for adults and which it has reason to believe may not be in compliance with the requirements of subdivision (d) of Section 207.1 or with the certification requirements or standards adopted under Section 210.2. A judge of the juvenile court shall conduct an annual inspection, either in person or through a delegated member of the appropriate county or regional juvenile justice commission, of any law enforcement facility which contains a lockup for adults which, in the preceding year, was used for the secure detention of any minor.

If either the judge or the department finds after inspection that the facility is not being operated and maintained in conformity with the requirements of subdivision (d) of Section 207.1 or with the certification requirements or standards adopted under Section 210.2, the juvenile court or the department shall give notice of its finding to all persons having authority to securely detain minors in the facility, and, commencing 60 days thereafter, the facility shall not be used for the secure detention of a minor until such time as the judge or the department, as the case may be, finds, after reinspection, that the conditions

which rendered the facility unsuitable have been remedied, and the facility is a suitable place for the confinement of minors in conformity with all requirements of law.

The custodian of each law enforcement facility which contains a lockup for adults shall make any report as may be required by the department or by the juvenile court to effectuate the purposes of this subdivision.

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

(Added Stats 1976 ch 1068; most recently amended Stats 1989 ch 1327, effective 10/2/89)

210. Standards. The Youth Authority shall adopt minimum standards for the operation and maintenance of juvenile halls for the confinement of minors.

Any violation of such standards shall render a juvenile hall unsuitable for the confinement of minors for purposes of Section 209.

(Added Stats 1976 ch 1068)

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

(Added Stats 1978 ch 1157, effective September 26, 1978)

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

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

(Added Stats 1986 ch 1271)

211. Prohibited commitments. No person under the age of 16 years shall be committed to a state prison or be transferred thereto from any other institution.

(Added Stats 1976 ch 1068)

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

(Added Stats 1976 ch 1068)

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

(Added Stats 1976 ch 1068)

213.5. Restraining orders. (a) During the pendency of any proceeding to declare a minor child a dependent child of the juvenile court, upon application in the manner provided by Section 527 of the Code of Civil Procedure, the juvenile court may issue ex parte orders (1) enjoining any parent, guardian, or member of the minor child's household from molesting, attacking, striking, sexually assaulting, or battering the minor child or any other minor child in the household; (2) excluding any parent, guardian, or member of the minor child's household from the dwelling of the person who has care, custody, and control of the child upon the same showing as is necessary under the provisions of this chapter relating to dependent children to remove a minor from the custody and control of his or her parents or guardians; and (3) enjoining a parent, guardian, or member of the minor child's household from specified behavior including contacting, threatening, or disturbing the peace of the minor, which the court determines is necessary to effectuate orders under paragraph (1) or (2). In the case in which a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be granted, on the earliest day that the business of the court will permit, but not later than 15 days or, if good cause appears to the court, 20 days from the date the temporary restraining order is granted. The court may, on the motion of the person seeking the restraining order, or on its own motion, shorten the time for service on the person to be restrained of the order to show cause. Any hearing pursuant to this statute may be held simultaneously with the regularly scheduled hearings held in proceedings to declare a minor a dependent child of the juvenile court pursuant to Section 300.

(b) The juvenile court may issue, upon notice and a hearing, any of the orders set forth in subdivision (a). Any restraining order granted pursuant to this subdivision shall remain in effect, in the discretion of the court, not to exceed one year, unless otherwise terminated by the court, extended by mutual consent of all parties to the restraining order, or extended by further order of the court on the motion of any party to the restraining order.

(c) The juvenile court may issue an order made pursuant to subdivision (a) or (b) excluding a person from a residence or dwelling only when the evidence affirmatively shows facts sufficient for the court to ascertain that the person seeking the order has a right under color of law to possession of the premises.

In the case of the issuance of an ex parte order, the affidavit in support of the application for the order shall affirmatively show facts sufficient for the court to ascertain that the person seeking the order has a right under color of law to possession of the premises.

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

(e) The juvenile court shall order any designated person or attorney to mail a copy of any order, or extension, modification, or termination thereof, granted pursuant to subdivision (a) or (b), by the close of the business day on which the order, extension, modification, or termination was granted, and any subsequent proof of service thereof, to each local law enforcement agency designated by the person seeking the restraining order or his or her attorney having jurisdiction over the residence of the person who has care, custody, and control of the minor child and such other locations where the court determines that acts of domestic violence or abuse against the minor child or children are likely to occur. Each appropriate law enforcement agency shall make available through an existing system for verification, information as to the existence, terms, and current status of any order issued pursuant to subdivision (a) or (b) to any law enforcement officer responding to the scene of reported domestic violence or abuse.

(f) Any willful and knowing violation of any order granted pursuant to subdivision (a) or (b) shall be a misdemeanor punishable under Section 273.6 of the Penal Code.

(Added Stats 1989 ch 1409)

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

(Added Stats 1976 ch 1068)

215. Probation officers definition. As used in this chapter, unless otherwise specifically provided, the term "probation officer" shall mean the juvenile probation officer or the person who is both the juvenile probation officer and the adult probation officer, and shall include any social worker in a county welfare department when supervising dependent children of the juvenile court pursuant to Section 272 by order of the court under Section 300, and the term "department of probation" shall mean the department of juvenile probation or the department wherein the services of juvenile and adult probation are both performed.

(Added Stats 1976 ch 1068)

216. Minor fleeing state. This chapter shall not apply:

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

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

(Added Stats 1976 ch 1068)

217. Bicycles and toys. The board of supervisors of any county or the governing body of any city may by ordinance provide that any bicycles or toys, or both, in the possession of the sheriff of the county or in the possession of the police department of the city which have been unclaimed for a period of at least 60 days may, instead of being sold at public auction to the highest bidder pursuant to the provisions of Section 2080.5 of the Civil Code, be turned over to the probation officer, to the welfare department of the county, or to any charitable or nonprofit organization which is authorized under its articles of incorporation to participate in a program or activity designed to prevent juvenile delinquency and which is exempt from income taxation under federal or state law, or both, for use in any program or activity designed to prevent juvenile delinquency.

(Added Stats 1976 ch 1068; amended by Stats 1986 ch 865)

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

(Added Stats 1976 ch 1068)

219. Worker's Compensation Juvenile Court Work Program. The board of supervisors of a county may provide a ward of the juvenile court engaged in rehabilitative work without pay, under an assignment by order of the juvenile court to a work project in a county department, with workers' compensation benefits for injuries sustained while performing such rehabilitative work, in accordance with Section 3364.55 of the Labor Code.

(Added Stats 1976 ch 1068)

220. Right to abortion. No condition or restriction upon the obtaining of an abortion by a female detained in any local juvenile facility, pursuant to the Therapeutic Abortion Act (Chapter 11 (commencing with Section 25950), Division 20 of the Health and Safety Code), other than those contained in that act, shall be imposed. Females found to be pregnant and desiring abortions, shall be permitted to determine their eligibility for an abortion pursuant to law, and if determined to be eligible, shall be permitted to obtain an abortion.

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

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

(Added Stats 1976 ch 1068)

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

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

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

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

(Added Stats 1981 ch 618—operative on 1/1/88)

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

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

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

(Added Stats 1976 ch 1068)

Commissions and Committees

225. Juvenile justice commission. In each county there shall be a juvenile justice commission consisting of not less than 7 and no more than 15 citizens. Two or more of the members shall be persons who are between 14 and 21 years of age, provided there are available persons between 14 and 21 years of age who are able to carry out the duties of a commission member in a manner satisfactory to the appointing authority. Each person serving as a member of a probation committee immediately prior to September 15, 1961, shall be a member

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

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

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

(Added Stats 1976 ch 1068; amended by Stats 1980 ch 751)

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

the juvenile court of the county which originally appointed such vacating or retiring member. When a vacancy occurs for any reason other than the expiration of a term of office, the appointee shall hold office for the unexpired term of his or her predecessor.

(Added Stats 1976 ch 1068 and amended by Stats 1980 ch 751)

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

(Added Stats 1976 ch 1068)

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

(Added Stats 1976 ch 1068)

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

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

(Added Stats 1976 ch 1068)

229.5. Duties relating to group homes. Notwithstanding any other provision of law, a juvenile justice commission may inquire into the nonconfidential aspects of the administration of group homes receiving placements by order of the juvenile court or courts in the county or region in which the commission serves whose use is authorized by this chapter, and may report thereon to the State Department of Social Services, the presiding judge of the juvenile court or courts, and the chief probation officer of the county or counties.

(Added Stats 1987 ch 228)

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

(Added Stats 1976 ch 1068)

231. Expenses. Members of a juvenile justice commission shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties. Such reimbursement shall be made by the county of appointment or,

in lieu of such actual and necessary expenses the board of supervisors may provide that the members of the commission shall be paid not to exceed the sum of twenty-five dollars ($25) per meeting not exceeding two meetings per month. In the case of a regional justice commission, the duty of reimbursement shall be divided among the participating counties in the manner prescribed by agreement of the boards of supervisors.

(Added Stats 1976 ch 1068)

232. Delinquency prevention. The board of supervisors may by ordinance provide for the establishment, support, and maintenance of one or more agencies or departments to cooperate with and assist in coordinating on a countywide basis the work of those community agencies engaged in activities designed to prevent juvenile and adult delinquency; and such agencies or departments may cooperate with any such public or community committees, agencies, or councils at their invitation.

(Added Stats 1976 ch 1068)

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

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

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

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

For a delinquency prevention commission existing on the effective date of the amendment made to this section at the 1973–74 Regular Session of the Legislature the board of supervisors may at any time upon the expiration of all the members'

terms of office appoint members to hold office for the following terms: one-half of the membership of an even-numbered commission for a term of two years and one-half plus one of the membership of an odd-numbered commission for a term of two years. The remaining members and the term of office of each successor appointed to fill a vacancy occurring on the expiration of a term thereafter shall be four years.

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

(Added Stats 1976 ch 1068 and amended Stats 1980 ch 751)

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

(Added Stats 1996 ch 431)

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

(Added Stats 1976 ch 1068)

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

(Added Stats 1976 ch 1068)

236. Probation departments. Notwithstanding any other provision of law, probation departments may engage in activities designed to prevent juvenile delinquency. These activities include rendering direct and indirect services to persons in the community. Probation departments shall not be limited to providing services only to those persons on probation being supervised under Section 330 or 654, but may provide services to any juveniles in the community.

(Added Stats 1976 ch 1068)

Probation Commission

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

(Added Stats 1976 ch 1068; most recently amended Stats 1987 ch 228)

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

(Added Stats 1976 ch 1068; Amended Stats 1987 ch 228)

241.1. Status of ward. (a) Whenever a minor appears to come within the description of both Section 300 and Section 601 or 602, the county probation department and the county welfare department shall, pursuant to a jointly developed written protocol described in subdivision (b), initially determine which status will serve the best interests of the minor and the protection of society. The recommendations of both departments shall be presented to the juvenile court with the petition which is filed on behalf of the minor, and the court shall determine which status is appropriate for the minor.

(b) The probation department and the welfare department in each county shall jointly develop a written protocol to ensure appropriate local coordination in the assessment of a minor described in subdivision (a), and the development of recommendations by these departments for consideration by the juvenile court. These protocols shall require, which requirements shall not be limited to, consideration of the nature of the referral, the age of the minor, the prior record of the minor's parents for child abuse, the prior record of the minor for out-of-control or delinquent behavior, the parents' cooperation with the minor's school, the minor's functioning at school, the nature of the minor's home environment, and the records of other agencies which have been involved with the minor and his or her family. The protocols also shall contain provisions for resolution of disagreements between the probation and welfare departments regarding the need for dependency or ward status and provisions for determining the circumstances under which a new petition should be filed to change the minor's status.

(c) Nothing in this section shall be construed to authorize the filing of a petition or petitions, or the entry of an order by the juvenile court, to make a minor simultaneously both a dependent child and a ward of the court.

(Added Stats 1989 ch 1441)

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

office for the term of four years. When a vacancy occurs for any other reason the appointee shall hold office for the unexpired term of his or her predecessor.

(Added Stats 1976 ch 1068; Amended Stats 1987 ch 228)

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

(Added Stats 1976 ch 1068; Amended Stats 1987 ch 228)

The Juvenile Court

245. Establishment. Each superior court shall exercise the jurisdiction conferred by this chapter, and while sitting in the exercise of such jurisdiction, shall be known and referred to as the juvenile court.

(Added Stats 1976 ch 1068)

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

(Added Stats 1978 ch 282)

246. Designation of judge. In counties having more than one judge of the superior court, the presiding judge of such court or the senior judge if there is no presiding judge shall annually, in the month of January, designate one or more judges of the superior court to hear all cases under this chapter during the ensuing year, and he shall, from time to time, designate such additional judges as may be necessary for the prompt disposition of the judicial business before the juvenile court.

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

(Added Stats 1976 ch 1068)

247. Qualifications, appointment, and compensation of referee. The judge of the juvenile court, or in counties having more than one judge of the juvenile court, the presiding judge of the juvenile court or the senior judge if there is no presiding judge, may appoint one or more referees to serve on a full-time or part-time basis. A referee shall serve at the pleasure of the appointing judge, and unless the appointing judge makes his order terminating the appointment of a referee, such referee shall continue to serve as such until the appointment of his successor. Except as otherwise provided by law, the amount and rate of compensation to be paid referees shall be fixed by the board of supervisors. Every referee first appointed on or after January 1, 1977, shall have been admitted to practice law in this state and, in addition, shall have been admitted to practice law in this state for a period of not less than five years or in any other state and this state for a combined period of not less than 10 years. Nothing in this section shall be construed to apply to the qualifications of any referee first appointed prior to January 1, 1977.

(Added Stats 1976 ch 1068; amended Stats 1977 ch 910)

247.5. Disqualification of referees. The provisions of Sections 170 and 170.6 of the Code of Civil Procedure shall apply to a referee, provided, that the presiding judge of the juvenile court shall if the motion is granted reassign the matter to another referee or to a judge of the juvenile court.
(Added Stats 1976 ch 1071; renumbered Stats 1977 ch 910)

248. Powers and responsibilities of referee. A referee shall hear such cases as are assigned to him or her by the presiding judge of the juvenile court, with the same powers as a judge of the juvenile court, except that a referee shall not conduct any hearing to which the state or federal constitutional prohibitions against double jeopardy apply unless all of the parties thereto stipulate in writing that the referee may act in the capacity of a temporary judge. A referee shall promptly furnish to the presiding judge of the juvenile court and the minor, if the minor is 14 or more years of age or if younger has so requested, and shall serve upon the minor's attorney of record and the minor's parent or guardian or adult relative and the attorney of record for the minor's parent or guardian or adult relative a written copy of his or her findings and order and shall also furnish to the minor, if the minor is 14 or more years of age or if younger has so requested, and to the parent or guardian or adult relative, with the findings and order, a written explanation of the right of such persons to seek review of the order by the juvenile court. Service, as provided in this section, shall be by mail to the last known address of such persons or to the address designated by such persons appearing at the hearing before the referee.
(Added Stats 1976 ch 1068; amended Stats 1980 ch 532)

249. Limitations. No order of a referee removing a minor from his home shall become effective until expressly approved by a judge of the juvenile court.
(Added Stats 1976 ch 1068)

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

Where a referee sits as a temporary judge, his or her orders become final in the same manner as orders made by a judge.
(Added Stats 1976 ch 1068; amended Stats 1980 ch 532)

251. Approval by judge. The judge of the juvenile court, or in counties having more than one judge of the juvenile court, the presiding judge of the juvenile court may establish requirements that any or all orders of referees shall be expressly approved by a judge of the juvenile court before becoming effective.
(Added Stats 1976 ch 1068)

252. Rehearing by court. At any time prior to the expiration of 10 days after service of a written copy of the order and findings of a referee, a minor or his parent or guardian may apply to the juvenile court for a rehearing. Such

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

(Added Stats 1976 ch 1068, and amended Stats 1979 ch 596)

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

(Added Stats 1976 ch 1068)

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

(Added Stats 1976 ch 1068)

255. Appointment, term, compensation of traffic hearing officers. The judge of the juvenile court, or in counties having more than one judge of the juvenile court the presiding judge of the juvenile court or the senior judge if there is no presiding judge, may appoint one or more persons of suitable experience, who may be judges of the municipal court or justices of the justice court or a probation officer or assistant or deputy probation officers, to serve as traffic hearing officers on a full-time or part-time basis. A hearing officer shall serve at the pleasure of the appointing judge, and unless the appointing judge makes his order terminating the appointment of a hearing officer, such hearing officer shall continue to serve as such until the appointment of his successor. The board of supervisors shall determine whether any compensation shall be paid to hearing officers, not otherwise employed by a public agency or holding another public office, and shall establish the amounts and rates thereof. An appointment of a probation officer, assistant probation officer, or deputy probation officer as a traffic hearing officer may be made only with the consent of the probation officer.

(Added Stats 1976 ch 1068)

256. Powers of traffic hearing officer. Subject to the orders of the juvenile court, a traffic hearing officer may hear and dispose of (1) any case in which a minor under the age of 18 years as of the date of the alleged offense is charged with any violation of the Vehicle Code not declared to be a felony, (2) a violation of subdivision (m) of Section 602 of the Penal Code, (3) a violation of the Fish and Game Code not declared to be a felony, (4) a violation of any of the equipment and registration provisions of the Harbors and Navigation Code, (5)

a violation of any provision of an ordinance of a city, county, or local agency relating to traffic offenses, or to nontraffic offenses regarding loitering or curfew, (6) a violation of Section 126 or 27176 of the Streets and Highways Code, (7) a violation of any provision of an ordinance of a city, county, or local agency relating to evasion of fares on a public transportation system, as defined by Section 99211 of the Public Utilities Code, (8) a violation of Section 640 or 640a of the Penal Code, or (9) a violation of the rules and regulations established pursuant to Sections 5003 and 5008 of the Public Resources Code.

(Added Stats 1976 ch 1068; most recently amended Stats 1989 ch 1244)

257. Citation. With the consent of the minor, a hearing before a traffic hearing officer, or a hearing before a referee or a judge of the juvenile court, where the minor is charged with a traffic offense or a nontraffic offense as specified in this section, may be conducted upon an exact legible copy of a written notice given pursuant to Article 2 (commencing with Section 40500) of Chapter 2 of Division 17 or Section 41103 of the Vehicle Code, or an exact legible copy of a written notice given pursuant to Chapter 5C (commencing with Section 853.6) of Title 3 of Part 2 of the Penal Code when the offense charged is a violation of the Fish and Game Code not declared to be a felony, a violation of subdivision (m) of Section 602 of the Penal Code, a violation of a provision of an ordinance of a city, county, or local agency relating to loitering, curfew, or fare evasion on a public transportation system, as defined by Section 99211 of the Public Utilities Code, a violation of Section 640 or 640a of the Penal Code, or a violation of the rules and regulations established pursuant to Sections 5003 and 5008 of the Public Resources Code, in lieu of a petition as provided in Article 16 (commencing with Section 650).

(Added Stats 1976 ch 1068; most recently amended Stats 1989 ch 1244)

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

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

(2) Request the probation officer to commence a proceeding as provided for in Article 16 (commencing with Section 650).

(3) Make any or all of the following orders:

(A) That the driving privileges of the minor be suspended or restricted as provided in the Vehicle Code or, notwithstanding Section 13203 of the Vehicle Code or any other provision of law, when the Vehicle Code does not provide for the suspension or restriction of driving privileges, that, in addition to any other order, the driving privileges of the minor be suspended or restricted for a period of not to exceed 30 days.

(B) That the minor attend traffic school over a period not to exceed 60 days.

(C) That the minor pay to the general fund of the county for each offense a sum, as specified in Article 1 (commencing with Section 42000) of Chapter 1 of Division 18 of the Vehicle Code, excluding Section 42000, but not to exceed two hundred fifty dollars ($250), and to the Assessment Fund an assessment in the amount provided in Section 1464 of the Penal Code. Any judge, referee, or traffic hearing officer may waive an assessment if the amount the minor is ordered to

pay to the general fund of the county is less than ten dollars ($10). A fine imposed on a minor pursuant to this section shall not exceed the maximum fine that could be imposed on an adult for the same offense.

(D) That the probation officer undertake a program of supervision of the minor for a period not to exceed six months.

(E) That the minor produce satisfactory evidence that the vehicle or its equipment has been made to conform with the requirements of the Vehicle Code pursuant to Section 40150 of the Vehicle Code.

(F) That the minor work in a city or special district park or recreational facility, county or regional park, or a state park for not to exceed 25 hours over a period not to exceed 30 days, during times other than his hours of school attendance or employment. When the order to work is made by a referee or a traffic hearing officer, it shall be approved by a judge of the juvenile court.

(b) The judge, referee, or traffic hearing officer shall retain jurisdiction of the case until all orders made under this section have been fully complied with.

(Added Stats 1976 ch 1068; most recently amended Stats 1988 ch 1454)

259. Fish and game violations. Upon a hearing conducted in accordance with Section 257, upon admission by the minor of the commission of a violation of the Fish and Game Code charged, or upon a finding that the minor did in fact commit the violation of the Fish and Game Code, the judge, referee, or traffic hearing officer may do any of the following:

(a) Reprimand the minor and take no further action.

(b) Direct the probation officer to file a petition as provided for in Article 16 (commencing with Section 650).

(c) Make any or all of the following orders:

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

(2) That the minor pay to the general fund of the county a sum, not to exceed twenty-five dollars ($25).

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

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

The judge, referee, or traffic hearing officer shall retain jurisdiction of the case until all orders made under this section have been fully complied with.

(Added Stats 1976 ch 1068; most recently amended Stats 1984 ch 1215)

259.1. Orders-Fare evasion. (a) Upon a hearing conducted in accordance with Section 257, upon admission by the minor of the commission of the offense charged under an ordinance of a city, county, or local agency relating to fare evasion on a public transportation system or of Section 640 or 640a of the Penal Code, or upon a finding that the minor did in fact commit the offense, the judge, referee, or traffic hearing officer may do any one of the following:

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

(2) Direct the probation officer to file a petition as provided for in Article 16 (commencing with Section 650).

(3) Order that the minor pay to the treasurer of the county a sum, not to exceed fifty dollars ($50).

(4) Order that the minor shall perform community service for a total of not to exceed 20 hours over a period not to exceed 30 days, during times other than his or her hours of school attendance or employment.

(b) The judge, referee, or traffic hearing officer shall retain jurisdiction of the case until all orders made under this section have been fully complied with.

(Added Stats 1982 ch 1235; amended Stats 1983 ch 22)

260. Report to D.M.V. A traffic hearing officer shall promptly furnish a written report of his findings and orders to the clerk of the juvenile court. The clerk of the juvenile court shall promptly transmit an abstract of such findings and orders to the Department of Motor Vehicles.

(Added Stats 1976 ch 1068)

261. When effective. Subject to the provisions of Section 262, all orders of a traffic hearing officer shall be immediately effective.

(Added Stats 1976 ch 1068)

262. Modification of order or rehearing. Upon motion of the minor or his parent or guardian for good cause, or upon his own motion, a judge of the juvenile court may set aside or modify any order of a traffic hearing officer, or may order or himself conduct a rehearing. If the minor or parent or guardian has made a motion that the judge set aside or modify the order or has applied for a rehearing and the judge has not set aside or modified the order or ordered or conducted a rehearing within 10 days after the date of the order, the motion or application shall be deemed denied as of the expiration of such period.

(Added Stats 1976 ch 1068)

263. Transfer to county of residence. At any time prior to the final disposition of a hearing pursuant to Section 257, the judge, referee, or traffic hearing officer may, on motion of the minor, his parent, or guardian, or on its own motion, transfer the case to the county of the minor's residence for further proceedings pursuant to Sections 258, 260, 261, and 262.

(Added Stats 1976 ch 1068)

264. Meeting juvenile court judges. At the direction and under the supervision of the Judicial Council, judges of the juvenile courts and juvenile court referees shall meet from time to time in statewide or regional conferences, to discuss problems arising in the course of administration of this chapter, for the purpose of improving the administration of justice in the juvenile courts. Actual and necessary expenses incurred by a judge or referee in attending any such conference shall be a charge upon the county.

(Added Stats 1976 ch 1068)

265. The Judicial Council. The Judicial Council shall establish rules governing practice and procedure in the juvenile court not inconsistent with law.

(Added Stats 1976 ch 1068)

Probation Officers

270. Probation officers. Except as provided in Section 69906 of the Government Code, there shall be in each county the offices of probation officer, assistant probation officer, and deputy probation officer. A probation officer shall be appointed in every county.

Probation officers in any county shall be nominated by the juvenile justice commission or regional juvenile justice commission of such county in such manner as the judge of the juvenile court in that county shall direct, and shall then be appointed by such judge.

The probation officer may appoint as many deputies or assistant probation officers as he desires; but such deputies or assistant probation officers shall not have authority to act until their appointments have been approved by a majority vote of the members of the juvenile justice commission, and by the judge of the juvenile court. The term of office of each such deputy or assistant probation officer shall expire with the term of the probation officer who appointed him, but the probation officer, with the written approval of the majority of the members of the juvenile justice commission and of the judge of the juvenile court, may, in his discretion, revoke and terminate any such appointment at any time.

Probation officers may at any time be removed by the judge of the juvenile court for good cause shown; and the judge of the juvenile court may in his discretion at any time remove any such probation officer with the written approval of a majority of the members of the juvenile justice commission.

(Added Stats 1976 ch 1068; amended Stats 1984 ch 775)

271. Charter counties. In counties having charters which provide a method of appointment and tenure of office for probation officers, assistant probation officers, deputy probation officers, and the superintendent, matron, and other employees of the juvenile hall, such charter provisions shall control as to such matters, and in counties which have established or hereafter establish merit or civil service systems governing the methods of, appointment and the tenure of office of, probation officers, assistant probation officers, deputy probation officers, and of the superintendents, matrons and other employees of the juvenile hall, the provisions of such merit or civil service systems shall control as to such matters; but in all other counties, such matters shall be controlled exclusively by the provisions of this code.

(Added Stats 1976 ch 1068)

272. Delegation of duties. (a) The board of supervisors may delegate to the county welfare department all or part of the duties of the probation officer concerning dependent children described in Section 300.

(b) Nothwithstanding subdivision (a), a social worker in a county welfare department may perform the duties specified by Section 306.

(Added Stats 1976 ch 1068; amended Stats 1989 ch 408)

273. Medical consultation. The probation officer may, within budgetary limitations established by the board of supervisors, employ such psychiatrists, psychologists, and other clinical experts as are required to assist in determining

appropriate treatment of minors within the jurisdiction of the juvenile court and in the implementation of such treatment.

(Added Stats 1976 ch 1068)

274. Bonds. Each probation officer and each assistant and deputy probation officer receiving an official salary shall furnish a bond in the sum of not more than two thousand dollars ($2,000) and approved by the judge of the juvenile court, conditioned for the faithful discharge of the duties of his office. If such bonds, or any of them, are furnished by a surety company licensed to transact business in the state, the premium thereon shall be paid out of the county treasury. In the event the probation officer, assistants and deputies are included as covered employees in a master bond pursuant to Sections 1481 and 1481.1 of the Government Code, the individual bonds prescribed above shall not be required.

(Added Stats 1976 ch 1068)

275. Accounting procedures. For the purpose of handling the reimbursement and other payments provided for in this chapter, the probation officer or other county officer designated by the board of supervisors of the county shall keep suitable books and accounts and shall give and keep suitable receipts and vouchers. The auditor of the county shall audit such books and accounts annually, or at least biennially if so ordered by the board of supervisors upon the recommendation of the county auditor, on a fiscal year basis ending June 30 and shall make a report thereon to the judge of the court and to the supervisors of the county prior to the 31st day of the next succeeding month of January.

(Added Stats 1976 ch 1068)

276. Receipt and disbursement. In addition to the powers and duties of the probation officer elsewhere prescribed in this chapter, he is authorized to receive money, give his receipt therefor, deposit or invest such money as soon as practicable in the county treasury, in a commercial bank account designated and approved for such a purpose by the board of supervisors, or in investment certificates or share accounts issued by a savings and loan association doing business in this state, insured by the Federal Savings and Loan Insurance Corporation and designated and approved for such purpose by the board of supervisors, and direct the disbursement thereof, in any of the following instances:

(a) Money payable to spouse or child in an action for divorce, separate maintenance, or similar action, together with court costs and attorney's fees, upon order of a court of competent jurisdiction. Instead of designating the probation officer to act as court trustee for the receipt and disbursement of money payable to a spouse or child under this subdivision, the court may designate in its order a bonded employee of the court to act as court trustee for that purpose.

(b) Money payable to or on behalf of a ward or dependent child of the juvenile court or a person concerning whom a petition has been filed in the juvenile court. The probation officer may petition the court for approval of any past or prospective disbursement.

(c) Money payable to, by, or on behalf of probationers under the supervision of the probation officer. The probation officer may petition the court for approval of any past or prospective disbursement.

(d) Money payable to a child, wife, or indigent parent when it has been alleged or claimed that there has been a violation of either Section 270, 270a, or 270c of the Penal Code and the matter has been referred to the probation officer by the district attorney.

(e) Gifts of money made to the county to assist in the prevention or correction of delinquency or crime when the donor requests the probation officer to disburse such funds for such purposes and the board of supervisors accepts the gift upon such conditions.

(f) Other similar cases.

In addition to the foregoing, the probation officer is authorized to receive money payable to the county when ordered to do so by a court of competent jurisdiction. Such money shall be deposited or invested in the same manner as the other items set forth in this section.

If a bank account or savings and loan association investment certificate or share account is authorized pursuant to this section, the probation officer must pay into the county treasury all money collected by him or under his control during the preceding month that is payable into the treasury in conformity with Section 24353 of the Government Code.

(Added Stats 1976 ch 1068)

277. Sale of handiwork. The probation officer may authorize the sale of articles of handiwork made by wards under the jurisdiction of the probation officer to the public at probation institutions, in public buildings, at fairs, or on property operated by nonprofit associations. The cost of any county materials or other property consumed in the manufacture of articles shall be paid for out of funds received from the sale of the articles. The remainder of any funds received from the sale of the articles shall be placed in the ward's trust account pursuant to subdivision (b) of Section 276.

(Added Stats 1976 ch 1068)

278. Delegate to auditor. The board of supervisors may delegate to the auditor or other county officer any of the functions of the probation officer authorized by Section 276 and required by Sections 1685 to 1687, inclusive, of the Code of Civil Procedure.

(Added Stats 1976 ch 1068)

279. Service charge. The board of supervisors may impose a service charge at a uniform rate sufficient to defray the cost of services of the probation officer or other officer designated to act as trustee, not exceeding 2 percent of the amount collected, in addition to the payments made under subdivision (a), (c), (d), or (f) of Section 276.

The service charge imposed in relation to payments under subdivision (c) of Section 276 shall be imposed only for payments made by probationers, and the service charge imposed in relation to payments made under subdivision (f) of Section 276 shall be imposed only for cases similar to those listed in subdivision (a), (c), or (d) of that section.

When the payments are ordered by the court, the payment of the service charge shall be included in the order. All proceeds shall be deposited in the general fund of the county.

(Added Stats 1976 ch 1068)

280. Duties in respect to wards. Except where waived by the probation officer, judge, or referee and the minor, the probation officer shall be present in court to represent the interests of each person who is the subject of a petition to declare that person to be a ward or dependent child upon all hearings or rehearings of his or her case, and shall funish to the court such information and assistance as the court may require. If so ordered, the probation officer shall take charge of that person before and after any hearing or rehearing.

It shall be the duty of the probation officer to prepare for every hearing on the disposition of a case as provided by Sections 356, 358, 358.1, 361.5, 364, 366, 366.2, or 366.21 as is appropriate for the specific hearing, or, for a hearing as provided by Section 702, a social study of the minor, containing such matters as may be relevant to a proper disposition of the case. The social study shall include a recommendation for the disposition of the case.

(Added Stats 1976 ch 1068; amended Stats 1987 ch 1485)

281. Reports and recommendations. The probation officer shall upon order of any court in any matter involving the custody, status, or welfare of a minor or minors, make an investigation of appropriate facts and circumstances and prepare and file with the court written reports and written recommendations in reference to such matters. The court is authorized to receive and consider the reports and recommendations of the probation officer in determining any such matter.

(Added Stats 1976 ch 1068)

281.5. Placement with relative. If a probation officer determines to recommend to the court that a minor alleged to come within Section 300, 601, or 602, or adjudged to come within Section 300, 601, or 602 should be removed from the physical custody of his parent or guardian, the probation officer shall give primary consideration to recommending to the court that the minor be placed with a relative of the minor, if such placement is in the best interests of the minor and will be conducive to reunification of the family.

(Added Stats 1977 ch 236)

282. Examination of other institutions. At any time the judge of the juvenile court may, and upon the request of the county board of supervisors shall, require the probation officer to examine into and report to the court upon the qualifications and management of any society, association, or corporation, other than a state institution, which applies for or receives custody of any ward or dependent child of the juvenile court. No probation officer, however, shall, under authority of this section, enter any institution without its consent. If such consent is refused, commitments to that institution shall not be made.

(Added Stats 1976 ch 1068)

283. Peace officer powers. Every probation officer, assistant probation officer, and deputy probation officer shall have the powers and authority conferred by law upon peace officers listed in Section 830.5 of the Penal Code.

(Added Stats 1976 ch 1068)

284. Reports to Youth Authority. All probation officers shall make such special and periodic reports to the Youth Authority as the authority may require and upon forms furnished by the authority.

(Added Stats 1976 ch 1068)

285. Reports to Bureau of Criminal Statistics. All probation officers shall make such periodic reports to the Bureau of Criminal Statistics as the bureau may require and upon forms furnished by the bureau, provided that no names or social security numbers shall be transmitted regarding any proceeding under Section 300 or 601.

(Added Stats 1976 ch 1068; most recently amended Stats 1979 ch 610)

286. Incumbent officers. Any person lawfully appointed to serve as a probation officer or assistant or deputy probation officer prior to the effective date of this section shall continue in his office or employment as if appointed in the manner prescribed by this article.

Dependent Children—Jurisdiction

300. Persons within jurisdiction of court. (First of two) Any minor who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court:

(a) The minor has suffered, or there is a substantial risk that the minor will suffer, serious physical harm inflicted nonaccidentally upon the minor by the minor's parent or guardian. For the purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the minor or the minor's siblings, or a combination of these and other actions by the parent or guardian which indicate the child is at risk of serious physical harm. For purposes of this subdivision, "serious physical harm" does not include reasonable and age appropriate spanking to the buttocks where there is no evidence of serious physical injury.

(b) The minor has suffered, or there is a substantial risk that the minor will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the minor, or the willful or negligent failure of the minor's parent or guardian to adequately supervise or protect the minor from the conduct of the custodian with whom the minor has been left, or by the willful or negligent failure of the parent or guardian to provide the minor with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the minor due to the parent's or guardian's mental illness, developmental disability, or substance abuse. No minor shall be found to be a person described by this subdivision solely due to the lack of an emergency shelter for the family. Whenever it is alleged that a minor comes within the jursidiction of the court on the basis of the parent's or guardian's willful failure to provide adequate medical treatment or specific decision to provide spiritual treatment through prayer, the court shall give deference to the parent's or guardian's medical treatment, nontreatment or spiritual treatment through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, by an

accredited practitioner thereof, and shall not assume jurisdiction unless necessary to protect the minor from suffering serious physical harm or illness. In making its determination, the court shall consider (1) the nature of the treatment proposed by the parent or guardian (2) the risks to the minor posed by the course of treatment or nontreatment proposed by the parent or guardian (3) the risk, if any, of the course of treatment being proposed by the petitioning agency, and (4) the likely success of the courses of treatment or nontreatment proposed by the parent or guardian and agency. The minor shall continue to be a dependent child pursuant to this subdivision only so long as is necessary to protect the minor from risk of suffering serious physical harm or illness.

(c) The minor is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian or who has no parent or guardian capable of providing appropriate care. No minor shall be found to be a person described by this subdivision if the willful failure of the parent or guardian to provide adequate mental health treatment is based on a sincerely held religious belief and if a less intrusive judicial intervention is available.

(d) The minor has been sexually abused, or there is a substantial risk that the minor will be sexually abused, as defined in Section 11165.1 of the Penal Code, by his or her parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the minor from sexual abuse when the parent or guardian knew or reasonably should have known that the minor was in danger of sexual abuse.

(e) The minor is under the age of five and has suffered severe physical abuse by a parent, or by any person known by the parent, if the parent knew or reasonably should have known that the person was physically abusing the minor. For the purposes of this subdivision, "severe physical abuse" means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness. A minor may not be removed from the physical custody of his or her parent or guardian on the basis of a finding of severe physical abuse unless the probation officer has made an allegation of severe physical abuse pursuant to Section 332.

(f) The minor's parent or guardian has been convicted of causing the death of another child through abuse or neglect.

(g) The minor has been left without any provision for suppport; the minor's parent has been incarcerated or institutionalized and cannot arrange for the care of the minor; or a relative or other adult custodian with whom the child resides or has been left is unwilling or unable to provide care or support for the child, the whereabouts of the parent is unknown, and reasonable efforts to locate the parent have been unsuccessful.

(h) The minor has been freed for adoption from one or both parents for 12 months by either relinquishment or termination of parental rights or an adoption petition has not been granted.

(i) The minor has been subjected to an act or acts of cruelty by the parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the minor from an act or acts of cruelty when the parent or guardian knew or reasonably should have known that the minor was in danger of being subjected to an act or acts of cruelty.

(j) The minor's sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the minor will be abused or neglected, as defined in those subdivisions. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the minor.

It is the intent of the Legislature in enacting this section to provide maximum protection for children who are currently being physically, sexually, or emotionally abused, being neglected, or being exploited, and to protect children who are at risk of that harm. This protection includes provision of a full array of social and health services to help the child and family and to prevent reabuse of children. That protection shall focus on the preservation of the family whenever possible. Nothing in this section is intended to disrupt the family unnecessarily or to intrude inappropriately into family life, to prohibit the use of reasonable methods of parental discipline, or to prescribe a particular method of parenting. Further, nothing in this section is intended to limit the offering of voluntary services to those families in need of assistance but who do not come within the descriptions of this section. To the extent that savings accrue to the state from child welfare services funding obtained as a result of the enactment of the act that enacted this section, those savings shall be used to promote services which support family maintenance and family reunification plans, such as client transportation, out-of-home respite care, parenting training, and the provision of temporary or emergency in-home caretakers and persons teaching and demonstrating home-making skills. The Legislature further declares that a physical disability, such as blindness or deafness, is no bar to the raising of happy and well-adjusted children and that a court's determination pursuant to this section shall center upon whether a parent's disability prevents him or her from exercising care and control.

As used in this section "guardian" means the legal guardian of the child.

This section shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1992, deletes or extends that date.

(Stats 1987 ch 1485; most recently amended Stats 1989 ch 913—Operative until 1/1/92)

300. Persons within jurisdiction of court. (Second of two) Any minor who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court:

(a) The minor has suffered, or there is a substantial risk that the minor will suffer, serious physical harm inflicted nonaccidentally upon the minor by the minor's parent or guardian. For the purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the minor or the minor's siblings, or a combination of these and other actions by the parent or guardian which indicate the child is at risk of serious physical harm. For purposes of this subdivision, "serious physical harm" does not include reasonable and age appropriate spanking to the buttocks where there is no evidence of serious physical injury.

(b) The minor has suffered, or there is a substantial risk that the minor will suffer, serious physical harm or illness, as a result of the failure of his or her parent or guardian to adequately supervise or protect the minor, or the willful or negligent failure of the minor's parent or guardian to adequately supervise or protect the minor from the conduct of the custodian with whom the minor has been left, or by the willful or negligent failure of the parent or guardian to provide the minor with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the minor due to the parent's or guardian's mental illness, developmental disability, or substance abuse. No minor shall be found to be a person described by this subdivision solely due to the lack of an emergency shelter for the family. Whenever it is alleged that a minor comes within the jurisdiction of the court on the basis of the parent's or guardian's willful failure to provide adequate medical treatment or specific decision to provide spiritual treatment through prayer, the court shall give deference to the parent's or guardian's medical treatment, nontreatment, or spiritual treatment through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner thereof and shall not assume jurisdiction unless necessary to protect the minor from suffering serious physical harm or illness. In making its determination, the court shall consider (1) the nature of the treatment or nontreatment proposed by the parent or guardian (2) the risks to the minor posed by the course of treatment or nontreatment proposed by the parent or guardian (3) the risk, if any, of the course of treatment being proposed by the petitioning agency, and (4) the likely success of the courses of treatment or nontreatment proposed by the parent or guardian and agency. The minor shall continue to be a dependent child pursuant to this subdivision only so long as is necessary to protect the minor from risk of suffering serious physical harm or illness.

(c) The minor is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, or withdrawal, untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian. No minor shall be found to be a person described by this subdivision if the willful failure of the parent or guardian to provide adequate mental health treatment is based on a sincerely held religious belief and if a less intrusive judicial intervention is available.

(d) The minor has been sexually abused, or there is a substantial risk that the minor will be sexually abused, as defined in Section 11165.1 of the Penal Code, by his or her parent or guardian or a member of his or her household, or the parent

or guardian has failed to adequately protect the minor from sexual abuse when the parent or guardian knew or reasonably should have known that the minor was in danger of sexual abuse.

(e) The minor is under the age of five and has suffered severe physical abuse by a parent, or by any person known by the parent, if the parent knew or reasonably should have known that the person was physically abusing the minor. For the purposes of this subdivision, "severe physical abuse" means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness. A minor may not be removed from the physical custody of his or her parent or guardian on the basis of a finding of severe physical abuse unless the probation officer has made an allegation of severe physical abuse pursuant to Section 332.

(f) The minor's parent or guardian has been convicted of causing the death of another child through abuse or neglect.

(g) The minor has been left without any provision for support; the minor's parent has been incarcerated or institutionalized and cannot arrange for the care of the minor; or a relative or other adult custodian with whom the child resides or has been left is unwilling or unable to provide care or support for the child, the whereabouts of the parent is unknown, and reasonable efforts to locate the parent have been unsuccessful.

(h) The minor has been freed for adoption from one or both parents for 12 months by either relinquishment or termination of parental rights or an adoption petition has not been granted.

(i) The minor has been subjected to an act or acts of cruelty by the parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the minor from an act or acts of cruelty when the parent or guardian knew or reasonably should have known that the minor was in danger of being subjected to an act or acts of cruelty.

(j) The minor's sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the minor will be abused or neglected, as defined in those subdivisions. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the minor.

It is the intent of the Legislature in enacting this section to provide maximum protection for children who are currently being physically, sexually, or emotionally abused, being neglected, or being exploited, and to protect children who are at risk of that harm. This protection includes provision of a full array of social and health services to help the child and family and to prevent reabuse of children. That protection shall focus on the preservation of the family whenever possible. Nothing in this section is intended to disrupt the family unnecessarily or to intrude inappropriately into family life, to prohibit the use of reasonable methods

of parental discipline, or to prescribe a particular method of parenting. Further, nothing in this section is intended to limit the offering of voluntary services to those families in need of assistance but who do not come within the descriptions of this section. To the extent that savings accrue to the state from child welfare services funding obtained as a result of the enactment of the act that enacted this section, those savings shall be used to promote services which support family maintenance and family reunification plans such as client transportation, out-of-home respite care, parenting training, and the provision of temporary or emergency in-home caretakers and persons teaching and demonstrating home-making skills. The Legislature further declares that a physical disability, such as blindness or deafness, is no bar to the raising of happy and well-adjusted children and that a court's determination pursuant to this section shall center upon whether a parent's disability prevents him or her from exercising care and control.

As used in this section, "guardian" means the legal guardian of the child.

(Added by Stats 1987 ch 1485; amended Stats 1989 ch 913, operative 1/1/92)

300.1. Services not to be provided. Notwithstanding subdivision (e) of Section 361 and Section 16507, family reunification services shall not be provided to a minor adjudged a dependent pursuant to subdivision (h) of Section 300.

(Added Stats 1987 ch 1485—Operative 1/1/89)

300.5. Treatment by spiritual means. In any case in which a minor is alleged to come within the provisions of Section 300 on the basis that he or she is in need of medical care, the court, in making such finding, shall give consideration to any treatment being provided to the minor by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner thereof.

(Added Stats 1978 ch 539)

301. Jurisdiction. (a) A juvenile court may assume jurisdiction over a child described in Section 300 regardless of whether the child was in the physical custody of both parents or was in the sole legal or physical custody of only one parent at the time that the events or conditions occurred that brought the child within the jurisdiction of the court.

(b) Unless their parental rights have been terminated, both parents shall be notified of all proceedings involving the child. In any case where the probation officer is required to provide a parent or guardian with notice of a proceeding at which the probation officer intends to present a report, the probation officer shall also provide both parents, whether custodial or noncustodial, or any guardian, or the counsel for the parent or guardian a copy of the report prior to the hearing, either personally or by first-class mail. The probation officer shall not charge any fee for providing a copy of a report required by this subdivision.

(c) When a minor is adjudged a dependent of the juvenile court, any issues regarding custodial rights between his or her parents shall be determined solely by the juvenile court, as specified in Sections 304, 361.2, and 362.4, so long as the minor remains a dependent of the juvenile court.

(Added Stats 1987 ch 1485)

302. Demonstration county. (a) The juvenile court of a demonstration county shall adjudge a person to be a dependent child of the court if the child has been accepted for out-of-home placement pursuant to Chapter 5.5 (commencing with Section 16550) of Part 4 of Division 9 and has remained out of his parents' or guardians' physical custody for six months.

(b) It shall be the duty of the county welfare department or probation department of a demonstration county to notify the juvenile court when a child has been in voluntary placement for six months and to request the court to adjudge the minor a dependent child of the court.

(Added Stats 1976 ch 1068; amended Stats 1981 ch 104, effective 6/29/81)

303. Length of jurisdiction. The court may retain jurisdiction over any person who is found to be a dependent child of the juvenile court until such ward or dependent child attains the age of 21 years.

(Added Stats 1976 ch 1068; renumbered Stats 1987 ch 1485)

303.1. Family Protection Act Evaluation. The State Department of Social Services shall prepare and distribute a final evaluation report on the California Family Protection Act program not later than June 30, 1983. This report shall collect the information concerning foster care described in Section 303 in the demonstration counties and in other similar nondemonstration counties in order to compare the counties and determine the effectiveness of the program compared to the programs in other counties. The department shall also determine the savings accrued by the federal, state, and local governments due to the implementation of this act. The report shall also evaluate the level of recidivism for clients of the Family Protection Act program, and the effectiveness of the permanent planning element.

(Added Stats 1981 ch 104; most recently amended Stats 1983 ch 323)

304. Custody. When a minor has been adjudged a dependent child of the juvenile court pursuant to subdivision (c) of Section 360, no other division of any superior court may hear proceedings pursuant to Section 4600 of the Civil Code regarding the custody of the minor. While the minor is a dependent child of the court all issues regarding his or her custody shall be heard by the juvenile court. In deciding issues between the parents or between a parent and a guardian regarding custody of a minor who has been adjudicated a dependent of the juvenile court, the juvenile court may review any records that would be available to the domestic relations division of a superior court hearing such a matter. The juvenile court, on its own motion, may issue an order directed to either of the parents enjoining any action specified in paragraph (2) or (3) of subdivision (a) of Section 4359 of the Civil Code. The Judicial Council shall adopt forms for these restraining orders. These form orders shall not be confidential and shall be enforceable in the same manner as any other order issued pursuant to Section 4359 of the Civil Code.

This section shall not be construed to divest the domestic relations division of a superior court from hearing any issues regarding the custody of a minor when that minor is no longer a dependent of the juvenile court.

(Added Stats 1987 ch 1485; amended Stats 1989 ch 137)

304.5. (Repealed 1/1/88)

Dependent Children—Temporary Custody and Detention

305. Temporary custody and detention. Any peace officer may, without a warrant, take into temporary custody a minor:

(a) When the officer has reasonable cause for believing that the minor is a person described in Section 300, and, in addition, that the minor has an immediate need for medical care, or the minor is in immediate danger of physical or sexual abuse, or the physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety. In cases in which the child is left unattended, the peace officer shall first attempt to contact the child's parent or guardian to determine if the parent or guardian is able to assume custody of the child. If the parent or guardian cannot be contacted, the peace officer shall notify a social worker in the county welfare department to assume custody of the child.

(b) Who is in a hospital and release of the minor to a parent poses an immediate danger to the child's health or safety.

(c) Who is a dependent child of the juvenile court, or concerning whom an order has been made under Section 319, when the officer has reasonable cause for believing that the minor has violated an order of the juvenile court or has left any placement ordered by the juvenile court.

(d) Who is found in any street or public place suffering from any sickness or injury which requires care, medical treatment, hospitalization, or other remedial care.

(Repealed and added Stats. 1987 ch 1485; most recently amended Stats. 1988 ch 1075)

306. Duties of welfare department. Any social worker in a county welfare department, while acting within the scope of his or her regular duties under the direction of the juvenile court and pursuant to subdivision (b) of Section 272, may do all of the following:

(a) Receive and maintain, pending investigation, temporary custody of a minor who is described in Section 300, and who has been delivered by a peace officer.

(b) Take into and maintain temporary custody of, without a warrant, a minor who has been declared a dependent child of the juvenile court under Section 300 or who the social worker has reasonable cause to believe is a person described in subdivision (b) or (g) of Section 300, and the social worker has reasonable cause to believe that the minor has an immediate need for medical care or is in immediate danger of physical or sexual abuse or the physical environment poses an immediate threat to the child's health or safety.

Before taking a minor into custody a social worker shall consider whether there are any reasonable services available to the worker which, if provided to the minor's parent, guardian, caretaker, or to the minor, would eliminate the need to remove the minor from the custody of his or her parent, guardian, or caretaker. In addition, the social worker shall also consider whether a referral to public assistance pursuant to Chapter 2 (commencing with Section 11200) of Part 3, Chapter 7 (commencing with Section 14000) of Part 3, Chapter 1 (commencing with Section 17000) of Part 5, and Chapter 10 (commencing with Section 18900)

of Part 6, of Division 9 would eliminate the need to take temporary custody of the minor. If those services are available they shall be utilized.

(Added Stats 1987 ch 1485; most recently amended Stats 1989 ch 408)

307. Alternative dispositions. A peace officer or probation officer who takes a minor into temporary custody under the provisions of Section 305 shall thereafter proceed as follows:

(a) The officer may release the minor.

(b) The officer may prepare in duplicate a written notice for the parent or parents of the minor to appear with the minor before the probation officer of the county in which the minor was taken into custody at a time and place specified in the notice. The notice shall also contain a concise statement of the reasons the minor was taken into custody. The officer shall deliver one copy of the notice to the minor and a parent, guardian, or responsible relative of the minor and may require the minor and the parent, guardian, or relative to sign a written promise that he or she shall appear at the time and place designated in the notice. Upon the execution of the promise to appear, the officer shall immediately release the minor. The officer shall, as soon as practicable, file one copy of the notice with the probation officer.

(c) The officer may take the minor without unnecessary delay before the probation officer of the county in which the minor was taken into custody, or in which the minor resides, or in which the acts take place or the circumstances exist which are alleged to bring the minor within the provisions of Section 300, and deliver the minor into the custody of the probation officer.

In determining which disposition of the minor shall be made, the officer shall give preference to the alternative which least interferes with the parents' or guardians' custody of the minor if this alternative is compatible with the safety of the minor. The officer shall also consider the needs of the minor for the least restrictive environment and the protective needs of the community.

(Added Stats 1976 ch 1068; amended Stats 1982 ch 978—Operative 7/1/82)

307.4 Duty to inform. (a) Any peace officer, probation officer, or social worker who takes into temporary custody pursuant to Sections 305 to 307, inclusive, a minor who comes within the description of Section 300 shall immediately inform, through the most efficient means available, the parent, guardian, or responsible relative, that the minor has been taken into protective custody and that a written statement is available which explains the parent's or guardian's procedural rights and the preliminary stages of the dependency investigation and hearing. The Judicial Council shall, in consultation with the County Welfare Directors Association of California, adopt a form for the written statement, which shall be in simple language and shall be printed and distributed by the county. The written statement shall be made available for distribution through all public schools, probation offices, and appropriate welfare offices. It shall include, but is not limited to, the following information:

(1) The conditions under which the minor will be released, hearings which may be required, and the means whereby further specific information about the minor's case and conditions of confinement may be obtained.

(2) The rights to counsel, privileges against self-incrimination, and rights to appeal possessed by the minor, and his or her parents, guardians, or responsible relative.

(b) If a good faith attempt was made at notification, the failure on the part of the peace officer, probation officer, or social worker to notify the parent or guardian that the written information required by subdivision (a) is available shall be considered to be due to circumstances beyond the control of the peace officer, probation officer, or social worker, and shall not be construed to permit a new defense to any juvenile or judicial proceeding or to interfere with any rights, procedures, or investigations accorded under any other law.

(Added Stats 1986 ch 386)

307.5. Community program referral. Nothwithstanding the provisions of Section 307, an officer who takes a minor suspected of being a person described in Section 300 into temporary custody pursuant to subdivision (a) of Section 305 may, in a case where he or she deems that it is in the best interest of the minor and the public, take the minor to a community service program for abused or neglected children. Organizations or programs receiving referrals pursuant to this section shall have a contract or an agreement with the county to provide shelter care or counseling. Employees of a program receiving referrals pursuant to this section are "child care custodians" for the purpose of the requirements of Section 11165.7 of the Penal Code. The receiving organization shall take immediate steps to notify the minor's parent, guardian, or a responsible relative of the place to which the minor was taken.

(Added Stats 1982 ch 461; amended Stats 1989 ch 913)

308. Notification of parents or guardian. (a) When a peace officer or social worker takes a minor into custody pursuant to this article, he or she shall take immediate steps to notify the minor's parent, guardian, or a responsible relative that the minor is in custody and the place where he or she is being held, except that, upon order of the juvenile court, the parent or guardian shall not be notified of the exact whereabouts of the minor. The court shall issue such an order only upon a showing that notifying the parent or guardian of the exact whereabouts would endanger the child or that the parent or guardian is likely to flee with the child. However, if it is impossible or impracticable to obtain a court order authorizing nondisclosure prior to the detention hearing, and if the peace officer or social worker has a reasonable belief that the minor would be endangered by the disclosure of his or her exact whereabouts, or that the disclosure would cause the custody of the minor to be disturbed, the peace officer or social worker may refuse to disclose the place where the minor is being held. The county welfare department shall make a diligent and reasonable effort to ensure regular telephone contact between the parent and the child of any age, prior to the detention hearing, unless that contact would be detrimental to the child. The initial telephone contact shall take place as soon as practicable, but no later than five hours after the child is taken into custody. The court shall review any such decision not to disclose the place where the minor is being held at the detention hearing, and shall conduct that review within 24 hours upon the application of a parent, guardian, or a responsible relative.

(b) Immediately after being taken to a place of confinement pursuant to this article and, except where physically impossible, no later than one hour after he or she has been taken into custody, a minor 10 years of age or older shall be advised that he or she has the right to make at least two telephone calls from the place where he or she is being held, one call completed to his or her parent, guardian, or a responsible relative, and another call completed to an attorney. The calls shall be at public expense, if the calls are completed to telephone numbers within the local calling area, and in the presence of a public officer or employee. Any public officer or employee who willfully deprives a minor taken into custody of his or her right to make these telephone calls is guilty of a misdemeanor.

(Added Stats 1976 ch 1068; most recently amended Stats 1988 ch 1083)

309. Detention of minor pending hearings. (a) Upon delivery to the probation officer of a minor who has been taken into temporary custody under this article, the probation officer shall immediately investigate the circumstances of the minor and the facts surrounding the minor's being taken into custody and attempt to maintain the minor with the minor's family through the provision of services. The probation officer shall immediately release the minor to the custody of the minor's parent, guardian, or responsible relative unless one or more of the following conditions exist:

(1) The minor has no parent, guardian, or responsible relative; or the minor's parent, guardian, or responsible relative is not willing to provide care for the minor.

(2) Continued detention of the minor is a matter of immediate and urgent necessity for the protection of the minor and there are no reasonable means by which the minor can be protected in his or her home or the home of a responsible relative.

(3) There is substantial evidence that a parent, guardian, or custodian of the minor is likely to flee the jurisdiction of the court.

(4) The minor has left a placement in which he or she was placed by the juvenile court.

(b) In any case in which there is reasonable cause for believing that a minor who is under the care of a physician or surgeon or a hospital, clinic, or other medical facility and cannot be immediately moved is a person described in Section 300, the minor shall be deemed to have been taken into temporary custody and delivered to the probation officer for the purposes of this chapter while the minor is at the office of the physician or surgeon or the medical facility.

(c) If the minor is not released to his or her parent or guardian, the minor shall be deemed detained for purposes of this chapter.

(Added Stats 1976 ch 1068; most recently amended Stats 1989 ch 913)

310. Written promise to appear. As a condition for the release of such minor, the probation officer may require such minor or his parent, guardian, or relative, or both, to sign a written promise that either or both of them will appear before the probation officer at a suitable place designated by the probation officer at a specified time.

(Added Stats 1976 ch 1068; Amended Stats 1978 ch 1168)

311. Petition and notification of hearing. (a) If the probation officer determines that the minor shall be retained in custody, he shall immediately file

a petition pursuant to Section 332 with the clerk of the juvenile court who shall set the matter for hearing on the detention hearing calendar. The probation officer shall thereupon notify each parent or each guardian of the minor of the time and place of the hearing if the whereabouts of each parent or guardian can be ascertained by due diligence, and the probation officer shall serve those persons entitled to notice of the hearing under the provisions of Section 335 with a copy of the petition and notify these persons of the time and place of the detention hearing. This notice may be given orally and shall be given in this manner if it appears that the parent does not read.

(b) In the hearing the minor, parents or guardians have a privilege against self-incrimination and has a right to confrontation by, and cross-examination of, any person examined by the court as provided in Section 319.

(Added Stats 1976 ch 1068; Amended Stats 1982 ch 978, effective 9/13/82, operative 7/1/82)

312. Notice to counsel. Upon reasonable notification by counsel representing the minor, his parents or guardian, the clerk of the court shall notify such counsel of the hearings in the manner provided for notice to the parent or guardian of the minor under this chapter.

(Added Stats 1976 ch 1068)

313. Time limit on custody. (a) Whenever a minor is taken into custody by a peace officer or probation officer, except when such minor willfully misrepresents himself as 18 or more years of age, such minor shall be released within 48 hours after having been taken into custody, excluding nonjudicial days, unless within said period of time a petition to declare him a dependent child has been filed pursuant to the provisions of this chapter.

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

(Added Stats 1976 ch 1068)

314. Extended time limit on custody. When a minor willfully misrepresents himself to be 18 or more years of age when taken into custody by a peace officer or probation officer, and this misrepresentation effects a material delay in investigation which prevents the filing of a petition pursuant to the provisions of this chapter, such petition or complaint shall be filed within 48 hours from the time his true age is determined, excluding nonjudicial days. If, in such cases, the petition is not filed within the time prescribed by this section, the minor shall be immediately released from custody.

(Added Stats 1976 ch 1068)

315. Detention hearing. If a minor has been taken into custody under this article and not released to a parent or guardian, the juvenile court shall hold a hearing (which shall be referred to as a "detention hearing") to determine whether the minor shall be further detained. This hearing shall be held as soon as

possible, but in any event before the expiration of the next judicial day after a petition to declare the minor a dependent child has been filed. If the hearing is not held within the period prescribed by this section, the minor shall be released from custody.

(Repealed and added Stats 1987 ch 1485)

316. Rights of minor. Upon his or her appearance before the court at the detention hearing, each parent or guardian and the minor, if present, shall first be informed of the reasons why the minor was taken into custody, the nature of the juvenile court proceedings, and the right of each parent or guardian and any minor to be represented at every stage of the proceedings by council.

(Repealed and added Stats 1987 ch 1485)

317. Appointment of counsel. (a) When it appears to the court that a parent or guardian of the minor desires council but is unable to afford and cannot for that reason employ counsel, the court may appoint counsel.

(b) When it appears to the court that a parent or guardian of the minor is unable to afford and cannot for that reason employ counsel, and the minor has been placed in out-of-home care, or the petitioning agency is recommending that the minor be placed in out-of-home care, the court shall appoint counsel, unless the court finds that the parent or guardian has made a knowing and intelligent waiver of counsel.

(c) In any case in which it appears to the court that the minor would benefit from the appointment of counsel the court shall appoint counsel for the minor. Counsel for the minor may be a county counsel, district attorney, public defender, or other member of the bar, provided that the counsel does not represent another party or county agency whose interests conflict with the minor's. The fact that the district attorney represents the minor in a proceeding pursuant to Section 300 as well as conducts a criminal investigation or files a criminal complaint or information arising from the same or reasonably related set of facts as the proceeding pursuant to Section 300 is not in and of itself a conflict of interest. The court shall determine if representation of both the petitioning agency and the minor constitutes a conflict of interest. If the court finds there is a conflict of interest, separate counsel shall be appointed for the minor. The court may fix the compensation to be paid by the county for the services of appointed counsel, if counsel is not a county counsel, district attorney, or public defender.

(d) The counsel appointed by the court shall represent the parent, guardian, or minor at the detention hearing and at all subsequent proceedings before the juvenile court. Counsel shall continue to represent the parent or minor unless relieved by the court upon the substitution of other counsel or for cause. The representation shall include representing the parent or the minor in termination proceedings and in those proceedings relating to the institution or setting aside of a legal guardianship.

(e) The counsel for the minor shall be charged in general with the representation of the minor's interests. To that end, counsel shall make such further investigations as he or she deems necessary to ascertain the facts, including the interviewing of witnesses, and he or she shall examine and cross-examine witnesses in both the adjudicatory and dispositional hearings; he or she may also introduce and examine his or her own witnesses, make recommendations to the

court concerning the minor's welfare, and participate further in the proceedings to the degree necessary to adequately represent the minor. In any case in which the minor is four years of age or older, counsel shall interview the minor to determine the minor's wishes and to assess the minor's well-being. In addition, counsel shall investigate the interests of the minor beyond the scope of the juvenile proceeding and report to the court other interests of the minor that may need to be protected by the institution of other administrative or judicial proceedings. The court shall take whatever appropriate action is necessary to fully protect the interests of the minor.

(f) Notwithstanding any other provision of law, counsel shall be given access to all records relevant to the case which are maintained by state or local public agencies. Counsel shall be given access to records maintained by hospitals or by other medical or nonmedical practitioners or by child care custodians, in the manner prescribed by Section 1158 of the Evidence Code.

(Enacted Stats 1976 ch 1068; repealed and added Stats 1987 ch 1485, operative 1/1/89)

318.5. District Attorney at Hearing. In a juvenile court hearing, where the parent or guardian is represented by counsel, the county counsel or district attorney shall, at the request of the juvenile court judge, appear and participate in the hearing to represent the petitioner.

(Renumbered by Stats 1987 ch 56)

319. Release pending further hearing. At the initial petition hearing the court shall examine the minor's parents, guardians, or other persons having relevant knowledge and hear the relevant evidence as the minor, the minor's parents or guardians, the petitioner, or their counsel desires to present. The court may examine the minor, as provided in Section 350.

The probation officer shall report to the court on the reasons why the minor has been removed from the parent's custody; the need, if any, for continued detention; on the available services and the referral methods to those services which could facilitate the return of the minor to the custody of the minor's parents or guardians; and whether there are any relatives who are able and willing to take temporary custody of the minor. The court shall order the release of the minor from custody unless a prima facie showing has been made that the minor comes within Section 300 and any of the following circumstances exist:

(a) There is a substantial danger to the physical health of the minor or the minor is suffering severe emotional damage, and there are no reasonable means by which the minor's physical or emotional health may be protected without removing the minor from the parents' or guardians' physical custody.

(b) There is substantial evidence that a parent, guardian, or custodian of the minor is likely to flee the jurisdiction of the court.

(c) The minor has left a placement in which he or she was placed by the juvenile court.

(d) The minor indicates an unwillingness to return home, if the minor has been physically or sexually abused by a person residing in the home.

The court shall also make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the minor from his or her home and whether there are available services which would prevent the need for further detention. Services to be considered for

purposes of making this determination are case management, counseling, emergency shelter care, emergency in-home caretakers, out-of-home respite care, teaching and demonstrating homemakers, parenting training, transportation, and any other child welfare services authorized by the State Department of Social Services pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9. The court shall also review whether the social worker has considered whether a referral to public assistance services pursuant to Chapter 2 (commencing with Section 11200) of Part 3, Chapter 7 (commencing with Section 14000) of Part 3, Chapter 1 (commencing with Section 17000) of Part 5, and Chapter 10 (commencing with Section 18900) of Part 6, of Division 9 would have eliminated the need to take temporary custody of the minor or would prevent the need for further detention. If the minor can be returned to the custody of his or her parent or guardian through the provision of those services, the court shall place the minor with his or her parent or guardian and order that the services shall be provided. If the minor cannot be returned to the custody of his or her parent or guardian, the court shall determine if there is a relative who is able and willing to care for the child. Where the first contact with the family has occurred during an emergency situation in which the child could not safely remain at home, even with reasonable services being provided, the court shall make a finding that the lack of preplacement preventive efforts were reasonable. Whenever a court orders a minor detained, the court shall state the facts on which the decision is based, shall specify why the initial removal was necessary, and shall order services to be provided as soon as possible to reunify the minor and his or her family if appropriate.

When the minor is not released from custody the court may order that the minor shall be placed in the suitable home of a relative or in an emergency shelter or other suitable licensed place or a place exempt from licensure designated by the juvenile court for a period not to exceed 15 judicial days.

As used in this section, "relative" means an adult who is a grandparent, aunt, uncle, or a sibling of the minor.

(Added Stats 1976 ch 1068; most recently amended Stats 1987 ch 1485)

319.1. Specialized mental health treatment. When the court finds a minor to be a person described by Section 300, and believes that the minor may need specialized mental health treatment while the minor is unable to reside in his or her natural home, the court shall notify the director of the county mental health department in the county where the minor resides. The county mental health department shall perform the duties required under Section 5697.5 for all those minors.

Nothing in this section shall restrict the provisions of emergency psychiatric services to those minors who are involved in dependency cases and have not yet reached the point of adjudication or disposition, nor shall it operate to restrict evaluations at an earlier stage of the proceedings or to restrict orders removing the minor from a detention facility for psychiatric treatment.

(Added Stats 1985 ch 1986, effective 9/30/85)

321. Continuation of detention hearing. When a hearing is held under the provisions of this article and no parent or guardian of the minor is present and no parent or guardian has had actual notice of the hearing, a parent or guardian

of the minor may file an affidavit setting forth the facts with the clerk of the juvenile court and the clerk shall immediately set the matter for rehearing at a time within 24 hours, excluding Sundays and nonjudicial days from the filing of the affidavit. Upon the rehearing, the court shall proceed in the same manner as upon the original hearing.

If the minor, a parent or guardian or the minor's attorney or guardian ad litem, if either one or the other has been appointed by the court, requests evidence of the prima facie case, a rehearing shall be held within three judicial days to consider evidence of the prima facie case. If the prima facie case is not established, the minor shall be released from detention.

In lieu of a requested rehearing, the court may set the matter for trial within 10 days.

When the court ascertains that the rehearing cannot be held within three judicial days because of the unavailability of a witness, a reasonable continuance may be granted for a period not to exceed five judicial days.

(Added Stats 1976 ch 1068; most recently amended Stats 1984 ch 144)

322. Continuations. Upon motion of the minor or a parent or guardian of such minor, the court shall continue any hearing or rehearing held under the provisions of this article for one day, excluding Sundays and nonjudicial days.

(Added Stats 1976 ch 1068)

323. Rehearing. Upon any hearing or rehearing under the provisions of this article, the court may order such minor or any parent or guardian of such minor who is present in court to again appear before the court, the probation officer or the county financial evaluation officer at a time and place specified in said order.

(Added Stats 1976 ch 1068; amended Stats 1985 ch 1485)

324. Detention in county other than county of residence. Whenever any minor is taken into temporary custody under the provisions of this article in any county other than the county in which the minor is alleged to be within or to come within the jurisdiction of the juvenile court, which county is referred to herein as the requesting county, the officer who has taken the minor into temporary custody may notify the law enforcement agency in the requesting county of the fact that the minor is in custody. When a law enforcement officer, of such requesting county files a petition pursuant to Section 332 with the clerk of the juvenile court of his respective county and secures a warrant therefrom, he shall forward said warrant, or a telegraphic copy thereof to the officer who has the minor in temporary custody as soon as possible within 48 hours, excluding Sundays and nonjudicial days, from the time said juvenile was taken into temporary custody. Thereafter an officer from said requesting county shall take custody of the minor within five days, in the county in which the minor is in temporary custody, and shall take the minor before the juvenile court judge who issued the warrant, or before some other juvenile court of the same county without unnecessary delay. If the minor is not brought before a judge of the juvenile court within the period prescribed by this section, he must be released from custody.

(Added Stats 1976 ch 1068)

Dependent Children—Commencement of Proceedings

325. Filing of petition. A proceeding in the juvenile court to declare a minor a dependent child of the court is commenced by the filing with the court, by the probation officer, of a petition, in conformity with the requirements of this article.

(Added Stats 1976 ch 1068)

326. Child abuse guardian. For the purposes of Child Abuse Prevention and Treatment Act grants to states (Public Law 93-247), in all cases in which there is filed a petition based upon alleged neglect or abuse of the minor, or in which a prosecution is initiated under the Penal Code arising from neglect or abuse of the minor, the probation officer or a social worker who files a petition under this chapter shall be the guardian ad litem to represent the interests of the minor in proceedings under this chapter, unless the court shall appoint another adult as guardian ad litem. However, the guardian ad litem shall not be the attorney responsible for presenting evidence alleging child abuse or neglect in judicial proceedings. No bond shall be required from any guardian ad litem acting under this section.

(Added Stats 1976 ch 1068; amended Stats 1984 ch 1613, effective 9/30/84)

327. Jurisdiction. Either the juvenile court in the county in which a minor resides or in the county where the minor is found or in the county in which the acts take place or the circumstances exist which are alleged to bring such minor within the provisions of Section 300, is the proper court to commence proceedings under this chapter.

(Added Stats 1976 ch 1068)

328. Responsibility. Whenever the probation officer has cause to believe that there was or is within the county, or residing therein, a person described in Section 300, the probation officer shall immediately make any investigation he or she deems necessary to determine whether child welfare services should be offered to the family and whether proceedings in the juvenile court should be commenced. If the probation officer determines that it is appropriate to offer child welfare services to the family, the probation officer shall make a referral to these services pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9.

However, this section does not require an investigation by the probation officer with respect to a minor delivered or referred to any agency pursuant to Section 307.5.

The probation officer shall interview any minor four years of age or older who is a subject of an investigation, and who is in juvenile hall or other custodial facility, or has been removed to a foster home, to ascertain the minor's view of the home environment. If proceedings are commenced, the probation officer shall include the substance of the interview in any written report submitted at an adjudicatory hearing, or if no report is then received in evidence, the probation officer shall include the substance of the interview in the social study required by Section 358.

(Added Stats 1976 ch 1068; most recently amended Stats 1987 ch 1485)

328.3. Service Program Referral. Whenever any officer refers or delivers

a minor pursuant to Section 307.5, the agency to which the minor is referred shall immediately make such investigation as it deems necessary to determine what disposition of the referral or delivery should be made. If the referral agency does not initiate a service program on behalf of a minor referred to the agency within 20 calendar days, or initiate a service program on behalf of a minor delivered to the agency within 10 calendar days, that agency shall immediately notify the referring officer of that decision in writing. The referral agency shall retain a copy of that written notification for 30 days.

(Added Stats 1984 ch 260)

328.5. Demonstration county. Whenever the probation officer or social worker in a county welfare department of a demonstration county designated pursuant to Section 272 has cause to believe that there is within the county or residing therein, a person within the provisions of Section 300, the probation officer or social worker shall immediately make such investigation as he or she deems necessary to determine what services should be offered to the family and whether proceedings in the juvenile court should be commenced. If any such services are deemed appropriate, the probation officer or social worker shall make a referral to state protective services for children pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9.

The probation officer or social worker shall interview any minor four years of age or older who is a subject of an investigation, and who is in juvenile hall or other custodial facility, or who has been removed to a foster home, to ascertain the minor's view of the home environment. If proceedings are commenced, the probation officer or social worker shall include the substance of the interview in any written report submitted at any adjudicatory hearing, or if no report is then received in evidence, the probation officer or social worker shall include the substance of the interview in the social study required by Section 358.

(Added Stats 1976 ch 1068—operative on 7/1/77; effective date extended to 10/1/84; amended Stats 1981 ch 875)

329. Application for petition. Whenever any person applies to the probation officer to commence proceedings in the juvenile court, such application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor within the provisions of Section 300, and setting forth facts in support thereof. The probation officer shall immediately make such investigation as he deems necessary to determine whether proceedings in the juvenile court should be commenced. If the probation officer does not take action under Section 330 and does not file a petition in the juvenile court within three weeks after such application, he shall endorse upon the affidavit of applicant his decision not to proceed further and his reasons therefor and shall immediately notify the applicant of the action taken or the decision rendered by him under this section. The probation officer shall retain the affidavit and his endorsement thereon for a period of 30 days after such notice to applicant.

(Added Stats 1976 ch 1068)

330. Informal supervision. In any case in which a probation officer after investigation of an application for petition or other investigation he or she is authorized to make, determines that a minor is within the jurisdiction of the juvenile court or will probably soon be within that jurisdiction, the probation

officer may, in lieu of filing a petition or subsequent to dismissal of a petition already filed, and with consent of the minor's parent or guardian, undertake a program of supervision of the minor, for a period not to exceed six months. Commencing on October 1, 1983, services may be extended up to an additional six months if it can be shown that the objectives of the service plan can be achieved within the extended time period. If a program of supervision is undertaken, the probation officer shall attempt to ameliorate the situation which brings the minor within, or creates the probability that the minor will be within, the jurisdiction of Section 300 by providing or arranging to contract for all appropriate child welfare services pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9. No further in-home child welfare services shall be provided subsequent to these time limits. If the family has refused to cooperate with the services being provided, the probation officer may file a petition with the juvenile court pursuant to Section 332. Nothing in this section shall be construed to prevent the probation officer from filing a petition pursuant to Section 332 when otherwise authorized by law.

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

Probation departments in counties designated by the department as pilot projects for in-home care programs, pursuant to Section 18964, may place, and will designate, a projected number of children to be referred each year in these projects.

(Added Stats 1976 ch 1068; most recently amended Stats 1984 ch 1618, 1635)

330.5. Demonstration county. In any case in which a probation officer or social worker in a county welfare department of a demonstration county designated pursuant to Section 272, after investigation of an application for petition or other investigation he is authorized to make, concludes that a minor is within the jurisdiction of the juvenile court pursuant to Section 300 or probably will soon be within such jurisdiction, he may, in lieu of filing a petition or subsequent to the dismissal of a petition already filed, and with the consent of the minor's parent or guardian, undertake a program of supervision of the minor and his family. If such a program is undertaken, the probation officer or social worker shall attempt to ameliorate the situation which brings the minor within the jurisdiction of Section 300 by providing all appropriate services. Any time after the family has unreasonably refused to cooperate with the services being provided, the probation officer or social worker may file a petition to the court. In any event, if after six months the minor is believed to be within the jurisdiction of Section 300, the probation officer or social worker shall file a petition. Nothing in this section shall be construed to prevent the probation officer or social worker from filing a petition at any time within such six-month period.

(Added Stats 1976 ch 1068; most recently amended Stats 1981 ch 104)

331. Application for review—denial of petition. When any person has applied to the probation officer, pursuant to Section 329, to commence juvenile court proceedings and the probation officer fails to file a petition within three weeks after such application, such person may, within one month after making

such application, apply to the juvenile court to review the decision of the probation officer, and the court may either affirm the decision of the probation officer or order him to commence juvenile court proceedings.

(Added Stats 1976 ch 1068)

331.5. Service Program Referrals: Review. When any officer has referred or delivered a minor to an agency pursuant to Section 307.5, and that agency does not initiate a service program for the minor within the time periods required by Section 328.3, the referring agency may, within 10 court days following receipt of the notification from the referral agency, apply to the probation officer for a review of that decision.

(Added Stats 1984 ch 260)

332. The petition. A petition to commence proceedings in the juvenile court to declare a minor a ward or a dependent child of the court shall be verified and shall contain all of the following:

(a) The name of the court to which it is addressed.

(b) The title of the proceeding.

(c) The code section and the subdivision under which the proceedings are instituted. If it is alleged that the minor is a person described by subdivision (e) of Section 300, the petition shall include an allegation pursuant to that section.

(d) The name, age, and address, if any, of the minor upon whose behalf the petition is brought.

(e) The names and residence addresses, if known to the petitioner, of both parents and any guardian of the minor. If there is no parent or guardian residing within the state, or if his or her place of residence is not known to the petitioner, the petition shall also contain the name and residence address, if known, of any adult relative residing within the county, or, if there is none, the adult relative residing nearest to the location of the court.

(f) A concise statement of facts, separately stated, to support the conclusion that the minor upon whose behalf the petition is being brought is a person within the definition of each of the sections and subdivisions under which the proceedings are being instituted.

(g) The fact that the minor upon whose behalf the petition is brought is detained in custody or is not detained in custody, and if he or she is detained in custody, the date and the precise time the minor was taken into custody.

(h) A notice to the father, mother, spouse, or other person liable for support of the minor child, of all of the following: (1) Section 903 makes that person, the estate of that person, and the estate of the minor child, liable for the cost of the care, support, and maintenance of the minor child in any county institution or any other place in which the child is placed, detained, or committed pursuant to an order of the juvenile court; (2) Section 903.1 makes that person, the estate of that person, and the estate of the minor child, liable for the cost to the county of legal services rendered to the minor or the parent by a private attorney or a public defender appointed pursuant to the order of the juvenile court; (3) Section 903.2 makes that person, the estate of that person, and the estate of the minor child, liable for the cost to the county of the probation supervision of the minor child by the probation officer pursuant to the order of the juvenile court; and (4) the liabilities established by these sections are joint and several.

(i) If a proceeding is pending against a minor child for a violation of paragraph (7) of subdivision (a) of Section 640 of the Penal Code, a notice to the parent or legal guardian of the minor that if the minor is found to have violated that provision that (1) any community service which may be required of the minor may be performed in the presence, and under the direct supervision, of the parent or legal guardian pursuant to subdivision (b) of Section 640 of the Penal Code; and (2) if the minor is personally unable to pay any fine levied for the violation of paragraph (7) of subdivision (a) of Section 640 of the Penal Code, that the parent or legal guardian of the minor shall be liable for payment of the fine pursuant to that paragraph.

(Added by Stats 1976 ch 1068; most recently amended Stats 1989 ch 1151)

332.5. Demonstration county. A petition to commence proceedings in the juvenile court of a demonstration county to declare a minor a dependent child of the court shall be verified and must contain:

(a) The name of the court to which the same is addressed.

(b) The title of the proceeding.

(c) The code section or sections and subdivision or subdivisions under which the proceedings are instituted.

(d) The name, age, and address, if any, of the minor upon whose behalf the petition is brought.

(e) The name or names and residence address, if known to the petitioner, of all parents and guardians of such minor. If there is no parent or guardian residing within the state, or if his place of residence is not known to the petitioner, the petition must also contain the name and residence address, if known, of any adult relative residing within the county, or, if there be none, the adult relative residing nearest to the location of the court.

(f) A concise statement of facts, separately stated, to support the conclusion that the minor upon whose behalf the petition is being brought is a person within the definition of Section 300 or 302.

(g) The fact that the minor upon whose behalf the petition is brought is detained in custody or is not detained in custody, and if he is detained in custody, the date and the precise time the minor was taken into custody.

(Added Stats 1977 ch 21, effective 4/6/77)

333. Dismissal of unverified petition. Any petition filed in juvenile court to commence proceedings pursuant to this chapter that is not verified may be dismissed without prejudice by such court.

(Added Stats 1976 ch 1068)

334. Hearing date. Upon the filing of the petition, the clerk of the juvenile court shall set the same for hearing within 30 days, except that in the case of a minor detained in custody at the time of the filing of the petition, the petition must be set for hearing within 15 judicial days from the date of the order of the court directing such detention.

(Added Stats 1976 ch 1068)

335. Notice of filing. (a) Upon the filing of the petition, the clerk of the juvenile court shall issue a notice, to which shall be attached a copy of the petition, and he or she shall cause the same to be served upon the minor, if the

minor is 10 or more years of age, and upon each of the persons described in subdivision (e) of Section 332 whose residence addresses are set forth in the petition and thereafter before the hearing upon all such persons whose residence addresses become known to the clerk. The clerk shall issue a copy of the petition to the attorney for the minor's parent or guardian and to the district attorney, if the district attorney has notified the clerk of the court that he or she wishes to receive the petition, containing the time, date, and place of the hearing.

(b) If the minor is a ward of a guardian appointed pursuant to the Probate Code, the clerk of the juvenile court shall notify the probate department of the superior court which appointed the guardian of the proceedings in the juvenile court. The probation department or counsel for the minor, if any, may petition the probate department of the superior court to have the guardian removed pursuant to Chapter 9 (commencing with Section 2650) of Part 4 of Divison 4 of the Probate Code.

(Added Stats 1976 ch 1068; most recently amended Stats 1988 ch 1075)

336. Format of notice of hearing. The notice shall contain all of the following:

(a) The name and address of the person to whom the notice is directed.

(b) The date, time, and place of the hearing on the petition.

(c) The name of the minor upon whose behalf the petition has been brought.

(d) Each section and subdivision under which the proceeding has been instituted.

(e) A statement that the parent or guardian or adult relative to whom notice is required to be given, and the minor, are entitled to have an attorney present at the hearing on the petition, and that, if the parent or guardian or an adult relative is indigent and cannot afford an attorney, and desires to be represented by an attorney, the parent or guardian or adult relative shall promptly notify the clerk of the juvenile court, and that in the event counsel or legal assistance is furnished by the court, the parent or guardian or adult relative shall be liable to the county, to the extent of his, her, or their financial ability or a portion of the cost thereof.

(f) A statement that the parent or guardian or responsible relative may be liable for the costs of support of the minor in a county institution.

(Added Stats 1976 ch 1068; most recently amended Stats 1987 ch 1485)

337. Service—Notice of hearing. (a) Except as provided in subdivision (b), if the minor is detained the clerk of the juvenile court shall cause the notice and copy of the petition to be served on all persons required to receive such notice and copy of the petition, either personally or by certified mail with request for return receipt, as soon as possible after filing of the petition and at least five days prior to the time set for hearing, unless such hearing is set less than five days from the filing of the petition, in which case, such notice and copy of the petition shall be served at least 24 hours prior to the time set for hearing.

(b) If the minor is detained, and all persons entitled to notice were present at the detention hearing, the clerk of the juvenile court shall cause the notice and copy of the petition to be served on all persons required to receive the notice and copy of the petition, either personally or by first-class mail, as soon as possible after the filing of the petition and at least five days prior to the time set for

hearing, unless the hearing is set less than five days from the filing of the petition, in which case the notice and copy of the petition shall be served at least 24 hours prior to the time set for the hearing.

(c) If the minor is not detained the clerk of the juvenile court shall cause the notice and copy of the petition to be served on all persons required to receive such notice and copy of the petition, either personally or by first-class mail, at least 10 days prior to the time set for hearing. If such person is known to reside outside of the county, the clerk of the juvenile court shall mail the notice and copy of the petition by first-class mail, to such person, as soon as possible after filing of the petition and at least 10 days before the time set for hearing. Failure to respond to the notice shall in no way result in arrest or detention. In the instance of failure to appear after notice by first-class mail, the court shall direct that the notice and copy of the petition is to be personally served on all persons required to receive such notice and copy of the petition. Personal service of the notice and copy of the petition outside of the county at least 10 days before the time set for hearing is equivalent to such service by first-class mail. Service may be waived by any person by a voluntary appearance entered in the minutes of the court or by a written waiver of service filed with the clerk of the court at or prior to the hearing.

(Added Stats 1976 ch 1068; amended Stats 1984 ch 481)

338. Citation to appear. In addition to the notice provided in Sections 335 and 336 the juvenile court may issue its citation directing any parent or guardian of the person concerning whom a petition has been filed to appear at the time and place set for any hearing or financial evaluation under the provisions of this chapter, including a hearing under the provisions of Section 257, and directing any person having custody or control of the minor concerning whom the petition has been filed to bring such minor with him or her. The notice shall in addition state that a parent or guardian may be required to participate in a counseling program with the minor concerning whom the petition has been filed. Personal service of such citation shall be made at least 24 hours before the time stated therein for such appearance.

(Added Stats 1976 ch 1068; amended Stats 1985 ch 1485)

339. Warrant of arrest—parent or guardian. In case such citation cannot be served, or the person served fails to obey it, or in any case in which it appears to the court that the citation will probably be ineffective, a warrant of arrest may issue on the order of the court either against the parent, or guardian, or the person having the custody of the minor, or with whom the minor is living.

(Added Stats 1976 ch 1068)

340. Warrant of arrest—minor. Whenever a petition has been filed in the juvenile court alleging that a minor comes within Section 300 and praying for a hearing thereon, or whenever any subsequent petition has been filed praying for a hearing in the matter of the minor and it appears to the court that the circumstances of his or her home environment may endanger the health, person, or welfare of the minor, or whenever a dependent minor has run away from his or her court ordered placement, a protective custody warrant may be issued immediately for the minor.

(Added Stats 1976 ch 1068; most recently amended Stats 1987 ch 1485)

341. Subpoenas. Upon request of the probation officer, district attorney, the minor or the minor's parent, guardian, or custodian, or upon its own motion, the court or the clerk of the court, or an attorney, pursuant to Section 1985 of the Code of Civil Procedure shall issue subpoenas requiring attendance and testimony of witnesses and production of papers at any hearing under the provisions of this chapter. When a person attends a juvenile court hearing as a witness upon a subpoena at its discretion, the court may by an order on its minutes, direct the county auditor to draw his warrant upon the county treasurer in favor of such witness for witness fees in the amount and manner prescribed by Section 68093 of the Government Code. Such fees are county charges.

(Added Stats 1976 ch 1068; amended Stats 1982 ch 978, effective 9/13/82, operative 7/1/82)

342. Subsequent petition. In any case in which a minor has been found to be a person described by Section 300 and the petitioner alleges new facts or circumstances, other than those under which the original petition was sustained, sufficient to state that the minor is a person described in Section 300, the petitioner shall file a subsequent petition. This section does not apply if the jurisdiction of the juvenile court has been terminated prior to the new allegations.

All procedures and hearings required for an original petition are applicable to a subsequent petition filed under this section.

(Added Stats 1987 ch 1485; amended Stats 1988 ch 1075)

Dependent Children—Hearings

345. Separate session. All cases under this chapter shall be heard at a special or separate session of the court, and no other matter shall be heard at such a session. No person on trial, awaiting trial, or under accusation of crime, other than a parent, guardian, or relative of the minor, shall be permitted to be present at any such session, except as a witness.

Cases in which the minor is detained and the sole allegation is that the minor is a person described in Section 300 shall be granted precedence on the calendar of the court for the day on which the case is set for hearing.

(Added Stats 1976 ch 1068; most recently amended Stats 1987 ch 1485)

346. Closed hearing. Unless requested by a parent or guardian and consented to or requested by the minor concerning whom the petition has been filed, the public shall not be admitted to a juvenile court hearing. The judge or referee may nevertheless admit such persons as he deems to have a direct and legitimate interest in the particular case or the work of the court.

(Added Stats 1976 ch 1068; amended Stats 1982 ch 978, effective 7/1/82)

347. Record of proceedings. At any juvenile court hearing conducted by a juvenile court judge, an official court reporter shall, and at any such hearing conducted by a juvenile court referee, the official reporter, as directed by the court, may take down in shorthand all the testimony and all of the statements and remarks of the judge and all persons appearing at the hearing; and, if directed by the judge, or requested by the person on whose behalf the petition was brought, or by his parent or legal guardian, or the attorneys of such persons, he must, within such reasonable time after the hearing of the petition as the court may designate, write out the same or such specific portions thereof as may be

requested in plain and legible longhand or by typewriter or other printing machine and certify to the same as being correctly reported and transcribed, and when directed by the court, file the same with the clerk of the court. Unless otherwise directed by the judge, the costs of writing out and transcribing all or any portion of the reporter's shorthand notes shall be paid in advance at the rates fixed for transcriptions in a civil action by the person requesting the same.
(Added Stats 1976 ch 1068)

348. Chapter 8, Code of Civil Procedure. The provisions of Chapter 8 (commencing with Section 469) of Title 6 of Part 2 of the Code of Civil Procedure relating to variance and amendment of pleadings in civil actions shall apply to petitions and proceedings under this chapter, to the same extent and with the same effect as if proceedings under this chapter were civil actions.
(Added Stats 1976 ch 1068)

349. Present at hearing. A minor who is the subject of a juvenile court hearing and any person entitled to notice of the hearing under the provisions of Section 335, is entitled to be present at such hearing. Any such minor and any such person has the right to be represented at such hearing by counsel of his own choice.
(Added Stats 1976 ch 1068)

350. Procedures. (a) The judge of the juvenile court shall control all proceedings during the hearings with a view to the expeditious and effective ascertainment of the jurisdictional facts and the ascertainment of all information relative to the present condition and future welfare of the person upon whose behalf the petition is brought. Except where there is a contested issue of fact or law, the proceedings shall be conducted in an informal nonadversary atmosphere with a view to obtaining the maximum cooperation the minor upon whose behalf the petition is brought and all persons interested in his or her welfare with such provisions as the court may make for the disposition and care of the minor.

(b) The testimony of a minor may be taken in chambers and outside the presence of the minor's parent or parents, if the minor's parent or parents are represented by counsel, the counsel is present and any of the following circumstances exist:

(1) The court determines that testimony in chambers is necessary to ensure truthful testimony.

(2) The minor is likely to be intimidated by a formal courtroom setting.

(3) The minor is afraid to testify in front of his or her parent or parents.

After testimony in chambers, the parent or parents of the minor may elect to have the court reporter read back the testimony or have the testimony summarized by counsel for the parent or parents.

The testimony of a minor also may be taken in chambers and outside the presence of the guardian or guardians of a minor under the circumstances specified in this subdivision.

(c) At any hearing in which the probation department bears the burden of proof, after the presentation of evidence on behalf of the probation department has been closed, the court, on motion of the minor, parent or guardian, or on its own motion, shall order whatever action the law requires of it if the court, upon weighing the evidence then before it, finds that the probation department has

not met its burden. That action includes, but is not limited to, the dismissal of the petition and release of the minor at a jurisdictional hearing, the return of the minor at an out-of-home review held prior to the permanency planning hearing, or the termination of jurisdiction at an in-home review. If the motion is not granted, the minor, parent, or guardian may offer evidence without first having reserved that right.

(Added Stats 1976 ch 1068; most recently amended Stats 1987 ch 1485)

351.5. Demonstration county. In a juvenile court hearing in a demonstration county the district attorney or county counsel shall, with the consent or at the request of the juvenile court judge or welfare department, represent the petitioner and shall assist in the ascertaining and presenting of the evidence.

(Added Stats 1977 ch 21; amended Stats 1981 ch 104, effective 6/29/81)

352. Continuance. (a) Upon request of counsel for the parent, guardian, minor, or petitioner, the court may continue any hearing under this chapter beyond the time limit within which the hearing is otherwise required to be held, provided that no continuance shall be granted that is contrary to the interest of the minor. In considering the minor's interests, the court shall give substantial weight to a minor's need for prompt resolution of his or her custody status, the need to provide children with stable environments, and the damage to a minor of prolonged temporary placements.

Continuances shall be granted only upon a showing of good cause and only for that period of time shown to be necessary by the evidence presented at the hearing on the motion for the continuance. Neither a stipulation between counsel nor the convenience of the parties is in and of itself a good cause. Further, neither a pending criminal prosecution nor family law matter shall be considered in and of itself as good cause. Whenever any continuance is granted, the facts proven which require the continuance shall be entered upon the minutes of the court.

In order to obtain a motion for a continuance of the hearing, written notice shall be filed at least two court days prior to the date set for hearing, together with affidavits or declarations detailing specific facts showing that a continuance is necessary, unless the court for good cause entertains an oral motion for continuance.

(b) Notwithstanding any other provision of law, if a minor has been removed from the parent's or guardians' custody, no continuance shall be granted that would result in the dispositional hearing, held pursuant to Section 361, being completed longer than 60 days after the hearing at which the minor was ordered removed or detained, unless the court finds that there are exceptional circumstances requiring such a continuance. The facts supporting such a continuance shall be entered upon the minutes of the court. In no event shall the court grant continuances that would cause the hearing pursuant to Section 361 to be completed more than six months after the hearing pursuant to Section 319.

(c) In any case in which the parent, guardian, or minor is represented by counsel and no objection is made to an order continuing any such hearing beyond the time limit within which the hearing is otherwise required to be held, the absence of such an objection shall be deemed a consent to the continuance. The consent does not affect the requirements of subdivision (a).

(Added Stats 1976 ch 1068; most recently amended Stats 1986 ch 1122)

352.5. Demonstration county. (a) Upon request of counsel for the parent, minor, or petitioner the court may continue any hearing under this chapter in a demonstration county beyond the time limit within which the hearing is otherwise required to be held, provided that no continuation shall be granted if contrary to the interests of the minor.

(b) In any case in which the parent and minor is represented by counsel and no objection is made to an order continuing any such hearing beyond the time limit within which the hearing is otherwise required to be held, the absence of such an objection shall be deemed a consent to the continuance.

(c) In a county where there is no public defender, or where there is a conflict of interest between two or more persons entitled to the appointment of the public defender as counsel in a proceeding, the court shall fix the compensation to be paid by the county for service of counsel other than the public defender.

(d) At the beginning of the first hearing in a demonstration county in any proceeding under this chapter, in any case in which the minor is alleged to be a person described in Section 300 or 302, if either the minor or his or her parents or guardians appear without counsel, the judge shall advise the unrepresented party of his or her rights under this section and shall implement the rights before proceeding further, provided, however, that no waiver by a minor of any rights under this section shall be valid. Any counsel entering an appearance on behalf of a party shall continue to represent that person at all subsequent proceedings before the juvenile court unless relieved by the court either (1) upon the substitution of other counsel, or (2) upon a showing of good cause to relieve counsel without the substitution of other counsel.

(Added Stats 1981 ch 104, effective 6/29/81—operative until 10/1/84)

353. Rights of minor—appointment of counsel. At the beginning of the hearing on a petition filed pursuant to Article 8 (commencing with Section 325) of this chapter, the judge or clerk shall first read the petition to those present. Upon request of any parent, guardian, or adult relative, counsel for the minor, or the minor, if he or she is present, the judge shall explain any term of allegation contained therein and the nature of the hearing, its procedures, and possible consequences. The judge shall ascertain whether the parent, guardian, or adult relative and, when required by Section 317, the minor have been informed of their right to be represented by counsel, and if not, the judge shall advise those persons, if present, of the right to have counsel present and where applicable, of the right to appointed counsel. If such a person is unable to afford counsel and desires to be represented by counsel, the court shall appoint counsel in accordance with Section 317. The court shall continue the hearing for not to exceed seven days, as necessary to make an appointment of counsel, or to enable counsel to acquaint himself or herself with the case, or to determine whether the parent or guardian or adult relative is unable to afford counsel at his or her own expense, and shall continue the hearing as necessary to provide reasonable opportunity for the minor and the parent or guardian or adult relative to prepare for the hearing.

(Added Stats 1976 ch 1068; most recently amended Stats 1989 ch 913)

353.5. Demonstration county. In a demonstration county, at the beginning of the hearing on a petition filed pursuant to Article 8 (commencing with

Section 325) of this chapter, the judge or clerk shall first read the petition to those present and upon request of the minor upon whose behalf the petition has been brought or upon the request of any parent, relative or guardian, the judge shall explain any term or allegation contained therein and the nature of the hearing, its procedures, and possible consequences. The judge shall ascertain whether the minor and his parent or guardian or adult relative, as the case may be, has been informed of the right of the minor and parents or guardian to be represented by counsel, and if not, the judge shall advise the minor and such person, if present, of the right to have counsel present and where applicable, of the right to appointed counsel. Before proceeding further, the court, in a case in which the minor is alleged to be within the provisions of Section 300 or 302, shall first comply with the provisions of Section 318.5. The court shall continue the hearing for not to exceed seven days, as necessary to make an appointment of counsel, or to enable counsel to acquaint himself with the case, or to determine whether the parent or guardian or adult relative is unable to afford counsel at his own expense, and shall continue the hearing as necessary to provide reasonable opportunity for the minor and the parent or guardian or adult relative to prepare for the hearing.

(Added Stats 1977 ch 21, effective 4/6/77)

354. Continuance. Except where a minor is in custody, any hearing on a petition filed pursuant to Article 8 (commencing with Section 325) of this chapter may be continued by the court for not more than 10 days in addition to any other continuance authorized in this chapter whenever the court is satisfied that an unavailable and necessary witness will be available within such time.

(Added Stats 1976 ch 1068)

355. Jurisdictional facts. At the jurisdictional hearing, the court shall first consider only the question whether the minor is a person described by Section 300, and for this purpose, any matter or information relevant and material to the circumstances or acts which are alleged to bring him or her within the jurisdiction of the juvenile court is admissible and may be received in evidence. However, proof by a preponderance of evidence, legally admissible in the trial of civil cases must be adduced to support a finding that the minor is a person described by Section 300. If the parent or guardian is not represented by counsel at the hearing, it shall be deemed that objections that could have been made to the evidence were made.

(Added Stats 1976 ch 1068; amended Stats 1987 ch 1485)

355.1. Presumption of need for parental care. (a) Where the court finds, based upon competent professional evidence, that an injury, injuries, or detrimental condition sustained by a minor, of such a nature as would ordinarily not be sustained except as the result of the unreasonable or neglectful acts or omissions of either parent, the guardian, or other person who has the care or custody of the minor, that evidence shall be prima facie evidence that the minor is a person described by subdivision (a), (b), or (d) of Section 300.

(b) Proof that either parent, the guardian, or other person who has the care or custody of a minor who is the subject of a petition filed under Section 300, has physically abused, neglected, or cruelly treated another minor shall be admissible in evidence.

(c) The presumption created by subdivision (a) constitutes a presumption affecting the burden of producing evidence.

(d) Testimony by a parent, guardian, or other person who has the care or custody of the minor made the subject of a proceeding under Section 300 shall not be admissible as evidence in any other action or proceeding.

(Added Stats 1976 ch 89; most recently amended Stats 1987 ch 1485)

355.2–355.7 (Repealed Stats 1987 ch 1485)

356. Dispositional data. After hearing the evidence, the court shall make a finding, noted in the minutes of the court, whether or not the minor is a person described by Section 300 and the specific subdivisions of Section 300 under which the petition is sustained. If it finds that the minor is not such a person, it shall order that the petition be dismissed and the minor be discharged from any detention or restriction theretofore ordered. If the court finds that the minor is such a person, it shall make and enter its findings and order accordingly.

(Added Stats 1976 ch 1068; most recently amended Stats 1986 ch 1122)

356.5. Child Advocate. A child advocate appointed by the court to represent the interests of a dependent child in a proceeding under this chapter shall have the same duties and responsibilities as a guardian ad litem and shall be trained by and function under the auspices of a court appointed special advocate guardian ad litem program, formed and operating under the guidelines established by the National Court Appointed Special Advocate Association.

(Added Stats 1985 ch 1341)

357. Observation in county hospital. Whenever the court, before or during the hearing on the petition, is of the opinion that the minor is mentally ill or if the court is in doubt concerning the mental health of any such person, the court may order that such person be held temporarily in the psychopathic ward of the county hospital or hospital whose services have been approved and/or contracted for by the department of health of the county, for observation and recommendation concerning the future care, supervision, and treatment of such person.

(Added Stats 1976 ch 1068)

358. Probation officer's report. (a) After finding that a minor is a person described in Section 300, the court shall hear evidence on the question of the proper disposition to be made of the minor. Prior to making a finding required by this section, the court may continue the hearing on its own motion, the motion of the parent or guardian, or the motion of the minor, as follows:

(1) If the minor is detained during the continuance, and the probation officer is not alleging that subdivision (b) of Section 361.5 is applicable, the continuance shall not exceed 10 judicial days. The court may make such order for detention of the minor or for the minor's release from detention, during the period of continuance, as is appropriate.

(2) If the minor is not detained during the continuance, the continuance shall not exceed 30 days after the date of the finding pursuant to Section 356. However, the court may, for cause, continue the hearing for an additional 15 days.

(3) If the probation officer is alleging that subdivision (b) of Section 361.5 is applicable, the court shall continue the proceedings for a period not to exceed 30

days. The probation officer shall notify each parent of the content of subdivision (b) of Section 361.5 and shall inform each parent that if the court does not order reunification a permanency planning hearing will be held, and that his or her parental rights may be terminated within the time frames specified by law.

(b) Before determining the appropriate disposition, the court shall receive in evidence the social study of the minor made by the probation officer, any study or evaluation made by a child advocate appointed by the court, and such other relevant and material evidence as may be offered. In any judgment and order of disposition, the court shall specifically state that the social study made by the probation officer and the study or evaluation made by the child advocate appointed by the court, if there be any, has been read and considered by the court in arriving at its judgment and order of disposition.

(c) If the court finds that a minor is described by subdivision (h) of Section 300 or that subdivision (b) of Section 361.5 may be applicable, the court shall conduct the dispositional proceeding pursuant to subdivision (c) of Section 361.5.

(Added Stats 1987 ch 1485—operative 1/1/89)

358.1. Content of report. Each social study or evaluation made by a probation officer or child advocate appointed by the court, required to be received in evidence pursuant to Section 358 shall include, but not be limited to, a factual discussion of each of the following subjects:

(a) Whether the county welfare department or probation officer has considered child protective services, as defined in Chapter 5 (commencing with Section 16500) of Part 4 of Division 9, as a possible solution to the problems at hand, and has offered these services to qualified parents if appropriate under the circumstances.

(b) What plan, if any, for return of the child is recommended to the court by the county welfare department or probation officer.

(c) Whether the best interests of the minor will be served by granting reasonable visitation rights with the minor to his or her grandparents, in order to maintain and strengthen the minor's family relationships.

(d) Whether the subject child appears to be a person who is eligible to be considered for further court action to free the child from parental custody and control.

(Added Stats 1980 ch 716; most recently amended Stats 1989 ch 913)

359. Diagnosis and evaluation of narcotic and dangerous drug users. Whenever a minor who appears to be a danger to himself or others as a result of the use of narcotics (as defined in Section 11001 of the Health and Safety Code), or a restricted dangerous drug (as defined in Section 11901 of the Health and Safety Code), is brought before any judge of the juvenile court, the judge may continue the hearing and proceed pursuant to this section. The court may order the minor taken to a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation. Thereupon the provisions of Section 11922 of the Health and Safety Code shall apply, except that the professional person in charge of the facility shall make a written report to the court concerning the results of the evaluation of the minor.

If the professional person in charge of the facility for 72-hour evaluation and treatment reports to the juvenile court that the minor is not a danger to himself

or others as a result of the use of narcotics or restricted dangerous drugs or that the minor does not require 14-day intensive treatment, or if the minor has been certified for not more than 14 days of intensive treatment and the certification is terminated, the minor shall be released if the juvenile court proceedings have been dismissed; referred for further care and treatment on a voluntary basis, subject to the disposition of the juvenile court proceedings; or returned to the juvenile court, in which event the court shall proceed with the case pursuant to this chapter.

Any expenditure for the evaluation or intensive treatment of a minor under this section shall be considered an expenditure made under Part 2 (commencing with Section 5600) of Division 5, and shall be reimbursed by the state as are other local expenditures pursuant to that part.

(Added Stats 1976 ch 1068; most recently amended Stats 1978 ch 380)

Dependent Children—Judgments and Orders

360. Disposition by court. After receiving and considering the evidence on the proper disposition of the case, the juvenile court may enter judgment as follows:

(a) If the court finds that the minor is a person described by Section 300, it may, without adjudicating the minor a dependent child of the court, order that services be provided to keep the family together and place the minor and the minor's parent or guardian under the supervision of the probation officer for a time period consistent with Section 330.

(b) If the family subsequently is unable or unwilling to cooperate with the services being provided, the probation officer may file a petition with the juvenile court pursuant to Section 332 alleging that a previous petition has been sustained and that disposition pursuant to subdivision (a) has been ineffective in ameliorating the situation requiring the child welfare services. Upon hearing the petition, the court shall order either that the petition shall be dismissed or that a new disposition hearing shall be held pursuant to subdivision (c).

(c) If the court finds that the minor is a person described by Section 300, it may order and adjudge the minor to be a dependent child of the court.

(Added Stats 1976 ch 1068; amended Stats 1984 ch 160, effective 9/30/84)

360.5. Demonstration county. After receiving and considering the evidence on the proper disposition of the case, the juvenile court of a demonstration county may enter judgment as follows:

(a) If the court has found that the minor is a person described in Section 300, it may without adjudging such minor a dependent child of the court, order that services be provided to keep the family together and place the minor and his parents or guardians under the supervision of the probation officer or social worker in a county welfare department designated pursuant to Section 272 for a period not to exceed six months.

(b) If the court has found that the minor is a person described by Section 300, it may order and adjudge the minor to be a dependent child of the court.

(Added Stats 1977 ch 21, effective 4/6/77)

361. Limitation of control by parents. (a) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a

person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all such limitations. The limitations shall not exceed those necessary to protect the child.

(b) No dependent child shall be taken from the physical custody of his or her parents or guardian or guardians with whom the child resides at the time the petition was initiated unless the juvenile court finds clear and convincing evidence of any of the following:

(1) There is a substantial danger to the physical health of the minor or would be if the minor was returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parents' or guardians' physical custody. The fact that a minor has been adjudicated a dependent child of the court pursuant to subdivision (e) of Section 300 shall constitute prima facie evidence that the minor cannot be safely left in the custody of the parent of guardian with whom the minor resided at the time of injury.

(2) The parent or guardian of the minor is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period specified in Section 366.25 or 366.26, the minor may be declared permanently free from their custody and control.

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the physical custody of his or her parent or guardian.

(4) The minor has been sexually abused by a parent, guardian, or member of his or her household or other person known to his or her parent and there are no reasonable means by which the minor can be protected from further sexual abuse without removing the minor from his or her parent or guardian or the minor does not wish to return to his or her parent or guardian.

(5) The minor has been left without any provision for his or her support, or a parent who has been incarcerated or institutionalized cannot arrange for the care of the minor, or a relative or other adult custodian with whom the child has been left by the parent is unwilling or unable to provide care or support for the child and the whereabouts of the parent is unknown and reasonable efforts to locate him or her have been unsuccessful.

(c) The court shall make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the minor from his or her home or, if the minor is removed for one of the reasons stated in paragraph (5) of subdivision (b), whether it was reasonable under the circumstances not to make any such efforts. The court shall state the facts on which the decision to remove the minor is based.

(d) The court shall make all of the findings required by subdivision (a) of Section 366 in either of the following circumstances:

(1) The minor has been taken from the custody of his or her parents or guardians and has been living in an out-of-home placement pursuant to Section 319.

(2) The minor has been living in a voluntary out-of-home placement pursuant to Section 16507.4.

(Added Stats 1976 ch 1068; most recently amended Stats 1987 ch 1485)

361.2. Conditions of placement. (a) When a court orders removal of a minor pursuant to Section 361, the court shall first determine whether there is a parent of the minor, with whom the minor was not residing at the time that the events or conditions arose that brought the minor within the provisions of Section 300, who desires to assume custody of the minor. If such a parent requests custody the court shall place the minor with the parent unless it finds that placement with that parent would be detrimental to the minor. If the court places the minor with such a parent it may do either of the following:

(1) Order that such parent become legal and physical custodian of the child. The court may also provide reasonable visitation by the noncustodial parent. The court shall then terminate its jurisdiction over the minor. The custody order shall continue unless modified by a subsequent order of the superior court. The order of the juvenile court shall be filed in any domestic relation proceeding between the parents.

(2) Order that the parent assume custody subject to the supervision of the juvenile court. In such a case the court may order that reunification services be provided to the parent or guardian from whom the minor is being removed, or the court may order that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court supervision, or that services be provided to both parents, in which case the court shall determine, at review hearings held pursuant to Section 366, which parent, if either, shall have custody of the minor.

(b) When the court orders removal pursuant to Section 361, the court shall order the care, custody, control, and conduct of the minor to be under the supervision of the probation officer who may place the minor in any of the following:

(1) The home of a relative, including a noncustodial parent.

(2) A foster home in which the child has been placed before an interruption in foster care, if that placement is in the best interest of the child and space is available.

(3) A suitable licensed community care facility.

(4) With a foster family agency to be placed in a suitable licensed foster family home or certified family home which has been certified by the agency as meeting licensing standards.

(5) A home or facility in accordance with the federal Indian Child Welfare Act.

(c) If the minor is taken from the physical custody of the minor's parents or guardians and unless the minor is placed with relatives, the minor shall be placed in foster care in the county of residence of the minor's parents or guardians in order to facilitate reunification of the family.

In the event that there are no appropriate placements available in the parents' or guardians' county, a placement may be made in an appropriate place in another county, preferably a county located adjacent to the parents' or guardians' community of residence.

Nothing in this section shall be interpreted as requiring multiple disruptions of the minor's placement corresponding to frequent changes of residence by the parents or guardians. In determining whether the minor should be moved, the probation officer will take into consideration the potential harmful effects of disrupting the placement of the minor and the parents' or guardians' reason for the move.

(d) Whenever the probation officer must change the placement of the minor and is unable to find a suitable placement within the county and must place the minor outside the county, no such placement shall be made until he or she has served written notice on the parents or guardians at least 14 days prior to the placement, unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given. The notice shall state the reasons which require placement outside the county. The parents or guardians may object to the placement not later than seven days after receipt of the notice and, upon objection the court shall hold a hearing not later than five days after the objection and prior to the placement. The court shall order out-of-county placement if it finds that the minor's particular needs require placement outside the county.

(e) Where the court has ordered a minor placed under the supervision of the probation officer and the probation officer has found that the needs of the child cannot be met in any available licensed or exempt facility, including emergency shelter, the minor may be placed in a suitable family home that has filed a license application with the State Department of Social Services, if all of the following certification conditions are met:

(1) A preplacement home visit is made by the probation officer to determine the suitability of the family home.

(2) The probation officer verifies to the licensing agency in writing that the home lacks any deficiencies which would threaten the physical health, mental health, safety, or welfare of the minor.

(3) The probation officer notifies the licensing agency of the proposed placement and determines that the foster family home applicant has filed specific license application documents prior to and after the placement of the minor. If the license is subsequently denied, the minor shall be removed from the home immediately. The denial of the license constitutes a withdrawal of the certification.

(f) Where the court has ordered removal of the child from the physical custody of his or her parents pursuant to Section 361, the court shall consider whether the family ties and best interest of the minor will be served by granting visitation rights to the minor's grandparents. The court shall clearly specify those rights to the supervising probation officer.

(Added Stats 1986 ch 1122; amended Stats 1987 ch 1022)

361.3. Placement with relative. (a) In any case in which a child is removed from the physical custody of his or her parents pursuant to Section 361, preferential consideration shall be given to a request by a relative of the child for placement of the child with the relative. In determining whether such a placement is appropriate, the probation officer and court shall consider the ability of the relative to provide a secure and stable environment for the child. Factors

to be considered in that assessment include, but are not limited to, the good moral character of the relative; the ability of the relative to exercise proper and effective care and control of the child; the ability of the relative to provide a home and the necessities of life for the child; which relative is most likely to protect the child from his or her parents; which relative is most likely to facilitate visitation with the child's other relatives and to facilitate reunification efforts with the parents; and the best interests of the child. In this regard, the Legislature declares that a physical disability, such as blindness or deafness, is no bar to the raising of children, and a probation officer's determination as to the ability of a disabled relative to exercise care and control should center upon whether the relative's disability prevents him or her from exercising care and control.

(b) In any case in which more than one appropriate relative requests preferential consideration pursuant to this section, the probation officer and the court, in determining which relative should receive preferential consideration, shall consider the best interests of the child, and which of the relatives is most likely to protect the child from his or her parents, to facilitate visitation with the child's other relatives, and to facilitate reunification efforts with the parents. Consideration shall also be given to attempting to place siblings and stepsiblings in the same home if such a placement is found to be in their best interests.

(c) For purposes of this section:

(1) "Preferential consideration" means that the relative seeking placement shall be the first placement to be considered and investigated.

(2) "Relative" means an adult who is a grandparent, aunt, uncle, or sibling.

(Added Stats 1986 ch 640; most recently amended by Stats 1989 ch 913)

361.5. Non-unification. (a) Except as provided in subdivision (b), whenever a minor is removed from a parent's or guardian's custody, the juvenile court shall order the probation officer to provide child welfare services to the minor and the minor's parents or guardians for the purpose of facilitating reunification of the family within a maximum time period not to exceed 12 months. The court also shall make findings pursuant to subdivision (a) of Section 366. When counseling or other treatment services are ordered, the parent shall be ordered to participate in those services, unless the parent's participation is deemed by the court to be inappropriate or potentially detrimental to the child. Services may be extended up to an additional six months if it can be shown that the objectives of the service plan can be achieved within the extended time period. Physical custody of the minor by the parents or guardians during the 18-month period shall not serve to interrupt the running of the period.

Except in cases where, pursuant to subdivision (b), the court does not order reunification services, the court shall inform the parent or parents of the provision of Section 366.25 or 366.26 and shall specify that the parent's or parents' parental rights may be terminated.

(b) Reunification services need not be provided to a parent described in this subdivision when the court finds, by clear and convincing evidence, any of the following:

(1) That the whereabouts of the parents is unknown. A finding pursuant to this paragraph shall be supported by an affidavit or by proof that a reasonably diligent search has failed to locate the parent. The posting or publication of notices is not required in such a search.

(2) That the parent is suffering from a mental disability that is described in Section 232 of the Civil Code and that renders him or her incapable of utilizing those services.

(3) That the minor had been previously adjudicated a dependent pursuant to any subdivision of Section 300 as a result of physical or sexual abuse, that following that adjudication the minor had been removed from the custody of his or her parent or guardian pursuant to Section 361, that the minor has been returned to the custody of the parent or parents, guardian, or guardians from whom the minor had been taken originally, and that the minor is being removed pursuant to Section 361, due to additional physical or sexual abuse. However, this section is not applicable if the jurisdiction of the juvenile court has been dismissed prior to the additional abuse.

(4) That the parent of the minor has been convicted of causing the death of another child through abuse or neglect.

(5) That the minor was brought within the jurisdiction of the court under subdivision (e) of Section 300 because of the conduct of that parent.

(c) In deciding whether to order reunification in any case in which this section applies, the court shall hold a dispositional hearing. The probation officer shall prepare a report which discusses whether reunification services shall be provided. When it is alleged, pursuant to paragraph (2) of subdivision (b), that the parent is incapable of utilizing services due to mental disability, the court shall order reunification services unless competent evidence from mental health professionals establishes that, even with the provision of services, the parent is unlikely to be capable of adequately caring for the child within 12 months.

When paragraph (3), (4), or (5), inclusive, of subdivision (b) is applicable, the court shall not order reunification unless it finds that, based on competent testimony, those services are likely to prevent reabuse or continued neglect of the child or that failure to try reunification will be detrimental to the child because the child is closely and positively attached to that parent. The probation officer shall investigate the circumstances leading to the removal of the minor and advise the court whether there are circumstances which indicate that reunification is likely to be successful or unsuccessful and whether failure to order reunification is likely to be detrimental to the child.

The failure of the parent to respond to previous services, the fact that the child was abused while the parent was under the influence of drugs or alcohol, a past history of violent behavior, or testimony by a competent professional that the parent's behavior is unlikely to be changed by services are among the factors indicating that reunification services are unlikely to be successful. The fact that a parent or guardian is no longer living with an individual who severely abused the minor may be considered in deciding that reunification services are likely to be successful, provided that the court shall consider any pattern of behavior on the part of the parent that has exposed the child to repeated abuse.

(d) If reunification services are not ordered pursuant to paragraph (1) of subdivision (b) and the whereabouts of a parent become known within six

months of the out-of-home placement of the minor, the court shall order the probation officer to provide family reunification services in accordance with this subdivision. However, the time limits specified in subdivision (a) and Section 365.25 are not tolled by the parent's absence.

(e) If the parent or guardian is incarcerated or institutionalized, the court shall order reasonable services unless the court determines those services would be detrimental to the minor. In determining detriment, the court shall consider the age of child, the degree of parent-child bonding, the length of the sentence, the nature of the treatment, the nature of crime or illness, the degree of detriment to the child if services are not offered and, for minors 10 years of age or older, the minor's attitude toward the implementation of family reunification services, and any other appropriate factors. Services may include, but shall not be limited to, all of the following:

(1) Maintaining contact between parent and child through collect phone calls.

(2) Transportation services, where appropriate.

(3) Visitation services, where appropriate.

(4) Reasonable services to extended family members or foster parents providing care for the child if the services are not detrimental to the child.

An incarcerated parent may be required to attend counseling, parenting classes, or vocational training programs as part of the service plan if these programs are available.

(f) If a court, pursuant to paragraph (2), (3), (4), or (5) of subdivision (b), does not order reunification services, it shall conduct a hearing pursuant to Section 366.25 or 366.26 within 120 days of the dispositional hearing. The court may continue to permit the parent to visit the minor unless it finds that visitation would be detrimental to the minor.

(g) Whenever a court orders that a hearing shall be held pursuant to Section 366.25 or 366.26 it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties which are not served by a county adoption agency, to prepare an assessment which shall include:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount of and nature of any contact between the minor and his or her parents since the time of placement.

(3) An evaluation of the minor's medical, developmental, scholastic, mental, and emotional status.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the minor's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship.

(5) The relationship of the minor to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the minor, if the minor is 10 years of age or older, concerning placement and the adoption or guardianship.

(6) An analysis of the likeihood that the minor will be adopted if parental rights are terminated.

(Added Stats 1986 ch 1122; most recently amended Stats 1989 ch 913)

362. Order of the court. (a) When a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the minor, including medical treatment, subject to further order of the court.

(b) When a minor is adjudged a dependent child of the court, on the ground that the minor is a person described by Section 300 and the court orders that a parent or guardian shall retain custody of the minor subject to the supervision of the probation officer, the parents or guardians shall be required to participate in child welfare services or services provided by an appropriate agency designated by the court.

(c) The juvenile court may direct any and all reasonable orders to the parents or guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out the provisions of this section, including orders to appear before a county financial evaluation officer. Such an order may include a direction to participate in a counseling or education program, including, but not limited to, a parent education and parenting program operated by a community college, school district, or other appropriate agency designated by the court. A foster parent or relative with whom the minor is placed may be directed to participate in such a program in cases in which the court deems participation is appropriate and in the child's best interest. The program in which a parent or guardian is required to participate shall be designed to eliminate those conditions that led to the court's finding that the minor is a person described by Section 300.

(Added Stats 1976 ch 1070; most recently amended Stats 1986 ch 1120, effective 9/24/86)

362.1. Visitations. In order to maintain ties between the parent and minor, and to provide information relevant to deciding if, and when, to return a minor to the custody of his or her parent or guardian, every order placing a minor in foster care, and ordering reunification services, shall provide for visitation between the parent or guardian and the minor. Visitation shall be as frequent as possible, consistent with the well-being of the minor.

(Added Stats 1986 ch 1122)

362.3. Citation directing parent or guardian to appear. In addition to the notice provided in Sections 332 and 335, the juvenile court may issue its citation directing any parent, guardian, or foster parent of the person concerning whom a petition has been filed to appear at the time and place set for any hearing under the provisions of this chapter, and directing any person having custody or control of the 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. Personal service of the citation shall be made at least 24 hours before the time stated therein for the appearance.

(Added Stats 1984 ch 162)

362.4. Termination of jurisdiction. When the juvenile court terminates its jurisdiction over a minor who has been adjudged a dependent child of the juvenile court prior to the minor's attainment of the age of 18 years, and proceedings for the declaration of the nullity or dissolution of the marriage, or for legal separation, of the minor's parents, or proceedings to establish the paternity of the minority child brought under the Uniform Parentage Act (Part 7 (commencing with Section 7000) of Division 4 of the Civil Code), are pending in the superior court of any county, or an order has been entered with regard to the custody of that minor, the juvenile court on its own motion, may issue an order directed to either of the parents enjoining any action specified in paragraph (2) or (3) of subdivision (a) of Section 4359 of the Civil Code or determining the custody of, or visitation with, the child.

Any order issued pursuant to this section shall continue until modified or terminated by a subsequent order of the superior court. The order of the juvenile court shall be filed in the proceeding for nullity, dissolution, or legal separation, or in the proceedings to establish paternity, at the time the juvenile court terminates its jurisdiction over the minor, and shall become a part thereof.

If no action is filed or pending relating to the custody of the minor in the superior court of any county, the juvenile court order may be used as the sole basis for opening a file in the superior court of the county in which the parent, who has been given custody, resides. The court may direct the parent or the clerk of the juvenile court to transmit the order to the clerk of the superior court of the county in which the order is to be filed. The clerk of the superior court shall, immediately, upon receipt, open a file, without a filing fee, and assign a case number.

The clerk of the superior court shall, upon the filing of any juvenile court custody order, send by first-class mail a copy of the order with the case number to the juvenile court and to the parents at the address listed on the order.

The Judicial Council shall adopt forms for any custody or restraining order issued under this section. These form orders shall not be confidential.

(Added Stats 1984 ch 813; most recently amended Stats 1989 ch 137)

362.5. Demonstration county. When a minor is adjudged a dependent child of the juvenile court of a demonstration county, on the ground that he is a person described by Section 300 or 302, the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of such minor, including medical treatment, subject to further order of the court.

The court may order the care, custody, control and conduct of such minor to be under the supervision of the probation officer or social worker in a county welfare department of a demonstration county designated pursuant to Section 272 or, if the minor is removed from the custody of his parents or guardians pursuant to Section 361.5, the court may commit such minor to the care, custody and control of:

(a) Some reputable person of good moral character who consents to such commitment.

(b) Some association, society, or corporation embracing within its objects the purpose of caring for such minors, with the consent of such association, society, or corporation.

(c) The probation officer or social worker, to be boarded out or placed in some suitable family home or suitable private institution, subject to the requirements of Chapter 2 (commencing with Section 1250) or Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code; provided, however, that pending action by the State Department of Social Services, the placement of a minor in a home certified as meeting minimum standards for boarding homes by the probation officer or social worker shall be legal for all purposes.

(d) Any other public agency organized to provide care for needy or neglected children.

When a minor is adjudged a dependent child of the court, on the ground that he is a person described by Section 300 and the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer or social worker, the parent or guardian may be required, and may be ordered, to participate in a counseling program designated by the court. When a minor is adjudged a dependent child of the court on the ground that he is a person described by subdivision (d) of Section 300 and the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer or social worker, the parent or guardian shall be required to participate in a counseling program designated by the court.

(Added Stats 1977 ch 21; amended Stats 1978 ch 429, effective 7/17/78)

363. Reduction of public assistance. If the parent or person legally responsible for the care of any minor who is found to be a person described in Section 300 receives public assistance or care, any portion of which is attributable to the minor, a copy of the order of the court providing for the removal of the minor from his or her home shall be furnished to the appropriate social services official, who shall reduce the public assistance and care furnished the parent or other person by the amount attributable to the minor.

(Added Stats 1976 ch 1068; amended Stats 1988 ch 701, eff. 8/29/88)

364. Continued supervision. (a) Every hearing in which an order is made placing a minor under the supervision of the juvenile court pursuant to Section 300 and in which the minor is not removed from the physical custody of his or her parent or guardian shall be continued to a specific future date not to exceed six months after the date of the original dispositional hearing. The continued hearing shall be placed on the appearance calendar. The court shall advise all persons present of the date of the future hearings, of their rights to be present, and to be represented by counsel.

(b) At least 10 calendar days prior to the hearing, the probation officer shall file a supplemental report with the court describing the services offered to the family and the progress made by the family in eliminating the conditions or factors requiring court supervision. The probation officer shall also make a recommendation regarding the necessity of continued supervision. A copy of this report shall be furnished to all parties at least 10 calendar days prior to the hearing.

(c) After hearing any evidence presented by the probation officer, the parent, the guardian, or the minor, the court shall determine whether continued

supervision is necessary. The court shall terminate its jurisdiction unless the probation department establishes by a preponderance of evidence that the conditions still exist which would justify initial assumption of jurisdiction under Section 300, or that such conditions are likely to exist if supervision is withdrawn. Failure of the parent or guardian to participate regularly in any court ordered treatment program shall constitute prima facie evidence that the conditions which justified initial assumption of jurisdiction still exist and that continued supervision is necessary.

(d) If the court retains jurisdiction it shall continue the matter to a specified date, not more than six months from the time of the hearing, at which point the court shall again follow the procedure specified in subdivision (c).

(e) In any case in which the court has ordered that a parent or guardian shall retain physical custody of a minor subject to supervision by a probation officer, and the probation officer subsequently receives a report of acts or circumstances which indicate that there is reasonable cause to believe that the minor is a person described in subdivision (a) (d), or (e) of Section 300, the probation officer shall commence proceedings under this chapter. If, as a result of the proceedings required, the court finds that the minor is a person described in subdivision (a), (d), or (e) of Section 300, the court shall remove the minor from the care, custody, and control of the minor's parent or guardian and shall commit the minor to the care, custody, and control of the probation officer pursuant to Section 361.

(Added Stats 1976 ch 1068; most recently amended stats 1989 ch 913)

365. Periodic reports to the court. The court may require the probation officer or any other agency to render such periodic reports concerning minors committed to its care, custody, and control under the provisions of Section 362 as the court may deem necessary or desirable. The court may require that the probation officer, or any other public agency organized to provide care for needy or neglected children, shall perform such visitation and make such periodic reports to the courts concerning minors committed under such provisions as the court may deem necessary or desirable.

(Added Stats 1976 ch 1068; amended Stats 1982 ch 978, effective 9/13/82, operative 7/1/82)

366. Subsequent review. (a) The status of every dependent child in foster care shall be reviewed periodically as determined by the court but no less frequently than once every six months, as calculated from the date of the original dispositional hearing, until the hearing described in Section 366.25 or 366.26 is completed. The court shall determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and shall project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship.

(b) Subsequent to the hearing periodic reviews of each child in foster care shall be conducted pursuant to the requirements of Sections 366.3 and 16503.

(Added Stats 1976 ch 1068; most recently amended Stats 1989 ch 913)

366.1. Content of Report. Each supplemental report required to be filed pursuant to Section 366 shall include, but not be limited to, a factual discussion of each of the following subjects:

(a) Whether the county welfare department or probation officer has considered child protective services, as defined in Chapter 5 (commencing with Section 16500) of Part 4 of Division 9, as a possible solution to the problems at hand, and has offered those services to qualified parents if appropriate under the circumstances.

(b) What plan, if any, for return of the child is recommended to the court by the county welfare department or probation officer.

(c) Whether the subject child appears to be a person who is eligible to be considered for further court action to free the child from parental custody and control.

(d) What actions, if any, have been taken by the parent to correct the problems which caused the child to be made a dependent child of the court.

(Added Stats 1980 ch 716; amended Stats 1987 ch 1485)

366.2. Review hearing. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing, of their right to be present and represented by counsel.

(b) Except as provided in Section 366.3, notice of the hearing shall be mailed by the probation officer to the same persons as in the original proceeding, to the minor's parent or guardian, to the foster parents, community care facility, or foster family agency having physical custody of the minor in the case of a minor removed from the physical custody of his or her parent or guardian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on those persons, not earlier than 30 days nor later than 15 days preceding the date to which the hearing was continued.

(c) At least 10 calendar days prior to the hearing the probation officer shall file a supplemental report with the court regarding the services offered to the family, the progress made, and, where relevant, the prognosis for return of the minor to the physical custody of his or her parent or guardian, and make his or her recommendation for disposition. The probation officer shall provide the parent or parents with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a minor removed from the physical custody of his or her parent or guardian, the probation officer shall provide a summary of his or her recommendation for disposition to the counsel for the minor, any court appointed child advocate, foster parents, community care facility, or foster family agency having the physical custody of the minor at least 10 calendar days before the hearing.

(d) Prior to any hearing involving a minor in the physical custody of a community care facility or foster family agency that may result in the return of the minor to the physical custody of his or her parent or guardian, or in adoption or the creation of a legal guardianship, the facility or agency shall file with the court a report containing its recommendation for disposition. Prior to any such hearing involving a minor in the physical custody of a foster parent, the foster

parent may file with the court a report containing its recommendation for disposition. The court shall consider any such report and recommendation prior to determining any disposition.

(e) The court shall proceed as follows at the review hearing: The court shall order the return of the minor to the physical custody of his or her parents or guardians unless, by a preponderance of the evidence, it finds that the return of the child would create a substantial risk of detriment to the physical or emotional well-being of the minor. The probation department shall have the burden of establishing that detriment. The failure of the parent or guardian to participate regularly in any court-ordered treatment programs shall constitute prima facie evidence that return would be detrimental. In making its determination, the court shall review the probation officer's report and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of services provided; shall make appropriate findings; and where relevant, shall order any additional services reasonably believed to facilitate the return of the minor to the custody of his or her parent or guardian. The court shall also inform the parent or guardian that if the minor cannot be returned home by the next review hearing, a proceeding pursuant to Section 232 of the Civil Code may be instituted. This section does not apply in a case where, pursuant to Section 361.5, the court has ordered that reunification services shall not be provided.

(f) This section shall apply only to minors made dependents of the court pursuant to subdivision (c) of Section 360 prior to January 1, 1989.

(Added Stats 1982 ch 978; most recently amended Stats 1987 ch 1485)

366.21. Hearing procedures. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing, of their right to be present and represented by counsel.

(b) Except as provided in Section 366.23 and subdivision (a) of Section 366.3, notice of the hearing shall be mailed by the probation officer to the same persons as in the original proceeding, to the minor's parent or guardian, to the foster parents, community care facility, or foster family agency having physical custody of the minor in the case of a minor removed from the physical custody of his or her parent or guardian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on those persons, not earlier than 30 days nor later than 15 days preceding the date to which the hearing was continued.

The notice shall contain a statement regarding the nature of the hearing to be held and any change in the custody or status of the minor being recommended by the supervising agency. The notice to the foster parent shall indicate that the foster parent may attend all hearings or may submit any information he or she deems relevant to the court in writing.

(c) At least 10 calendar days prior to the hearing the probation officer shall file a supplemental report with the court regarding the services provided or offered to the parents to enable them to assume custody, the progress made, and, where relevant, the prognosis for return of the minor to the physical custody of his or her

parent or guardian, and make his or her recommendation for disposition. If the recommendation is not to return the minor to a parent, the report shall specify why the return of the minor would be detrimental to the minor. The probation officer shall provide the parent or parents with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a minor removed from the physical custody of his or her parent or guardian, the probation officer shall provide a summary of his or her recommendation for disposition to the counsel for the minor, any court appointed child advocate, foster parents, community care facility, or foster family agency having the physical custody of the minor at least 10 calendar days before the hearing.

(d) Prior to any hearing involving a minor in the physical custody of a community care facility or foster family agency that may result in the return of the minor to the physical custody of his or her parent or guardian, or in adoption or the creation of a legal guardianship, the facility or agency shall file with the court a report containing its recommendation for disposition. Prior to any such hearing involving a minor in the physical custody of a foster parent, the foster parent may file with the court a report containing its recommendation for disposition. The court shall consider any such report and recommendation prior to determining any disposition.

(e) At the review hearing held six months after the initial dispositional hearing, the court shall order the return of the minor to the physical custody of his or her parents or guardians unless, by a preponderance of the evidence, it finds that the return of the child would create a substantial risk of detriment to the physical or emotional well-being of the minor. The probation department shall have the burden of establishing that detriment. The failure of the parent or guardian to participate regularly in any court-ordered treatment programs shall constitute prima facie evidence that return would be detrimental. In making its determination, the court shall review the probation officer's report, shall review and consider the report and recommendations of any child advocate appointed pursuant to Section 356.5, and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of services provided; shall make appropriate findings pursuant to subdivision (a) of Section 366; and where relevant, shall order any additional services reasonably believed to facilitate the return of the minor to the custody of his or her parent or guardian. The court shall also inform the parent or guardian that if the minor cannot be returned home by the next review hearing, a proceeding pursuant to Section 366.26 may be instituted. This section does not apply in a case where, pursuant to Section 361.5, the court has ordered that reunification services shall not be provided.

If the minor was removed initially under subdivision (g) of Section 300 and the court finds by clear and convincing evidence that the whereabouts of the parent are still unknown, or the parent has failed to contact and visit the child, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If the court finds by clear and convincing evidence that the parent has been convicted of a felony indicating parental unfitness, the court may schedule a hearing pursuant to Section 336.26 within 120 days.

If the minor had been placed under court supervision with a previously noncustodial parent pursuant to Section 361.2, the court shall determine whether supervision is still necessary. The court may terminate supervision and transfer permanent custody to that parent, as provided for by paragraph (1) of subdivision (a) of Section 361.2.

In all other cases, the court shall direct that any reunification services previously ordered shall continue to be offered to the parent or guardian, provided that the court may modify the terms and conditions of those services. If the child is not returned to his or her parent or parents, the court shall determine whether reasonable services have been provided or offered to the parent or parents which were designed to aid the parent or parents overcome the problems which led to the initial removal and the continued custody of the minor. The court shall order that those services be initiated or continued.

(f) At the review hearing held 12 months after the initial dispositional hearing, the court shall order the return of the minor to the physical custody of his or her parent or guardian unless, by a preponderance of the evidence, it finds that return of the child would create a substantial risk or detriment to the physical or emotional well-being of the minor. The probation department shall have the burden of establishing that detriment. The court shall also determine whether reasonable services have been provided or offered to the parent or parents which were designed to aid the parent or parents to overcome the problems which led to the initial removal and continued custody of the minor. The failure of the parent or guardian to participate regularly in any court-ordered treatment programs shall constitute prima facie evidence that return would be detrimental. In making its determination, the court shall review the probation officer's report and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of services provided. If the minor is not returned to a parent or guardian, the court shall specify the factual basis for its conclusion that return would be detrimental. The court also shall make a finding pursuant to subdivision (a) of Section 366.

(g) If a minor is not returned to the custody of a parent or guardian at the hearing held pursuant to subdivision (f), the court shall do one of the following:

(1) Continue the case for up to six months for another review hearing, provided that the hearing shall occur within 18 months of the date the child was originally taken from the physical custody of his or her parent or guardian. The court shall continue the case only if it finds that there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months or that reasonable services have not been provided to the parent or parents. The court shall inform the parent or guardian that if the minor cannot be returned home by the next review hearing, a permanent plan shall be developed at that hearing. The court shall not order that a hearing pursuant to Section 366.26 be held unless there is clear and convincing evidence that reasonable services have been provided or offered to the parents.

(2) Order that the minor remain in long-term foster care, if the court finds by clear and convincing evidence, based upon the evidence already presented to it, that the minor is not adoptable and has no one willing to accept legal guardianship.

(3) Order that a hearing be held within 120 days, pursuant to Section 366.26.

(h) In any case in which the court orders that a hearing pursuant to Section 366.26 shall be held, it shall also order the termination of reunification services to the parent. The court shall continue to permit the parent to visit the minor pending the hearing unless it finds that visitation would be detrimental to the minor.

(i) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties which are not served by a county adoption agency, to prepare an assessment which shall include:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount of and nature of any contact between the minor and his or her parents since the time of placement.

(3) An evaluation of the minor's medical, developmental, scholastic, mental, and emotional status.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the minor's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship.

(5) The relationship of the minor to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the minor, if the minor is 10 years of age or older, concerning placement and the adoption or guardianship.

(6) An analysis of the likelihood that the minor will be adopted if parental rights are terminated.

(j) This section shall apply to minors made dependents of the court pursuant to subdivision (c) of Section 360 on or after January 1, 1989.

(Added Stats 1987 ch 1485; most recently amended Stats 1989 ch 913)

366.22. Return to parental custody. (a) When a case has been continued pursuant to paragraph (1) of subdivision (g) of Section 366.21, the court, at the 18-month hearing, shall order the return of the minor to the physical custody of his or her parent or guardian unless, by a preponderance of the evidence, it finds that return of the child would create a substantial risk of detriment to the physical or emotional well-being of the minor. The probation department shall have the burden of establishing the detriment. The failure of the parent or guardian to participate regularly in any court-ordered treatment programs shall constitute prima facie evidence that return would be detrimental. In making its determination, the court shall review the probation officer's report and shall review and consider the report and recommendations of any child advocate appointed pursuant to Section 356.6 and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of services provided. If the minor is not

returned to a parent or guardian, the court shall specify the factual basis for its conclusion that return would be detrimental.

If the minor is not returned to a parent or guardian at the 18-month hearing and the court determines that reasonable services have been offered or provided to the parent or guardian, the court shall develop a permanent plan. The court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, guardianship, or long-term foster care is the most appropriate plan for the minor. However, if the court finds by clear and convincing evidence, based on the evidence already presented to it that the minor is not adoptable and has no one willing to accept legal guardianship, the court may order that the minor remain in long-term foster care. The hearing shall be held no later than 120 days from the date of the 18-month hearing. The court shall also order termination of reunification services to the parent. The court shall continue to permit the parent to visit the minor unless it finds that visitation would be detrimental to the minor.

(b) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties which are not served by a county adoption agency, to prepare an assessment which shall include:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount of and nature of any contact between the minor and his or her parents since the time of placement.

(3) An evaluation of the minor's medical, developmental, scholastic, mental, and emotional status.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the minor's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship.

(5) The relationship of the minor to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the minor, if the minor is 10 years of age or older, concerning placement and the adoption or guardianship.

(6) An analysis of the likelihood that the minor will be adopted if parental rights are terminated.

(Added Stats 1987 ch 1485; most recently amended Stats 1989 ch 913)

366.23. Notice of hearing. (a) Whenever a juvenile court schedules a hearing pursuant to Section 366.26 regarding a minor, it shall direct that the fathers, presumed and alleged, and mother of the minor, the minor, if 10 years of age or older, and any counsel of record, shall be notified of the time and place of the proceedings and advised that they may appear. The notice shall also advise them of the right to counsel, the nature of the proceedings, and the requirement that at the proceedings the court shall select and implement a plan of adoption, legal guardianship, or long-term foster care for the minor. In all cases, where a

parent has relinquished his or her child for the purpose of adoption, no notice need be given to that parent. Service of the notice shall be completed at least 45 days before the date of the hearing, except in those cases where notice by publication is ordered in which case the service of the notice shall be completed at least 30 days before the date of the hearing. If the petitioner is recommending termination of parental rights, all persons entitled to receive notice shall also be notified by first-class mail of the recommendation at least 15 days before the scheduled hearing.

(b) Notice to the parent of the hearing may be given in any of the following manners:

(1) Personal service to the parent named in the notice.

(2) Delivery to a competent person who is at least 18 years of age at the parent's usual place of residence or business, and thereafter mailed to the parent named in the notice by first-class mail at the place where the notice was delivered.

(3) If the place of residence is outside the state, service may be made in the manner prescribed in paragraph (1) or (2), or by certified mail, return receipt requested.

(4) If the recommendation of the petitioner is limited to legal guardianship or long-term foster care, service may be made by first-class mail to the parent's usual place of residence or business.

(5) If the father or mother of the minor or any person alleged to be or claiming to be the father or mother cannot, with reasonable diligence, be served as provided for in paragaph (1), (2), (3), or (4) or if his or her place of residence is not known, the probation officer shall file an affidavit with the court at least 75 days before the date of the hearing, stating the name of the father or mother or alleged father or mother and his or her place of residence, if known, setting forth the efforts that have been made to locate and serve the parent.

(A) If the court determines that there has been due diligence in attempting to locate and serve the parent, and the petitioner limits the recommendation to legal guardianship or long-term foster care, the court shall order that notice be given to the grandparents of the minor, if there are any and if their residences and relationships to the minor are known, by first-class mail of the time and place of the proceedings and that they may appear. In any case where the residence of the parent or alleged parent becomes known, notice shall immediately be served upon the parent or alleged parent as set forth in paragraph (1), (2), (3), or (4).

(B) If the court determines that there has been due diligence in attempting to locate and serve the parent and the petitioner does not limit the recommendation to legal guardianship or long-term foster care, the court shall order that service to the parent be by certified mail, return receipt requested, to the parent's counsel of record, if any. If the parent does not have counsel of record, the court shall order that the service be made by publication of a citation requiring the father or mother, or alleged father or mother, to appear at the time and place stated in the citation, and that the citation be published in a newspaper designated as most likely to give notice to the father or mother. Publication shall be made once a week for four successive weeks. In case of service by certified mail on the counsel of record or publication where the residence of a parent or alleged parent becomes known, notice shall immediately be served upon the

parent or alleged parent as set forth in paragraph (1), (2), or (3). When service by certified mail on the counsel of record or publication is ordered, service of a copy of the notice in the manner provided for in paragraph (1), (2), or (3) is equivalent to service by certified mail on the counsel of record or publication. In any case where service by certified mail on the counsel of record or publication is ordered, the court shall also order that notice be given to the grandparents of the minor, if there are any and if their residences and relationships to the minor are known, by first-class mail of the time and place of the proceedings and that they may appear.

If the identify of one or both of the parents or alleged parents of the minor is unknown or if the name of either or both of his or her parents or alleged parents is uncertain, then that fact shall be set forth in the affidavit and the court, if ordering publication, shall order the published citation to be directed to either the father or the mother, or both, of the minor, and to all persons claiming to be the father or mother of the minor naming and otherwise describing the minor.

(6) Notwithstanding paragraphs (1) to (5), inclusive, if the parent is present at the hearing at which the court schedules a hearing pursuant to Section 366.26 regarding the minor, the court shall advise the parent of the time and place of the proceedings, their right to counsel, the nature of the proceedings, and the requirement that at the proceedings the court select and implement a plan of adoption, legal guardianship, or long-term foster care for the minor. The court shall order the parent to appear for the proceedings and then direct that the parent be noticed thereafter by first-class mail to the parent's usual place of residence or business only.

(7) Notwithstanding paragraphs (1) to (5), inclusive, whenever the whereabouts of a parent is not known at the time the court schedules a hearing pursuant to Section 366.26 regarding a minor, and the petitioner presents to the court an affidavit setting forth the name of the parent and the efforts that have been made to locate the parent, the court shall order that the notice for the parent be as set forth in subparagraph (A) or (B) of paragraph (5).

(c) Notice to the minor, if 10 years of age or older, and to any counsel of record, of the hearing shall be by first-class mail.

(d) Service is deemed complete at the time the notice is personally delivered to the party named in the notice, or 10 days after the notice has been placed in the mail, or at the expiration of the time prescribed by the order for publication, whichever occurs first.

(Added Stats 1987 ch 1485; amended Stats 1989 ch 913)

366.25. Permanency Planning Hearing. (a) In order to provide stable, permanent homes for children, a court shall, if the minor cannot be returned home pursuant to subdivision (e) of Section 366.2, conduct a hearing to make a determination regarding the future status of the minor no later than 12 months after the original dispositional hearing in which the child was removed from the custody of his or her parent, parents, or guardians, and in no case later than 18 months from the time of the minor's original placement pursuant to Section 319 or 16507.4 and periodically, but no less frequently than once each 18 months, thereafter during the continuation of foster care. The hearing may be combined with the six months' review as provided for in Section 366. In the case of a minor

who comes within subdivision (b) of Section 361.5 and for whom the court has found that reunification services should not be provided, a hearing shall be held pursuant to Section 361.5.

(b) Notice of the proceeding to conduct the review shall be mailed by the probation officer to the same persons as in an original proceeding, to the minor's present custodian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on those persons not earlier than 30 days, nor later than 15 days prior to the date the review is to be conducted.

(c) Except in cases where permanency planning is conducted pursuant to Section 361.5, the court shall first determine at the hearing whether the minor should be returned to his or her parent or guardian, pursuant to subdivision (e) of Section 366.2. If the minor is not returned to the custody of his or her parent or guardian the court shall determine whether there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months. If the court so determines it shall set another review hearing for not more than six months, which shall be a hearing pursuant to this section.

(d) If the court determines that the minor cannot be returned to the physical custody of his or her parent or guardian and that there is not a substantial probability that the minor will be returned within six months, the court shall develop a permanent plan for the minor. In order to enable the minor to obtain a permanent home the court shall make the following determinations and orders:

(1) If the court finds that it is likely that the minor can or will be adopted, the court shall authorize the appropriate county or state agency to proceed to free the minor from the custody and control of his or her parents or guardians pursuant to Section 232 of the Civil Code unless the court finds that any of the following conditions exist:

(A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing this relationship.

(B) A minor 10 years of age or older objects to termination of parental rights.

(C) The minor's foster parents, including relative caretakers, are unable to adopt the minor because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the minor, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the minor.

(2) If the court finds that it is not likely that the minor can or will be adopted or that one of the conditions in subparagraph (A), (B), or (C) of paragraph (1) applies, the court shall order the appropriate county department to initiate or facilitate the placement of the minor in a home environment that can be reasonably expected to be stable and permanent. This may be accomplished by initiating legal guardianship proceedings or long-term foster care. Legal guardianship shall be considered before long-term foster care, if it is in the best interests of the child and if a suitable guardian can be found. When the minor is in a foster home and the foster parents, including relative caretakers, are willing and capable of providing a stable and permanent environment, the minor shall not be removed from the home if the removal would be seriously detrimental to

the emotional well-being of the minor because the minor has substantial psychological ties to the foster parents. The court shall also make orders for visitation with the parents or guardians unless the court finds by a preponderance of evidence that the visitation would be detrimental to the physical or emotional well-being of the minor.

(3) (A) If the court finds that it is not likely that the minor can or will be adopted, that there is no suitable adult available to become the legal guardian of the minor, and that there are no suitable foster parents except certified homes available to provide the minor with a stable and permanent environment, the court may order the care, custody, and control of the minor transferred from the county welfare department or probation department to a licensed foster family agency. The court shall consider the written recommendation of the county welfare director or chief probation officer regarding the suitability of such a transfer. The transfer shall be subject to further court orders.

(B) The licensed foster family agency shall only use a suitable licensed or other family home which has been certified by the agency as meeting licensing standards. When the care, custody, and control has been transferred to a foster family agency, it shall be responsible for supporting the minor and for providing appropriate services to the minor, including those services ordered by the court. Responsibility for support of the minor shall not in and of itself create liability on the part of the foster family agency to third persons injured by the minor. Those minors whose care, custody, and control are transferred to a foster family agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

(C) Subsequent reviews for these minors shall be conducted every six months by the court. The licensed foster family agency shall be required to submit reports for each minor in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the minor's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the minor.

(e) The proceeding for the appointment of a guardian for a minor who is a dependent child of the juvenile court shall be in the juvenile court. The court shall receive into evidence a report and recommendation concerning the proposed guardianship. The report shall include, but not be limited to, a discussion of all of the following:

(1) A social history of the proposed guardian, including screening for criminal records and prior referrals for child abuse or neglect.

(2) A social history of the minor, including an assessment of any identified developmental, emotional, psychological, or educational needs, and the capability of the proposed guardian to meet those needs.

(3) The relationship of the minor to the proposed guardian, the duration and character of the relationship, the motivation for seeking guardianship rather than adoption, the proposed guardian's long-term commitment to provide a stable and permanent home for the minor, and a statement from the minor concerning the proposed guardianship.

(4) The plan, if any, for the natural parents for continued involvement with the minor.

(5) The proposed guardian's understanding of the legal and financial rights and responsibilities of guardianship.

The report shall be read and considered by the court prior to ruling on the petition for guardianship, and this shall be reflected in the minutes of the court. The person preparing the report may be called and examined by any party to the proceeding.

(f) Physical custody of a minor by his or her parents or guardians for insubstantial periods during the 12-month period prior to a permanency planning hearing shall not serve to interrupt the running of those periods.

(g) Notwithstanding any other provision of law, the application of any person who, as a foster parent, including relative caretakers, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the foster parent and removal from the foster parent would be seriously detrimental to the child's well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

(h) Subsequent hearings need not be held if (1) the child has been freed for adoption and placed in the adoptive home identified in the previous permanency planning hearing and is awaiting finalization of the adoption or (2) the child is the ward of a guardian.

(i) This section applies to minors adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360 prior to January 1, 1989.

(j) An order by the court that authorizes the filing of a petition to terminate parental rights pursuant to Section 232 or that authorizes the initiation of guardianship proceedings is not an appealable order but may be the subject of review by extraordinary writ.

(Added Stats 1982 ch 978; most recently amended Stats 1989 ch 913)

366.26. Standards. (a) This section applies to minors who are adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360 on or after January 1, 1989. The procedures specified herein are the exclusive procedures for conducting these hearings; Section 4600 of the Civil Code is not applicable to these proceedings.

For minors who are adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360, this section and Sections 224, 224m, and 7017 of the Civil Code specify the exclusive procedures, after January 1, 1990, for permanently terminating parental rights with regard to, or establishing legal guardianship of, the minor while the minor is a dependent child of the juvenile court.

(b) At the hearing, which shall be held in juvenile court for all minors who are dependents of the juvenile court, the court, in order to provide stable, permanent homes for these minors, shall review the report as specified in Section 361.5,

366.21, or 366.22, shall indicate that the court has read and considered it, shall receive other evidence that the parties present, and then shall do one of the following:

(1) Permanently sever the parent or parents' rights and order that the child be placed for adoption.

(2) Without permanently terminating parental rights, identify adoption as the permanent placement goal and order that efforts be made to locate an appropriate adoptive family for the minor for a period not to exceed 60 days.

(3) Without permanently terminating parental rights, appoint a legal guardian for the minor and issue letters of guardianship.

(4) Order that the minor be placed in long-term foster care, subject to the regular review of the juvenile court.

In choosing among the above alternatives the court shall proceed pursuant to subdivision (c).

(c) At the hearing the court shall proceed pursuant to one of the following procedures:

(1) It shall terminate parental rights if it determines by clear and convincing evidence that it is likely that the minor will be adopted. The findings pursuant to subdivision (b) of Section 361.5 that reunification services shall not be offered, or the findings pursuant to subdivision (e) of Section 366.21 that the whereabouts of a parent have been unknown for six months or that the parent has failed to visit or contact the child for six months or that the parent has been convicted of a felony indicating parental unfitness, or pursuant to Section 366.21 or Section 366.22 that a minor cannot or should not be returned to his or her parent or guardian, are a sufficient basis for termination of parental rights unless the court finds that termination would be detrimental to the minor due to one of the following circumstances:

(A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing the relationship.

(B) A minor 10 years of age or older objects to termination of parental rights.

(C) The child is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent finding the child a permanent family placement if the parents cannot resume custody when residential care is no longer needed.

(D) The minor is living with a relative or foster parent who is unable or unwilling to adopt the minor because of exceptional circumstances, which do not include an unwillingness to accept legal responsibility for the minor, but who is willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her relative or foster parent would be detrimental to the emotional well-being of the minor.

(2) If the court finds that termination of parental rights would not be detrimental to the minor pursuant to paragraph (1) and that the minor has a probability for adoption but is difficult to place for adoption and there is no identified or available prospective adoptive parent, the court may identify adoption as the permanent placement goal and without terminating parental rights, order that efforts be made to locate an appropriate adoptive family for the minor for a period not to exceed 60 days. During this 60-day period, the public

agency responsible for seeking adoptive parents, for each child shall, to the extent possible, contact other private and public adoption agencies regarding the availability of the child for adoption. At the expiration of this period, another hearing shall be held and the court shall proceed pursuant to paragraph (1), (3), or (4) of subdivision (b). For purposes of this section, a minor may only be found to be difficult to place for adoption if there is no identified or available prospective adoptive parent for the minor because of the minor's membership in a sibling group, or the presence of a diagnosed medical, physical, or mental handicap, or the minor is the age of seven years or more.

(3) If the court finds that adoption of the minor or termination of parental rights is not in the interests of the minor, or that one of the conditions in subparagraph (A), (B), (C), or (D) of paragraph (1) applies, the court shall either order that the present caretakers or other appropriate persons shall become legal guardians of the minor or order that the minor remain in long-term foster care. Legal guardianship shall be considered before long-term foster care, if it is in the best interests of the child and if a suitable guardian can be found. When the minor is living with a relative or a foster parent who is willing and capable of providing a stable and permanent environment, but not willing to become a legal guardian, the minor shall not be removed from the home if the court finds the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the relative caretaker or foster parents. The court shall also make an order for visitation with the parents or guardians unless the court finds by a preponderance of the evidence that the visitation would be detrimental to the physical or emotional well-being of the minor.

(4) If the court finds that the child should not be placed for adoption and that legal guardianship shall not be established, and that there are no suitable foster parents except exclusive-use homes available to provide the minor with a stable and permanent environment, the court may order the care, custody, and control of the minor transferred from the county welfare department or probation department to a licensed foster family agency. The court shall consider the written recommendation of the county welfare director or chief probation officer regarding the suitability of such a transfer. The transfer shall be subject to further court orders.

The licensed foster family agency shall place the minor in a suitable licensed or exclusive-use home which has been certified by the agency as meeting licensing standards. The licensed foster family agency shall be responsible for supporting the minor and for providing appropriate services to the minor, including those services ordered the court. Responsibility for the support of the minor shall not, in and of itself, create liability on the part of the foster family agency to third persons injured by the minor. Those minors whose care, custody, and control are transferred to a foster family agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

(d) The proceeding for the appointment of a guardian for a minor who is a dependent of the juvenile court shall be in the juvenile court. If the court finds pursuant to this section that legal guardianship is the appropriate permanency plan, it shall appoint the legal guardian and issue letters of guardianship. The

assessment prepared pursuant to subdivision (g) of Section 361.5, subdivision (i) of Section 366.21, and subdivision (b) of Section 366.22 shall be read and considered by the court prior to the appointment, and this shall be reflected in the minutes of the court. The person preparing the assessment may be called and examined by any party to the proceeding.

(e) At the beginning of any proceeding pursuant to this section, if the minor or the parents are not being represented by previously retained or appointed counsel, the court shall proceed as follows:

(1) The court shall consider whether the interests of the minor require the appointment of counsel. If the court finds that the interests of the minor do require such protection, the court shall appoint counsel to represent the minor. If the court finds that the interests of the minor require the representation of counsel, counsel shall be appointed whether or not the minor is able to afford counsel. The minor shall not be present in court unless the minor so requests or the court so orders.

(2) If a parent appears without counsel and is unable to afford counsel, the court shall appoint counsel for the parent, unless this representation is knowingly and intelligently waived. The same counsel shall not be appointed to represent both the minor and his or her parent. The public defender or private counsel may be appointed as counsel for the parent.

(3) Private counsel appointed under this section shall receive a reasonable sum for compensation and expenses, the amount of which shall be determined by the court. The amount shall be paid by the real parties in interest, other than the minor, in such proportions as the court deems just. However, if the court finds that any of the real parties in interest are unable to afford counsel, the amount shall be paid out of the general fund of the county.

(f) The court may continue the proceeding for not to exceed 30 days as necessary to appoint counsel, and to enable counsel to become acquainted with the case.

(g) At all termination proceedings, the court shall consider the wishes of the child and shall act in the best interests of the child.

The testimony of the minor may be taken in chambers and outside the presence of the minor's parent or parents if the minor's parent or parents are represented by counsel, the counsel is present, and any of the following circumstances exist:

(1) The court determines that testimony in chambers is necessary to ensure truthful testimony.

(2) The minor is likely to be intimidated by a formal courtroom setting.

(3) The minor is afraid to testify in front of his or her parent or parents.

After testimony in chambers, the parent or parents of the minor may elect to have the court reporter read back the testimony or have the testimony summarized by counsel for the parent or parents.

The testimony of a minor also may be taken in chambers and outside the presence of the guardian or guardians of a minor under the circumstances specified in this subdivision.

(h) Any order of the court permanently terminating parental rights under this section shall be conclusive and binding upon the minor person, upon the parent or parents and upon all other persons who have been served with citation by

publication or otherwise as provided in this chapter. After making such an order, the court shall have no power to set aside, change, or modify it, but nothing in this section shall be construed to limit the right to appeal the order.

(i) If the court, by order or judgment declared the minor free from the custody and control of both parents, or one parent if the other no longer has custody and control, the court shall at the same time order the minor referred to a licensed county adoption agency for adoptive placement by the agency. However, no petition for adoption may be heard until the appellate rights of the natural parents have been exhausted. The licensed county adoption agency shall be responsible for the care and supervision of the minor and shall be entitled to the exclusive care and control of the minor at all times until a petition for adoption is granted.

(j) Notwithstanding any other provision of law, the application of any person who, as a relative caretaker or foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the relative caretaker or foster parent and removal from the relative caretaker or foster parent would be seriously detrimental to the child's well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

(k) An order by the court directing that a hearing pursuant to this section be held is not an appealable order, but may be the subject of review by extraordinary writ.

(Added Stats 1987 ch 1485; most recently amended Stats 1989 ch 913)

366.3. Plan of adoption or legal guardianship. (a) If a juvenile court orders a permanent plan of adoption or legal guardianship pursuant to Section 366.25 or 366.26, the court shall retain jurisdiction over the minor until the minor is adopted or the legal guardianship is established. The status of the minor shall be reviewed every six months to ensure that the adoption or guardianship is completed as expeditiously as possible. When the adoption of the minor has been granted, the court shall terminate its jurisdiction over the minor. The court may continue jurisdiction following the establishment of a legal guardianship, if continued jurisdiction is in the interests of the minor. Following a termination of parental rights the parent or parents shall not be a party to, or receive notice of, any subsequent proceedings regarding the minor.

(b) If the court has dismissed jurisdiction following the establishment of a legal guardianship and the legal guardianship is subsequently revoked or otherwise terminated, the county department of social services or welfare department shall notify the juvenile court of this fact. The court may vacate its previous order dismissing jurisdiction over the minor.

Notwithstanding Section 1601 of the Probate Code, the proceedings to terminate a guardianship which has been granted pursuant to Section 366.25 or 366.26 shall be held in the juvenile court, unless the termination is due to the

emancipation or adoption of the minor. If the petition to terminate guardianship is granted, the juvenile court may resume jurisdiction over the minor, and may order the county department of social services or welfare department to develop a new permanent plan, which shall be presented to the court within 60 days of the termination.

Unless the parental rights of the child's parent or parents have been terminated, they shall be notified that the guardianship has been revoked or terminated and shall be entitled to participate in the new permanency planning hearing. The court shall try to place the minor in another permanent placement. At the hearing, the parents may be considered as custodians but the minor shall not be returned to the parent or parents unless they prove, by a preponderance of the evidence, that reunification is the best alternative for the minor. The court may, if it is in the interests of the minor, order that reunification services again be provided to the parent or parents.

(c) If the minor is in a placement other than a preadoptive home or the home of a legal guardian and jurisdiction has not been dismissed, the status of the minor shall be reviewed every six months. This review may be conducted by the court or an appropriate local agency; the court shall conduct the review upon the request of the minor's parents or guardian or of the minor and shall conduct the review 18 months after the hearing held pursuant to Section 366.26 and every 18 months thereafter. The reviewing body shall inquire about the progress being made to provide a permanent home for the minor and shall determine the appropriateness of the placement, the continuing appropriateness and extent of compliance with the permanent plan for the child, the extent of compliance with the case plan, and the adequacy of services provided to the child. The reivew shall also include a determination of the services needed to assist a child who is 16 years of age or older make the transition from foster care to independent living.

Each licensed foster family agency shall submit reports for each minor in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the minor's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the minor.

Unless their parental rights have been permanently terminated, the parent or parents of the minor are entitled to receive notice of, and participate in, those hearings. It shall be presumed that continued care is in the interests of the minor, unless the parent or parents prove, by a preponderance of the evidence, that further efforts at reunification are the best alternative for the minor. In those cases, the court may order that further reunification services be provided to the parent or parents for a period not to exceed six months.

(Repealed and added Stats 1987 ch 1485; amended Stats 1989 ch 913)

367. Detention pending delivery. (a) Whenever a person has been adjudged a dependent child of the juvenile court and has been committed or otherwise disposed of as provided in this chapter for the care of dependent children of the juvenile court, the court may order that said dependent child be detained in a suitable place designated as the court seems fit until the execution of the order of commitment or of other disposition.

(b) In any case in which a minor 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. Such periodic reviews shall be held at least every 15 days, commencing from the time the minor was initially detained pending the execution of the order of commitment or of any other disposition, and during the course of each review the court shall inquire regarding the action taken by the probation department to carry out its order, the reasons for the delay, and the effect of the delay upon the minor.

(Added Stats 1976 ch 1068; amended Stats 1978 ch 1168)

368. Out-of-State. In a case where the residence of a dependent child of the juvenile court is out of the state and in another state or foreign country, or in a case where 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.

(Added Stats 1976 ch 1068)

369. Medical, surgical or dental care. (a) Whenever any person is taken into temporary custody under the provisions of Article 7 (commencing with Section 305) of this chapter and is in need of medical, surgical, dental, or other remedial care, the probation officer may, upon the recommendation of the attending physician or, if the person needs dental care and there is an attending dentist, the attending dentist, authorize the performance of such medical, surgical, dental, or other remedial care. The probation officer shall notify the parent, guardian, or person standing in loco parentis of the person, if any, of the care found to be needed before such care is provided, and if the parent, guardian, or person standing in loco parentis objects, such care shall be given only upon order of the court in the exercise of its discretion.

(b) Whenever it appears to the juvenile court that 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 such remedial care or treatment for such person, the court, upon the written recommendation of a licensed physician 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 such person.

(c) Whenever a dependent child of the juvenile court is placed by order of the court within the care and custody or under the supervision of the probation officer of the county in which the dependent child resides and it appears to the court that there is no parent, guardian, or person standing in loco parentis capable of authorizing or willing to authorize medical, surgical, dental, or other remedial

care or treatment for the dependent child, the court may, after due notice to the parent, guardian, or person standing in loco parentis, if any, order that the probation officer may authorize such medical, surgical, dental, or other remedial care for the dependent child, by licensed practitioners, as may from time to time appear necessary.

(d) Whenever it appears that a minor otherwise within the provisions of subdivision (a), (b), or (c) requires immediate emergency medical, surgical, dental, or other remedial care, or whenever the probation officer cannot, with reasonable diligence, locate and notify the parent, guardian, or person standing in loco parentis of the need of the minor for such care, the court, upon the written recommendation of a licensed physician or, if the minor needs dental care, a licensed dentist may make an order authorizing, or the probation officer, upon the written recommendation of a licensed physician or, if the minor needs dental care, a licensed dentist may authorize, the performance of such care as is reasonably necessary under the circumstances, without notice to the parent, guardian, or person standing in loco parentis.

(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 such 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 such care.

(Added Stats 1976 ch 1068)

370. Psychiatric and psychological services. The juvenile court may, in any case before it in which a petition has been filed as provided in Article 7 (commencing with Section 305), order that the probation officer obtain the services of such psychiatrists, psychologists, 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 such treatment. Payment for such services shall be a charge against the county.

(Added Stats 1976 ch 1068)

Dependent Children—Transfer of Cases Between Counties

375. Transfer of residence. 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.

(Added Stats 1976 ch 1068)

376. Expenses 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.

(Added Stats 1976 ch 1068)

377. Order of transfer. Whenever a case is transferred as provided in Section 375, the order of transfer shall recite each and all of the findings, orders, or modification of orders that have been made in the case, and shall include the name and address of the legal residence of the parent or guardian of the minor. All papers contained in the file shall be transferred to the county where such person resides. A copy of the order of transfer and of the findings of fact as required in Section 375 shall be kept in the file of the transferring county.

(Added Stats 1976 ch 1068)

378. Precedence of transfer. 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.

(Added Stats 1976 ch 1068)

379. Rights to appeal. 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.

(Added Stats 1976 ch 1068)

380. Courtesy supervision. Any person adjudged to be a dependent child of the juvenile court may be permitted by order of the court to reside in a county other than the county of his legal residence, and the court shall retain jurisdiction over such person.

Whenever a dependent child 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 dependent child 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.

(Added Stats 1976 ch 1068)

Dependent Children—Modification of Juvenile Court Judgments and Orders

385. Modification of orders. 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.

(Added Stats 1976 ch 1068)

386. Notice of modification. 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 to the minor's counsel of record, or, if there is no counsel of record, to the minor and his parent or guardian.

(Added Stats 1976 ch 1068)

387. Supplemental petition. 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 or county institution, shall be made only after noticed hearing upon a supplemental petition.

(a) The supplemental petition shall be filed by the probation officer in the original matter and shall contain a concise statement of facts sufficient to support the conclusion that the previous disposition has not been effective in the rehabilitation or protection of the minor.

(b) Upon the filing of the supplemental petition, the clerk of the juvenile court shall immediately set the same for hearing within 30 days, and the probation officer shall cause notice thereof to be served upon the persons and in the manner prescribed by Sections 335 and 337.

(c) An order for the detention of the minor pending adjudication of the petition may be made only after a hearing is conducted pursuant to Article 7 (commencing with Section 305).

(Added Stats 1976 ch 1068; amended Stats 1984 ch 1227)

388. Application for new hearing. Any parent or other person having an interest in a child who is a dependent child of the juvenile court or the child himself through a properly appointed guardian may, upon grounds of change of

circumstance or new evidence, petition the court in the same action in which the child was found to be a dependent child of the juvenile court 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.

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 Section 386, and, in such instances as the means of giving notice is not prescribed by such sections, then by such means as the court prescribes.

(Added Stats 1976 ch 1068)

389. Sealing of records. (a) In any case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a dependent child of the court, in any case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to Section 307, or in any case in which a minor is taken before any officer of a law enforcement agency, the person or the county probation officer may, five years or more after the jurisdiction of the juvenile court has terminated as to the person, or, in a case in which no petition is filed, five years or more after the person was cited to appear before a probation officer or was taken before a probation officer pursuant to Section 307 or was taken before any officer of a law enforcement agency, or, in any case, at any time after the person has reached the age of 18 years, petition the court for sealing of the records, including records of arrest, relating to the person's case, in the custody of the juvenile court and probation officer and any other agencies, including law enforcement agencies, and public officials as petitioner alleges, in his petition, to have custody of such records. The court shall notify the district attorney of the county and the county probation officer, if he is not the petitioner of the petition, and such district attorney or probation officer or any of their deputies or any other person having relevant evidence may testify at the hearing on the petition. If, after hearing, the court finds that since such termination of jurisdiction or action pursuant to Section 307, as the case may be, he has not been convicted of a felony or of any misdemeanor involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court, it shall order sealed all records, papers, and exhibits in the person's case in the custody of the juvenile court, including the juvenile court record, minute book entries, and entries on dockets, and other records relating to the case in the custody of such other agencies and officials as are named in the order. Thereafter, the proceedings in such case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, records of which are ordered sealed. The court shall send a copy of the order to each agency and official named therein directing the agency to seal its records and five years thereafter to destroy the sealed records. Each such agency and official shall seal records in its custody as directed by the order, shall advise the court of its

compliance, and thereupon shall seal the copy of the court's order for sealing of records that it or he received. The person who is the subject of records sealed pursuant to this section may petition the superior court to permit inspection of the records by persons named in the petition, and the superior court may so order. Otherwise, except as provided in subdivision (b), such records shall not be open to inspection.

(b) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

(c) Five years after a juvenile court record has been sealed, the court shall order the destruction of the sealed juvenile court record unless for good cause the court determines that the juvenile court record shall be retained. Any other agency in possession of sealed records shall destroy their records five years after the records were ordered sealed.

(Added Stats 1976 ch 1068; amended Stats 1980 ch 1104)

390. Dismissal of petitions. A judge of the juvenile court in which a petition was filed, at any time before the minor reaches the age of 21 years, may dismiss the petition or may set aside the findings and dismiss the petition if the court finds that the interests of justice and the welfare of the minor require the dismissal, and that the parent or guardian of the minor is not in need of treatment or rehabilitation.

(Added Stats 1976 ch 1068; amended Stats 1987 ch 1485)

Dependent Children—Appeals

395. Precedence of appeals. A judgment in a proceeding under Section 300 may be appealed from in the same manner as any final judgment, and any subsequent order may be appealed from as from an order after judgment; but no such order or judgment shall be stayed by the appeal, unless, pending the appeal, suitable provision is made for the maintenance, care, and custody of the person alleged or found to come within the provisions of Section 300, and unless the provision is approved by an order of the juvenile court. The appeal shall have precedence over all other cases in the court to which the appeal is taken.

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.

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

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.

(Added Stats 1976 ch 1068; most recently amended Stats 1986 ch 823)

399. Foster Care: Minor's Statement. Any minor being considered for placement in a foster home shall have the right to make a brief statement to the court making a decision on placement. The court may disregard any preferences expressed by the minor. The minor's right to make a statement shall not be limited to the initial placement, but shall continue for any proceedings concerning continued placement or a decision to return to parental custody.

(Added Stats 1984 ch 317)

Serious Habitual Offenders

500. Serious habitual offender. The Legislature hereby finds that a substantial and disproportionate amount of serious crime is committed by a relatively small number of chronic juvenile offenders commonly known as serious habitual offenders. In enacting this article, the Legislature intends to support increased efforts by the juvenile justice system comprised of law enforcement, district attorneys, probation departments, juvenile courts, and schools to identify these offenders early in their careers, and to work cooperatively together to investigate and record their activities, prosecute them aggressively by using vertical prosecution techniques, sentence them appropriately, and to supervise them intensively in institutions and in the community. The Legislature further supports increased interagency efforts to gather comprehensive data and actively disseminate it to the agencies in the juvenile justice system, to produce more informed decisions by all agencies in that system, through organizational and operational techniques that have already proven their effectiveness in selected counties in this and other states.

(Added Stats 1986 ch 1441)

501. Serious habitual offender program. (a) There is hereby established in the Office of Criminal Justice Planning a program of financial assistance for law enforcement, district attorneys, probation departments, juvenile courts, and schools, designated the Serious Habitual Offender Program. All funds appropriated to the Office of Criminal Justice Planning for the purposes of this article shall be administered and disbursed by the executive director of that office, and shall, to the greatest extent feasible, be coordinated or consolidated with federal funds that may be made available for these purposes.

(b) From moneys appropriated therefor, the Executive Director of the Office of Criminal Justice Planning may allocate and award funds to agencies in which programs are established in substantial compliance with the policies and criteria set forth in this article. Awards made to individual agencies shall not exceed three years in duration. An agency receiving an award shall provide matching funds at an increasing rate each year; the rate shall be as determined by the Office of Criminal Justice Planning for that agency.

(c) Allocation and award of funds for the purposes of this article shall be made upon application by a district attorney, a local law enforcement agency, a probation department, or a school district, that has been approved by the appropriate governing board of the particular agency. The applicant agency shall

use the funds to create an information gathering and analysis unit responsible for the identification of serious habitual offenders and for the dissemination of information about the activities of those offenders to the juvenile justice system. This unit shall participate in the planning, support, and assistance of activities required in Sections 503 to 506, inclusive. Funds disbursed under this article shall not supplant local funds that would, in absence of the program established by this article, be made available to support the juvenile justice system. Local grant awards made under the program shall not be subject to review as specified in Section 14780 of the Government Code.

(Added Stats 1986 ch 1441; amended Stats 1989 ch 1356)

502. Individuals subject to program. (a) An individual shall be the subject of the efforts of programs established pursuant to this article who has been previously adjudged a ward pursuant to Section 602 and is described in any of the following paragraphs:

(1) Has accumulated five total arrests, three arrests for crimes chargeable as felonies and three arrests within the preceding 12 months.

(2) Has accumulated 10 total arrests, two arrests for crimes chargeable as felonies and three arrests within the preceding 12 months.

(3) Has been arrested once for three or more burglaries, robberies, or sexual assaults within the preceding 12 months.

(4) Has accumulated 10 total arrests, eight or more arrests for misdemeanor crimes of theft, assault, battery, narcotics or controlled substance possession, substance abuse, or use or possession of weapons, and has three arrests within the preceding 12 months.

(b) Arrests for infractions or conduct described in Section 601 shall not be utilized in determining whether an individual is described in subdivision (a). All arrests used in determining eligibility for selection for program participation that did not result in a sustained petition shall be certified by the prosecutor as having been provable.

(c) In applying the selection criteria set forth above, a program may elect to limit its efforts to persons described in one or more of the categories listed in subdivision (a), or specified felonies, if crime statistics demonstrate that the persons so identified present a particularly serious problem in the county, or that the incidence of the felonies so specified present a particularly serious problem in the county.

(Added Stats 1986 ch 1441)

503. Program requirements. Programs funded under this article shall adopt and pursue the following policies:

(a) Each participating law enforcement agency shall do all of the following:

(1) Gather data on identified serious habitual offenders.

(2) Compile data into usable format for law enforcement, prosecutors, probation officer, schools, and courts pursuant to interagency agreement.

(3) Regularly update data and disseminate data to juvenile justice system agencies, as needed.

(4) Establish local policies in cooperation with the prosecutor, the probation officer, schools, and the juvenile court regarding data collection, arrest, and detention of serious habitual offenders.

(5) Provide support and assistance to other agencies engaged in the program.

(b) Each participating district attorney's office shall do all of the following:

(1) File petitions based on the most serious provable offenses of each arrest of a serious habitual offender.

(2) Use all reasonable prosecutorial efforts to resist the release, where appropriate, of the serious habitual offender at all stages of the prosecution.

(3) Seek an admission of guilt on all offenses charged in the petition against the offender. The only cases in which the prosecutor may request the court to reduce or dismiss the charges shall be cases in which the prosecutor decides there is insufficient evidence to prove the people's case, the testimony of a material witness cannot be obtained or a reduction or dismissal will not result in a substantial change in sentence. In those cases, the prosecutor shall file a written declaration with the court stating the specific factual and legal basis for such a reduction or dismissal and the court shall make specific findings on the record of its ruling and the reasons therefor.

(4) Vertically prosecute all cases involving serious habitual offenders, whereby the prosecutor who makes the initial filing decision or appearance on such a case shall perform all subsequent court appearances on that case through its conclusion, including the disposition phase.

(5) Make all reasonable prosecutorial efforts to persuade the court to impose the most appropriate sentence upon such an offender at the time of disposition. As used in this paragraph, "most appropriate sentence" means any disposition available to the juvenile court.

(6) Make all reasonable prosecutorial efforts to reduce the time between arrest and disposition of the charge.

(7) Act as liaison with the court and other criminal justice agencies to establish local policies regarding the program and to ensure interagency cooperation in the planning and implementation of the program.

(8) Provide support and assistance to other agencies engaged in the program.

(c) Each participating probation department shall do all of the following:

(1) Cooperate in gathering data for use by all participating agencies pursuant to interagency agreement.

(2) Detain minors in custody who meet the detention criteria set forth in Section 628.

(3) Consider the data relating to serious habitual offenders when making all decisions regarding the identified individual and include relevant data in written reports to the court.

(4) Use all reasonable efforts to file violations of probation pursuant to Section 777 in a timely manner.

(5) Establish local policies in cooperation with law enforcement, the district attorney, schools, and the juvenile court regarding the program and provide support and assistance to other agencies engaged in the program.

(d) Each participating school district shall do all of the following:

(1) Cooperate in gathering data for use by all participating agencies pursuant to interagency agreement. School district access to records and data shall be limited to that information that is otherwise authorized by law.

(2) Report all crimes that are committed on campus by serious habitual offenders to law enforcement.

(3) Report all violations of probation committed on campus by serious habitual offenders to the probation officer or his or her designee.

(4) Provide educational supervision and services appropriate to serious habitual offenders attending schools.

(5) Establish local policies in cooperation with law enforcement, the district attorney, probation and the juvenile court regarding the program and provide support and assistance to other agencies engaged in the program.

(e) On or before March 1, 1988, the Office of Criminal Justice Planning shall submit a written report to the Legislature regarding achievement of program goals. Specifically, the report shall do all of the following:

(1) Document the amount of serious crime committed by a relatively small number of serious habitual offenders.

(2) Provide statistical documentation regarding the total number of juveniles in the program, the types of offenses committed, the manner in which cases are disposed, and a statistical profile of the average juvenile who qualifies for the program.

(3) Evaluate program costs.

(4) Review new operational and organizational techniques used in gathering and disseminating information, in prosecution and in monitoring and supervising serious habitual offenders.

(5) Compare this program and its effectiveness with the techniques and methods used prior to the implementation of the program.

(Added Stats 1986 ch 1441)

504. Inspection of juvenile court records. The judge of the juvenile court shall authorize the inspection of juvenile court records, probation and protective services records, district attorney records, school records, and law enforcement records by the participating law enforcement agency charged with the compilation of the data relating to serious habitual offenders into the format used by all participating agencies.

(Added Stats 1986 ch 1441)

505. Interagency agreement. Within three months of implementation of the program, all participating agencies in a county shall execute a written interagency agreement outlining their role in the program, including the duties they will perform, the duties other agencies will perform for and with them, and the categories of information to be collected and the plan for its distribution and use. All participating agencies will meet no less than once each month to plan, implement, and refine the operation of the program and to exchange information about individuals subject to the program or other related topics.

(Added Stats 1986 ch 1441; amended Stats 1989 ch 1356)

506. Criminal history. Law enforcement agencies and district attorneys participating in programs funded pursuant to this article shall adopt procedures to require a check of juvenile criminal history of all adults whose cases are presented to the district attorney's office for filing. The juvenile criminal history shall be considered by the district attorney in the charging decision and establishing the district attorney's position on the appropriate plea and sentence.

(Added Stats 1986 ch 1441)

Wards—Jurisdiction

601. Persons within jurisdiction of court. (a) Any person under the age of 18 years who persistently or habitually refuses to obey the reasonable and proper orders or directions of his parents, guardian, or custodian, or who is beyond the control of such person, or who is under the age of 18 years when he violated any ordinance of any city or county of this state establishing a curfew based solely on age is within the jurisdiction of the juvenile court which may adjudge such person to be a ward of the court.

(b) If a school attendance review board determines that the available public and private services are insufficient or inappropriate to correct the habitual truancy of the minor, or to correct the minor's persistent or habitual refusal to obey the reasonable and proper orders or directions of school authorities, or if the minor fails to respond to directives of a school attendance review board or to services provided, the minor is then within the jurisdiction of the juvenile court which may adjudge such person to be a ward of the court; provided, that it is the intent of the Legislature that no minor who is adjudged a ward of the court pursuant solely to this subdivision shall be removed from the custody of the parent or guardian except during school hours.

(Added Stats 1961 ch 1616; most recently amended Stats 1976 ch 1071)

601.1. Truancy. (a) Any person under the age of 18 years who persistently or habitually refuses to obey the reasonable and proper orders or directions of school authorities, and is thus beyond the control of those authorities, or who is a habitual truant from school within the meaning of any law of this state, shall, prior to any referral to the juvenile court of the county, be referred to a school attendance review board pursuant to Section 48263 of the Education Code, or to a truancy mediation program pursuant to Section 601.3 of this code, or to both a school attendance review board and a truancy mediation program if both have been established in the county.

(b) In addition to any other orders authorized by law, when, after an initial referral as required by subdivision (a), a minor is adjudged a ward of the court on the ground that he or she is a person described in Section 601 by reason of habitual truancy, the court may order the minor to participate in a specified community service or educational program sponsored by either a public or private agency. The minor's participation in the program shall be limited to nonschool hours. The court may order the probation officer to pick up and deliver the minor to the program designated by the court on the days that the minor is ordered to participate in the program.

To the extent practically feasible, such a minor shall not be permitted to come or remain in contact with minors ordered to participate in the program as a result of conduct described in Section 602. In no case may the court order that the minor be detained in any program overnight.

(Added Stats 1974 ch 1215; most recently amended Stats 1985 ch 667)

601.2. Referral for petition—truancy. In the event that a parent or guardian or person in charge of a minor described in Section 601.1 fails to respond to directives of the school attendance review board or to services offered on behalf of the minor, the school attendance review board shall direct that the

minor be referred to the probation department or to the county welfare department under Section 300, and the school attendance review board may require the school district to file a complaint against the parent, guardian, or other person in charge of such minor as provided in Section 48291 or Section 48454 of the Education Code.

(Added Stats 1974 ch 1215; most recently amended Stats 1978 ch 380)

601.3. Truancy Mediation. (a) If the district attorney or the probation officer receives notice from the school district pursuant to subdivision (b) of Section 48260.6 of the Education Code that a minor continues to be classified as a truant after the parents or guardians have been notified pursuant to subdivision (a) of Section 48260.5 of the Education Code, or if the district attorney or the probation officer receives notice from the school attendance review board pursuant to subdivision (a) of Section 48263.5 of the Education Code that a minor continues to be classified as a truant after review and counseling by the school attendance review board, the district attorney or the probation officer may request the parents or guardians and the child to attend a meeting in the district attorney's office or at the probation department to discuss the possible legal consequences of the minor's truancy.

(b) Notice of a meeting to be held pursuant to this section shall contain all of the following:

(1) The name and address of the person to whom the notice is directed.

(2) The date, time, and place of the meeting.

(3) The name of the minor classified as a truant.

(4) The section pursuant to which the meeting is requested.

(5) Notice that the district attorney may file a criminal complaint against the parents or guardians pursuant to Section 48293 of the Education Code for failure to compel the attendance of the minor at school.

(c) Notice of a meeting to be held pursuant to this section shall be served at least five days prior to the meeting on each person required to attend the meeting. Service shall be made personally or by certified mail with request for return receipt.

(d) At the commencement of the meeting authorized by this section, the district attorney or the probation officer shall advise the parents or guardians and the child that any statements they make could be used against them in subsequent court proceedings.

(e) Upon completion of the meeting authorized by this section, the district attorney may request the probation officer to file a petition, or the probation officer may file a petition, pursuant to Section 601 if the district attorney or the probation officer determines that available community resources cannot resolve the truancy problem, or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to services provided or to the directives of the school, the school attendance review board, the probation officer, or the district attorney.

(f) The truancy mediation program authorized by this section may be established by the district attorney or by the probation officer. The district attorney and the probation officer shall coordinate their efforts and shall cooperate in determining which office is best able to operate a truancy mediation program in their county pursuant to this section.

(Added Stats 1984 ch 754)

601.4. Dual Jurisdiction. (a) The juvenile court judge may be assigned to sit as a municipal court judge to hear any complaint alleging that a parent, guardian, or other person having control or charge of a minor has violated Section 48293 of the Education Code. The jurisdiction of the juvenile court granted by this section shall not be exclusive and the charge may be prosecuted instead in a municipal or justice court. However, upon motion, that action shall be transferred to the juvenile court.

(b) Notwithstanding Section 737 of the Penal Code, a violation of Section 48293 of the Education Code may be prosecuted pursuant to subdivision (a), by written complaint filed in the same manner as an infraction may be prosecuted in a municipal or justice court. The juvenile court judge, sitting as a municipal court judge, may coordinate the action involving the minor with the action involving the parent, guardian, or other person having control or charge of the minor. Both matters may be heard and decided at the same time unless the parent, guardian, other person having control or charge of the minor, or any member of the press or public objects to closed hearing of the proceedings charging violation of Section 48293 of the Education Code.

(Added Stats 1985 ch 120; amended Stats 1989 ch 1117)

602. Persons within jurisdiction of court. Any person who is under the age of 18 years when he violates any law of this state or of the United States or any ordinance of any city or county of this state defining crime other than an ordinance establishing a curfew based solely on age, is within the jurisdiction of the juvenile court, which may adjudge such person to be a ward of the court.

(Added Stats 1961 ch 1616; most recently amended Stats 1976 ch 1071)

603. Persons under 18: Submission of matter to juvenile court. No court shall have jurisdiction to conduct a preliminary examination or to try the case of any person upon an accusatory pleading charging such person with the commission of a public offense or crime when such person was under the age of 18 years at the time of the alleged commission thereof unless the matter has first been submitted to the juvenile court by petition as provided in Article 7 (commencing with Section 650), and said juvenile court has made an order directing that such person be prosecuted under the general law.

(Added Stats 1961 ch 1616)

603.5. Traffic Infractions: Municipal-Justice Courts. (a) Notwithstanding any other provision of law, in counties which adopt the provisions of this section, jurisdiction over the case of a minor alleged to have committed only a violation of the Vehicle Code classified as an infraction or a violation of a local ordinance involving the driving, parking, or operation of a motor vehicle, is with the municipal or justice court, except that the municipal or justice court may refer to the juvenile court for adjudication, cases involving a minor who has been adjudicated a ward of the juvenile court, or who has other matters pending in the juvenile court. An alleged violation of subdivision (a) or (b) of Section 40508 of the Vehicle Code may be referred to the juvenile court for adjudication.

(b) Notwithstanding this article or Articles 15 (commencing with Section 625) to 21 (commencing with Section 800), inclusive, of this chapter, except as otherwise provided in this section, all cases specified in subdivision (a) shall be governed by the general law applicable to violations of the Vehicle Code.

The provisions of this section shall apply only in a county in which the board of supervisors, with the concurrence of the presiding judges of the superior, municipal, and justice courts, adopts a resolution making the section applicable in the county.

(Added Stats 1980 ch 1299)

604. Certification to juvenile court. (a) Whenever a case is before any court upon an accusatory pleading and it is suggested or appears to the judge before whom the person is brought that the person charged was, at the date the offense is alleged to have been committed, under the age of 18 years, the judge shall immediately suspend all proceedings against the person on the charge; he or she shall examine into the age of the person, and if, from the examination, it appears to his or her satisfaction that the person was at the date the offense is alleged to have been committed under the age of 18 years, he or she shall immediately certify all of the following to the juvenile court of the county:

(1) That the person (naming him or her) is charged with a crime (briefly stating its nature).

(2) That the person appears to have been under the age of 18 years at the date the offense is alleged to have been committed, giving the date of birth of the person when known.

(3) That proceedings have been suspended against the person on the charge by reason of his or her age, with the date of the suspension.

The judge shall attach a copy of the accusatory pleading to the certification.

(b) When a court certifies a case to the juvenile court pursuant to subdivision (a), it shall be deemed that jeopardy has not attached by reason of the proceedings prior to certification, but the court may not resume proceedings in the case, nor may a new proceeding under the general law be commenced in any court with respect to the same matter unless the juvenile court has found that the minor is not a fit subject for consideration under the juvenile court law and has ordered that proceedings under the general law resume or be commenced.

(c) The certification and accusatory pleading shall be promptly transmitted to the clerk of the juvenile court. Upon receipt thereof, the clerk of the juvenile court shall immediately notify the probation officer who shall immediately proceed in accordance with Article 16 (commencing with Section 650).

(Added Stats 1961 ch 1616; most recently amended Stats 1984 ch 1412)

605. Suspension of statutes of limitation. Whenever a petition is filed in a juvenile court alleging that a minor is a person within the description of Section 602, and while the case is before the juvenile court, the statute of limitations applicable under the general law to the offense alleged to bring the minor within such description is suspended.

(Added Stats 1961 ch 1616)

606. Criminal prosecution. When a petition has been filed in a juvenile court, the minor who is the subject of the petition shall not thereafter be subject to criminal prosecution based on the facts giving rise to the petition unless the juvenile court finds that the minor is not a fit and proper subject to be dealt with under this chapter and orders that criminal proceedings be resumed or instituted against him.

(Added Stats 1961 ch 1616)

607. Length of jurisdiction. (a) The court may retain jurisdiction over any person who is found to be a ward or dependent child of the juvenile court until the ward or dependent child attains the age of 21 years, except as provided in subdivisions (b), (c), and (d).

(b) The court may retain jurisdiction over any person who is found to be a person described in Section 602 by reason of the commission of any of the offenses listed in subdivision (b) of Section 707 until that person attains the age of 25 years if the person was committed to the Department of the Youth Authority.

(c) The court shall not discharge any person from its jurisdiction who has been committed to the Department of the Youth Authority so long as the person remains under the jurisdiction of the Department of the Youth Authority, including periods of extended control ordered pursuant to Section 1800.

(d) The court may retain jurisdiction over any person described in Section 602 by reason of the commission of any of the offenses listed in subdivision (b) of Section 707 who has been confined in a state hospital or other appropriate public or private mental health facility pursuant to Section 702.3 until that person has attained the age of 25 years, unless the court which committed the person finds, after notice and hearing, that the person's sanity has been restored.

(e) The court may retain jurisdiction over any person while that person is the subject of a warrant for arrest issued pursuant to Section 663.

(Added Stats 1961 ch 1616; most recently amended Stats 1988 ch 713)

Wards—Temporary Custody and Detention

625. Temporary custody and detention. A peace officer may, without a warrant, take into temporary custody a minor:

(a) Who is under the age of 18 years when such officer has reasonable cause for believing that such minor is a person described in Section 601 or 602, or

(b) Who is a ward of the juvenile court or concerning whom an order has been made under Section 636 or 702, when such officer has reasonable cause for believing that person has violated an order of the juvenile court or has escaped from any commitment ordered by the juvenile court, or

(c) Who is under the age of 18 years and who is found in any street or public place suffering from any sickness or injury which requires care, medical treatment, hospitalization, or other remedial care.

In any case where a minor is taken into temporary custody on the ground that there is reasonable cause for believing that such minor is a person described in Section 601 or 602, or that he has violated an order of the juvenile court or escaped from any commitment ordered by the juvenile court, the officer shall advise such minor that anything he says can be used against him and shall advise him of his constitutional rights, including his right to remain silent, his right to have counsel present during any interrogation, and his right to have counsel appointed if he is unable to afford counsel.

(Added Stats 1961 ch 1616; most recently amended Stats 1976 ch 1068)

626. Alternative dispositions. An officer who takes a minor into temporary custody under the provisions of Section 625 may do any of the following:

(a) Release the minor.

(b) Deliver or refer the minor to a public or private agency with which the city or county has an agreement or plan to provide shelter care, counseling, or diversion services to minors so delivered.

(c) Prepare in duplicate a written notice to appear before the probation officer of the county in which the minor was taken into custody at a time and place specified in the notice. The notice shall also contain a concise statement of the reasons the minor was taken into custody. The officer shall deliver one copy of the notice to the minor or to a parent, guardian, or responsible relative of the minor and may require the minor or the minor's parent, guardian, or relative, or both, to sign a written promise to appear at the time and place designated in the notice. Upon the execution of the promise to appear, the officer shall immediately release the minor. The officer shall, as soon as practicable, file one copy of the notice with the probation officer.

(d) Take the minor without unnecessary delay before the probation officer of the county in which the minor was taken into custody, or in which the minor resides, or in which the acts take place or the circumstances exist which are alleged to bring the minor within the provisions of Section 601 or 602, and deliver the custody of the minor to the probation officer. The peace officer shall prepare a concise written statement of the probable cause for taking the minor into temporary custody and the reasons the minor was taken into custody and shall provide the statement to the probation officer at the time the minor is delivered to the probation officer. In no case shall the officer delay the delivery of the minor to the probation officer for more than 24 hours if the minor has been taken into custody without a warrant on the belief that the minor has committed a misdemeanor.

In determining which disposition of the minor to make, the officer shall prefer the alternative which least restricts the minor's freedom of movement, provided that alternative is compatible with the best interests of the minor and the community.

(Added Stats 1961 ch 1616; most recently amended Stats 1989 ch 878)

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

(a) He or she may prepare in duplicate a written notice to appear before the probation officer of the county in which the minor was taken in custody at a time and place specified in the notice. The notice shall also contain a concise statement of the reasons the minor was taken into custody. The officer shall deliver one copy of the notice to the minor or to a parent, guardian, or responsible relative of the minor and may require the minor or his or her parent, guardian, or relative, or both, to sign a written promise that either or both will appear at the time and place designated in the notice. Upon the execution of the promise to appear, the officer shall immediately release the minor. The officer shall, as soon as practicable, file one copy of the notice with the probation officer.

(b) He or she may take the minor without unnecessary delay before the probation officer of the county in which the minor was taken into custody, or in which the minor resides, or in which the acts took place or the circumstances exist

which are alleged to bring the minor within the provisions of Section 601 or 602, and deliver the custody of the minor to the probation officer. The peace officer shall prepare a concise written statement of the probable cause for taking the minor into temporary custody and the reasons the minor was taken into custody and shall provide that statement to the probation officer at the time the minor is delivered to the probation officer. In no case shall he or she delay the delivery of the minor to the probation officer for more than 24 hours if the minor has been taken into custody without a warrant on the belief that he or she has committed a misdemeanor.

In determining which disposition of the minor he or she will make, the officer shall prefer the alternative which least restricts the minor's freedom of movement, provided that alternative is compatible with the best interests of the minor and the community.

(Added Stats 1982 ch 461 and 1091; amended Stats 1989 ch 878)

627. Notification of parents or guardian. (a) When an officer takes a minor before a probation officer at a juvenile hall or to any other place of confinement pursuant to this article, he shall take immediate steps to notify the minor's parent, guardian, or a responsible relative that such minor is in custody and the place where he is being held.

(b) Immediately after being taken to a place of confinement pursuant to this article and, except where physically impossible, no later than one hour after he has been taken into custody, the minor shall be advised and has the right to make at least two telephone calls from the place where he is being held, one call completed to his parent or guardian, a responsible relative, or his employer, and another call completed to an attorney. The calls shall be at public expense, if the calls are completed to telephone numbers within the local calling area, and in the presence of a public officer or employee. Any public officer or employee who willfully deprives a minor taken into custody of his right to make such telephone calls is guilty of a misdemeanor.

(Added Stats 1961 ch 1616; most recently amended Stats 1980 ch 1092)

627.5. Rights of minor. In any case where a minor is taken before a probation officer pursuant to the provisions of Section 626 and it is alleged that such minor is a person described in Section 601 or 602, the probation officer shall immediately advise the minor and his parent or guardian that anything the minor says can used against him and shall advise them of the minor's constitutional rights, including his right to remain silent, his right to have counsel present during any interrogation, and his right to have counsel appointed if he is unable to afford counsel. If the minor or his parent or guardian requests counsel, the probation officer shall notify the judge of the juvenile court of such request and counsel for the minor shall be appointed pursuant to Section 634.

(Added Stats 1967 ch 1355)

628. Detention of minor pending hearings. (a) Upon delivery to the probation officer of a minor who has been taken into temporary custody under the provisions of this article, the probation officer shall immediately investigate the circumstances of the minor and the facts surrounding his being taken into

custody and shall immediately release such minor to the custody of his parent, guardian, or responsible relative unless one or more of the following conditions exist:

(1) The minor is in need of proper and effective parental care or control and has no parent, guardian, or responsible relative; or has no parent, guardian, or responsible relative willing to exercise or capable of exercising such care or control; or has no parent, guardian, or responsible relative actually exercising such care or control.

(2) The minor is destitute or is not provided with the necessities of life or is not provided with a home or suitable place of abode.

(3) The minor is provided with a home which is an unfit place for him by reason of neglect, cruelty, depravity or physical abuse of either of his parents, or of his guardian or other person in whose custody or care he is.

(4) Continued detention of the minor is a matter of immediate and urgent necessity for the protection of the minor or reasonable necessity for the protection of the person or property of another.

(5) The minor is likely to flee the jurisdiction of the court.

(6) The minor has violated an order of the juvenile court.

(7) The minor is physically dangerous to the public because of a mental or physical deficiency, disorder or abnormality.

(b) In any case in which there is reasonable cause for believing that a minor who is under the care of a physician or surgeon or a hospital, clinic, or other medical facility and cannot be immediately moved is a person described in subdivision (d) of Section 300, the minor shall be deemed to have been taken into temporary custody and delivered to the probation officer for the purposes of this chapter while he is at the office of the physician or surgeon or such medical facility.

(Added Stats 1961 ch 1616; most recently amended Stats 1977 ch 579)

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

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

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

(Added Stats 1976 ch 1071)

629. Written promise to appear. As a condition for the release of such minor, the probation officer may require such minor or his parent, guardian, or relative, or both, to sign a written promise that either or both of them will appear before the probation officer at the juvenile hall or other suitable place designated by the probation officer at a specified time.

(Added Stats 1961 ch 1616)

630. Petition and notification of hearing. (a) If the probation officer determines that the minor shall be retained in custody, he shall immediately proceed in accordance with Article 16 (commencing with Section 650) to cause the filing of a petition pursuant to Section 656 with the clerk of the juvenile court who shall set the matter for hearing on the detention calendar. Immediately upon filing the petition with the clerk of the juvenile court, if the minor is alleged to be a person described in Section 601 or 602, the probation officer or the prosecuting attorney, as the case may be, shall serve such minor with a copy of the petition and notify him of the time and place of the detention hearing. The probation officer, or the prosecuting attorney, as the case may be, shall thereupon notify each parent or each guardian of the minor of the time and place of such hearing if the whereabouts of each parent or guardian can be ascertained by due diligence. Such notice may be given orally.

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

(Added Stats 1961 ch 1616; most recently amended Stats 1977 ch 1241, effective 10/1/77)

630.1. Notice to counsel. Upon reasonable notification by counsel representing the minor, his parents or guardian, the clerk of the court shall notify such counsel of the hearings in the manner provided for notice to the parent or guardian of the minor under this chapter.

(Added Stats 1967 ch 507)

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

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

officer who is a supervisor as soon as possible after it is known that the minor will be detained more than 24 hours. However, if the initial decision to detain the minor more than 24 hours is made by a probation officer who is a supervisor, the decision shall not be subject to review and approval.

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

(Added Stats 1961 ch 1616; most recently amended Stats 1989 ch 686)

631.1. Extended time limit on custody. When a minor willfully misrepresents himself to be 18 or more years of age when taken into custody by a peace officer or probation officer, and this misrepresentation effects a material delay in investigation which prevents the filing of a petition pursuant to the provisions of this chapter or the filing of a criminal complaint against him in a court of competent jurisdiction within 48 hours, such petition or complaint shall be filed within 48 hours from the time his true age is determined, excluding nonjudicial days. If, in such cases, the petition or complaint is not filed within the time prescribed by this section, the minor shall be immediately released from custody.

(Added Stats 1969 ch 1008; amended Stats 1972 ch 579)

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

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

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

(Added Stats 1961 ch 1616; most recently amended Stats 1989 ch 686)

633. Rights of minor. Upon his appearance before the court at the detention hearing, such minor and his parent or guardian, if present, shall first be informed of the reasons why the minor was taken into custody, the nature of the juvenile court proceedings, and the right of such minor and his parent or guardian to be represented at every stage of the proceedings by counsel.

(Added Stats 1961 ch 1616)

634. Appointment of counsel. When it appears to the court that the minor or his parent or guardian desires counsel but is unable to afford and cannot for that reason employ counsel, the court may appoint counsel. In a case in which the minor is alleged to be a person described in Section 601 or 602, the court shall appoint counsel for the minor if he appears at the hearing without counsel, whether he is unable to afford counsel or not, unless there is an intelligent waiver of the right of counsel by the minor; and, in the absence of such waiver, if the parent or guardian does not furnish counsel and the court determines that the parent or guardian has the ability to pay for counsel, the court shall appoint counsel at the expense of the parent or guardian. In any case in which it appears to the court that there is such a conflict of interest between a parent or guardian and child that one attorney could not properly represent both, the court shall appoint counsel, in addition to counsel already employed by a parent or guardian or appointed by the court to represent the minor or parent or guardian. In a county where there is no public defender the court may fix the compensation to be paid by the county for service of such appointed counsel.

(Added Stats 1961 ch 1616; most recently amended Stats 1971 ch 667)

634.6. Continued representation. Any counsel upon entering an appearance on behalf of a minor shall continue to represent that minor unless relieved by the court upon the substitution of other counsel or for cause.

(Added Stats 1975 ch 205)

635. Release pending further hearing. The court will examine such minor, his parent, guardian, or other person having relevant knowledge, hear such relevant evidence as the minor, his parent or guardian or their counsel desires to present, and, unless it appears that such minor has violated an order of the juvenile court or has escaped from the commitment of the juvenile court or that it is a matter of immediate and urgent necessity for the protection of such minor or reasonably necessary for the protection of the person or property of another that he be detained or that such minor is likely to flee to avoid the jurisdiction of the court, the court shall make its order releasing such minor from custody.

The circumstances and gravity of the alleged offense may be considered, in conjunction with other factors, to determine whether it is a matter of immediate and urgent necessity for the protection of the minor or reasonably necessary for the protection of the person or property of another that the minor be detained.

(Added Stats 1961 ch 1616; most recently amended Stats 1977 ch 1241 effective 10/1/77)

635.1. Special mental health treatment for delinquent minors. When the court finds a minor to be a person described by Section 602 and believes the minor may need specialized mental health treatment while the minor is unable to reside in his or her natural home, the court shall notify the director of the county mental health department in the county where the minor resides. The county mental health department shall perform the duties required under Section 5697.5 for all those minors.

Nothing in this section shall restrict the provision of emergency psychiatric services to those minors who have not yet reached the point of adjudication or disposition, nor shall it operate to restrict evaluations at an earlier stage of the proceedings or to restrict the use of Sections 4011.6 and 4011.8 of the Penal Code.

(Added Stats 1985 ch 1286, effective September 30, 1985)

636. Detention pending further hearing. If it appears upon the hearing that such minor has violated an order of the juvenile court or has escaped from a commitment of the juvenile court or that it is a matter of immediate and urgent necessity for the protection of such minor or reasonably necessary for the protection of the person or property of another that he be detained or that such minor is likely to flee to avoid the jurisdiction of the court, the court may make its order that such minor be detained in the juvenile hall or other suitable place designated by the juvenile court for a period not to exceed 15 judicial days and shall enter said order together with its findings of fact in support thereof in the records of the court. The circumstances and gravity of the alleged offense may be considered, in conjunction with other factors, to determine whether it is a matter of immediate and urgent necessity for the protection of the minor or the person or property of another that the minor be detained.

If the court finds that the criteria of Section 628.1 are applicable, the court may, and after the operative date of that section the court shall place, the minor on home supervision for a period not to exceed 15 judicial days, and shall enter such order together with its findings of fact in support thereof in the records of the court. If the court releases the minor on home supervision, the court may continue, modify, or augment any conditions of release previously imposed by the probation officer, or may impose new conditions on a minor released for the first time. If there are new or modified conditions, the minor shall be required to sign a written promise to obey such conditions pursuant to Section 628.1.

(Added Stats 1961 ch 1616; amended Stats 1976 ch 1070, effective 9/21/76)

636.2. Nonsecure detention facilities. The probation officer may operate and maintain nonsecure detention facilities, or may contract with public or private agencies offering such services, for those minors who are not considered escape risks and are not considered a danger to themselves or to the person or property of another. Criteria to be considered for detention in such facilities shall include, but not be limited to: (a) the nature of the offense, (b) the minor's previous record including escapes from secure detention facilities, (c) lack of criminal sophistication, and (d) the age of the minor. A minor detained in such facilities who leaves the same without permission may be housed in a secure facility following his apprehension, pending a detention hearing pursuant to Section 632.

(Added Stats 1976 ch 1071; amended Stats 1977 ch 1241, effective 10/1/77)

637. Continuation of detention hearing. When a hearing is held under the provisions of this article and no parent or guardian of such minor is present and no parent or guardian has had actual notice of the hearing, a parent or guardian of such minor may file his affidavit setting forth such facts with the clerk of the juvenile court and the clerk shall immediately set the matter for rehearing at a time within 24 hours, excluding Sundays and nonjudicial days from the filing of the affidavit. Upon the rehearing, the court shall proceed in the same manner as upon the original hearing.

If the minor or, if the minor is represented by an attorney, the minor's attorney, requests evidence of the prima facie case, a rehearing shall be held within three judicial days to consider evidence of the prima facie case. If the prima facie case is not established, the minor shall be released from detention.

When the court ascertains that the rehearing cannot be held within three judicial days because of the unavailability of a witness, a reasonable continuance may be granted for a period not to exceed five judicial days.

(Added Stats 1961 ch 1616; amended Stats 1975 ch 1266)

638. Continuation. Upon the motion of the minor or a parent or guardian of such minor, the court shall continue any hearing or rehearing held under the provisions of this article for one day, excluding Sundays and nonjudicial days.

(Added Stats 1961 ch 1616)

639. Rehearing. Upon any hearing or rehearing under the provisions of this article, the court may order such minor or any parent or guardian of such minor who is present in court to again appear before the court or the probation officer or the county financial evaluation officer at a time and place specified in said order.

(Added Stats 1961 ch 1616; amended Stats 1985 ch 1485)

641. Detention in county other than county of residence. Whenever any minor is taken into temporary custody under the provisions of this article in any county other than the county in which the minor is alleged to be within or to come within the jurisdiction of the juvenile court, which county referred to herein as the requesting county, the officer who has taken the minor into temporary custody may notify the law enforcement agency in the requesting county of the fact that the minor is in custody. When a law enforcement officer of such requesting county, files a petition pursuant to Section 656 with the clerk of the juvenile court of his respective county and secures a warrant therefrom, he shall forward said warrant, or a telegraphic copy thereof to the officer who has the minor in temporary custody as soon as possible within 48 hours, excluding Sundays and nonjudicial days, from the time said juvenile was taken into temporary custody. Thereafter an officer from said requesting county shall take custody of the minor within five days, in the county in which the minor is in temporary custody, and shall take the minor before the juvenile court judge who issued the warrant, or before some other juvenile court of the same county without unnecessary delay. If the minor is not brought before a judge of the juvenile court within the period prescribed by this section, he must be released from custody.

(Added Stats 1961 ch 1616)

Wards—Commencement of Proceedings

650. Proceedings. (a) Juvenile court proceedings to declare a minor a ward of the court pursuant to Section 601 are commenced by the filing of a petition by the probation officer.

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

(Added Stats 1961 ch 1616; most recently amended Stats 1984 ch 1412)

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

(Added Stats 1961 ch 1616; most recently amended Stats 1984 chs 260, 1412)

652. Responsibility. Whenever the probation officer has cause to believe that there was or is within the county, or residing therein, a person within the provisions of Section 601 or 602, the probation officer shall immediately make such investigation as he or she deems necessary to determine whether proceedings in the juvenile court should be commenced. However, this section does not require an investigation by the probation officer with respect to a minor delivered or referred to an agency pursuant to subdivision (b) of Section 626.

(Added Stats 1961 ch 1616; most recently amended Stats 1984 chs 260, 1227)

652.5. Service program referral. Whenever an officer refers or delivers a minor pursuant to subdivision (b) of Section 626, the agency to which the minor is referred or delivered shall immediately make such investigation as that agency deems necessary to determine what disposition of the minor that agency shall make and initiate a service program for the minor when appropriate. If the referral agency does not initiate a service program on behalf of a minor referred to the agency within 20 calendar days, or initiate a service program on behalf of a minor delivered to the agency within 10 days, that agency shall immediately notify the referring officer of that decision in writing. The referral agency shall retain a copy of that written notification for 30 days.

(Added Stats 1984 ch 1227)

653. Application for petition. Whenever any person applies to the probation officer to commence proceedings in the juvenile court, the application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor within the provisions of Section 601 and setting forth facts in support thereof. The probation officer shall immediately make such investigation as he or she deems necessary to determine whether proceedings in the juvenile court should be commenced.

(Added Stats 1961 ch 1616; most recently amended Stats 1984 ch 1412)

653.1. Referral to prosecutor. Notwithstanding Section 653, in the case of an affidavit alleging that the minor committed an offense described in Section 602, the probation officer shall cause the affidavit to be immediately taken to the prosecuting attorney if it appears to the probation officer that the minor has been referred to the probation officer for any violation of an offense listed in

subdivision (b) of Section 707 and that offense was allegedly committed when the minor was 16 years of age or older. If the prosecuting attorney decides not to file a petition, he or she may return the affidavit to the probation officer for any other appropriate action.

(Repealed Stats 1987 ch 134 and added Stats 1987 ch 1499)

653.5. Application for petition (First of two). (a) Whenever any person applies to the probation officer to commence proceedings in the juvenile court, the application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor within the provisions of Section 602, or that a minor committed an offense described in Section 602 within the county, and setting forth facts in support thereof. The probation officer shall immediately make any investigation he or she deems necessary to determine whether proceedings in the juvenile court shall be commenced.

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

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

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

(2) If it appears to the probation officer that the minor is under 16 years of age at the date of the offense and that the offense constitutes a second felony referral to the probation officer.

(3) If it appears to the probation officer that the minor was 16 years of age or older at the date of the offense and that the offense constitutes a felony referral to the probation officer.

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

(5) If it appears to the probation officer that the minor has been referred to the probation officer for a violation of Section 11350 or 11377 of the Health and Safety Code where the violation takes place at a public or private elementary, vocational, junior high school, or high school, or a violation of Section 245.5, 626.9, or 626.10 of the Penal Code.

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

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

(8) If it appears to the probation officer that the minor has committed an offense in which the restitution owed to the victim exceeds one thousand dollars

($1,000). For purposes of this paragraph, the definition of "victim" in paragraph (1) of subdivision (a) of Section 729.6 and "restitution" in subdivision (d) of Section 729.6 shall apply.

(9) If it appears to the probation officer that the minor was 14 years of age or older at the date of the offense and the offense for which the referral was made constitutes a violation of Section 487h of the Penal Code or Section 10851 of the Vehicle Code.

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

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

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

(e) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

(Added Stats 1982 ch 1088; most recently amended Stats 1989 ch 1117, eff. until 1/1/93)

653.5. Application for petition (Second of two). (a) Whenever any person applies to the probation officer to commence proceedings in the juvenile court, the application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor within the provisions of Section 602, or that a minor committed an offense described in Section 602 within the county, and setting forth facts in support thereof. The probation officer shall immediately make any investigation he or she deems necessary to determine whether proceedings in the juvenile court shall be commenced.

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

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

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

(2) If it appears to the probation officer that the minor is under 16 years of age at the date of the offense and that the offense constitutes a second felony referral to the probation officer.

(3) If it appears to the probation officer that the minor was 16 years of age or older at the date of the offense and that the offense constitutes a felony referral to the probation officer.

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

(5) If it appears to the probation officer that the minor has been referred to the probation officer for a violation of Section 11350 or 11377 of the Health and Safety Code where the violation takes place at a public or private elementary, vocational, junior high school, or high school, or a violation of Section 245.5, 626.9, or 626.10 of the Penal Code.

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

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

(8) If it appears to the probation officer that the minor has committed an offense in which the restitution owed to the victim exceeds one thousand dollars ($1,000). For purposes of this paragraph, the definition of "victim" in paragraph (1) of subdivision (a) of Section 729.6 and "restitution" in subdivision (d) of Section 729.6 shall apply. Except for offenses listed in paragraph (5), the provisions of subdivision (c) shall not apply to a narcotics and drug offense set forth in Section 1000 of the Penal Code.

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

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

(e) This section shall become operative on January 1, 1993, unless a later enacted statute, which is enacted before January 1, 1993, changes that date.

(Added Stats 1982 ch 1088; most recently amended Stats 1989 ch 1117, operative 1/1/93)

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

(Added Stats 1982 ch 1088; amended Stats 1984 ch 1412)

654. Informal supervision. In any case in which a probation officer, after investigation of an application for petition or any other investigation he or she is authorized to make concludes that a minor is within the jurisdiction of the juvenile court or will probably soon be within that jurisdiction, the probation officer may, in lieu of filing a petition to declare a minor a dependent child of the court or a minor or a ward of the court under Section 601 or requesting that a petition be filed by the prosecuting attorney to declare a minor a ward of the court under Section 602 and with consent of the minor and the minor's parent or guardian, delineate specific programs of supervision for the minor, for not to exceed six months, and attempt thereby to adjust the situation which brings the minor within the jurisdiction of the court or creates the probability that the minor will soon be within that jurisdiction. Nothing in this section shall be construed to prevent the probation officer from filing a petition or requesting the prosecuting attorney to file a petition at any time within the six-month period or a 90-day period thereafter. If the probation officer determines that the minor has not involved himself or herself in the specific programs within 60 days, the probation officer shall immediately file a petition or request that a petition be filed by the prosecuting attorney. However, when in the judgment of the probation officer the interest of the minor and the community can be protected, the probation officer shall make a diligent effort to proceed under this section.

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

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

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

(a) Maintain and operate sheltered-care facilities, or contract with private or public agencies to provide these services. The placement shall be limited to a maximum of 90 days. Counseling services shall be extended to the sheltered minor and his or her family during this period of diversion services. The minor and his or her parents may be required to make full or partial reimbursement for the services rendered the minor and his or her family during the diversion process. Referrals for sheltered-care diversion may be made by the minor, his or her family, schools, any law enforcement agency, or any other private or public social service agency.

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

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

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

(Added Stats 1982 ch 1088; most recently amended Stats 1989 ch 1117)

654.1. Informal Supervision—Alcohol or Drugs. (a) Notwithstanding Section 654 or any other provision of law, in any case in which a minor has been charged with a violation of Section 23140 or 23152 of the Vehicle Code, the probation officer may, in lieu of requesting that a petition be filed by the prosecuting attorney to declare the minor a ward of the court under Section 602, proceed in accordance with Section 654 and delineate a program of supervision for the minor. However, the probation officer shall cause the citation for a violation of Section 23140 or 23152 of the Vehicle Code to be heard and disposed of by the judge, referee, or traffic hearing officer pursuant to Sections 257 and 258 as a condition of any program of supervision.

(b) Nothing in this section shall be construed to prevent the probation officer from requesting the prosecuting attorney to file a petition to declare the minor a ward of the court under Section 602 for a violation of Section 23140 or 23152 of the Vehicle Code. However, when in the judgment of the probation officer, the interest of the minor and the community can be protected by adjudication of a

violation of Section 23140 or 23152 of the Vehicle Code in accordance with subdivision (a), the probation officer shall proceed under subdivision (a).

(Added Stats 1988 ch 1258)

654.2. Informal supervision—court ordered. (a) If a petition has been filed by the prosecuting attorney to declare a minor a ward of the court under Section 602, the court may, without adjudging the minor a ward of the court and with the consent of the minor and the minor's parents or guardian, continue any hearing on a petition for six months and order the minor to participate in a program of supervision as set forth in Section 654. Fifteen days prior to the conclusion of the program of supervision undertaken pursuant to this section, the probation officer shall submit to the court a followup report of the minor's participation in the program. The minor and the minor's parents or guardian shall be ordered to appear at the conclusion of the six-month period. If the minor successfully completes the program of supervision, the court shall order the petition be dismissed. If the minor has not successfully completed the program of supervision, proceedings on the petition shall proceed.

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

(Added Stats 1989 ch 1117)

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

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

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

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

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

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

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

(g) A petition alleges that the minor has violated an offense in which the restitution owed to the victim exceeds one thousand dollars ($1,000). For purposes of this paragraph, the definition of "victim" in paragraph (1) of subdivision (a) of Section 729.6 and "restitution" in subdivision (d) of Section 729.6 shall apply.

(Added Stats 1989 ch 1117)

654.4. Informal supervision—condition of participation. Any minor who is placed in a program of supervision set forth in Section 654 or 654.2 for a violation of an offense involving the unlawful possession, use, sale, or other furnishing of a controlled substance, as defined in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, or for violating subdivision (f) of Section 647 of the Penal Code or Section 23140 or 23152 of the Vehicle Code, shall be required to participate in and successfully complete an alcohol or drug education program from a county mental health agency or other appropriate community program.

(Added Stats 1989 ch 1117)

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

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

(Added Stats 1961 ch 1616; most recently amended Stats 1980 ch 670)

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

(Added Stats 1984 ch 260)

656. The petition. A petition to commence proceedings in the juvenile court to declare a minor a ward of the court shall be verified and shall contain all of the following:

(a) The name of the court to which it is addressed.

(b) The title of the proceeding.

(c) The code section and subdivision under which the proceedings are instituted.

(d) The name, age, and address, if any, of the minor upon whose behalf the petition is brought.

(e) The names and residence addresses, if known to petitioner, of both of the parents and any guardian of the minor. If there is no parent or guardian residing within the state, or if his or her place of residence is not known to petitioner, the petition shall also contain the name and residence address, if known, of any adult relative residing within the county, or, if there are none, the adult relative residing nearest to the location of the court.

(f) A concise statement of facts, separately stated, to support the conclusion that the minor upon whose behalf the petition is being brought is a person within the definition of each of the sections and subdivisions under which the proceedings are being instituted.

(g) The fact that the minor upon whose behalf the petition is brought is detained in custody or is not detained in custody, and if he or she is detained in custody, the date and the precise time the minor was taken into custody.

(h) A notice to the father, mother, spouse, or other person liable for support of the minor child, that: (1) Section 903 makes that person, the estate of that person, and the estate of the minor child, liable for the cost of the care, support, and maintenance of the minor child in any county institution or any other place in which the child is placed, detained, or committed pursuant to an order of the juvenile court; (2) Section 903.1 makes that person, the estate of that person, and the estate of the minor child, liable for the cost to the county of legal services rendered to the minor by a private attorney or a public defender appointed pursuant to the order of the juvenile court; (3) Section 903.2 makes that person, the estate of that person, and the estate of the minor child, liable for the cost to the county of the probation supervision of the minor child by the probation officer pursuant to the order of the juvenile court; and (4) the liabilities established by these sections are joint and several.

(i) In a proceeding alleging that the minor comes within the provisions of Section 601, notice to the parent, guardian, or other person having control or charge of the minor that failure to comply with the compulsory school attendance laws is an infraction, which may be charged and prosecuted before the juvenile court judge sitting as a municipal court judge. In those cases, the petition shall also include notice that the parent, guardian, or other person having control or charge of the minor has the right to a hearing on the infraction before a judge different than the judge who has heard or is to hear the proceeding pursuant to Section 601. The notice shall explain the provisions of Section 170.6 of the Code of Civil Procedure.

(Added Stats 1961 ch 1616; most recently amended Stats 1985 ch 120)

656.1. Designation as felony—misdemeanor. Any petition alleging that the minor is a person described by Section 602 shall specify as to each count whether the crime charged is a felony or a misdemeanor.

(Added Stats 1976 ch 1071)

656.2. Victim's rights. (a) In any case in which a minor is alleged to have committed an act which would have been a felony if committed by an adult, the probation officer shall obtain a statement from the victim, the parent or guardian of the victim if the victim is a minor, or if the victim has died, the victim's next of kin, concerning the offense which shall be included in the social study made by

the probation officer and submitted to the court pursuant to Section 706 and shall advise those persons as to the time and place of the disposition hearing.

The probation officer shall also provide the victim with information concerning the victim's right to an action for civil damages against the minor and his or her parents and the victim's opportunity to be compensated from the restitution fund. The information shall be in the form of written material prepared by the Judicial Council and shall be provided to each victim for whom the probation officer has a current mailing address.

(b) Notwithstanding any other provision of the law, the persons from whom the probation officer is required to obtain a statement pursuant to subdivision (a) shall have the right to attend the disposition hearing conducted pursuant to Section 702 and, subject to the court's discretion, to express their views concerning the offense and disposition of the case.

(Repealed and added Stats 1989 ch 569, eff. 9/21/89)

656.5. Dismissal of unverified petition. Any petition filed in juvenile court to commence proceedings pursuant to this chapter that is not verified may be dismissed without prejudice by such court.

(Added Stats 1972 ch 897)

657. Hearing date. (a) Upon the filing of the petition, the clerk of the juvenile court shall set the same for hearing within 30 days, except as follows:

(1) In the case of a minor detained in custody at the time of the filing of the petition, the petition must be set for hearing within 15 judicial days from the date of the order of the court directing such detention.

(2) In the case of a minor not before the juvenile court at the time of the filing of the petition and for whom a warrant of arrest has been issued pursuant to Section 663, the hearing on the petition shall be stayed until the minor is brought before the juvenile court on the warrant of arrest. The clerk of the juvenile court shall set the petition for hearing within 30 days of the minor's initial appearance in juvenile court on the petition, except that in the case of a minor detained in custody, the petition shall be set for hearing within 15 judicial days from the date of the order of the court directing such detention.

(b) At the detention hearing, or any time thereafter, a minor who is alleged to come within the provisions of Section 601 or 602, may, with the consent of counsel, admit in court the allegations of the petition and waive the jurisdictional hearing.

(Added Stats 1961 ch 1616; most recently amended Stats 1984 ch 158)

658. Notice of hearing. (a) Except as provided in subdivision (b), upon the filing of the petition, the clerk of the juvenile court shall issue a notice, to which shall be attached a copy of the petition, and he shall cause the same to be served upon the minor, if the minor is eight or more years of age, and upon each of the persons described in subdivision (e) of Section 656 whose residence addresses are set forth in said petition and thereafter before the hearing upon all such persons whose residence addresses become known to the clerk. The clerk shall issue a copy of the petition, to the minor's attorney and to the district attorney, if the district attorney has notified the clerk of the court that he wishes to receive such petition, containing the time, date, and place of the hearing.

(b) Upon the filing of a supplemental petition where the minor has been declared a ward of the court or a probationer under Section 602 in the original

matter, the clerk of the juvenile court shall issue a notice, to which shall be attached a copy of the petition, and he or she shall cause the notice to be served upon the minor, if the minor is eight or more years of age, and upon each of the persons described in subdivision (e) of Section 656 whose residence addresses are set forth in the supplemental petition and thereafter known to the clerk. The clerk shall issue a copy of the supplemental petition to the minor's attorney, and to the district attorney if the probation officer is the petitioner, or, to the probation officer if the district attorney is the petitioner, containing the time, date, and place of the hearing.

(Added Stats 1961 ch 1616; most recently amended Stats 1986 ch 757)

659. Format of notice of hearing. The notice must contain:

(a) The name and address of the person to whom the notice is directed.

(b) The date, time, and place of the hearing on the petition.

(c) The name of the minor upon whose behalf the petition has been brought.

(d) Each section and subdivision under which the proceeding has been instituted.

(e) A statement that the minor and his or her parent or guardian or adult relative, as the case may be, to whom notice is required to be given, are entitled to have an attorney present at the hearing on the petition, and that, if the parent or guardian or such adult relative is indigent and cannot afford an attorney, and the minor or his or her parent or guardian or such adult relative desires to be represented by an attorney, such parent or guardian or adult relative shall promptly notify the clerk of the juvenile court, and that in the event counsel or legal assistance is furnished by the court, the parent or guardian or adult relative shall be liable to the county, to the extent of his, her, or their financial ability, for all or a portion of the cost thereof.

(f) A statement that the parent or parents or responsible relative or guardian may be liable for the costs of support of the minor in a county institution.

(Added Stats 1961 ch 1616; most recently amended Stats 1985 ch 1485)

660. Service—Notice of hearing. (a) Except as provided in subdivision (b), if the minor is detained, the clerk of the juvenile court shall cause the notice and copy of the petition to be served on all persons required to receive such notice and copy of the petition, either personally or by certified mail with request for return receipt, as soon as possible after filing of the petition and at least five days prior to the time set for hearing, unless such hearing is set less than five days from the filing of the petition, in which case, such notice and copy of the petition shall be served at least 24 hours prior to the time set for hearing.

(b) If the minor is detained, and all persons entitled to notice were present at the detention hearing, the clerk of the juvenile court shall cause the notice and copy of the petition to be served on all persons required to receive the notice and copy of the petition, either personally or by first-class mail, as soon as possible after the filing of the petition and at least five days prior to the time set for hearing, unless the hearing is set less than five days from the filing of the petition, in which case the notice and copy of the petition shall be served at least 24 hours prior to the time set for the hearing.

(c) If the minor is not detained, the clerk of the juvenile court shall cause the notice and copy of the petition to be served on all persons required to receive

such notice and copy of the petition, either personally or by first-class mail, at least 10 days prior to the time set for hearing. If such person is known to reside outside of the county, the clerk of the juvenile court shall mail the notice and copy of the petition, by first-class mail, to such person, as soon as possible after the filing of the petition and at least 10 days before the time set for hearing. Failure to respond to the notice shall in no way result in arrest or detention. In the instance of failure to appear after notice by first-class mail, the court shall direct that the notice and copy of the petition is to be personally served on all persons required to receive such notice and copy of the petition. Personal service of the notice and copy of the petition outside of the county at least 10 days before the time set for hearing is equivalent to such service by first-class mail. Service may be waived by any person by a voluntary appearance entered in the minutes of the court or by a written waiver of service filed with the clerk of the court at or prior to the hearing.

(d) For purposes of this section, service on the minor's attorney shall constitute service on the minor's parent or guardian.

(Added Stats 1967 ch 1355; most recently amended Stats 1984 ch 481)

661. Citation to appear. In addition to the notice provided in Sections 658 and 659, the juvenile court may issue its citation directing any parent, guardian, or foster parent of the person concerning whom a petition has been filed to appear at the time and place set for any hearing or financial evaluation under the provisions of this chapter, including a hearing under the provisions of Section 257, and directing any person having custody or control of the minor concerning whom the petition has been filed to bring the minor with him or her. 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. If the proceeding is one alleging that the minor comes within the provisions of Section 601, the notice shall in addition contain notice to the parent, guardian, or other person having control or charge of the minor that failure to comply with the compulsory school attendance laws is an infraction, which may be charged and prosecuted before the juvenile court judge sitting as a municipal court judge. In those cases, the notice shall also include notice that the parent, guardian, or other person having control or charge of the minor has the right to a hearing on the infraction before a judge different than the judge who has heard or is to hear the proceeding pursuant to Section 601. The notice shall explain the provisions of Section 170.6 of the Code of Civil Procedure. Personal service of the citation shall be made at least 24 hours before the time stated therein for the appearance.

(Added Stats 1961 ch 1616; most recently amended Stats 1985 chs 120, 1485)

662. Warrant of arrest—parent or guardian. In case such citation cannot be served, or the person served fails to obey it, or in any case in which it appears to the court that the citation will probably be ineffective, a warrant of arrest may issue on the order of the court either against the parent, or guardian, or the person having the custody of the minor, or with whom the minor is.

(Added Stats 1961 ch 1616)

663. Warrant of arrest—minor. Whenever a petition has been filed in the juvenile court alleging that a minor comes within the provisions of Section 601 or

602 of this code and praying for a hearing thereon, or whenever any subsequent petition has been filed praying for a hearing in the matter of said minor and it appears to the court that the conduct and behavior of the said minor may endanger the health, person, welfare, or property of himself or others, or that the circumstances of his home environment may endanger the health, person, welfare or property of said minor, a warrant of arrest may be issued immediately for the minor.

(Added Stats 1961 ch 1616; most recently amended Stats 1976 ch 1068)

664. Subpoenas. Upon request of the probation officer, district attorney, the minor or the minor's parent, guardian, or custodian, the court or the clerk of the court shall issue, and, on the court's own motion, it may issue subpoenas requiring attendance and testimony of witnesses and production of papers at any hearing under the provisions of this chapter. When a person attends a juvenile court hearing as a witness upon a subpoena at its discretion, the court may by an order on its minutes, direct the county auditor to draw his warrant upon the county treasurer in favor of such witness for witness fees in the amount and manner prescribed by Section 68093 of the Government Code. The fees are county charges.

(Added Stats 1961 ch 1616; most recently amended Stats 1967 ch 507)

Wards—Hearings

675. Separate session. (a) All cases under the provisions of this chapter shall be heard at a special or separate session of the court, and no other matter shall be heard at that session. Except as provided in subdivision (b), no person on trial, awaiting trial, or under accusation of crime, other than a parent, guardian, or relative of the minor, shall be permitted to be present at any such session, except as a witness.

(b) Hearings for two or more minors may be heard upon the same rules of joinder, consolidation, and severance as apply to trials in a court of criminal jurisdiction.

(Added Stats 1961 ch 1616; most recently amended Stats 1983 ch 390)

676. Closed hearing. (a) Unless requested by the minor concerning whom the petition has been filed and any parent or guardian present, the public shall not be admitted to a juvenile court hearing. Nothing in this section shall preclude the attendance of up to two family members of a prosecuting witness for the support of that witness, as authorized by Section 868.5 of the Penal Code. The judge or referee may nevertheless admit those persons he or she deems to have a direct and legitimate interest in the particular case or the work of the court. However, except as provided in subdivision (b), members of the public shall be admitted, on the same basis as they may be admitted to trials in a court of criminal jurisdiction, to hearings concerning petitions filed pursuant to Section 602 alleging that a minor is a person described in Section 602 by reason of the violation of any one of the following offenses:

(1) Murder.
(2) Arson of an inhabited building.
(3) Robbery while armed with a dangerous or deadly weapon.
(4) Rape with force or violence or threat of great bodily harm.

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

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

(7) Any offense specified in Section 289 of the Penal Code.

(8) Kidnapping for ransom.

(9) Kidnapping for purpose of robbery.

(10) Kidnapping with bodily harm.

(11) Assault with intent to murder or attempted murder.

(12) Assault with a firearm or destructive device.

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

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

(15) Any offense described in Section 1203.09 of the Penal Code.

(16) Any offense described in Section 12022.5 of the Penal Code committed by a minor 16 years of age or older.

(17) Any felony offense in which a minor 16 years of age or older personally used a weapon listed in subdivision (a) of Section 12020 of the Penal Code.

(18) Burglary of an inhabited dwelling house or trailer coach, as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building, if the minor previously has been adjudged a ward of the court by reason of the commission of any offense listed in this section, including an offense listed in this paragraph.

(b) Where the petition filed alleges that the minor is a person described in Section 602 by reason of the commission of rape with force or violence or great bodily harm; sodomy by force, violence, duress, menace, or threat of great bodily harm; oral copulation by force, violence, duress, menace, or threat of great bodily harm; or any offense specified in Section 289 of the Penal Code, members of the public shall not be admitted to the hearing in either of the following instances:

(1) Upon a motion for a closed hearing by the district attorney, who shall make the motion if so requested by the victim.

(2) During the victim's testimony, if, at the time of the offense the victim was under 16 years of age.

(c) The name of a minor found to have committed one of the offenses listed in subdivision (a) shall not be confidential, unless the court, for good cause, so orders.

(Added Stats. 1961 ch 1616; most recently amended Stats 1987 ch 704)

677. Record of proceedings. At any juvenile court hearing conducted by a juvenile court judge, an official court reporter shall, and at any such hearing conducted by a juvenile court referee, the official reporter, as directed by the court, may take down in shorthand all the testimony and all of the statements and remarks of the judge and all persons appearing at the hearing; and, if directed by the judge, or requested by the person on whose behalf the petition was brought, or by his parent or legal guardian, or the attorneys of such persons, he must, within such reasonable time after the hearing of the petition as the court may designate, write out the same or such specific portions thereof as may be requested in plain and legible longhand or by typewriter or other printing machine and certify to the same as being correctly reported and transcribed, and when directed by the court, file the same with the clerk of the court. Unless

otherwise directed by the judge, the costs of writing out and transcribing all or any portion of the reporter's shorthand notes shall be paid in advance at the rates fixed for transcriptions in a civil action by the person requesting the same.

(Added Stats 1961 ch 1616)

678. Chapter 8, Code of Civil Procedure. The provisions of Chapter 8 (commencing with Section 469) of Title 6 of Part 2 of the Code of Civil Procedure relating to variance and amendment of pleadings in civil actions shall apply to petitions and proceedings under this chapter, to the same extent and with the same effect as if proceedings under this chapter were civil actions.

(Added Stats 1961 ch 1616)

679. Present at hearing. A minor who is the subject of a juvenile court hearing and any person entitled to notice of the hearing under the provisions of Section 658, is entitled to be present at such hearing. Any such minor and any such person has the right to be represented at such hearing by counsel of his own choice or, if unable to afford counsel, has the right to be represented by counsel appointed by the court.

(Added Stats 1961 ch 1616; most recently amended Stats 1976 ch 1068)

680. Procedures. The judge of the juvenile court shall control all proceedings during the hearings with a view to the expeditious and effective ascertainment of the jurisdictional facts and the ascertainment of all information relative to the present condition and future welfare of the person upon whose behalf the petition is brought. Except where there is a contested issue of fact or law, the proceedings shall be conducted in an informal nonadversary atmosphere with a view to obtaining the maximum co-operation of the minor upon whose behalf the petition is brought and all persons interested in his welfare with such provisions as the court may make for the disposition and care of such minor.

(Added Stats 1961 ch 1616)

681. Appearance by district attorney. (a) In a juvenile court hearing which is based upon a petition that alleges that the minor upon whose behalf the petition is being brought is a person within the description of Section 602, the prosecuting attorney shall appear on behalf of the people of the State of California.

(b) In a juvenile court hearing which is based upon a petition that alleges that the minor upon whose behalf the petition is being brought is a person within the description of Section 601 and the minor who is the subject of the hearing is represented by counsel, the prosecuting attorney may, with the consent or at the request of the juvenile court judge, or at the request of the probation officer with the consent of the juvenile court judge, appear and participate in the hearing to assist in the ascertaining and presenting of the evidence. Where the petition in a juvenile court proceeding alleges that a minor is a person described in subdivision (a), (b), or (d) of Section 300, and either of the parents, or the guardian, or other person having care or custody of the minor, or who resides in the home of the minor, is charged in a pending criminal prosecution based upon unlawful acts committed against the minor, the prosecuting attorney shall, with the consent or at the request of the juvenile court judge, represent the minor in the interest of

the state at the juvenile court proceeding. The terms and conditions of such representation shall be with the consent or approval of the judge of the juvenile court.

(Repealed and added Stats 1976 ch 1071; amended by Stats 1978 ch 380)

682. Request for counsel. (a) Upon request of counsel for the minor the court may continue any hearing under this chapter beyond the time limit within which the hearing is otherwise required to be held.

(b) In any case in which the minor is represented by counsel and no objection is made to an order continuing any such hearing beyond the time limit within which the hearing is otherwise required to be held, the absence of such an objection shall be deemed a consent to the continuance.

(Added Stats 1971 ch 698)

700. Rights of minor—appointment of counsel. At the beginning of the hearing on a petition filed pursuant to Article 16 (commencing with Section 650) of this chapter, the judge or clerk shall first read the petition to those present and upon request of the minor upon whose behalf the petition has been brought or upon the request of any parent, relative or guardian, the judge shall explain any term of allegation contained therein and the nature of the hearing, its procedures, and possible consequences. The judge shall ascertain whether the minor and his parent or guardian or adult relative, as the case may be, has been informed of the right of the minor to be represented by counsel, and if not, the judge shall advise the minor and such person, if present, of the right to have counsel present and where applicable, of the right to appointed counsel. The court shall appoint counsel to represent the minor if he appears at the hearing without counsel, whether he is unable to afford counsel or not, unless there is an intelligent waiver of the right of counsel by the minor; and, in the absence of such waiver, if the parent or guardian does not furnish counsel and the court determines that the parent or guardian has the ability to pay for counsel, the court shall appoint counsel at the expense of the parent or guardian. The court shall continue the hearing for not to exceed seven days, as necessary to make an appointment of counsel, or to enable counsel to acquaint himself with the case, or to determine whether the parent or guardian or adult relative is unable to afford counsel at his own expense, and shall continue the hearing as necessary to provide reasonable opportunity for the minor and the parent or guardian or adult relative to prepare for the hearing.

(Added Stats 1961 ch 1616; most recently amended Stats 1976 ch 1068)

700.1. Motion to suppress evidence. Any motion to suppress as evidence any tangible or intangible thing obtained as a result of an unlawful search or seizure shall be heard prior to the attachment of jeopardy and shall be heard at least five judicial days after receipt of notice by the people unless the people are willing to waive a portion of this time.

If the court grants a motion to suppress prior to the attachment of jeopardy over the objection of the people, the court shall enter a judgment of dismissal as to all counts of the petition except those counts on which the prosecuting attorney elects to proceed pursuant to Section 701.

If, prior to the attachment of jeopardy, opportunity for this motion did not exist or the person alleged to come within the provisions of the juvenile court law was

not aware of the grounds for the motion, that person shall have the right to make this motion during the course of the proceeding under Section 701.
(Added Stats 1980 ch 1095)

700.2. Parents right to open hearing. Upon his or her appearance before the juvenile court on a complaint charging violation of Section 48293 of the Education Code, the juvenile court shall inform the parent, guardian, or other person having control or charge of the minor of the right to an open hearing and of the right to have a hearing on the complaint before a judge different than the judge who has heard or is to hear the proceeding pursuant to Section 601. The provisions of Section 170.6 of the Code of Civil Procedure shall be explained to the parent, guardian, or other person having control or charge of the minor.
(Added Stats 1985 ch 120)

700.5. Continuance. Except where a minor is in custody, any hearing on a petition filed pursuant to Article 16 (commencing with Section 650) of this chapter may be continued by the court for not more than 10 days in addition to any other continuance authorized in this chapter whenever the court is satisfied that an unavailable and necessary witness will he available within such time.
(Added Stats 1971 ch 698; amended Stats 1976 ch 1068)

701. Jurisdictional facts. At the hearing, the court shall first consider only the question whether the minor is a person described by Section 300, 601, or 602. The admission and exclusion of evidence shall be pursuant to the rules of evidence established by the Evidence Code and by judicial decision. Proof beyond a reasonable doubt supported by evidence, legally admissible in the trial of criminal cases, must be adduced to support a finding that the minor is a person described by Section 602, and a preponderance of evidence, legally admissible in the trial of civil cases must be adduced to support a finding that the minor is a person described by Section 300 or 601. When it appears that the minor has made an extrajudicial admission or confession and denies the same at the hearing, the court may continue the hearing for not to exceed seven days to enable the prosecuting attorney to subpoena witnesses to attend the hearing to prove the allegations of the petition. If the minor is not represented by counsel at the hearing, it shall be deemed that objections that could have been made to the evidence were made.
(Added Stats 1961 ch 1616; most recently amended Stats 1977 ch 579)

701.1. Dismissal of petition. At the hearing, the court, on motion of the minor or on its own motion, shall order that the petition be dismissed and that the minor be discharged from any detention or restriction therefore ordered, after the presentation of evidence on behalf of the petitioner has been closed, if the court, upon weighing the evidence then before it, finds that the minor is not a person described by Section 601 or 602. If such a motion at the close of evidence offered by the petitioner is not granted, the minor may offer evidence without first having reserved that right.
(Added Stats 1980 ch 266)

702. Dispositional data. After hearing the evidence, the court shall make a finding, noted in the minutes of the court, whether or not the minor is a person described by Section 300, 601, or 602. If it finds that the minor is not such a person,

it shall order that the petition be dismissed and the minor be discharged from any detention or restriction theretofore ordered. If the court finds that the minor is such a person, it shall make and enter its findings and order accordingly, and shall then proceed to hear evidence on the question of the proper disposition to be made of the minor. Prior to doing so, it may continue the hearing, if necessary, to receive the social study of the probation officer, to refer the minor to a juvenile justice community resource program as defined in Article 5.2 (commencing with Section 1784) of Chapter 1 of Division 2.5, or to receive other evidence on its own motion or the motion of a parent or guardian for not to exceed 10 judicial days if the minor is detained during the continuance. If the minor is not detained, it may continue the hearing to a date not later than 30 days after the date of filing of the petition. The court may, for good cause shown continue the hearing for an additional 15 days, if the minor is not detained. The court may make such order for detention of the minor or his or her release from detention, during the period of the continuance, as is appropriate.

If the minor is found to have committed an offense which would in the case of an adult be punishable alternatively as a felony or a misdemeanor, the court shall declare the offense to be a misdemeanor or felony.

(Added Stats 1961 ch 1616; most recently amended Stats 1984 ch 1752)

702.3. Insanity proceedings. Notwithstanding any other provision of law:

(a) When a minor denies, by a plea of not guilty by reason of insanity, the allegations of a petition filed pursuant to Section 602 of the Welfare and Institutions Code, and also joins with that denial a general denial of the conduct alleged in the petition, he or she shall first be subject to a hearing as if he or she had made no allegation of insanity. If the petition is sustained or if the minor denies the allegations only by reason of insanity, then a hearing shall be held on the question of whether the minor was insane at the time the offense was committed.

(b) If the court finds that the minor was insane at the time the offense was committed, the court, unless it appears to the court that the minor has fully recovered his or her sanity, shall direct that the minor be confined in a state hospital for the care and treatment of the mentally disordered or any other appropriate public or private mental health facility approved by the community program director, or the court may order the minor to undergo outpatient treatment as specified in Title 15 (commencing with Section 1600) of Part 2 of the Penal Code. The court shall transmit a copy of its order to the community program director or his or her designee. If the allegations of the petition specifying any felony are found to be true, the court shall direct that the minor be confined in a state hospital or other public or private mental health facility approved by the community program director for a minimum of 180 days, before the minor may be released on outpatient treatment. Prior to making the order directing that the minor be confined in a state hospital or other facility or ordered to undergo outpatient treatment, the court shall order the community program director or his or her designee to evaluate the minor and to submit to the court within 15 judicial days of the order his or her written recommendation as to whether the minor should be required to undergo outpatient treatment or committed to a state hospital or another mental health facility. If, however, it shall

appear to the court that the minor has fully recovered his or her sanity the minor shall be remanded to the custody of the probation department until his or her sanity shall have been finally determined in the manner prescribed by law. A minor committed to a state hospital or other facility or ordered to undergo outpatient treatment shall not be released from confinement or the required outpatient treatment unless and until the court which committed him or her shall, after notice and hearing, in the manner provided in Section 1026.2 of the Penal Code, find and determine that his or her sanity has been restored.

(c) When the court, after considering the placement recommendation for the community program director required in subdivision (b), orders that the minor be confined in a state hospital or other public or private mental health facility, the court shall provide copies of the following documents which shall be taken with the minor to the state hospital or other treatment facility where the minor is to be confined:

(1) The commitment order, including a specification of the charges.

(2) The computation or statement setting forth the maximum time of commitment in accordance with Section 1026.5 and subdivision (e).

(3) A computation or statement setting forth the amount of credit, if any, to be deducted from the maximum term of commitment.

(4) State Summary Criminal History information.

(5) Any arrest or detention reports prepared by the police department or other law enforcement agency.

(6) Any court-ordered psychiatric examination or evaluation reports.

(7) The community program director's placement recommendation report.

(d) The procedures set forth in Sections 1026, 1026.1, 1026.2, 1026.3, 1026.4, 1026.5, and 1027 of the Penal Code, and in Title 15 (commencing with Section 1600) of Part 2 of the Penal Code, shall be applicable to minors pursuant to this section, except that, in cases involving minors, the probation department rather than the sheriff, shall have jurisdiction over the minor.

(e) No minor may be committed pursuant to this section for a period longer than the jurisdictional limits of the juvenile court, pursuant to Section 607, unless, at the conclusion of the commitment, by reason of a mental disease, defect, or disorder, he or she represents a substantial danger of physical harm to others, in which case the commitment for care and treatment beyond the jurisdictional age may be extended by proceedings in superior court in accordance with and under the circumstances specified in subdivision (b) of Section 1026.5 of the Penal Code.

(f) The provision of a jury trial in superior court on the issue of extension of commitment shall not be construed to authorize the determination of any issue in juvenile court proceedings to be made by a jury.

(Added Stats 1978 ch 867; most recently amended Stats 1989 ch 625)

702.5. Rights of minor. In any hearing conducted pursuant to Section 701 or 702 to determine whether a minor is a person described in Section 601 or 602, the minor has a privilege against self-incrimination and has a right to confrontation by, and cross-examination of, witnesses.

(Added Stats 1967 ch 1355)

704. Diagnostic services Youth Authority. (a) If the court has determined that a minor is a person described by Section 602, or if the court has

determined that a minor is a person described by Section 601 and a supplemental petition for commitment of such minor to the Youth Authority has been filed pursuant to Section 777, and such minor is otherwise eligible for commitment to the Youth Authority, the court, if it concludes that a disposition of the case in the best interest of the minor requires such observation and diagnosis as can be made at a diagnostic and treatment center of the Youth Authority, may continue the hearing and order that such minor 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 Youth Authority report to the court its diagnosis and recommendations concerning the minor within the 90-day period.

(b) The Director of Youth Authority shall, within the 90 days, cause the minor to be observed and examined and shall forward to the court his diagnosis and recommendation concerning such minor's future care, supervision, and treatment.

(c) The Youth Authority shall accept such person if there is in effect a contract made pursuant to Section 1752.1 and if it believes that the person can be materially benefited by such diagnostic and treatment services and if the Director of the Youth Authority certifies that staff and institutions are available. No such person shall be transported to any facility under the jurisdiction of the Youth Authority until the director has notified the referring court of the place to which said person is to be transported and the time at which he can be received.

(d) The probation officer of the county in which an order is made placing a minor in a diagnostic and treatment center pursuant to this section, or any other peace officer designated by the court, shall execute the order placing such minor in the center or returning him therefrom to the court. The expense of such probation officer or other peace officer incurred in executing such order is a charge upon the county in which the court is situated.

(Added Stats 1961 ch 1616; amended Stats 1967 ch 712)

705. Mentally disordered minors. Whenever the court, before or during the hearing on the petition, is of the opinion that the minor is mentally disordered or if the court is in doubt concerning the mental health of any such person, the court may proceed as provided in Section 6550 of this code or Section 4011.6 of the Penal Code.

(Added Stats 1961 ch 1616; most recently amended Stats 1976 ch 445, effective 7/10/76)

706. Probation officers report. After finding that a minor is a person described in Section 601 or 602, the court shall hear evidence on the question of the proper disposition to be made of the minor. The court shall receive in evidence the social study of the minor made by the probation officer and such other relevant and material evidence as may be offered, and in any judgment and order of disposition, shall state the social study made by the probation officer has been read and considered by the court.

(Added Stats 1961 ch 1616; amended Stats 1976 ch 1068)

706.5. Foster care placement—social study requirements. In any case where foster care placement is being considered, or has been made, each social study made by a probation officer, required to be received in evidence

pursuant to Section 706, shall include, but not be limited to, the factual material listed in subdivisions (a) and (b) of Section 358.1.

(Added Stats 1989 ch 569, eff. 9/21/89)

707. Prosecution under the general law. (a) In any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any criminal statute or ordinance except those listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit, the juvenile court may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment, and training program available through the facilities of the juvenile court, based upon an evaluation of the following criteria:

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

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

(3) The minor's previous delinquent history.

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

(5) The circumstances and gravity of the offense alleged to have been committed by the minor.

A determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above, which shall be recited in the order of unfitness. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing, and no plea which may already have been entered shall constitute evidence at the hearing.

(b) Subdivision (c) shall be applicable in any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of one of the following offenses:

(1) Murder.

(2) Arson of an inhabited building.

(3) Robbery while armed with a dangerous or deadly weapon.

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

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

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

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

(8) Any offense specified in Section 289 of the Penal Code.

(9) Kidnapping for ransom.

(10) Kidnapping for purpose of robbery.

(11) Kidnapping with bodily harm.

(12) Assault with intent to murder or attempted murder.
(13) Assault with a firearm or destructive device.
(14) Assault by any means of force likely to produce great bodily injury.
(15) Discharge of a firearm into an inhabited or occupied building.
(16) Any offense described in Section 1203.09 of the Penal Code.
(17) Any offense described in Section 12022.5 of the Penal Code.
(18) Any felony offense in which the minor personally used a weapon listed in subdivision (a) of Section 12020 of the Penal Code.
(19) Any felony offense described in Section 136.1 or 137 of the Penal Code.
(20) Manufacturing, compounding, or selling one-half ounce or more of any salt or solution of a controlled substance specified in subdivision (e) of Section 11055 of the Health and Safety Code.
(21) Any violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code, which would also constitute a felony violation of subdivision (b) of Section 186.22 of the Penal Code.

(c) With regard to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any of the offenses listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of each of the following criteria:
(1) The degree of criminal sophistication exhibited by the minor.
(2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.
(3) The minor's previous delinquent history.
(4) Success of previous attempts by the juvenile court to rehabilitate the minor.
(5) The circumstances and gravity of the offenses alleged to have been committed by the minor.

A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and findings therefor recited in the order as to each of the above criteria that the minor is fit and proper under each and every one of the above criteria. In making a finding of fitness, the court may consider extenuating or mitigating circumstances in evaluating each of the above criteria. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea which may already have been entered shall constitute evidence at the hearing.

(d) If, subsequent to a finding that a minor is an unfit subject to be dealt with under the juvenile court law, the minor is convicted in a court of criminal

jurisdiction of an offense listed in subdivision (b) of this section or listed in paragraph (24) of subdivision (c) of Section 1192.7 of the Penal Code, the finding of unfitness which preceded the conviction is applicable to the violation of any law or ordinance defining crime which is alleged to have been committed subsequent to the conviction if the violation would otherwise cause the minor to be a person described in Section 602. The probation officer shall not be required to investigate or submit a report regarding the fitness of a minor for any such subsequent charge. This subdivision shall not be construed to affect the right to appellate review of a finding of unfitness or the duration of the jurisdiction of the juvenile court as specified in Section 607.

(Added Stats 1975 ch 1266; most recently amended Stats 1989 ch 820)

707.1. Accusatory pleading. (a) If the minor is declared not a fit and proper subject to be dealt with under the juvenile court law, the district attorney, or other appropriate prosecuting officer may file an accusatory pleading against the minor in a court of criminal jurisdiction. The case shall proceed from that point according to the laws applicable to a criminal case. If a prosecution has been commenced in another court but has been suspended while juvenile court proceedings are being held, it shall be ordered that the proceedings upon that prosecution shall resume.

(b) (1) The juvenile court may order that a minor alleged to have committed an offense described in subdivision (b) of Section 707 and who has been declared not a fit and proper subject to be dealt with under the juvenile court law be delivered to the custody of the sheriff upon a finding that the presence of the minor in the juvenile hall would endanger the safety of the public or be detrimental to the other inmates detained in the juvenile hall. Other minors declared not fit and proper subjects to be dealt with under the juvenile court law, if detained, shall remain in the juvenile hall pending final disposition by the criminal court or until they attain the age of 18, whichever occurs first.

(2) Upon attainment of the age of 18 such a person who is detained in juvenile hall shall be delivered to the custody of the sheriff unless the court finds that it is in the best interests of the person and the public that he or she be retained in juvenile hall. If a hearing is requested by the person, the transfer shall not take place until after the court has made its findings.

(3) When a person under 18 years of age is detained pursuant to this section in a facility in which adults are confined the detention shall be in accordance with the conditions specified in subdivision (b) of Section 207.1.

(4) A minor found not a fit and proper subject to be dealt with under the juvenile court law shall, upon the conclusion of the fitness hearing, be entitled to release on bail or on his or her own recognizance on the same circumstances, terms, and conditions as an adult alleged to have committed the same offense.

(Added Stats 1975 ch 1266; most recently amended Stats 1986 ch 1271)

707.2. Evaluation by Youth Authority. Prior to sentence, the court of criminal jurisdiction may remand the minor to the custody of the Youth Authority for not to exceed 90 days for the purpose of evaluation and report concerning his amenability to training and treatment offered by the Youth Authority. No minor who was under the age of 18 years when he committed any criminal offense and who has been found not a fit and proper subject to be dealt with under the

juvenile court law shall be sentenced to the state prison unless he has first been remanded to the custody of the Youth Authority for evaluation and report pursuant to this section.

The need to protect society, the nature and seriousness of the offense, the interests of justice, the suitability of the minor to the training and treatment offered by the Youth Authority, and the needs of the minor shall be the primary considerations in the court's determination of the appropriate disposition for the minor.

(Added Stats 1975 ch 1266; most recently amended Stats 1982 ch 1105)

707.4. Lack of conviction in criminal court. In any case arising under this article in which there is no conviction in the criminal court, the clerk of the criminal court shall report such disposition to the juvenile court, to the probation department, to the law enforcement agency which arrested the minor for the offense which resulted in his remand to criminal court, and to the Department of Justice. Unless the minor has had a prior conviction in a criminal court, the clerk of the criminal court shall deliver to the clerk of the juvenile court all copies of the minor's record in criminal court and shall obliterate the minor's name from any index or minute book maintained in the criminal court. The clerk of the juvenile court shall maintain the minor's criminal court record as provided by Article 22 (commencing with Section 825) of this chapter until such time as the juvenile court may issue an order that they be sealed pursuant to Section 781.

(Added Stats 1975 ch 1266; most recently amended Stats 1978 ch 380)

708. Diagnosis and evaluation of narcotic and dangerous drug users. Whenever a minor who appears to be a danger to himself or herself or others as a result of the use of controlled substances (as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code), is brought before any judge of the juvenile court, the judge may continue the hearing and proceed pursuant to this section. The court may order the minor taken to a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation. Thereupon the provisions of Section 5343 of the Welfare and Institutions Code shall apply, except that the professional person in charge of the facility shall make a written report to the court concerning the results of the evaluation of the minor.

If the professional person in charge of the facility for 72-hour evaluation and treatment reports to the juvenile court that the minor is not a danger to himself or herself or others as a result of the use of controlled substances or that the minor does not require 14-day intensive treatment, or if the minor has been certified for not more than 14 days of intensive treatment and the certification is terminated, the minor shall be released if the juvenile court proceedings have been dismissed; referred for further care and treatment on a voluntary basis, subject to the disposition of the juvenile court proceedings; or returned to the juvenile court, in which event the court shall proceed with the case pursuant to this chapter.

Any expenditure for the evaluation or intensive treatment of a minor under this section shall be considered an expenditure made under Part 2 (commencing with Section 5660) of Division 5, and shall be reimbursed by the state as are other local expenditures pursuant to that part.

(Added Stats 1970 ch 1129; most recently amended Stats 1984 ch 1635)

Wards—Judgments and Orders

725. Disposition by court. After receiving and considering the evidence on the proper disposition of the case, the court may enter judgment as follows:

(a) If the court has found that the minor is a person described by Section 601 or 602, by reason of the commission of an offense other than any of the offenses set forth in Section 654.3, it may, without adjudging the minor a ward of the court, place the minor on probation, under the supervision of the probation officer, for a period not to exceed six months. The minor's probation shall include the conditions required in Section 729.2 except in any case in which the court makes a finding and states on the record its reasons that any of those conditions would be inappropriate. If the offense involved the unlawful possession, use, or furnishing of a controlled substance, as defined in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, a violation of subdivision (f) of Section 647 of the Penal Code, or a violation of Section 25662 of the Business and Professions Code, the minor's probation shall include the conditions required by Section 729.10. If the minor fails to comply with the conditions of probation imposed, the court may order and adjudge the minor to be a ward of the court.

(b) If the court has found that the minor is a person described by Sections 601 or 602, it may order and adjudge the minor to be a ward of the court.

(Added Stats 1961 ch 1616; most recently amended Stats 1989 ch 1117)

725.5. Disposition considerations. In determining the judgment and order to be made in any case in which the minor is found to be a person described in Section 602, the court shall consider, in addition to other relevant and material evidence, (1) the age of the minor, (2) the circumstances and gravity of the offense committed by the minor, and (3) the minor's previous delinquent history.

(Added Stats 1982 ch 1090)

726. Limitations of control by parents, etc. In all cases wherein a minor is adjudged a ward or dependent child of the court, the court may limit the control to be exercised over such ward or dependent child by any parent or guardian and shall by its order clearly and specifically set forth all such limitations, but no ward or dependent child shall be taken from the physical custody of a parent or guardian unless upon the hearing the court finds one of the following facts:

(a) That the parent or guardian is incapable of providing or has failed or neglected to provide proper maintenance, training, and education for the minor.

(b) That the minor has been tried on probation in such custody and has failed to reform.

(c) That the welfare of the minor requires that his custody be taken from his parent or guardian.

In any case in which the minor is removed from the physical custody of his parent or guardian as the result of an order of wardship made pursuant to Section 602, the order shall specify that the minor may not be held in physical confinement for a period in excess of the maximum term of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court.

As used in this section and in Section 731, "maximum term of imprisonment" means the longest of the three time periods set forth in paragraph (2) of subdivision (a) of Section 1170 of the Penal Code, but without the need to follow the provisions of subdivision (b) of Section 1170 of the Penal Code or to consider time for good behavior or participation pursuant to Sections 2930, 2931, and 2932 of the Penal Code, plus enhancements which must be proven if pled.

If the court elects to aggregate the period of physical confinement on multiple counts, or multiple petitions, including previously sustained petitions adjudging the minor a ward within Section 602, the "maximum term of imprisonment" shall be specified in accordance with subdivision (a) of Section 1170.1 of the Penal Code.

If the charged offense is a misdemeanor or a felony not included within the scope of Section 1170 of the Penal Code, the "maximum term of imprisonment" is the longest term of imprisonment prescribed by law.

"Physical confinement" means placement in a juvenile hall, ranch, camp, forestry camp or secure juvenile home pursuant to Section 730, or in any institution operated by the Youth Authority.

Nothing in this section shall be construed to limit the power of the court to retain jurisdiction over a minor and to make appropriate orders pursuant to Section 727 for the period permitted by Section 607.

(Added Stats 1961 ch 1616; most recently amended Stats 1977 ch 1238, effective 10/1/77)

727. Order of the court. (a) When a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 601 or Section 602 the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the minor, including medical treatment, subject to further order of the court.

In the discretion of the court, a ward may be ordered to be on probation without supervision of the probation officer. The court, in so ordering, may impose on the ward any and all reasonable conditions of behavior as may be appropriate under this disposition. A minor who has been adjudged a ward of the court on the basis of the commission of any of the offenses described in subdivision (b) of Section 707, Section 459 of the Penal Code, or subdivision (a) of Section 11350 of the Health and Safety Code, shall not be eligible for probation without supervision of the probation officer. A minor who has been adjudged a ward of the court on the basis of the commission of any offense involving the sale or possession for sale of a controlled substance, except misdemeanor offenses involving marijuana, as specified in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, or of an offense in violation of Section 12220 of the Penal Code, shall be eligible for probation without supervision of the probation officer only when the court determines that the interests of justice would best be served and states reasons on the record for that determination.

In all other cases, the court shall order the care, custody, and control of the minor to be under the supervision of the probation officer who may place the minor in any of the following:

(1) The home of a relative.

(2) A suitable licensed community care facility.

(3) With a foster family agency to be placed in a suitable licensed foster family home or certified family home which has been certified by the agency as meeting licensing standards.

(b) Where the court has ordered a specific minor placed under the supervision of the probation officer and the probation officer has found that the needs of the child cannot be met in any available licensed or exempt facility, including emergency shelter, the minor may be placed in a suitable family home that has filed a license application with the State Department of Social Services, provided that all the following certification conditions are met:

(1) A preplacement home visit is made by the probation officer to determine the suitability of the family home.

(2) The probation officer verifies to the licensing agency in writing that the home lacks any deficiencies which would threaten the physical health, mental health, safety, or welfare of the minor.

(3) The probation officer notifies the licensing agency of the proposed placement and determines that the foster family home applicant has filed specific license application documents prior to and after the placement of the minor. If the license is subsequently denied, the minor shall be removed from the home immediately. The denial of the license constitutes a withdrawal of the certification.

When a minor has been adjudged a ward of the court on the ground that he or she is a person described in Section 601 or 602 and the court finds that notice has been given in accordance with Section 661, and when the court orders that a parent or guardian shall retain custody of that minor either subject to or without the supervision of the probation officer, the parent or guardian may be required to participate with that minor in a counseling or education program including, but not limited to, parent education and parenting programs operated by community colleges, school districts or other appropriate agencies designated by the court.

(c) The juvenile court may direct any and all reasonable orders to the parents and guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out the provisions of subdivisions (a) and (b), including orders to appear before a county financial evaluation officer.

When counseling or other treatment services are ordered for the minor, the parent, guardian, or foster parent shall be ordered to participate in those services, unless participation by the parent, guardian, or foster parent is deemed by the court to be inappropriate or potentially detrimental to the child.

(Added Stats 1961 ch 1616; most recently amended Stats 1989 ch 936)

727.1. Placement restrictions. (a) Unless otherwise authorized by law, the court may not order the placement of a minor who is adjudged a ward of the court on the basis that he or she is a person described by either Section 601 or 602 in a private residential facility or program that provides 24-hour supervision, in any state, unless the residential facility or program is licensed for the placement of minors by an agency of the state or states in which the minor will be placed or operates under and is inspected pursuant to standards comparable to those developed by the Youth Authority for similar facilities or programs.

(b) The court shall find, in its order of placement, that the residential facility or program is licensed or operates as required by subdivision (a). The court shall review each such placement for compliance with the requirements of subdivision (a) at least once a year.

(Added Stats 1986 ch 798)

727.5. Monterey County pilot programs. (a) It is the intent of the Legislature in authorizing the pilot program authorized by this section to promote the use of cost-effective local alternatives to out-of-home placement, with emphasis on education, supervision, family involvement, skills development, accountability for behavior, restitution to victims of offenses, and productive involvement in the community. It is not its intent to promote programs which emphasize endurance of physical hardship as a rehabilitative approach.

(b) The Department of the Youth Authority shall, if Monterey County consents thereto, allocate funds to Monterey County for establishment of an environmentally based, nonresidential treatment program for persons declared wards of the juvenile court pursuant to Section 602 who have not been removed from parental custody or control and who, but for the existence of that program, would have been placed in a 24-hour residential program. Monterey County may establish, or may contract with a private agency for the provision of, the program. The program shall include, but not be limited to, a marine oriented component. The county may enter into an agreement with Santa Cruz County to provide for the joint participation of juvenile court wards from that county, in such numbers as the counties may agree.

(c) The Department of the Youth Authority shall report to the Legislature no later than September 1, 1989, as to the cost effectiveness of the placements made by the program authorized by this section as opposed to the costs associated with removal of similar wards from the physical custody of their parents or guardians and placement in a community care facility. The project shall be deemed to be successful if it can be shown that participating minors meet all of the following criteria: (1) 70 percent of the minors referred to the program successfully complete the program; (2) 50 percent of the minors who complete the program advance an average of two academic grade levels; and (3) minors who successfully complete the program will, collectively, experience a 30 percent reduction in law enforcement contacts within one year of the termination of their involvement with the program.

(d) This section shall be operative only until January 1, 1990, and as of that date is repealed unless a later enacted statute operative on or before that date extends or deletes that date.

(Added Stats 1987 ch 1489)

728. Repairing damage. If a minor is found to be a person described in Section 602 by reason of the commission of vandalism, 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 such condition would be inappropriate, shall require the minor to wash, paint, repair or replace the defaced, 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 such 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.

(Repealed Stats 1976 ch 1068; added Stats 1979 ch 200)

729. Restitution—School Violence. If a minor is found to be a person described in Section 602 by reason of the commission of a battery on _____ 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 such 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 such 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.

(Repealed Stats 1976 ch 1068; added Stats 1981 ch 566)

729.1. Repairing damage. (a) 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.

(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.

(Added Stats 1982 ch 297; amended and renumbered Stats 1986, ch 248 effective 7/2/86)

729.2. Probation conditions. 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.

(Added Stats 1989 ch 1117)

729.3. Probation—drug 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 probatioin officer for the purpose of determining the presence of alcohol or drugs.

(Added Stats 1989 ch 1117)

729.6. Restitution. (a) If a minor is found to be a person described in Section 602, the court shall require as a condition of probation, that the minor make restitution as follows:

(1) To the victim, if the crime involved a victim. For purposes of this section, "victim" shall include the immediate surviving family of the actual victim in homicide cases. Payments shall be made to the Restitution Fund to the extent that the victim has received assistance pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code.

(2) To the Restitution Fund, if the crime did not involve a victim.

(b) If the court finds, and states its reasons for the finding on the record, that there are compelling and extraordinary reasons why restitution should not be required as provided in subdivision (a), the court shall require, as a condition of probation, that the minor perform specified community services.

(c) The court may avoid imposing the requirement of community service as a condition of probation only if it finds, and states its reasons for the finding on the record, that there are compelling and extraordinary reasons not to require community service in addition to its finding as to why restitution pursuant to subdivision (a) should not be required.

(d) For purposes of paragraph (1) of subdivision (a), "restitution" means full or partial payment for the value of stolen or damaged property, medical expenses, and wages or profits lost due to injury or to time spent as a witness or in assisting the police or prosecution, which losses were caused by the minor as a result of committing the offense for which he or she was found to be a person described in Section 602. 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. Restitution collected pursuant to this section shall be credited to any other judgments obtained by the victim against the minor arising out of the offense for which the minor was found to be a person described in Section 602.

(e) For purposes of paragraph (2) of subdivision (a), the amount of restitution to be paid to the Restitution Fund shall be set at the discretion of the court and commensurate with the seriousness of the offense; but shall not exceed one

thousand dollars ($1,000) if the person is found to have committed a felony; and shall not exceed one hundred dollars ($100) if the person is found to have committed a misdemeanor.

(f) Nothing in this section shall be construed to limit the authority of the court to grant or deny probation or provide conditions of probation.

(Added Stats 1983 ch 940; amended Stats 1984 ch 1340)

729.7. Service Contracts. 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 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.

(Added Stats 1983 ch 939)

729.8. Community Service. If a minor is found to be a person described in Section 602 by reason of unlawfully possessing controlled substances upon the grounds of, or within, any school providing instruction in kindergarten, or any of grades 1 through 12, inclusive, during hours in which the school is open for classes or school-related activities or programs, 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 such condition would be inappropriate, shall require the minor to perform no less than 40 hours of community service.

(Added Stats 1983 ch 736)

729.9. Drug testing. 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. If the minor is required to submit to testing and has the financial ability to pay all or part of the costs associated with that testing, the court shall order the minor to pay a reasonable fee, which shall not exceed the actual cost of the testing.

(Added Stats 1987 ch 879)

729.10. Alcohol and drug programs. (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. The expense of the person's attendance in the program shall be paid by the person's parents or guardian so long as the person is under the age of 18 years, and shall be paid by the person thereafter. The court shall consider the financial capacity of the person, or the person's parents or guardian, to pay the expense of the person's attendance in the program, and is authorized to waive all or part of the payment of the fee upon a finding of insufficient financial capacity to incur the cost of the fee. However, in approving the program, each county shall require the program to provide for the payment of the fee for the program in installments by any person who cannot afford to pay the full fee at the commencement of the program because of the person's income, earning capacity, or financial resources, and shall require the program to provide for the waiver of the fee for any person who is indigent, as determined by criteria for indigency established by the board of supervisors. 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.

(Added Stats 1989 ch 1117)

730. Commitments to forestry camps, etc. When a minor is adjudged a ward of the court on the ground that he is 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.

When such ward is placed under the supervision of the probation officer or committed to his care, custody and control, the court may make any and all reasonable orders for the conduct of such ward including the requirement that he go to work and earn money for the support of his dependents or to effect reparation and in either case that he keep an account of his earnings and report the same to the probation officer and apply such 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.

(Added Stats 1961 ch 1616; most recently amended Stats 1976 ch 1071)

730.5. Fines. 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.

(Added Stats 1960 ch 991; most recently amended Stats 1988 ch 99)

730.6. Restitution fine. (a) When a minor is found to be a person described in Section 602, in addition to any other disposition authorized by law,

the court shall levy a restitution fine which shall be deposited in the Restitution Fund, the proceeds of which shall be distributed pursuant to subdivision (b) of Section 13967 of the Government Code.

(b) The restitution fine imposed pursuant to this section shall be in the form of a penalty assessment in accordance with Section 1464 of the Penal Code. In addition, if the person is found to be a person described in Section 602 by reason of the commission of one or more felony offenses, the court shall impose a separate and additional restitution fine of not more than one thousand dollars ($1,000). In setting the amount of the fine for felony offenses, the court shall consider any relevant factors including, but not limited to, 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. Such 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.

(c) The restitution fine shall be imposed in every case in which a minor is found to be a person described in Section 602. Such restitution fine shall be in addition to any other disposition or fine imposed and shall be imposed regardless of the minor's present ability to pay. Except as provided in this section, under no circumstances shall the court fail to impose the separate and additional restitution fine in felony cases required by this section. This fine shall not be subject to penalty assessments pursuant to Section 1464 of the Penal Code. 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. When such a waiver is granted, the court shall state on the record all reasons supporting the waiver.

(d) In any case in which the minor is ordered to pay restitution as a condition of probation, the order to pay the restitution fine may be stayed pending the successful completion of probation, and thereafter the stay shall become permanent.

(e) If the restitution fine has been stayed pending successful completion of probation, upon revocation of probation and imposition of sentence the stay shall be lifted. The amount of the restitution fine shall be offset by any restitution payments actually made as a condition of probation. However, probation shall not be revoked for failure of a person to make restitution pursuant to Section 729.6 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.

(f) 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.

(Added Stats 1983 ch 940; most recently amended Stats 1988 ch 975)

731. Commitment to Youth Authority. When a minor is adjudged a ward of the court on the ground that he or she is a person described by Section

602, the court may order any of the types of treatment referred to in Sections 727 and 730, and, in addition, may order the ward to make restitution, to pay a fine up to the amount of 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 or the court may commit the ward to a sheltered-care facility or may order that the ward and his or her 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 such minor or may commit the minor to the Department of the Youth Authority.

A minor committed to the Department of the Youth Authority may not be held in physical confinement for a period of time in excess of the maximum period of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court. Nothing in this section limits the power of the Youthful Offender Parole Board to retain the minor on parole status for the period permitted by Section 1769.

(Added Stats 1961 ch 1616; most recently amended Stats 1980 ch 626)

731.1. Commitment to Youth Authority—Restitution. (a) When a minor is committed to the Youth Authority, in lieu of imposing all or a portion of the restitution fine required by Section 730.6, the court shall order restitution to be paid to the victim in cases in which the victim has suffered economic loss as a result of the minor's criminal conduct. For purposes of this section, "victim" shall include the immediate surviving family of the actual victim in homicide cases. For purposes of this section, "restitution" means payment described in subdivision (d) of Section 729.6.

(b) A restitution order imposed pursuant to this section shall identify the losses to which it pertains and may be enforced in a manner provided for the enforcement of money judgments. The making of a restitution order pursuant to this section shall not affect the right of a victim to recovery from the Restitution Fund as provided by law, except to the extent that restitution is actually collected pursuant to the order. Restitution collected pursuant to this section shall be credited to any other judgments obtained by the victim against the minor arising out of the offense for which the minor was found to be a person described in Section 602.

(c) If the court finds that there are compelling and extraordinary reasons, the court may waive imposition of restitution. When such a waiver is granted, the court shall state on the record all reasons supporting the waiver.

(Added Stats 1988 ch 181)

731.5. Public service—petty theft. 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.

(Added Stats 1976 ch 1131)

732. Acceptance. 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.

733. Not committable to C.Y.A. No ward of the juvenile court who is under the age of eight years, and no such ward who is suffering from any contagious, infectious, or other disease which would probably endanger the lives or health of the other inmates of any state school shall be committed to the Youth Authority.

(Added Stats 1961 ch 1616)

734. Benefit 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.

(Added Stats 1961 ch 1616)

735. Commitment documents. 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.

(Added Stats 1961 ch 1616)

736. Delivery date. (a) The Youth Authority shall accept a person committed to it 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. No person subject to this section shall be transported to any facility under the jurisdiction of the Youth Authority until the director thereof has notified the committing court of the place to which that person is to be transported and the time at which he can be received.

(b) The Youth Authority shall also accept a person committed to it pursuant to this article, provided that the Director of the Youth Authority certifies that staff and institutions are available (1) if he is a borderline psychiatric or borderline mentally deficient case, (2) if he or she is a sex deviate unless he or she is of a type whose presence in the community, under parole supervision, would present a menace to the public welfare, or (3) if he or she suffers from a primary behavior disorder. No person subject to this section shall be transported to any facility under the jurisdiction of the Youth Authority until the director thereof has notified the committing court of the place to which that person is to be transported and the time at which he can be received. To implement the administration of this paragraph, the Director of the Youth Authority and the Director of Mental Health shall, at least annually, confer and establish policy with respect to the types of cases which should be the responsibility of each department.

(Added Stats 1961 ch 1616; most recently amended Stats 1981 ch 714)

737. Detention pending delivery. (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 in the detention home, or in the case of a ward of the age of 18 years or more, in the county jail or otherwise as the court deems fit until the execution of the order of commitment or of other disposition.

(b) In any case in which a minor is detained for more than 15 days pending the execution of the order of commitment or of any other disposition, the court shall periodically review the case to determine whether the delay is reasonable. These periodic reviews shall be held at least every 15 days, commencing from the time the minor was initially detained pending the execution of the order of commitment or of any other disposition, and during the course of each review the court shall inquire regarding the action taken by the probation department to carry out its order, the reasons for the delay, and the effect of the delay upon the minor.

(Added Stats 1961 ch 1616; most recently amended Stats 1983 ch 101)

738. **Out-of-state.** 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.

(Added Stats 1961 ch 1616; amended Stats 1976 ch 1068)

739. **Medical, surgical or dental care.** (a) Whenever any person is taken into temporary custody under the provisions of Article 15 (commencing with Section 625) of this chapter and is in need of medical, surgical, dental, or other remedial care, the probation officer may, upon the recommendation of the attending physician or, if the person needs dental care and there is an attending dentist, the attending dentist, authorize the performance of such medical, surgical, dental, or other remedial care. The probation officer shall notify the parent, guardian, or person standing in loco parentis of the person, if any, of the care found to be needed before such care is provided, and if the parent, guardian, or person standing in loco parentis objects, such care shall be given only upon order of the court in the exercise of its discretion.

(b) Whenever it appears to the juvenile court that 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 such remedial care or treatment for such person, the court, upon the written recommendation of a licensed physician 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 such person.

(c) Whenever a ward of the juvenile court is placed by order of the court within the care and custody or under the supervision of the probation officer of the county in which the ward 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 ward, 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 such medical, surgical, dental, or other remedial care for the ward by licensed practitioners, as may from time to time appear necessary.

(d) Whenever it appears that a minor otherwise within the provisions of subdivision (a), (b), or (c) requires immediate emergency medical, surgical, dental, or other remedial care, or whenever the probation officer cannot, with reasonable diligence, locate and notify the parent, guardian, or person standing in loco parentis of the need of the minor for such care, the court, upon the written recommendation of a licensed physician or, if the minor needs dental care, a licensed dentist may make an order authorizing, or the probation officer, upon the written recommendation of a licensed physician or, if the minor needs dental care, a licensed dentist may authorize, the performance of such care as is reasonably necessary under the circumstances, without notice to the parent, guardian, or person standing in loco parentis.

(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 such 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 such care.

(Added Stats 1961 ch 1616; most recently amended Stats 1976 ch 1068)

740. Community Care Facility Placement Restrictions. (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 such a facility within his or her county residence, unless he or she has identifiable needs requiring specialized care which cannot be provided in a local facility, or unless his or her needs dictate physical separation from his or her family.

(b) Within 30 days after 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 Youth Authority ward, the parole officer in charge of his or her case, shall send 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; with regard to this requirement, it is the intention of the Legislature that the probation officer of the county making the placement, or in the case of a Youth Authority ward, the parole officer in charge of his or her case, shall make his or her best efforts to send, or to hand deliver, the notice at the same time the placement is made. When such a placement is terminated, the probation officer of the county making the placement, or in the case of a Youth Authority ward, the parole officer in charge of his or her case, shall send notice thereof to any person or agency receiving notification of the placement.

(c) A minor, the parent or guardian of any minor, and counsel representing a minor or the parent or guardian of a minor may petition the juvenile court for the review of any 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 such persons and by such means as prescribed by Section 776, and, in instances in which the means of giving notice is not prescribed by that section, then by such means as the court prescribes.

(d) As used in this section, "community care facility" shall be defined as provided in Section 1502 of the Health and Safety Code.

(Added Stats 1984 ch 821)

741. Psychiatric and psychological services. 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 such services shall be a charge against the county.

(Added Stats 1961 ch 1616; most recently amended Stats 1985 ch 101)

742. Notification of final disposition—restitution. 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.

(Added Stats 1976 ch 1070; amended Stats 1981 ch 447)

Wards—Transfer of Cases Between Counties

750. Transfer of residence. 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.

(Added Stats. 1961 Ch. 1616; most recently amended Stats. 1971, Ch. 606.)

751. Expenses 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.

(Added Stats 1961 ch 1616; most recently amended Stats 1971 ch 606)

752. Order of transfer. 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.

(Added Stats 1961 ch 1616; most recently amended Stats 1984 ch 205)

753. Precedence of transfer. 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.

(Added Stats 1961 ch 1616)

754. Rights to appeal. 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.

(Added Stats 1961 ch 1616)

755. Courtesy supervision. 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.

(Added Stats 1961 ch 1616; most recently amended Stats 1978 ch 380)

Article 20. Wards—Modification of Juvenile Court Judgments and Orders

(Amended and renumbered Stats 1976 ch 1068)

775. Modification of orders. 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.

(Added Stats 1961 ch 1616)

776. Notice of modification. 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.

(Added Stats 1961 ch 1616; amended Stats 1977 ch 1241, effective 10/1/77)

777. Supplemental petition. 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 noticed hearing upon a supplemental petition.

(a) The supplemental petition shall be filed 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 previous disposition has not been effective in the rehabilitation or protection of the minor.

(2) By the probation officer or the prosecuting attorney, after consulting with the probation officer, if the minor is a court ward or probationer under Section 602 in the original matter and the supplemental petition alleges a violation of a condition of probation not amounting to a crime. The petition shall contain a concise statement of facts sufficient to support the conclusion that the previous disposition has not been effective in the rehabilitation or protection of the minor. The petition shall be filed by the prosecuting attorney, after consulting with the probation officer, if a minor has been declared a ward or probationer under

Section 602 in the original matter and the petition alleges a violation of a condition of probation amounting to a crime. The petition shall contain a concise statement of facts sufficient to support the conclusion that the previous disposition has not been effective in the rehabilitation or protection of the minor.

(3) Where the probation officer is the petitioner pursuant to paragraph (2), if prior to the attachment of jeopardy at the time of the jurisdictional hearing it appears to the prosecuting attorney that the minor is not a person described by subdivision (a) or that the supplemental petition was not properly charged, the prosecuting attorney may make a motion to dismiss the supplemental petition and may request that the matter be referred to the probation officer for whatever action the prosecuting attorney or probation officer may deem appropriate.

(b) Notwithstanding the provisions of subdivision (a), if the petition alleges a violation of a condition of probation and is for the commitment of a minor to a county juvenile institution for a period of 30 days or less, or for a less restrictive disposition, it is not necessary to allege and prove that the previous disposition has not been effective in the rehabilitation or protection of the minor. However, before any period of commitment in excess of 15 days is ordered, the court shall determine and consider the effect that an extended commitment period would have on the minor's schooling, including possible loss of credits, and on any current employment of the minor. In order to make such a commitment the court must, however, find that the commitment is in the best interest of the minor. The provisions of this subdivision may not be utilized more than twice during the time the minor is a ward of the court.

(c) Upon the filing of a supplemental petition, 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.

(d) An order for the detention of the minor pending adjudication of the petition may be made only after a hearing is conducted pursuant to Article 15 (commencing with Section 625) of this chapter.

(e) The filing of a supplemental petition and the hearing thereon shall not be required for the commitment of a minor to a county institution for a period of 30 days or less pursuant to an original or a previous order imposing a specified time in custody and staying the enforcement of the order subject to subsequent violation of a condition or conditions of probation, provided that in order to make the commitment, the court finds at a hearing that the minor has violated a condition of probation.

(Added Stats 1961 ch 1616; most recently amended Stats 1989 ch 1117)

778. Application for new hearing. Any parent or other person having an interest in a child who is a ward of the juvenile court or the child himself 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.

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, and, in such instances as the means of giving notice is not prescribed by such sections, then by such means as the court prescribes.

(Added Stats 1961 ch 1616; most recently amended Stats 1976 ch 1068)

779. Notification 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 by United States mail upon the Director of the Youth Authority. In changing, modifying, or setting aside such 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 in this section provided, 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 in this section provided, nothing in this chapter shall be deemed to interfere with the system of transfer between institutions and facilities under the jurisdiction of the Youth Authority. However, before any inmate of a correctional school may be transferred to a state hospital, he 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.

(Added Stats 1961 ch 1616)

780. Not amenable to C.Y.A. program. 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 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 Youth Authority as to render his or her retention detrimental to the interests of the Youth Authority, the Youthful Offender Parole Board may order the return of such person to the committing court. However, the return of any person to the committing court does not relieve the Department of the Youth Authority of any of its duties or responsibilities under the original commitment, and such commitment continues in full force and effect until it is vacated, modified, or set aside by order of the court.

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

(Added Stats 1961 ch 1616; amended Stats 1979 ch 860)

781. Sealing of records. (a) In any case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the

court, in any case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to Section 626, or in any case in which a minor is taken before any officer of a law enforcement agency, the person or the county probation officer may, five years or more after the jurisdiction of the juvenile court has terminated as to the person, or, in a case in which no petition is filed, five years or more after the person was cited to appear before a probation officer or was taken before a probation officer pursuant to Section 626 or was taken before any officer of a law enforcement agency, or, in any case, at any time after the person has reached the age of 18 years, petition the court for sealing of the records, including records of arrest, relating to the person's case, in the custody of the juvenile court and probation officer and any other agencies, including law enforcement agencies, and public officials as the petitioner alleges, in his or her petition, to have custody of the records. The court shall notify the district attorney of the county and the county probation officer, if he or she is 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, he or she 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 other records relating to the case in the custody of the other agencies and officials as are named in the order. In any case in which 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, also shall 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 and officials. Notwithstanding any other provision of law, the court shall not order the person's records sealed in any case in which the person has been found by the juvenile court to have committed an offense listed in subdivision (b) of Section 707 until at least three years have elapsed since commission of the offense listed in subdivision (b) of Section 707. 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. The court shall send a copy of the order to each agency and official named therein, directing the agency to seal its records and stating the date thereafter to destroy the sealed records. Each such agency 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 it, he, or she received. The person who is the subject of records sealed pursuant to this section may petition the superior court to permit inspection of the records by persons named in the petition, and the superior court may so order. Otherwise, except as provided in subdivision (b), 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 Vehicle 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.

Notwithstanding any other provision of 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 requester code numbers by the department. Any insurer to which such a record of conviction is disclosed, when such a 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.

(2) This subdivision shall not be construed as preventing the sealing of any record which is maintained by any agency or party other than the Department of Motor Vehicles.

(3) This subdivision shall not be construed as affecting 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 the age of 38 if the person was alleged or adjudged to be a person described by Section 602. Any other agency in possession of sealed records may destroy its records five years after the record was ordered sealed.

(Added Stats 1961 ch 1616; most recently amended Stats 1986 ch 277)

782. Dismissal of petitions. A judge of the juvenile court in which a petition was filed, at any time before the minor reaches the age of 21 years, may dismiss the petition or may set aside the findings and dismiss the petition if the court finds that the interests of justice and the welfare of the minor require such dismissal, or if it finds that the minor is not in need of treatment or rehabilitation. The court shall have jurisdiction to order such dismissal or setting aside of the

findings and dismissal regardless of whether the minor is, at the time of such order, a ward or dependent child of the court.

(Added Stats 1971 ch 607)

783. Vehicle Code Violations—Reporting. 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.

(Added Stats 1983 ch 934; amended Stats 1988 ch 1254)

784. Vehicle Code Violations—Reporting. Notwithstanding any other provision of law, upon any 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.

(Added Stats 1989 ch 1465)

Wards—Appeals

800. Precedence of appeals. A judgment in a proceeding under Section 601 or 602, or the denial of a motion made pursuant to Section 262, may be appealed from in the same manner as any final judgment, and any subsequent order may be appealed from 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 or even if the judgment is a dismissal of the petition or any count or counts thereof; 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 in violation of the State or Federal Constitution.

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.

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

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.

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.

(Added Stats 1961 ch 1616; most recently amended Stats 1986 ch 823)

Wards and Dependent Children—Records

825. "Juvenile court record." 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."

(Added Stats 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, if the person was alleged or adjudged to be a person described by Section 300 or 601; or when the person reaches the age of 38 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. 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, unless for good cause the court determines that the record shall be retained. Exhibits shall be destroyed as provided under Sections 1418, 1418.5, and 1419 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 such 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, which include, all records and papers, any minute book entries, dockets and judgment dockets in juvenile traffic matters may be destroyed after five years from the date on which the jurisdiction of the juvenile court over a minor is terminated. 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.

(Added Stats 1961 ch 1616; most recently amended Stats 1981 ch 488)

826.5. Court 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.

(Added Stats 1974 ch 223; most recently amended Stats 1981 ch 488)

826.6. Notification of record sealing rights. (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.

(Added Stats 1980 ch 1104; amended Stats 1981 ch 488)

827. Limitation on right to inspect petition and reports. (a) Except as provided in Section 828, a petition filed in any juvenile court proceeding, reports

of the probation officer, and all other documents filed in any such case or made available to the probation officer in making his or her report, or to the judge, referee or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer, may be inspected only by court personnel, the minor who is the subject of the proceeding, his or her parents or guardian, the attorneys for those parties, and such other persons as may be designated by court order of the judge of the juvenile court upon filing a petition therefor. The district attorney and child protective agencies, as defined in subdivision (k) of Section 11165 of the Penal Code, also shall be entitled to inspect these documents upon the filing of a declaration under penalty of perjury stating that access to these documents is necessary and relevant 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.

Any records or reports relating to a matter within the jurisdiction of the juvenile court prepared by or released by the court, a probation department, or the county department of social services, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be disseminated by the receiving agencies to any persons or agencies, other than those persons or agencies authorized to receive documents pursuant to this section. Further, any such records or reports, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be made attachments to any other documents without the prior approval of the presiding judge of the juvenile court, unless they are 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.

(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 in cases involving serious acts of violence. Further, it is the intent of the Legislature that even in these selected cases dissemination of juvenile court 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 school staff exercise direct supervision and responsibility.

(2) Notwithstanding subdivision (a), written notice that a minor enrolled in a public school in kindergarten or grades 1 through 12 has been found by a court of competent jurisdiction to have used, sold, or possessed narcotics or a controlled substance or to have committed any crime listed in paragraphs (1) to (15), inclusive, or (17) to (19), inclusive, of subdivision (b) of Section 707 shall be provided by the court, within seven days, to the superintendent of the school district of attendance, which information shall 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. Any information received by a teacher, counselor, or administrator under this subdivision 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).

(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 probation officer 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) Each notice sent by the court pursuant to subdivision (b) shall be stamped with the instruction: "Destroy This Record 12 Months After The Minor Returns To Public School. Unlawful Dissemination of This Information Is A Misdemeanor." No information transmitted by the superintendent pursuant to subdivision (b) shall be transmitted by the superintendent or by any teacher, counselor, or administrator to any other person more than 12 months after receipt of the original notice from the court or more than 12 months after the minor returns to public school, whichever occurs last. Any information received from the court shall be destroyed by school authorities 12 months after its receipt from the court or 12 months after the minor returns to public school, whichever occurs last. At any time after the date by which a record required to be destroyed by this section should have been destroyed, the minor or his or her 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 insure that the record has been destroyed. Upon completion of any requested review and no later than 30 days after the request for the review was received, the principal or his or her 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 and shall specify the date by which the record will be destroyed.

(e) Except as provided in paragraph (2) of subdivision (b), no liability shall attach to any person who transmits or fails to transmit any notice or information required under subdivision (b).

(f) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before that date deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 827 of the Welfare and Institutions Code, as amended by Section 4 of Chapter

1103 of the Statutes of 1982, shall have the same force and effect as if this temporary provision had not been enacted.

(Added Stats 1961 ch 1616; most recently amended Stats 1984 chs 1011, 1370, 1423, effective 9/26/84)

828. Disclosing information. (a) Except as provided in Sections 389 and 781 of this code or 1203.45 of the Penal Code, any information gathered by a law enforcement agency relating to the taking of a minor into custody may be disclosed to another law enforcement agency, or to any person or agency which 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.

A court shall consider any information relating to the taking of a minor into custody, if the information is not contained in a record which 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.

(Added Stats 1972 ch 1139; most recently amended Stats 1986 ch 359)

829. Review of Records—Board of Prison Terms. 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.

(Added Stats 1983 ch 241)

830. Disclosure of confidential records. Nothwithstanding any other provision of law, members of a multidisciplinary personnel team engaged in the prevention, identification, and treatment of child abuse 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, or treatment of child abuse. All discussions relative to the disclosure or exchange of any such information or writings during team meetings are confidential and, notwithstanding any other provision of law, testimony concerning any such discussion is not admissible in any criminal, civil, or juvenile court proceeding.

As used in this section, "child abuse" has the same meaning as defined in Section 18951.

As used in this section, "multidisciplinary personnel team" means any team of three or more persons, as specified in Section 18951, the members of which are trained in the prevention, identification, and treatment of child abuse and are qualified to provide a broad range of services related to child abuse.

(Added Stats 1987 ch 353; amended Stats 1989 ch 86)

Article 22.5. Home Supervision

(Added Stats 1976 ch 1071; amended and renumbered Stats 1977 ch 579)

840. Home supervision defined. 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.

(Added Stats 1976 ch 1071; amended Stats 1977 ch 1241, effective 10/1/77)

841. Duties of probation officer. 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 release and commits no public offenses pending final disposition of his case. A deputy probation officer, probation aide, or community worker assigned to home supervision shall have a caseload of no more than 10 minors. Whenever possible, a minor shall be assigned to a deputy probation officer, probation aide, or volunteer who resides in the same community as the minor.

(Added Stats 1976 ch 1071; most recently amended Stats 1979 ch 291)

842. Probation volunteer—probation aide. A probation volunteer is a person who donates personal services to the probation department and probationers without compensation. A probation aide or 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.

(Added Stats 1978 ch 1157; amended Stats 1979 ch 291)

Wards and Dependent Children—Juvenile Halls

850. Establishment. 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.

(Added Stats 1961 ch 1616)

851. Separate facility. 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 conducted in all respects as nearly like a home as possible.
(Added Stats 1961 ch 1616)

852. Management. The juvenile hall shall be under the management and control of the probation officer.
(Added Stats 1961 ch 1616)

853. Staff. 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.
(Added Stats 1961 ch 1616)

854. Appointment. 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.
(Added Stats 1961 ch 1616)

855. Costs. 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.
(Added Stats 1961 ch 1616)

856. School. 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, for the education of the children in such facilities.
(Added Stats 1961 ch 1616; amended Stats 1977 ch 430)

862. Federal commitments. 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.
(Added Stats 1976 ch 250)

870. Joint operations. 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.

(Added Stats 1961 ch 1616)

871. Escape. (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 home, ranch, camp, or forestry camp, or any person being transported to or from a county juvenile hall, home, ranch, camp, or forestry camp, who escapes or attempts to escape from that place or during transportation to or from that place, is guilty of a misdemeanor, punishable by imprisonment in the 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.

(Added Stats 1968 ch 536; amended Stats 1985 ch 1283)

871.5. Controlled substances, weapons, firearms, explosives. (a) Except as authorized by law, or when authorized by the person in charge of any county juvenile hall, home, ranch, camp, or forestry camp, or by an officer of any such juvenile hall, home, or camp empowered by the person in charge to give such an authorization, any person who knowingly brings or sends into, or who knowingly assists in bringing into, or sending into, any county juvenile hall, home, ranch, camp, or forestry camp, or any person who while confined in such an institution 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 in the state prison.

(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, home, 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, home, 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.

(Added Stats 1981 ch 988; Stats 1985 ch 515)

872. Detention in a county other than county of residence. 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 county clerk, designate the juvenile hall of any county in the state for the detention of an individual minor for not to exceed 60 days. The court may at any time modify or vacate such 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 such order.

The Department of the Youth Authority shall establish a maximum population limit for each juvenile hall in this state.

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 Department of the Youth Authority to be too crowded for the proper and safe detention of minors.

(Added Stats 1976 ch 399)

Wards—TEAM Camps

875. Purpose. In order to combat the growing influence of youth gangs and youth gang-related activity, it is the intent of the Legislature to enact a program which incorporates the individual and social values and mutual support system developed through team sports, provides meaningful educational opportunities for juvenile wards, including counseling on drugs and drug rehabilitation, and serves to provide an effective peer group alternative for members of youth gangs. In enacting this program, the Legislature finds and declares all of the following:

(a) The majority of wards placed in juvenile facilities are or have been members of youth gangs. In Los Angeles County alone, it is estimated that at least 75 percent of the wards confined to probation camps have been gang members. In many cases, these juveniles have been involved in the sale or use of controlled substances.

(b) The abatement of the use of controlled substances and the reduction of juvenile gang-related crimes are of paramount importance to the people of the State of California.

(c) Many of these wards have both academic potential and good athletic ability.

(d) Through participation in team sports in a camp atmosphere, juvenile wards will learn the concept of individual accomplishment as a contribution to a team goal, and cooperation with others to gain a positive self-image as well as gain the ability to resist peer group pressure. These concepts are crucial to the development of individual self-esteem, so necessary to these individuals to effect the desired changes in their behavior, to realize their potential, academically and athletically, and to reduce the influence of youth gang and youth gang-related activity.

(e) There are several model programs for juveniles in Los Angeles County, including Camp Kilpatrick and Lynwood, which provide good examples of the positive role that sports and individual counseling can have in providing meaningful opportunities and mutual support systems for young people.

(Added and repealed Stats 1988 ch 1307, operative until 1/1/94)

875.1. Establishment. There is hereby established a pilot project which shall be known as the California TEAM (Together Each Achieves More) Sports Camp Program. The project shall be administered by the office of Criminal Justice Planning or its designee.

(Added and repealed Stats 1988 ch 1307, operative until 1/1/94)

875.2. Application for Funding. Pursuant to this article, the chief probation officer of a county, with the approval of the board of supervisors, may apply to the office of Criminal Justice Planning for funding to implement a program in the form of a sports camp. Applications shall be made in accordance with guidelines established by the Office of Criminal Justice Planning in accordance with this article.

(Added and repealed Stats 1988 ch 1307, operative until 1/1/94)

875.3. Selection of Counties. The office of Criminal Justice Planning shall select at least three counties. At least one county from the northern region, one county from the southern San Joaquin Valley region, and one county from the southern region shall be selected from those applying and eligible for funding pursuant to guidelines established pursuant to this article. Eligibility shall be established on the basis of need, but counties having the highest juvenile felony statistics and the highest average juvenile probation caseloads shall be given priority for funding.

(Added and repealed Stats 1988 ch 1307, operative until 1/1/94)

875.4. Components of Program. Each county selected for participation in this project shall implement a residential sports camp program for delinquent wards of the juvenile court pursuant to Section 602 which shall contain the following components:

(a) Emphasis on academics, physical fitness, and the development of specific sports skills.

(b) A special academic program geared to high school graduation and college preparation, and including a tutorial program for each ward.

(c) An athletic program to be administered by camp staff and instructed by certified and qualified coaching staff, to emphasize physical fitness, discipline, and the development of skills pertinent to a specific sport, as well as a counseling program regarding the detrimental effects of drugs on athletes.

(d) The teams from each camp program may compete, to the maximum extent possible, in regularly organized high school sports.

(e) Any other components prescribed by office of Criminal Justice Planning guidelines.

For purposes of this article, the office of Criminal Justice Planning shall coordinate activities with the sheriff's department in each of the counties selected for TEAM camps. In addition to selecting at least three TEAM camps, and in cooperation with the sheriff and the chief probation officer, the office of Criminal Justice Planning also shall establish one early intervention TEAM facility in one of the counties selected for juveniles who are first time offenders, but who have not been sentenced to probation camp or to the California Youth Authority. This facility shall otherwise meet the component requirement set forth in this section.

(Added and repealed Stats 1988 ch 1307, operative until 1/1/94)

875.5. Requirements of Probation Officers. The probation officers assigned to the camp shall also do all of the following:

(a) Assist in enrolling wards from the camps into the appropriate community school.

(b) Assist in securing further educational opportunities for wards, including, but not limited to, securing college scholarships or other financial aid.

(c) Provide such support, counseling, and supervision after graduation from the camp as is necessary to help ensure that the ward will not return to drug-related or gang activity.

(Added and repealed Stats 1988 ch 1307, operative until 1/1/94)

875.6. Reports to Legislature. Three years after TEAM camps have been funded pursuant to this article, the office of Criminal Justice Planning shall submit an evaluation report, together with recommendations, to the Governor and the Legislature. The report shall evaluate the progress of the program. The report shall compare recidivism rates between delinquent wards of the juvenile court pursuant to Section 602 who have participated in the TEAM camp program and those who have participated in regular probation camps, since the objective of the TEAM camp program is to reduce recidivism of the participants by 50 percent compared to other wards who are placed in Youth Authority facilities. The report shall also cite examples of academic or athletic achievements of county wards who participate in the TEAM camp program. If the program fails to reduce recidivism by 30 percent, it shall be deemed to be a failure. The report shall also discuss ways and means to achieve further educational opportunities for Youth Authority and county wards, the effectiveness of the TEAM sports camp concept in helping reduce recidivism into gang and drug-related activity, and the feasibility of implementing TEAM sports camps or similar programs statewide.

(Added and repealed Stats 1988 ch 1307, operative until 1/1/94)

875.7. Effective Date. This article shall remain operative only until January 1, 1994, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

(Added and repealed Stats 1988 ch 1307, operative until 1/1/94)

Wards and Dependent Children—Juvenile Homes, Ranches and Camps

880. Purpose. 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 such wards may be kept under direct supervision of said court, and in order to more advantageously apply the salutary effect of home and family environment upon them, and also in order to secure a better classification and segregation of such 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 such wards, juvenile homes, ranches, or camps may be established, as provided in this article.

(Added Stats 1961 ch 1616)

881. Establishment. The board of supervisors of any county may, by ordinance, establish juvenile homes, 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 such juvenile homes, except that where any ward proves to be unfit to remain in any such home, in the opinion of the superintendent or director thereof, said superintendent or director shall make recommendation to the probation department for consideration for other commitment. Complete operation and authority for the administration shall be vested in the county.

(Added Stats 1961 ch 1616; amended Stats 1976 ch 1071)

882. Management. Such juvenile homes, ranches, camps or forestry camps shall be in charge of a superintendent or director and may be established in conjunction with the probation department, or in any manner determined by the county board of supervisors. Such superintendent or director and other persons employed at such homes or camps shall be appointed by the probation officer, subject to confirmation by the board of supervisors, of the county establishing such homes or camps.

(Added Stats 1961 ch 1616)

883. Work projects. Worker's compensation. The wards committed to such homes, 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 the grounds of such homes, ranches, camps, or forestry camps prescribed by the probation department, subject to such approval as the county board of supervisors by ordinance requires.

Such 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 such 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 such 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 such ward committed to such camp while performing such service, with accident, death and compensation insurance as is otherwise regularly provided for employees of the county.

(Added Stats 1961 ch 1616; most recently amended Stats 1975 ch 1129)

884. Wages. 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.

(Added Stats 1961 ch 1616)

885. Standards. (a) The Youth Authority shall adopt and prescribe the minimum standards of construction, operation, programs of education, and training and qualifications of personnel for such juvenile homes, ranches, camps, or forestry camps.

(b) The Youth Authority shall conduct an annual inspection of each juvenile home, ranch, camp, or forestry camp situated in this state which, during the preceding calendar year, was used for confinement of any minor for more than 24 hours. If the Youth Authority, after such inspection, finds that the juvenile home, ranch, camp, or forestry camp is not in compliance with the standards adopted pursuant to subdivision (a) of this section, the Youth Authority shall give notice of its findings to all persons having authority to confine minors in such facilities and commencing 60 days thereafter such juvenile home, ranch, camp, or forestry camp shall not be used for confinement of any minor until such time as the department finds, after reinspection of the facility, that the conditions which rendered the facility unsuitable have been remedied, and such facility is a suitable place for the confinement of minors.

(c) The custodian of each juvenile home, ranch, camp, or forestry camp shall make such reports as may be required by the Youth Authority to effectuate the purposes of this section.

(Added Stats 1961 ch 1616; most recently amended Stats 1978 ch 461, effective 7/18/78, operative 7/1/78)

886. Capacity. 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.

(Added Stats 1961 ch 1616; amended Stats 1981 ch 988)

886.5. Exception. Notwithstanding Section 886, 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 submitted a request for approval for expanded capacity to the Department of the Youth Authority demonstrating a consistent need for juvenile home, ranch, camp, or forestry camp placements which exceeds the beds available in the county, and the department has approved that request. Any request from a county to expand the capacity of a juvenile home, ranch, camp, or forestry camp pursuant to this section shall certify 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. The department shall approve any such request only after confirming by inspection of the facility sought to be expanded that the expansion will not result in overcrowding of structures and that the facility will comply with the minimum standards during its period of expanded capacity.

(Added Stats 1981 ch 988; most recently amended Stats 1988 ch 975)

888. Commitment in county other than county of residence. Any county establishing a juvenile home, ranch, or camp under the provisions of this article may, by mutual agreement, accept children committed to that home, ranch, or camp by the juvenile court of another county in the state. Two or more counties may, by mutual agreement, establish juvenile homes 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.

(Added Stats 1961 ch 1616; most recently amended Stats 1983 ch 288, effective 7/15/83)

889. Juvenile facilities—public schools. The board of education shall provide for the administration and operation of public schools in any juvenile home, 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.

(Added Stats 1989 ch 929)

891. Construction subsidy. (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 homes, juvenile ranch camps, or forestry camps established after July 1, 1957, and for construction at existing juvenile homes, ranches, camps, or forestry camps, by counties which apply therefor.

(b) "Construction," as used in this section, includes construction of new buildings and acquisition of existing buildings and initial equipment of any such 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 as a juvenile home or 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 which 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 home, juvenile ranch, camp, or forestry camp or per bed unit added to an existing juvenile home, 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.

(Added Stats 1978 ch 464)

892. Border check station. (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.

(Added Stats 1968 ch 1249)

893. Schools. (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 home, ranch or camp for the purpose of meeting the special educational needs of wards and dependent children of the juvenile court. Such school or schools shall be conducted in such a manner and under such conditions as 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 potential to be a contributing, law-abiding member of society. In the event the board of supervisors determines that such 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 such services by such an 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 such vocational training in promotion of the aforesaid objective.

Such certification shall specify the type or types of service the person is qualified to provide. Upon filing of such certification, such person shall be deemed to be a certificated employee for purposes of authorizing him 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 such 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 such school or schools by multiplying the average daily attendance by the foundation program amount for a high school district which 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.

(Added Stats 1974 ch 1151; most recently amended Stats 1978 ch 380)

Regional Youth Educational Facilities

(Added Stats 1984 ch 1455; most recently amended Stats 1989 ch 468)

894. Participants. 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.

(Added Stats 1984 ch 1455 operative until 6/30/90, repealed effective 1/1/91)

895. County Participation. (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.

(Added Stats 1984 ch 1455 operative until 6/30/90, repealed effective 1/1/91)

896. Performance Standards and Inspections. (a) The Youth Authority 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) The Youth Authority shall conduct an initial inspection and an annual inspection thereafter of each regional youth educational facility. In addition, the Youth Authority may conduct such other inspections as it deems necessary. If the Youth Authority, after inspection, finds that a facility is not in compliance with the standards adopted pursuant to subdivision (a), the Youth Authority shall give notice of its findings to all persons having authority to confine minors in that regional facility. Commencing 60 days thereafter, that regional youth educational facility shall not be used for confinement of any minor until such time as the Youth Authority finds, after reinspection of the facility, that the conditions which rendered the facility unsuitable have been remedied and that the facility is a suitable place for the confinement of minors.

(c) The custodian of each regional youth educational facility shall make such reports as may be required by the Youth Authority to effectuate the purposes of this section.

(Added Stats 1984 ch 1455 operative until 6/30/90, repealed effective 1/1/91))

897. Capacity. The capacity of each regional youth educational facility shall be established pursuant to Sections 886 and 886.5.

(Added Stats 1984 ch 1455 operative until 6/30/90, repealed effective 1/1/91))

898. 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.

(Added Stats 1984 ch 1455 operative until 6/30/90, repealed effective 1/1/91))

898.5. Report to Legislature. The Youth Authority shall conduct a study of the effectiveness of the pilot program authorized by this article in reducing recidivism, and shall report thereon to the Legislature no later than January 1, 1989.

(Added Stats 1984 ch 1455; amended Stats 1987 ch 92, effective 7/2/87 operative until 6/30/90, repealed effective 1/1/91))

899. (Repealed Stats 1989 ch 468)

Support of Wards and Dependent Children

900. Board and care funds. (a) If it is necessary that provision be made for the expense of support and maintenance of a ward or dependent child of the juvenile court or of a minor person concerning whom a petition has been filed in accordance with the provisions of this chapter, the order providing for the care and custody of such ward, dependent child or other minor person shall direct that the whole expense of support and maintenance of such ward, 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 so paid. The board of supervisors of each county is hereby authorized to establish, either generally or for individual wards or dependent children or according to classes or groups of wards or dependent children, a maximum amount which the court may order the county to pay for such support and maintenance. All orders made pursuant to the provisions of this section shall state the amounts to be so paid from the county treasury, and such amounts shall constitute legal charges against the county.

(b) 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.

(Added Stats 1961 ch 1616; most recently amended Stats 1978 ch 380)

901. Actual costs. 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.

(Added Stats 1961 ch 1616)

902. Excess costs. 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 ward, dependent child, or other minor person, the court may order and direct that such additional amount as is necessary shall be paid out of the earnings, property, or estate of such ward, dependent child, or other minor person, or by the parents or guardian of such ward, dependent child, or other minor person, or by any other person liable for his support and maintenance, to the county officers designated by the board of supervisors who shall in turn pay into the person, association, or institution that, under court order, is caring for and maintaining such ward, dependent child, or other minor person.

(Added Stats 1961 ch 1616; amended Stats 1969 ch 437)

903. Financial responsibility of parents, etc. (a) A parent of a minor, the estate of a parent, 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 an order of the juvenile court. The liability of these persons and estates shall be a joint and several liability.

(b) It shall be the responsibility of a county to demonstrate to any person against whom it seeks to enforce the liability established by this section, that the charges it seeks to impose are limited to the reasonable costs of support of the minor and that these charges exclude any costs of incarceration, treatment, or supervision for the protection of society and the minor and the rehabilitation of the minor. Except in those placements of a minor in which an AFDC-FC grant is made, the county shall separately itemize the cost of each major component, such as food, clothing, and medical expense, contained within the costs of support of the minor, for any person against whom the county seeks to impose liability under this section. An AFDC-FC grant shall be considered a separate, indivisible component item of the cost of support of a minor. Nothing in this section shall preclude the district attorney from seeking reimbursement of AFDC-FC costs pursuant to Section 11350.

(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 insure reasonable uniformity throughout the state in the level of liability being imposed, and to insure 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 income, the necessary obligations of the family, and the number of persons dependent upon this income. Except in those placements of a minor in which an AFDC-FC grant is made, and except as provided in paragraphs (1), (2), and (3), "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 fifteen dollars ($15) per day, except that:

(1) The maximum cost of fifteen dollars ($15) per day shall be adjusted every third year beginning January 1, 1988, 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 2 (commencing with Section 248) of Chapter 2 of Part 1 of Division 1 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.

(Added Stats 1961 ch 1616; most recently amended Stats 1984 ch 485)

903.1. Costs for legal services. The father, mother, spouse, or other person liable for the support of a minor, the estate of such a person, and the estate of the minor, shall be liable for the cost to the county of legal services rendered to the minor by the public defender pursuant to an order of the juvenile court, or for the cost to the county for the legal services rendered to the minor by an attorney in private practice appointed pursuant to an order of the juvenile court. The father, mother, spouse, or other person liable for the support of a minor and the estate of any such person shall also be liable for any cost to the county 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 the public defender pursuant to an order of the juvenile court, or by an attorney in private practice appointed pursuant to order of the juvenile court. The liability of such persons (in this article called relatives) and estates shall be a joint and several liability.

(Added Stats 1965 ch 2006; amended Stats 1981 ch 188)

903.2. Costs of probation supervision. The juvenile court may require that the father, mother, spouse, or other person liable for the support of a minor person, the estates of such persons, and the estate of such minor person, shall be liable for the cost to the county of the probation supervision of the minor person pursuant to the order of the juvenile court, by the probation officer. The liability of such persons (in this article called relatives) and estates shall be a joint and several liability.

(Added Stats 1968 ch 1225)

903.3. Costs of sealing traffic records. The father, mother, spouse, or other person liable for the support of a minor person, the person himself if an adult, or the estates of such persons shall, unless indigent, be liable for the cost to the county for the sealing of any traffic infraction or traffic misdemeanor records pertaining to such person pursuant to this chapter. The liability of such persons and estates shall be a joint and several liability.

(Added Stats 1979 ch 978; amended Stats 1980 ch 768)

903.4. Parental reimbursements. (a) 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 or wards of the juvenile court under Sections 300, 601, and 602 has not been pursued routinely and effectively.

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 or a ward of the court pursuant to a Section 300, 601, or 602, the juvenile court shall order any agency which 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 district attorney, 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) The district attorney 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.

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.

In any case in which the district attorney has received a declaration of costs or expenses from any agency, the declaration shall be deemed an application for assistance pursuant to Section 11475.1.

(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 district attorney shall not be required to petition the court for an order for continuing support and reimbursement if, in the opinion of the district attorney, it would not be appropriate to secure such an order. The district attorney shall not be required to continue collection efforts for any order if, in the opinion of the district attorney, it would not be appropriate or cost effective to enforce the order.

(Added Stats 1982 ch 1276; amended Stats 1984 ch 1720)

903.45. Financial evaluations. (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 parental liability for reimbursement pursuant to Sections 903, 903.1, 903.2, 903.3, and other reimbursable costs allowed by law, as set forth in this section.

(b) In any 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 or probation costs as

provided for in Section 903.2, or any other reimbursable costs allowed under this code, to appear before the financial evaluation officer for a financial evaluation of his or her ability to pay those costs; and if the responsible person is not present at the disposition hearing, the court shall cite him or her to appear for such a financial evaluation.

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. 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. Any person appearing for a financial evaluation shall have the right to dispute the county financial evaluation officer's determination, in which case he or she shall be entitled to a hearing before the juvenile court. The county financial evaluation officer at the time of the financial evaluation shall advise such a person of his or her right to a hearing and of his or her rights pursuant to subdivision (c).

At the hearing, any person so responsible for costs shall be 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 shall have the right to be represented by counsel, and, when 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 in a manner in which the court believes reasonable and compatible with the person's financial ability.

If such person or persons, after having been ordered to appear before the county financial evaluation officer, have been given proper notice and fail to appear as ordered, the county financial evaluation officer shall recommend to the court that he, she, or they be ordered to pay the full amount of such costs. Proper notice to him, her, or them shall contain all of the following:

(1) That he, she or they have a right to a statement of such costs as soon as it is available.

(2) His, her, or their procedural rights under Section 27755 of the Government Code.

(3) The time limit within which his, her, or their appearance is required.

(4) A warning that if he, she, or they fail to appear before the county financial evaluation officer, such officer will recommend that the court order him, her, or them to pay such costs in full.

If the county financial evaluation officer determines that such person or persons have the ability to pay all or a portion of these costs, with or without terms, and he, she, or they concur in this determination and agree to the terms of payments, the county financial evaluation officer, upon his or her written evaluation and such person's or persons' written agreement, shall petition the court for an order requiring him, her, or them to pay that sum to the county in

a manner which is reasonable and compatible with his, her, or their financial ability. This order may be granted without further notice to such person or persons, provided a copy of the order is served on him, her, or them by mail.

However, if the county financial evaluation officer cannot reach an agreement with such person or persons with respect to either the liability for the costs, the amount of such costs, his, her or their ability to pay the same, 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.

(Added Stats 1984 ch 1720; amended Stats 1985 ch 1485)

903.5. Liability for out-of-home care. In addition to the requirements of Section 903.4, and notwithstanding any other provision of 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. Whenever the county welfare department or the placing agency determines that a court order would be advisable and effective, the department or the agency shall notify the district attorney, who shall proceed pursuant to Section 903.4.

(Added Stats 1982 ch 1276)

903.6. Distribution of 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.

(Added Stats 1982 ch 1276)

903.7. Foster parent training fund. (a) There is in the State Treasury the Foster Children and Parent Training Fund, the moneys contained in which shall be used exclusively for the purposes set forth in this section.

(b) For each fiscal year beginning with fiscal year 1981–82, except as provided in Sections 15200.1, 15200.2, and 15200.3, the State Department of Social Services shall determine the amount equivalent to the state share of 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 State Department of Social 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) to the Treasurer for deposit in the Foster Children and Parent Training Fund.

(c) If sufficient moneys are available in the Foster Children and Parent Training Fund, up to one million dollars ($1,000,000) 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.

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.

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.

The State Department of Social Services shall facilitate the participation of county welfare departments in the foster parent training program. The 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 fiscal year 1983–84, 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) The Controller shall transfer moneys from the Foster Children and Parent Training Fund to the Chancellor of the Community Colleges and the Superintendent of Public Instruction as necessary to fulfill the requirements of subdivisions (c) and (d).

After the maximum amount authorized in any fiscal year has been transferred to the Chancellor of the 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.

(Added Stats 1982 ch 1276; most recently amended Stats 1984 ch 1597)

904. Determination of costs. 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 legal services referred to by Section 903.1, the cost of probation supervision referred to by Section 903.2, and the cost of sealing records referred to by Section 903.3 shall be determined by the board of supervisors.

(Added Stats 1961 ch 1616; most recently amended Stats 1983 ch 1135, effective 9/28/83)

911. Annual review. 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.

(Added Stats 1961 ch 1616)

912. Cost to county C.Y.A. commitments. For each person hitherto committed to the Youth Authority, the county from which he is committed shall pay the state at the rate of twenty-five dollars ($25) per month for the time such person so committed remains in such state school or in any camp or farm colony, custodial institution, or other institution under the direct supervision of the Youth Authority to which such person may be transferred, in the Deuel Vocational Institution, or in any boarding home, foster home, or other private or public institution in which he is placed by the Youth Authority, on parole or otherwise, and cared for and supported at the expense of the Youth Authority.

The Youth Authority shall present to the county, not more frequently than monthly, a claim for the amount due the state under this section, which the county shall process and pay pursuant to the provisions of Chapter 4 (commencing with Section 29700) of Division 3 of Title 3 of the Government Code.

(Added Stats 1961 ch 1616; amended Stats 1965 ch 263, 605)

913. Costs contract placements. 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.

(Added Stats 1961 ch 1616)

914. Medical costs. 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 of 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.

(Added Stats 1961 ch 1616; amended Stats 1976 ch 1068)

Work Furloughs

925. Ordinance. 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.

(Added Stats 1967 ch 1070)

926. Eligibility. 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.

(Added Stats 1967 ch 1070)

927. Employment. (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.).

(Added Stats 1967 ch 1070; amended Stats 1989 ch 48)

928. Confinement. 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.

(Added Stats 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.

(Added Stats 1967 ch 1070; most recently amended Stats 1982 ch 497, operative 7/1/83)

930. Termination. 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.

(Added Stats 1967 ch 1070)

24-Hour Schools

940. Establishment. 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. 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.

(Added Stats 1967 ch 1542; amended Stats 1978 ch 380)

941. Management. The 24-hour school shall be under the management and control of the probation officer.
(Added Stats 1967 ch 1542)

942. 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.
(Added Stats 1967 ch 1542)

943. Appointments. 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.
(Added Stats 1967 ch 1542)

944. Accounting. 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.
(Added Stats 1967 ch 1542)

945. Licensing. 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.
(Added Stats 1967 ch 1542)

INSTITUTIONS FOR DELINQUENTS

Establishment and General Government

1000. Jurisdiction of Youth Authority. The Department of the Youth Authority 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.
(Enacted 1937; most recently amended Stats 1957 ch 311)

1000.5. Fred C. Nelles school. 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.
(Added Stats 1972 ch 497; amended Stats 1976 ch 1139, operative 7/1/77)

1000.7. Definitions. 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 Youthful Offender Parole Board.
(Added Stats 1945 ch 639; amended Stats 1979 ch 860)

1001. Government and supervision. The general government and supervision of each such institution is vested in the Youth Authority.
(Enacted 1937; Amended Stats 1943 ch 481)

1001.5. Narcotics and alcohol. (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 in the state prison.

(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.

(Added Stats 1972 ch 497; most recently amended Stats 1985 ch 515)

1001.7. Trespassing. 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.

(Added Stats 1972 ch 497)

1002. General 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.

(Enacted 1937; amended Stats 1943 ch 481)

1003. Control of property. The authority shall have charge of the land, buildings, apparatus, tools, stock, provisions and other property belonging to each such institution.

(Enacted 1937; amended Stats 1943 ch 481)

1004. Supervision of persons committed. 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.

(Enacted 1937; amended Stats 1943 ch 481)

1006. Site of 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.

(Enacted 1937)

1008. Deportation of aliens. The Youth Authority shall cooperate with the United States Bureau of Immigration in arranging for the deportation of all aliens who are committed to it.

(Repealed Stats 1941 ch 649; added Stats 1943 ch 481)

1009. Return of nonresidents. The Youthful Offender Parole Board may order the return of nonresident persons committed to the Department of the Youth Authority 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 Youth Authority) receives from any private source any moneys to defray the cost of such transportation, he or she shall immediately transmit such moneys to the Youth Authority. All such moneys, together with any moneys received directly by the authority from private sources for transportation of nonresidents, shall be deposited by the Youth Authority in the State Treasury, in augmentation of the current appropriation for the support of the Youth Authority.

(Added Stats 1943 ch 481; most recently amended Stats 1979 ch 860)

1009.1. Refund of excess money. 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.

(Added by Stats 1968 ch 60)

1009.2. Voucher. 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.

(Added Stats 1968 ch 60)

1009.3. Payment. 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.

(Added Stats 1968 ch 60)

1009.4. Minimum. 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.

(Added Stats 1968 ch 60)

1010. Determination of residence. 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.

(Added Stats. 1943 ch 481)

1011. Expenses of returning nonresident wards. All expenses incurred in returning such 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 such persons shall be paid from the funds appropriated for that purpose, or, if necessary, from the money appropriated for the care of such persons upon vouchers approved by the State Board of Control.

(Added Stats 1943 ch 481)

1015. Disposition of personal funds, etc., of inmates: Death. 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 of 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.

(Added Stats 1943 ch 481; most recently amended Stats 1961 ch 1962)

1016. Same; Escape, discharge, etc. Whenever any person confined in any state institution subject to the jurisdiction of the Youth Authority escapes, or is discharged or paroled from such institution, 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 intangible personal property of such person, other than deeds, contracts, or assignments, remaining in the custody or possession of the Director of the Youth Authority shall be held by him for a period of seven years from the date of such escape, discharge, or parole, for the benefit of such person or his successors in interest; provided, however, that 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.

Upon the expiration of said seven-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 of Title 10 of Part 3 of the Code of Civil Procedure.

Upon the expiration of one year from the date of such escape, discharge, or parole:

(a) All deeds, contracts, or assignments shall be filed by the director with the public administrator of the county of commitment of such person:

(b) All tangible personal property other than money, remaining unclaimed in his 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 subject to the provisions of Section 1752.8 of this code, and subject to the provisions of Chapter 7 of Title 10 of Part 3 of the Code of Civil Procedure. If he deems it expedient to do so, the director may accumulate the property of several inmates and may sell the property in such lots as he may determine, provided that he makes a determination as to each inmate's share of the proceeds.

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.

(Added Stats 1951 ch 1708; most recently amended Stats 1961 ch 1962)

1017. Destruction. 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.

(Added Stats 1951 ch 1708; most recently amended Stats 1961 ch 1962)

1018. Description of personal property. 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.

(Added Stats 1951 ch 1708; most recently amended Stats 1961 ch 1962)

1019. Suit for destroyed property. 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.

(Added Stats 1951 ch 1708)

1020. Law applicable. 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.

(Added Stats 1951 ch 1708; amended Stats 1961 ch 1962)

Superintendents

1049. Duties and compensation of officers of institutions. 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.

(Added Stats 1943 ch 481)

1050. Qualifications of superintendent. The superintendent of the institutions under this chapter shall be persons of high moral character, specially qualified for the position.

(Enacted 1937; most recently amended Stats 1975 ch 1129)

Employees

1075. Appointment of officers. 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.

(Enacted 1937; amended Stats 1943 ch 481)

1076. General powers of officers and employees. 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.

(Enacted 1937; most recently amended Stats 1969 ch 645)

1077. Boarding and living facilities for employees. At the request of one or more employees of any institution under this chapter, the authority may, at its option, provide, within the grounds of any institution, meals and subsistence for employees who do not reside within the institution, or living facilities, meals and subsistence for employees who reside within the institution. The authority may make a reasonable charge for all facilities taken by or furnished to employees, to be determined by the State Board of Control, and to be deducted from the salary of the employee. No employee shall be compelled to eat his meals at the institution, nor shall he be charged for meals or facilities not furnished to or taken by him. No employee shall be discriminated against in any manner whatsoever because he elects to eat his meals outside the institution grounds.

The provisions of this section apply only to those employees who are not officers and who receive gross salaries as specified by the salary scales of the State Personnel Board, and do not apply to those employees who are officers of an institution or who receive a cash salary plus maintenance for self and family as provided by the salary scales of the State Personnel Board.

(Added Stats 1943 ch 481)

Conduct, Education, and Discipline

1120. Education program. (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 such program shall be to improve the academic, vocational, and life survival skills of each ward so as to enable such 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 state-wide 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.

(d) The department shall report to the Legislature and the Superintendent of Public Instruction by February 1, 1980, on the department's assessment of and plan to improve its educational program, including, but not limited to, the training needs of its educational staff, a statement of departmental priorities with regard to its educational program, compliance with state and federal laws with regard to teaching credentials and staffing patterns within its educational program, and plans to implement the provisions of this section.

(Enacted 1937; added Stats 1979 ch 981)

1120.5. Division of instruction. 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.

(Formerly § 1120 W&IC and renumbered Stats 1979 ch 981)

1121. Chief. The chief of each such division of instruction shall be well trained in modern school administration.

(Enacted 1937; amended Stats 1963 ch 183)

1122. Courses. 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.

(Enacted 1937; Amended Stats 1965 ch 1634)

1123. AIDS Information. 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.

(Added Stats 1988 ch 1301)

1124. Manufacture of supplies, etc. 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.

(Enacted 1937; most recently amended Stats 1981 ch 540, effective 9/17/81)

1125. Handiwork, etc., of inmates. 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.

(Added Stats 1959 ch 78)

1125.5. Employment of inmates on public road improvement, etc. 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.

(Added Stats 1955 ch 58)

Escapes

1152. Aiding escape, etc. Any person who knowingly permits or aids any inmate of any institution under the jurisdiction of the Youth Authority to escape therefrom, or conceals him with the intent of enabling him to elude pursuit, is guilty of a misdemeanor.

(Enacted 1937; most recently amended Stats 1953 ch 897)

1154. Expenses of returning escaped persons. 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.

(Added Stats 1945 ch 783)

1155. Notification of an escape. 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.

(Added Stats 1984 ch 1420; amended Stats 1986 ch 359)

Paroles and Dismissals

1176. Parole. When, in the opinion of the Youthful Offender Parole 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 such conditions as it deems best. A reputable home or place of employment shall be provided for each person so paroled.

(Enacted 1937; most recently amended Stats 1979 ch 860)

1177. Honorable discharge. When any person so paroled has proved his or her ability for honorable self-support, the Youthful Offender Parole Board shall give him or her honorable discharge. Any person on parole who violates the conditions of his or her parole may be returned to the Youth Authority.

(Enacted 1937; most recently amended Stats 1979 ch 860)

1178. Honorable Discharge. The Youthful Offender Parole Board may grant honorable discharge to any person committed to or confined in any such school. The reason for such discharge shall be entered in the records.

(Enacted 1937; most recently amended Stats 1979 ch 860)

1179. Final discharge and dismissal. (a) All persons honorably discharged from control of the Youthful Offender Parole Board shall thereafter be released from all penalties or disabilities resulting from the offenses for which they were committed, including, but not limited to, any disqualification for any employment or occupational license, or both, created by any other provision of law. However, such a person shall not be eligible for appointment as a peace officer employed by any public agency if his or her appointment would otherwise be prohibited by Section 1029 of the Government Code.

(b) Notwithstanding the provisions of subdivision (a), such a person may be appointed and employed as a peace officer by the Department of the Youth Authority if (1) at least five years have passed since his or her 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 Youthful Offender Parole Board, or (2) the person was employed as a peace officer by the Department of the Youth Authority on or before January 1, 1983. No person who is under the jurisdiction of the Department of the Youth Authority shall be admitted to an examination for a peace officer position with the department unless and until the person has been honorably discharged from the jurisdiction of the department by the Youthful Offender Parole Board.

(c) Upon the final discharge or dismissal of any such person, the Youth Authority shall immediately certify the discharge or dismissal in writing, and shall transmit the certificate to the court by which the person was committed. The court shall thereupon dismiss the accusation and the action pending against that person.

(Enacted 1937; most recently amended Stats 1982 ch 778)

1180. Parolee information. 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 $3\frac{1}{8} \times 3\frac{1}{8}$ 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.

(Added Stats 1981 ch 1111; amended Stats 1986 ch 600)

Finances

1200. Expenditures. 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.

(Enacted 1937; amended Stats 1943 ch 481)

1201. Payments by counties. 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.

(Enacted 1937; amended Stats 1965 ch 605)

The California Youth Training School

1250. Establishment. 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.

(Added Stats 1949 ch 303; amended Stats 1989 ch 555)

1251. Purpose. 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.

(Added Stats 1949 ch 303; amended Stats 1989 ch 555)

1252. Persons subject to custody, control, etc. 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.

(Added Stats 1949 ch 303; amended Stats 1989 ch 555)

1253. Rules and regulations. 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.

(Added Stats 1949 ch 303; amended Stats 1989 ch 555)

1254. Officers and 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.

(Added Stats 1949 ch 303; amended Stats 1989 ch 555)

1255. 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.

(Added Stats 1949 ch 303; amended Stats 1989 ch 555)

1256. Powers and duties. 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.

(Added Stats 1949 ch 303; amended Stats 1989 ch 555)

1258. House construction. 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.

(Added Stats 1963 ch 1424; amended Stats 1989 ch 555)

INTERSTATE COMPACT ON JUVENILES

1300. Authority to execute. In addition to any other authority conferred upon him, the Governor is authorized and may execute for, on behalf of, and in the name of the State of California, a compact or agreement entitled, "Interstate Compact on Juveniles," which compact or agreement, in words and figures, is substantially as follows:

INTERSTATE COMPACT ON JUVENILES

The contracting states solemnly agree:

Article I—Finding and Purposes

Cooperation, policies, etc., of states party to compact. That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to (1) cooperative supervision of delinquent juveniles on probation or parole; (2) the return, from one state to another, of delinquent juveniles who have escaped or absconded; (3) the return, from one state to another, of nondelinquent juveniles who have run away from home; and (4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party states shall be guided by the noncriminal, reformative and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

Article II—Existing Rights and Remedies

Additional remedies and procedures. That all remedies and procedures provided by this compact shall be in addition to and not in substitution of other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

Article III—Definitions

That, for the purposes of this compact, "delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; "probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jurisdiction over delinquent, neglected or dependent children; "state" means any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode is maintained.

Article IV—Return of Runaways

(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without

the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) **Transportation costs.** That the state to which a juvenile is returned under this article shall be responsible for payment of the transportation costs of such return.

(c) That "juvenile" as used in this article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

Article V—Return of Escapees and Absconders

(a) **Requisition.** That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of

a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Hearing. Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding 90 days, as will enable his detention under a detention order issued on a requisition pursuant to this article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) **Transportation costs.** That the state to which a delinquent juvenile is returned under this article shall be responsible for payment of the transportation costs of such return.

Article VI—Voluntary Return Procedure

Consent to return. That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his

legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV(a) or of Article V(a), may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

Article VII—Cooperative Supervision of Probationers and Parolees

(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(b) **Duty of receiving state.** That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(c) **Authority to enter receiving state.** That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

(d) Transportation costs. That the sending state shall be responsible under this article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

Article VIII—Responsibility for Costs

(a) That the provisions of Articles IV(b), V(b) and VII(d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Article IV(b), V(b), or VII(d) of this compact.

Article IX—Detention Practices

Place of detention. That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

Article X—Supplementary Agreements

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent

juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

Article XI—Acceptance of Federal and Other Aid

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

Article XII—Compact Administrators

Designation, etc. That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

Article XIII—Execution of Compact

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

Article XIV—Renunciation

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements

entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present article.

Article XV—Severability

That the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

(Added Stats 1955 ch 1363)

1300.3. Out-of-state confinement amendment. The Out-of-state Confinement Amendment to the Interstate Compact on Juveniles is hereby enacted into law and entered into by this state with all other states legally joining therein in the law substantially as follows:

(a) Whenever the duly constituted judicial or administrative authorities in a sending state shall determine that confinement of a probationer or reconfinement of a parolee is necessary or desirable, said officials may direct that the confinement or reconfinement be in an appropriate institution for delinquent juveniles within the territory of the receiving state, such receiving state to act in that regard solely as agent for the sending state.

(b) Escapees and absconders who would otherwise be returned pursuant to Article V of the compact may be confined or reconfined in the receiving state pursuant to this amendment. In any such case the information and allegations required to be made and furnished in a requisition pursuant to such article shall be made and furnished, but in place of the demand pursuant to Article V, the sending state shall request confinement or reconfinement in the receiving state. Whenever applicable, detention orders as provided in Article V may be employed pursuant to this paragraph preliminary to disposition of the escapee or absconder.

(c) The confinement or reconfinement of a parolee, probationer, escapee, or absconder pursuant to this amendment shall require the concurrence of the appropriate judicial or administrative authorities of the receiving state.

(d) As used in this amendment: (1) "sending state" means sending state as that term is used in Article VII of the compact or the state from which a delinquent juvenile has escaped or absconded within the meaning of Article V of the compact; (2) "receiving state" means any state, other than the sending state, in which a parolee, probationer, escapee, or absconder may be found, provided that said state is a party to this amendment.

(e) Every state which adopts this amendment shall designate at least one of its institutions for delinquent juveniles as a "compact institution" and shall confine persons therein as provided in paragraph (a) hereof unless the sending and receiving state in question shall make specific contractual arrangements to the contrary. All states party to this amendment shall have access to "compact

institutions" at all reasonable hours for the purpose of inspecting the facilities thereof and for the purpose of visiting such of said state's delinquents as may be confined in the institution.

(f) Persons confined in "compact institutions" pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed from said "compact institution" for transfer to an appropriate institution within the sending state, for return to probation or parole, for discharge, or for any purpose permitted by laws of the sending state.

(g) All persons who may be confined in a "compact institution" pursuant to the provisions of this amendment shall be treated in a reasonable and humane manner. The fact of confinement or reconfinement in a receiving state shall not deprive any person so confined or reconfined of any rights which said person would have had if confined or reconfined in an appropriate institution of the sending state; nor shall any agreement to submit to confinement or reconfinement pursuant to the terms of this amendment be construed as a waiver of any rights which the delinquent would have had if he had been confined or reconfined in any appropriate institution of the sending state except that the hearing or hearings, if any, to which a parolee, probationer, escapee, or absconder may be entitled (prior to confinement or reconfinement) by the laws of the sending state may be had before the appropriate judicial or administrative officers of the receiving state. In this event, said judicial and administrative officers shall act as agents of the sending state after consultation with appropriate officers of the sending state.

(h) Any receiving state incurring costs or other expenses under this amendment shall be reimbursed in the amount of such costs or other expenses by the sending state unless the states concerned shall specifically otherwise agree. Any two or more states party to this amendment may enter into supplementary agreements determining a different allocation of costs as among themselves.

(i) This amendment shall take initial effect when entered into by any two or more states party to the compact and shall be effective as to those states which have specifically enacted this amendment. Rules and regulations necessary to effectuate the terms of this amendment may be promulgated by the appropriate officers of those states which have enacted this amendment.

(Added Stats 1965 ch 1323)

1300.4. Application. The Rendition Amendment to the Interstate Compact on Juveniles is hereby enacted into law and entered into by this state with all other states legally joining therein in the law substantially as follows:

(a) This amendment shall provide additional remedies and shall be binding only as among and between those party states which specifically execute the same.

(b) All provisions and procedures of Article V and VI of the Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile, charged with being a delinquent by reason of violating any criminal law, shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in such case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged

to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in Article V of the compact shall be forwarded by the judge of the court in which the petition has been filed.

(Added Stats 1988 ch 608)

1300.5. Confinement in party state. In addition to any institution in which the authorities of this state may otherwise confine or order the confinement of a delinquent juvenile, such authorities may, pursuant to the Out-of-state Confinement Amendment to the Interstate Compact on Juveniles, confine or order the confinement of a delinquent juvenile in a compact institution with another party state.

(Added Stats 1965 ch 1323)

1301. Compact administrator; Designation. Pursuant to the compact, the Governor may designate an officer who shall be the compact administrator and who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator shall serve at the pleasure of the Governor.

(Added Stats 1955 ch 1363)

1302. Administration. The compact administrator shall cooperate with all departments, agencies and officers of this State and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by this State thereunder.

(Added Stats 1955 ch 1363)

1303. Supplementary agreements. The compact administrator may enter into supplementary agreements with appropriate officials of other states pursuant to the compact. In the event that such supplementary agreements shall require or contemplate the use of any institution or facility of this State or require or contemplate the provision of any service by this State, it shall have no force or effect until approved by the head of the department or agency under whose jurisdiction the institution or facility is operated or whose department or agency will be charged with the rendering of such service.

(Added Stats 1955 ch 1363)

1303. Fees of counsel. Any judge who appoints counsel or a guardian ad litem pursuant to the provisions of the compact may fix a fee in a reasonable amount, to be paid out of funds available for disposition by the court.

(Added Stats 1955 ch 1363)

1304. Payments. The compact administrator, subject to the approval of the Department of Finance, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this State by the compact or by any supplementary agreement entered into thereunder.

(Added Stats 1955 ch 1363)

1306. Enforcement. The courts, departments, agencies, and officers of this State and its subdivisions shall enforce this compact and shall do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdictions.
(Added Stats 1955 ch 1363)

1307. "Delinquent juvenile". The term "delinquent juvenile" as used in the Interstate Compact on Juveniles shall include those persons subject to the jurisdiction of the juvenile court within the meaning of Section 602 of this code.
(Added Stats 1955 ch 1363; amended Stats 1963 ch 866)

1308. Construction. All provisions of law in conflict with this chapter shall be inoperative so long as the compact or agreement executed under the provisions of this chapter is operative.
(Added Stats 1955 ch 1363)

MINORS CROSSING THE MEXICAN BORDER

1500. Minors crossing the Mexican Border. 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.
(Added Stats 1973 ch 336)

Youth Authority Act

YOUTHS

THE YOUTH AUTHORITY

General Provisions and Definitions

1700. Purpose of chapter. The purpose of this chapter is to protect society from the consequences of criminal activity and to such purpose training and treatment shall be substituted for retributive punishment and shall be directed toward the correction and rehabilitation of young persons who have committed public offenses.

(Added Stats 1941 ch 937; repealed and added Stats 1981 ch 115)

1701. Title. This chapter may be cited as the Youth Authority Act.

(Added Stats 1941 ch 937; amended Stats 1943 ch 690)

1702. Application. This chapter shall apply only to public offenses committed subsequently to the date upon which it becomes effective.

(Added Stats 1941 ch 937)

1703. Definitions. As used in this chapter

(a) "Public offenses" means public offenses as that term is defined in the Penal Code;

(b) "Court" includes any official authorized to impose sentence for a public offense;

(c) "Youth Authority", "Authority", "authority" or "department" means the Department of the Youth Authority;

(d) "Board" or "board" means the Youthful Offender Parole Board.

(e) The masculine pronoun includes the feminine.

(Added Stats 1941 ch 937; amended Stats 1979 ch 860)

1704. Juvenile court. Nothing in this chapter shall be deemed to interfere with or limit the jurisdiction of the juvenile court.

(Added Stats 1941 ch 937)

1705. Religious freedom. It is the intention of the Legislature that all persons in the custody of an institution under the supervision of the Department of the Youth Authority shall be afforded reasonable opportunities to exercise religious freedom.

(Added Stats 1972 ch 1349)

1706. Vitamin research program. (a) Notwithstanding Section 3502 of the Penal Code, research involving the administration of vitamins, minerals, and amino acids to wards and involving analysis of the subjects' hair and blood may be conducted provided that the following conditions exist:

(1) The Department of the Youth Authority approves the research after making a determination pursuant to Section 3515 of the Penal Code.

(2) The research subjects have given informed consent under Section 3521 of the Penal Code.

(3) The substances administered in the research are limited to those which are approved by the federal Food and Drug Administration and which do not require a physician's prescription.

(4) The substances are administered only within three times the Recommended Dietary Allowance established by the National Research Council in effect on the effective date of this act under the supervision of a physician.

(5) The withdrawal of blood shall be performed only before commencement and following the conclusion of the research and shall be withdrawn in a medically approved manner. Only a physician, registered nurse, licensed vocational nurse, licensed medical technician, or licensed phlebotomist may withdraw blood specimens for the purposes of this section.

(b) Protocols for the research conducted under this section, and its implementation, shall be subject to review and approval by a research oversight committee. Membership of the committee shall include at least two physicians not employed or on contract to the Department of the Youth Authority or the Department of Corrections, the Chief of Medical Services of the Department of the Youth Authority, a representative from the State Department of Health Services, at least two persons with extensive background in research competent to critique the proposal outlined in this section and assist in its implementation, and a person representing the wards to be selected by the State Public Defender's Office.

(c) As used in this section, "ward" means persons who are committed to the Department of the Youth Authority who are 18 years of age or older.

(d) The Department of the Youth Authority shall not conduct any investigation under this section of a new drug, as defined in Section 201 of the federal Food, Drug and Cosmetic Act (21 U.S.C. Sec. 321) without approval from the federal Food and Drug Administration.

(e) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1995, deletes or extends that date.

(Added and repealed Stats 1989 ch 1367, effective 10/2/89 until 1/1/95)

Department of the Youth Authority

1710. Department established. There is in the Youth and Adult Correctional Agency a Department of the Youth Authority.

(Repealed and added Stats 1979 ch 860; amended Stats 1982 ch 624)

1711. Director. The Director of the Youth Authority shall be appointed by the Governor with the advice and consent of the Senate. He or she shall hold office at the pleasure of the Governor but before the director may be removed, the procedures set forth in Section 5051 of the Penal Code shall be followed. He or she shall receive an annual salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code, and shall devote his or her entire time to the duties of his or her office.

(Repealed and added Stats 1979 ch 860)

1712. Powers and duties. (a) All powers, duties, and functions pertaining to the care and treatment of wards provided by any provision of law and not specifically and expressly assigned to the Youthful Offender Parole Board shall be exercised and performed by the director. The director shall be the appointing

authority for all civil service positions of employment in the department. The director may delegate the powers and duties vested in him or her by law, in accordance with Section 7.

(b) The director is authorized to make and enforce all rules appropriate to the proper accomplishment of the functions of the Department of the Youth Authority. Such rules shall be promulgated and filed pursuant to Chapter 4.5 (commencing with Section 11371) 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.

(c) The Department of the Youth Authority shall maintain, publish, and make available to the general public, a compendium of rules and regulations promulgated by the department pursuant to this section.

(d) The following exceptions to the procedures specified in this section shall apply to the Department of the Youth Authority:

(1) The department 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; provided that no less than 20 days prior to such 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.

(2) The department may rely upon a summary of the information compiled by a hearing officer; provided that the summary and the testimony taken regarding the proposed action shall be retained as part of the public record for at least one year after the adoption, amendment, or repeal.

(Repealed and added Stats 1979 ch 860)

1713. Qualifications. (a) The Director of the Youth Authority shall have wide and successful administrative experience in youth or adult correctional programs embodying rehabilitative or delinquency prevention concepts.

(b) The Governor may request the State Personnel Board to use extensive recruitment and merit selection techniques and procedures to provide a list of persons qualified for appointment as Director of the Youth Authority. The Governor may appoint any person from such list of qualified persons or may reject all names and appoint another person who meets the requirements of this section.

(Added Stats 1979 ch 860)

1714. Legislative intent. Meetings. (a) It is the intention of the Legislature that the Youthful Offender Parole Board and the Director of the Youth Authority shall cooperate with each other in the establishment of the classification, transfer, discipline, training, and treatment policies of the Department of the Youth Authority, to the end that the objectives of the state youth correctional system can best be attained. The director and the board shall, not less than four times each calendar year, meet for the purpose of discussion of classification, transfer, discipline, training, and treatment policies and problems, and for the purpose of discussion of policies relating to the functions and duties of the board, and it is the intent of the Legislature that whenever possible there shall be agreement on these subjects; however in order to maintain responsibility for the secure and orderly administration of the Youth Authority, the Director of the Youth Authority shall have the final right to determine the policies on classifica-

tion, transfer, discipline, training and treatment, and the board shall have the final right to determine the policies on its duties and functions.

(b) The Director of the Youth Authority may transfer persons confined in one institution or facility of the Department of the Youth Authority to another. The Youthful Offender Parole Board may request the director to transfer a person who is under the jurisdiction of the department pursuant to Section 1731.5 if, after review of the case history in the course of routine procedures, such transfer is deemed advisable for the further diagnosis and treatment of the ward. The director shall as soon as practicable comply with such request, provided that, if facilities are not available he or she shall report that fact to the board and shall make the transfer as soon as facilities become available; provided further, that if in the opinion of the director such transfer would endanger security he or she may report that fact to the board and refuse to make such transfer.

(Added Stats 1979 ch 860)

1715. X-ray reimbursement. From funds available for the support of the Youth Authority, the director may reimburse persons employed by the authority and certified as radiologic technologists pursuant to Chapter 7.4 (commencing with Section 25660) of Division 20 of the Health and Safety Code for the fees incurred both in connection with the obtaining of such certification since July 1, 1971, and with regard to the renewal thereof.

(Added Stats 1979 ch 860)

Youthful Offender Parole Board

1716. Appointment of members. (a) There is in the Youth and Adult Correctional Agency a Youthful Offender Parole Board, which shall be composed of seven members, each of whom shall be appointed by the Governor, with the advice and consent of the Senate, for a term of four years and until the appointment and qualification of his or her successor, and who shall devote their entire time to its work.

(b) The individuals who were members of the Youth Authority Board immediately prior to the effective date of this section, other than the individual who was Director of the Department of the Youth Authority and Chairman of the Youth Authority Board, shall continue in their respective terms of office as members of the Youthful Offender Parole Board. The term of the member appointed to the term commencing March 15, 1976 shall expire March 15, 1980. The terms of the two members appointed to the terms commencing March 15, 1977 shall expire March 15, 1981. The terms of the two members appointed to the terms commencing March 15, 1978 shall expire March 15, 1982. The terms of the two members appointed to the terms commencing March 15, 1979 shall expire March 15, 1983. The members shall be eligible for reappointment and shall hold office until the appointment and qualification of their successors, with the term of each new appointee to commence on the expiration date of the term of his or her predecessor.

(c) All appointments to a vacancy occurring by reason of any cause other than the expiration of a term shall be for the unexpired term. Each member shall hold office until the appointment and qualification of his or her successor.

(d) If the Senate, in lieu of failing to confirm, finds that it cannot consider all or any of the appointments to the Youthful Offender Parole Board adequately because the amount of legislative business and the probable duration of the session does not permit, it may adopt a single house resolution by a majority vote of all members elected to the Senate to that effect and requesting the resubmission of the unconfirmed appointment or appointments at a succeeding session of the Legislature, whether regular or extraordinary, convening on or after a date fixed in the resolution. This resolution shall be filed immediately after its adoption in the office of the Secretary of State and the appointee or appointees affected shall serve subject to later confirmation or rejection by the Senate.

(Added Stats 1979 ch 860; amended by Stats 1982 ch 624)

1717. Designation of chairman. (a) Persons appointed to the Youthful Offender Parole Board shall have a broad background in and ability for appraisal of youthful law offenders and delinquents, the circumstances of delinquency for which committed, and the evaluation of the individual's progress toward reformation. Insofar as practicable, members shall be selected who have a varied and sympathetic interest in youth correction work including persons widely experienced in the fields of corrections, sociology, law, law enforcement, and education.

(b) 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 state.

(c) One member of the board shall be designated as chairman by the Governor. The chairman shall be the administrative head of the board and shall exercise all duties and functions necessary to insure that the responsibilities of the board are successfully discharged. He or she shall be the appointing authority for all civil service positions of employment in the board.

(Repealed and added Stats 1979 ch 860)

1718. Salary. Removal of members. (a) The chairman and members of the board shall receive an annual salary as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code and their actual necessary traveling expenses to the same extent as is provided for other state offices.

(b) The Governor may remove any member of the board for misconduct, incompetency or neglect of duty after a full hearing by the Board of Corrections.

(Added Stats 1979 ch 860)

1719. Powers and duties. The following powers and duties shall be exercised and performed by the Youthful Offender Parole Board as such, or may be delegated to a panel, member, or case hearing representative as provided in Section 1721: return of persons to the court of commitment for redisposition by the court, discharge of commitment, orders to parole and conditions thereof, revocation or suspension of parole, recommendation for treatment program, determination of the date of next appearance, return of nonresident persons to the jurisdiction of the state of legal residence.

(Repealed and added Stats 1979 ch 860)

1720. Review of cases. (a) The case of each ward shall be heard by the board immediately after the case study of the ward has been completed and at such other times as is necessary to exercise the powers or duties of the board.

(b) The board shall periodically review the case of each ward for the purpose of determining whether existing orders and dispositions in individual cases should be modified or continued in force. These reviews shall be made as frequently as the board 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 hearing 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 Youth Authority 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.

(Added Stats 1953 ch 1304; most recently amended Stats 1984 ch 680)

1721. General policies. (a) The Youthful Offender Parole Board shall adopt policies governing the performance of its functions by the full board, or, pursuant to delegation, by panels, or referees. Whenever the board performs its functions meeting en banc in either public or executive sessions to decide matters of policy, at least four members shall be present and no such action shall be valid unless it is concurred in by a majority vote of those present.

(b) Case hearing representatives may be employed to participate with the board in the hearing of cases and to whom authority may be delegated as provided in this section.

(c) The board may delegate its authority to hear, consider, and act upon cases to members or case hearing representatives, sitting either on a panel or as a referee. A panel may consist of two or more members, a member and a case hearing representative, or two case hearing representatives. Two members of a panel shall constitute a quorum, and no action of the panel shall be valid unless concurred in by a majority vote of those present.

(d) When delegating its authority, the board may condition finality of the decision of the panel or referee to whom authority is delegated on concurrence of a member or members of the board. In determining whether, in any case, it shall delegate its authority and the extent of such delegation, the board shall take into account the degree of complexity of the issues presented by the case.

(e) The board shall adopt rules under which a person under the jurisdiction of the Youth Authority or other persons, as specified in such rules, may appeal any decision of a case hearing representative. The board shall consider and act upon the appeal in accordance with such rules.

(Repealed and added Stats 1979 ch 860; amended Stats 1980 ch 1117)

1722. Rules and regulations. (a) Any rules and regulations, including any resolutions and policy statements, promulgated by the Youthful Offender Parole Board, 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 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) The following exception to the procedures specified in this section shall apply to the board: 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; provided that 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.

(Repealed and added Stats 1979 ch 860; amended Stats 1983 ch 142)

1723. Exercise and delegation of powers. (a) Except as provided in Section 1721, every order granting and revoking parole and issuing final discharges to any person under the jurisdiction of the Youth Authority shall be made by the Youthful Offender Parole Board and the board may not delegate the making of such decisions to any other body or person.

(b) All other powers conferred to the Youthful Offender Parole Board may be exercised through subordinates or delegated to the Department of the Youth Authority under rules established by the board. Any person subjected to an order of such subordinates or of the department pursuant to such delegation may petition the board for review. The board may review such orders under appropriate rules and regulations.

(Repealed and added Stats 1979 ch 860)

1724. Expenditures. The Youthful Offender Parole Board is limited in its expenditures to funds specifically made available for its use.

(Repealed and added Stats 1979 ch 860)

1725. Powers and duties. The Youthful Offender Parole Board shall succeed to and shall exercise and perform all powers and duties granted to, exercised by, and imposed upon the Youth Authority Board. The Youth Authority Board is abolished.

(Added Stats 1979 ch 860)

1726. Board employees. (a) Such employees of the Youthful Offender Parole Board as are needed to carry out its functions shall be selected and appointed pursuant to the State Civil Service Act.

(b) All officers and employees of the Department of the Youth Authority who on the effective date of this section are serving in the state civil service, other than as temporary employees, as part of the direct staff of the Youth Authority Board, including, but not limited to, those officers and employees performing the functions of administrative officer, case hearing representative, and case hearing coordinator, shall be transferred to the Youthful Offender Parole Board. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the Youthful Offender Parole Board pursuant to the State Civil Service Act.

(Repealed and added Stats 1979 ch 860)

1727. Subpoenas. The Chairman of the Youthful Offender Parole Board shall have the authority of a head of a department set forth in subdivision (e) of Section 11181 of the Government Code to issue subpoenas as provided in Article 2 (commencing with Section 11180) of Chapter 2 of Division 3 of Title 2 of the Government Code. The board shall adopt regulations on the policies and guidelines for the issuance of subpoenas.

(Repealed Stats 1979 ch 860; added Stats 1981 ch 792)

Commitments to Youth Authority

1730. Commitments. (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.

(Added Stats 1941 ch 937; amended Stats 1943 (3rd Ex Sess), ch 2)

1731. Age. When in any criminal proceeding in a court of this State a person has been convicted of a public offense for which the court has power under this chapter to commit to the Authority, 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.

(Added Stats 1941 ch 937; amended Stats 1943 (3rd Ex Sess), ch 2)

1731.5. Referral to authority. (a) After certification to the Governor as provided in this article, a court may commit to the authority any person convicted of a public offense who comes within paragraphs (1), (2), and (3), paragraphs (1), (2), and (4), below:

(1) Is found to be less than 21 years of age at the time of apprehension.

(2) Is not convicted of first degree murder, committed when that person was 18 years of age or older, or sentenced to death, imprisonment for life, 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.

(3) Is not granted probation.

(4) Was granted probation and probation is revoked and terminated.

(b) The Youth Authority shall accept a person committed to it 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) Any person under the age of 21 years who is not committed to the authority pursuant to this section may be transferred to the authority by the Director of Corrections with the approval of the Director of the Youth Authority. In sentencing a person under the age of 21 years, the court may order that the person shall be transferred to the custody of the Youth Authority pursuant to this subdivision. When the court makes such an order and the Youth Authority 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 Youth Authority parole supervision of the inmate, who, in all other aspects shall be deemed to be committed to the Department of Corrections and shall remain subject to the jurisdiction of the Director of Corrections and the Board of Prison Terms. Notwithstanding subdivision (b) of Section 2900 of the Penal Code, the Director of the Department of Corrections, with the concurrence of the Director of the Youth Authority, may designate a facility under the jurisdiction of the Director of the Youth Authority as a place of reception for any person described in this subdivision.

The Director of the Youth Authority shall have the same powers with respect to an inmate transferred pursuant to this subdivision as if the inmate had been committed or transferred to the Youth Authority either under the Arnold-Kennick Juvenile Court Law or subdivision (a).

The duration of the transfer shall extend until the Director of the Youth Authority orders the inmate returned to the Department of Corrections, the inmate is ordered discharged by the Board of Prison Terms, or the inmate reaches the age of 25 years, whichever first occurs.

(Added Stats 1941 ch 937; most recently amended Stats 1987 ch 354, effective 8/28/87)

1731.6. Observation and diagnosis. (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 Youth Authority, the court may continue the hearing and order that such 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 Youth Authority report to the court its diagnosis and recommendations concerning the person within the 90-day period.

(b) The Director of the Youth Authority shall, within the 90 days, cause the person to be observed and examined and shall forward to the court his diagnosis and recommendation concerning such person's future care, supervision, and treatment.

(c) The Youth Authority shall accept such person if it believes that the person can be materially benefited by such diagnostic and treatment services and if the Director of the Youth Authority certifies that staff and institutions are available. No such person shall be transported to any facility under the jurisdiction of the Youth Authority until the director has notified the referring court of the place to which such person is to be transported and the time at which he can be received.

(d) Notwithstanding the provisions of subdivision (c), the Youth Authority 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 such person in the

center or returning him therefrom to the court. The expense of such sheriff or other peace officer incurred in executing such order is a charge upon the county in which the court is situated.

(Added Stats 1976 ch 299)

1732. Prohibited commitments. No person convicted of violating Section 261, Section 264.1, subdivision (b) of Section 288, Section 289, or of sodomy or oral copulation by force, violence, duress, menace or threat of great bodily harm as provided in Section 286 or 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 Youth Authority. 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.

(Added Stats 1979 ch 944; amended Stats 1989 ch 555)

1732.4. Approval of place. A person who is convicted of a public offense, who is found to have been less than 21 years of age at the time of apprehension, and who is sentenced to not more than 90 days' imprisonment, may be imprisoned only in a place which has been approved for that purpose by the Authority.

(Added Stats 1941 ch 937; amended Stats 1944 (3d Ex Sess), ch 2)

1732.5. Prohibited commitments. 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 roll call vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

(Added Prop 8, June 8, 1982 Primary)

1732.7. Prior conviction. A person who is convicted of a public offense for which the maximum penalty provided by law is imprisonment for not more than 90 days, and who is found to be less than 21 years of age at the time of his apprehension, may be committed to the Authority only if it is brought to the court's knowledge that the person has been previously convicted of a public offense or has been a ward of the juvenile court by reason of a public offense and the court is satisfied that society will best be protected by commitment to the Authority.

(Added Stats 1941 ch 937; amended Stats 1943 (3d Ex Sess), ch 2)

1733. Suspension of license. 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.

(Added Stats 1941 ch 937)

1735. Persons fined. 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.

(Added Stats 1941 ch 937; amended Stats 1943 (3d Ex Sess), ch 2)

1736. Juvenile court. 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.

(Added Stats 1941 ch 937)

1737. Suspension of 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 or sole 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 predited toward the term of any person resentenced 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 Youth Authority or the Youthful Offender Parole Board.

(Added Stats 1941 ch 937; most recently amended Stats 1983 ch 221)

1737.1. Return to court. Whenever any person who has been convicted of a public offense in adult court and committed to and accepted by the Youth Authority appears to the Youthful Offender Parole Board, either at the time of his or her first appearance before the board or thereafter, to be an improper person to be retained by the Youth Authority, or to be so incorrigible or so incapable of reformation under the discipline of the Youth Authority as to render his or her detention detrimental to the interests of the Youth Authority and the other persons committed thereto, the board may order the return of such a 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 Youth Authority. 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 Youth Authority" means the period of time during which he or she was physically confined in a state institution by order of the Youth Authority or Youthful Offender Parole Board.

(Added Stats 1945 ch 781; most recently amended Stats 1983 ch 221)

1737.5. Commitment appealable. 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.

(Added Stats 1943 ch 898)

1738. Liberty. 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.

(Added Stats 1941 ch 937; amended Stats 1969 ch 1197)

1739. Appeals. (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.

(Added by Stats 1941 ch 937)

1740. Order. 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.

(Added Stats 1941 ch 937)

1741. Case history. 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.

(Added Stats 1941 ch 937; most recently amended Stats 1961 ch 79)

Powers and Duties of Youth Authority

1750. Funds. The Authority is limited in its expenditures to funds specifically made available for its use.

(Added Stats 1941 ch 937)

1752. Services and administration. 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.

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.

(Added Stats 1941 ch 937; most recently amended Stats 1981 ch 453)

1752.1. Diagnosis and treatment services. The director may enter into contract with the approval of the Director of Finance with any county of this state, upon request of the board of supervisors thereof, wherein the Youth Authority agrees to furnish diagnosis and treatment services and temporary detention during a period of study to the county for selected cases of persons eligible for commitment to the Youth Authority. The county shall reimburse the state for the cost of such services, such cost to be determined by the Director of the Youth Authority.

The Youth Authority shall present to the county, not more frequently than monthly, a claim for the amount due the state under this section which the county shall process and pay pursuant to the provisions of Chapter 4 (commencing with Section 29700) of Division 3 of Title 3 of the Government Code.

(Added Stats 1957 ch 1016; most recently amended Stats 1976 ch 299)

1752.2. Employee's annuities. The director may purchase annuity contracts for permanent employees of the authority provided all of the following conditions are met:

(a) The annuity contract is under an annuity plan which meets the requirements of subdivision (b) of Section 403 of the Internal Revenue Code of 1954 of the United States and Section 17512 of the Revenue and Taxation Code;

(b) The purchase of such annuities meets the requirements of the Insurance Code and the Government Code applicable to such purchase;

(c) The salary of an employee for whom such contract is purchased is reduced by the amount of the cost of such contract; and

(d) The employee makes an application to the director for such purchase and reduction of salary.

(Added Stats 1969 ch 864)

1752.3. Cost sharing of local correctional programs. The director may, from any moneys made available for such purposes, allocate funds to local governmental and nongovernmental agencies to share in the cost of local correctional programs which are partially financed by federal grants.

(Added Stats 1970 ch 816)

1752.5. Canteens. The director may establish and maintain at any institution or camp under his jurisdiction a canteen for the sale to persons confined therein of candy, nutritional snacks, toilet articles, tobacco products, sundries, and other articles. The canteen shall operate on a nonprofit basis. However, if sales should exceed costs, the surplus shall be deposited in a special fund, to be designated "Benefit Fund." Any moneys contained in such fund shall be used for the benefit of the wards resident at the institution or camp.

(Added Stats 1979 ch 110)

1752.6. Contracts. The director may, with the approval of the Director of General Services, enter into contracts with colleges, universities, and other organizations for the purposes of research in the field of delinquency and crime prevention and of training special workers, including teachers, institution employees, probation and parole officers, social workers and others engaged, whether as volunteers or for compensation, and whether part time or full time, in the fields of education, recreation, mental hygiene, and treatment and prevention of delinquency.

(Added Stats 1943 ch 675; most recently amended Stats 1965 ch 371)

1752.7. Collection of statistics. The director may collect statistics and information regarding juvenile delinquency, crimes reported and discovered, arrests made, complaints, informations, and indictments filed and the disposition made thereof, pleas, convictions, acquittals, probations granted or denied, commitments to and transfers and discharges from places of incarceration, and other data and information useful in determining the cause and amount of crime in this State, or in carrying out the powers and duties of the Authority.

All officers and employees of the State and of every county and city shall furnish to the director upon request such statistics and other information within their knowledge and control as the director deems necessary or proper to be collected pursuant to the provisions of this section.

(Added Stats 1943 ch 291; amended Stats 1945 ch 639)

1752.8. Ward funds. The Director of the Youth Authority may deposit any funds of wards committed to the authority in the director's possession in trust

with the Treasurer pursuant to Section 16305.3 of the Government Code or in trust in insured bank, savings and loan, or state or federal credit union accounts bearing interest at rates up to the maximum permitted by law, and for the purpose of deposit only, may mingle the funds of any ward with the funds of other wards.

Such funds together with the interest paid thereon may be paid over to the ward upon his or her request, and shall be paid over to the ward upon his or her discharge from the Youth Authority.

Notwithstanding the provisions of this section and Section 1752.81, the Youth Authority may assess a ward's trust fund for actual costs for the ward's support, maintenance, training and treatment.

(Added Stats 1949 ch 234; most recently amended Stats 1983 ch 715)

1752.9. Land lease. The Department of the Youth Authority, with the approval of the Director of General Services, may lease land at any institution under its jurisdiction, at a nominal rental, to any nonprofit or eleemosynary corporation. The terms of the lease shall require the corporation to construct a house of worship on such land, and to maintain and operate the same primarily for the use of Youth Authority wards and staff. All work as an employee on such house of worship performed under contract or by day labor shall be subject to the provisions of Division 2, Part 7, of the Labor Code.

(Added Stats 1957 ch 1859; amended Stats 1965 ch 371)

1752.15. Emergency care. The director may enter into contracts, with the approval of the Director of Finance, with any county of this state upon request of the board of supervisors thereof, wherein the Department of the Youth Authority agrees to furnish temporary emergency detention facilities and necessary services incident thereto, for persons under the age of 18 years who are in the custody of the county probation officer pursuant to provisions of Chapter 2 (commencing with Section 200) of Part 1 of Division 2. Facilities of the department may be used only on a temporary basis when existing county juvenile facilities are rendered unsafe or inadequate because of a natural or manmade disaster. They may not be used for the detention of a person who is alleged to be or has been be a person described by Section 300 or Section 601.

Whenever any person is detained in a California Youth Authority facility located in a county other than the county which has contracted for services pursuant to this section, the county shall provide for adequate consultation between the minor and his attorney; and, if the minor's parent or guardian lacks adequate private means of transportation, and if the minor has been detained in the facility for more than 10 days, the county shall make reasonable efforts to provide for visitation between the minor and his parents or guardian.

The county shall reimburse the state for the cost of such services, such cost to be determined by the director. The department shall present to the county, not more than once a month, a claim for the amount due the state under this section which the county shall process and pay pursuant to the provisions of Chapter 4 (commencing with Section 29700) of Division 3 of Title 3 of the Government Code.

(Added Stats 1976 ch 1239; amended Stats 1978 ch 380)

1752.81. Release of funds. Whenever the Director of the Youth Authority has in his possession in trust funds of a ward committed to the authority, such funds may be released for any purpose when authorized by the ward. When the sum held in trust for any ward by the Director of the Youth Authority exceeds five hundred dollars ($500), the amount in excess of five hundred dollars ($500) may be expended by the director pursuant to a lawful order of a court directing payment of such funds, without the authorization of the ward thereto.

(Added Stats 1975 ch 353)

1752.82. Restitution fine: ward wages. Whenever an adult or minor is committed to or housed in a Youth Authority facility and he or she owes restitution to a victim or a restitution fine imposed pursuant to Section 13967 of the Government Code or pursuant to Section 730.6 or 731.1 of this code, the director may deduct a reasonable amount not to exceed 20 percent from the wages of that adult or minor and the amount so deducted, exclusive of the costs of administering this section, which shall be retained by the director, shall be transferred to the State Board of Control for deposit in the Restitution Fund in the State Treasury in the case of a restitution fine, or, in the case of a restitution order, and upon the request of the victim, shall be paid directly to the victim. Any amount so deducted shall be credited against the amount owing on the fine or to the victim. The committing court shall be provided a record of any such payments.

(Added Stats 1983 ch 954; amended Stats 1988 ch 181)

1752.83. Payment of damaged property. (a) It is the intent of the Legislature that wards of the Youth Authority be held accountable for intentional damage and destruction of public property committed while they are confined in Youth Authority facilities. To that end, and notwithstanding the provisions of Sections 1752.8 and 1752.81, the Youth Authority may deduct from a ward's trust fund any amounts that are necessary to pay for intentional damage to public property caused by the ward while confined within an institution or other facility of the Youth Authority.

(b) The Youth Authority shall utilize the procedures in its regulations for disciplinary actions to determine whether the damage or destruction was intentionally caused by the ward and, if so, to determine the amount to be deducted to pay for the damage or destruction.

(c) Funds that are deducted shall remain with the Youth Authority and shall be used to repair or replace the public property damaged or destroyed as provided for in the Budget Act for that fiscal year.

(Added Stats 1984 ch 494; amended and renumbered Stats 1986 ch 248)

1752.85. Sale of handiwork. The director of the Youth Authority may authorize the sale of articles of handiwork made by wards under the jurisdiction of the authority to the public at Youth Authority institutions, in public buildings, at fairs, or on property operated by nonprofit associations. The cost of any state property used for the manufacture of articles shall be paid for out of funds received from the sale of the articles. The remainder of any funds received from the sale of the articles shall be placed in the ward's trust account pursuant to Section 1752.8 of the Welfare and Institutions Code.

(Added Stats 1969 ch 803)

1752.95. Meet with probation officers. The director may, from time to time, and as often as occasion may require, but not to exceed two meetings in any one calendar year call into conference the probation officers of the several counties, or such of them as he may deem advisable, for the purpose of discussing the duties of their offices.

The actual and necessary expenses of the probation officer incurred while traveling to and from and while attending the conferences shall be a county charge; provided prior approval of the board of supervisors has been obtained.

(Added Stats 1957 ch 1597)

1753. Cooperation. For the purpose of carrying out its duties, the department is authorized to make use of law enforcement, detention, probation, parole, medical, educational, correctional, segregative and other facilities, institutions and agencies, whether public or private, within the state. The director may enter into agreements with the appropriate public officials for separate care and special treatment in existing institutions of persons subject to the control of the department.

(Added Stats 1941 ch 937; most recently amended Stats 1979 ch 860)

1753.1. Federal commitments. (a) The Director of the Youth Authority may enter into agreements with any federal agency authorizing the use of the Youth Authority's facilities and services for the confinement, care and treatment of persons otherwise not under its jurisdiction when suitable facilities and services are available. The costs of the services provided by the Youth Authority shall be borne by the agency referring the person to the Director of the Youth Authority. The Director of the Youth Authority may order the person returned to the agency referring him when suitable facilities or services are not available. Any such person referred to the Youth Authority pursuant to this section shall be subject to its rules and regulations.

(b) As used in this section, "person" means any person under the age of 26 years who is under the jurisdiction of a Federal Correctional Agency pursuant to federal law.

(Added Stats 1972 ch 772)

1753.3. Local agreements for facilities. (a) The Director of the Youth Authority may enter into an agreement with a city, county, or city and county, to permit transfer of wards in the custody of the Director of the Youth Authority to an appropriate facility of the city, county, or city and county, if the official having jurisdiction over the facility has consented. The agreement shall provide for contributions to the city, county, or city and county toward payment of costs incurred with reference to the transferred wards.

(b) When an agreement entered into pursuant to subdivision (a) is in effect with respect to a particular local facility, the Director of the Youth Authority may transfer wards and parole violators to the facility.

(c) Notwithstanding subdivision (b), the Director of the Youth Authority may deny placement in a local facility to a parole violator who was committed to the Youth Authority for the commission of any offense set forth in subdivision (b) of Section 707.

(d) Wards transferred to those facilities are subject to the rules and regulations of the facility in which they are confined, but remain under the legal custody of the Department of the Youth Authority.

(Added Stats 1987 ch 1450; amended Stats 1988 ch 1608)

1753.4. Parole violator facilities (a) Pursuant to Section 1753.3 the Director of the Youth Authority may enter into a long-term agreement not to exceed 20 years with a city, county, or city and county to place parole violators in a facility which is specially designed and built for the incarceration of parole violators and state youth authority wards.

(b) The agreement shall provide that persons providing security at the facilities shall be peace officers who have completed the minimum standards for the training of local correctional peace officers established under Section 6035 of the Penal Code.

(c) In determining the reimbursement rate pursuant to an agreement entered into pursuant to subdivision (a), the director shall take into consideration the costs incurred by the city, county, or city and county for services and facilities provided, and any other factors which are necessary and appropriate to fix the obligations, responsibilities, and rights of the respective parties.

(d) The Director of the Youth Authority, to the extent possible, shall select city, county, or city and county facilities in areas where medical, food, and other support services are available from nearby existing prison facilities.

(e) The Director of the Youth Authority, with the approval of the Department of General Services, may enter into an agreement to lease state property for a period not in excess of 20 years to be used as the site for a facility operated by a city, county, or city and county authorized by this section.

(f) No agreement may be entered into under this section unless the cost per ward in the facility is no greater than the average costs of keeping a ward in a comparable Youth Authority facility, as determined by the Director of the Youth Authority.

(Added Stats 1987 ch 1450)

1753.6. Reimbursement. In any case in which a ward of the Youth Authority is temporarily released from actual confinement in an institution of the authority and placed in a county hospital for purposes of delivery of her child, the authority may reimburse the county for the actual cost of services rendered by the county hospital to the newborn infant of the ward.

(Added Stats 1965 ch 1912)

1753.7. Personal hygiene and birth control materials. (a) Any female confined in a Department of the Youth Authority facility shall, upon her request, be allowed to continue to use materials necessary for (1) personal hygiene with regard to her menstrual cycle and reproductive system and (2) birth control measures as prescribed by her physician.

(b) Any female confined in a Department of the Youth Authority facility shall upon her request be furnished by the department with information and education regarding prescription birth control measures.

(c) Family planning services shall be offered to each and every female confined in a Department of Youth Authority facility at least 60 days prior to a scheduled release date. Upon request any such female shall be furnished by the

department with the services of a licensed physician or she shall be furnished by the department or by any other agency which contracts with the department with services necessary to meet her family planning needs at the time of her release.

Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because the duties, obligations or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government.

(Added Stats 1972 ch 1104 and amended Stats 1975 ch 1146)

1754. Facilities. Nothing in this chapter shall be taken to give the Youthful Offender Parole Board or the director control over existing facilities, institutions or agencies; or to require them to serve the board or the director inconsistently with their functions, or with the authority of their officers, or with the laws and regulations governing their activities; or to give the board or the director power to make use of any private institution or agency without its consent; or to pay a private institution or agency for services which a public institution or agency is willing and able to perform.

(Added Stats 1941 ch 937; most recently amended Stats 1979 ch 860)

1755. Duty of public agencies. Public institutions and agencies are hereby required to accept and care for persons sent to them by the Authority in the same manner as they would be required to do had such persons been committed by a court of criminal jurisdiction.

(Added Stats 1941 ch 937)

1755.3. Medical, etc., service. Whenever any person under the jurisdiction of the Youth Authority is in need of medical, surgical, or dental care, the Youth Authority may, upon the recommendation of the attending physician, authorize the performance of such necessary medical, surgical, or dental service.

(Added Stats 1951 ch 1611)

1755.5. Transfer for purposes of study, diagnosis, etc. The Youth Authority may transfer to and cause to be confined in the medical facility, the Correctional Training Facility at Soledad, the California Institution for Women at Corona, the Medical Correctional Institution, or the California Institution for Men under the jurisdiction of the Department of Corrections for general study, diagnosis, and treatment, or any of them, any person over the age of 18 years who is subject to the custody, control, and discipline of the Youth Authority who was committed to the Youth Authority under the provisions of Section 1731.5; and the Director of Corrections may receive and keep in any of the said institutions any person so transferred thereto by the Youth Authority, with the same powers as if the person had been placed therein or transferred thereto pursuant to the provisions of the Penal Code.

The Youth Authority may transfer to and cause to be confined in the California Rehabilitation Center for general study, diagnosis, and treatment, or any of them, any person over the age of 18 years who is subject to the custody, control and discipline of the Youth Authority; and the Director of Corrections may receive and keep in the California Rehabilitation Center any person so transferred

thereto by the Youth Authority, with the same powers as if the person had been placed therein or transferred thereto pursuant to the provision of Division 3 (commencing with Section 3000) of this code.

The provisions of Part 3 of the Penal Code, so far as those provisions may be applicable, apply to persons so transferred to and confined in the institutions, except that, whenever by reason of any law governing the commitment of a person to the Youth Authority the person is deemed not to be a person convicted of a crime, the transfer or placement of the person in the California Rehabilitation Center shall not affect the status or rights of the person and shall not be deemed to constitute a conviction of a crime. Section 644 of the Penal Code shall not apply to any person who has been placed in the medical facility, the Correctional Training Facility at Soledad, the California Institution for Women at Corona, the California Rehabilitation Center, the Medical Correctional Institution, or the California Institution for Men by the Youth Authority pursuant to this section, in respect to the time he remains therein under such placement.

(Added Stats 1949 ch 302; most recently amended Stats 1975 ch 370)

1756. Mentally deficient or mentally ill persons. Notwithstanding any other provision of law, if, in the opinion of the Director of the Youth Authority, the rehabilitation of any mentally disordered, or developmentally disabled person confined in a state correctional school may be expedited by treatment at one of the state hospitals under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services, the Director of the Youth Authority shall certify that fact to the director of the appropriate department who may authorize receipt of the person at one of the hospitals for care and treatment. Upon notification from the director that the person will no longer benefit from further care and treatment in the state hospital, the Director of the Youth Authority shall immediately send for, take, and receive the person back into a state correctional school. Any person placed in a state hospital under this section who is committed to the authority shall be released from the hospital upon termination of his commitment unless a petition for detention of that person is filed under the provisions of Part 1 (commencing with Section 5000) of Division 5.

(Added Stats 1970 ch 937; most recently amended Stats 1981 ch 714)

1756.1. Mental health facilities. The Director of the Youth Authority shall conduct a study on the feasibility of establishing on a regional basis mental health treatment facilities for mentally disordered persons confined in state correctional schools and on parole therefrom and shall report his findings to the Legislature by March 1, 1976.

(Added Stats 1975 ch 1258)

1757. Inspection. The director may inspect all public institutions and agencies whose facilities he or she and the Youthful Offender Parole Board are authorized to utilize and all private institutions and agencies whose facilities he and the board are using. Every institution or agency, whether public or private, is required to afford the director reasonable opportunity to examine or consult with persons committed to the Youth Authority who are for the time being in the custody of the institution or agency.

(Added Stats 1941 ch 937; most recently amended Stats 1979 ch 860)

1758. Control. Placement of a person by the Authority in any institution or agency not operated by the Authority, or the discharge of such person by such an institution or agency, shall not terminate the control of the Authority over such person.

(Added Stats 1941 ch 937)

1759. Approval. No person placed in such an institution or under such an agency may be released by the institution or agency until after approval of the release by the Authority, unless the institution or agency would have power under the law to release at its own discretion persons committed to it by order of a court. In the latter case, it may not release a person placed by the Authority until a reasonable time after it has notified the Authority of its intention to release him.

(Added Stats 1941 ch 937)

1760. Facilities. The director is hereby authorized when necessary and when funds are available for such purposes to establish and operate

(a) Places for the detention, prior to examination and study, of all persons committed to the Youth Authority;

(b) Places for examination and study of persons committed to the Youth Authority;

(c) Places of confinement, educational institutions, hospitals and other correctional or segregative facilities, institutions and agencies, for the proper execution of the duties of the Youth Authority;

(d) Agencies and facilities for the supervision, training and control of persons who have not been placed in confinement or who have been released from confinement by the Youthful Offender Parole Board upon conditions, and for aiding such persons to find employment and assistance;

(e) Agencies and facilities designed to aid persons who have been discharged by the Youthful Offender Parole Board from its control in finding employment and in leading a law-abiding existence.

(Added Stats 1941 ch 937; most recently amended Stats 1979 ch 260)

1760.3. Pilot Project—Graffiti Removal. (a) For purposes of this section "graffiti" means any unauthorized inscription, word, figure, or design which is marked, etched, scratched, drawn, or painted on any structural component of any building, structure, or other facility regardless of its content or nature and regardless of the nature of the material of that structural component.

(b) The Youth Authority shall establish and monitor the progress of a three-year pilot project in Los Angeles County for the removal of graffiti. The pilot project shall be administered by the Los Angeles County Probation Office which shall require adults, minors, or adults and minors, who are on probation, as part of community service ordered to be performed as a condition of their probation, to perform work necessary and proper to repair, remove, clean, or reconstruct any damage or defacement resulting from the application of graffiti to public buildings, structures, or other facilities owned by the state, Los Angeles County, any city within Los Angeles County, or any district or other political subdivision of the state.

(c) The Los Angeles County Probation Office also may, in its discretion, as part of the pilot project, require wards of the juvenile court who are placed in the

juvenile hall for Los Angeles County or any juvenile home, ranch, or camp located in Los Angeles County to perform work necessary and proper to repair, remove, clean, or reconstruct any damage or defacement resulting from the application of graffiti to public buildings, structures, or other facilities owned by the state, Los Angeles County, any city within Los Angeles County, or any district or other political subdivision of the state.

(d) Based on its monitoring of the progress of the pilot project, the Youth Authority shall report to the Legislature on the effectiveness of the pilot project in removing grafitti and any other impact of the pilot project on the community on or before April 1, 1990, April 1, 1991, and April 1, 1992. Each report shall include the number of square feet of surface area from which graffiti has been removed and the number of wards of the Youth Authority and juvenile court and adult offenders who have participated in the program in the previous calendar year. The project shall be deemed successful if in the first year graffiti is removed from at least 47,591 square feet of surface area at a cost of not more than sixteen thousand five hundred fifty-seven dollars ($16,557) as compared with the commercial cost of thirty thousand eight hundred forty-six dollars ($30,846) for the removal of a comparable amount of graffiti.

(Added Stats 1988 ch 1230)

1760.4. Work of C.Y.A. wards. (a) The wards housed in forestry camps established by the Department of the Youth Authority may be required to labor on the buildings and grounds of the camp, on the making of forest roads for fire prevention or firefighting, on forestation or reforestation of public lands, or on the making of firetrails and firebreaks, or to perform any other work or engage in any studies or activities prescribed or permitted by the department or any officer designated by it.

(b) The wards may be required to labor in fire suppression if all of the following conditions are met:

(1) The ward is under the age of 18 years and the parent or guardian of the ward has given permission for that labor by the ward, or the ward is 18 years of age or over.

(2) The ward has received not less than 16 hours of training in forest firefighting and fire safety.

The department may, during declared fire emergencies, allow the Director of the Department of Forestry and Fire Protection to use the wards for fire suppression efforts outside of the boundaries of California, not to exceed a distance in excess of 25 miles from the California border, along the borders of Oregon, Nevada, or Arizona.

(c) The department may provide, in cooperation with the Department of Parks and Recreation and the Department of Conservation or otherwise, for the payment of wages to the wards for work they do while housed on the camps, the sums earned to be paid in reparation, or to the parents or dependents of the ward, or to the ward in any manner and in any proportions as the Department of the Youth Authority directs.

(Added Stats 1961 ch 705; most recently amended Stats 1989 ch 419)

1760.5. Conservation Work. The director may require persons committed to the authority to perform work necessary and proper to be done by the

Department of Forestry, the Department of Water Resources, the Department of Parks and Recreation, and the Department of Fish and Game, by the Division of State Lands, by the United States Department of Agriculture, and by the federal officials and departments in charge of national forests and parks within this state. For the purposes of this section, the director, with the approval of the Department of General Services, may enter into contracts with federal and state officials and departments. All moneys received by the director pursuant to any of those contracts shall be paid into the State Treasury to the credit and in augmentation of the current appropriation for the support of the authority. The director may provide, from those moneys, for the payment of wages to the wards for work they do pursuant to any of those contracts, the wages to be paid into the Indemnity Fund created pursuant to Section 13967 of the Government Code, or to the parents or dependents of the ward, or to the ward in the manner and in those proportions as the Department of the Youth Authority directs.

(Added Stats 1943 ch 30; most recently amended Stats 1983 ch 627)

1760.6. Ward Labor. The director may require wards of the Youth Authority to perform work necessary and proper to construct, renovate, or maintain facilities of the Youth Authority. For purposes of this section, and notwithstanding Section 10108 of the Public Contract Code, the department may renovate or maintain facilities of the Youth Authority with hired or staff labor forces, so long as wards of the Youth Authority are utilized as a majority of the labor force and so long as the estimated cost of the project, if contracted, does not exceed two hundred thousand dollars ($200,000). The department may provide for the payment of wages to wards of the Youth Authority for work performed pursuant to this section, the sums earned to be paid in reparation, or to the parents or dependents of the ward, or to the ward, in such manner and in such proportions as the department directs.

(Added Stats 1983 ch 1021, effective 9/22/83)

1760.7. Probation. The director shall investigate, examine, and make reports upon adult and juvenile probation.

The director may establish standards for the performance of probation duties, and upon request consult with and make investigations and recommendations to probation officers, probation committees, juvenile justice commissions, and to judges of the superior courts, including such judges as are designated juvenile court judges of any county.

The director may also, upon request, consult with, make investigations, for, and recommendations to probation officers, probation committees, juvenile justice commissions, and to judges of the superior courts, including such judges as are designated juvenile court judges of any county, to aid them in the operation and maintenance of their juvenile halls.

(Added Stats 1943 ch 397; most recently amended Stats 1970 ch 530)

1761. Case history. The Youth Authority shall establish policies for a background assessment of all persons committed to the Youth Authority in order to supplement the case history provided by the county which committed the person to it.

(Repealed and added Stats 1988 ch 612)

1763. Examination Records. The authority shall keep written records of all examinations and of the conclusions predicated thereon and of all orders concerning the disposition or treatment of every person subject to its control. After five years from the date on which the jurisdiction of the authority over a ward is terminated the authority may destroy such records. For the purposes of this section "destroy" means destroy or dispose of for the purpose of destruction.
(Added Stats 1941 ch 937, and amended Stats 1961 ch 250)

1764. Disclosure of Information. Notwithstanding any other provision of law, any of the following information in the possession of the Youth Authority regarding persons 16 years of age or older who were committed to the Youth Authority by a court of criminal jurisdiction, or who were committed to the Department of Corrections and were subsequently transferred to the Youth Authority, shall be disclosed to any member of the public, upon request, by the director or his or her designee:

(a) The name and age of the person.

(b) The court of commitment and the offense that was the basis of commitment.

(c) The date of commitment.

(d) Any institution where the person is or was confined.

(e) The actions taken by any paroling authority regarding the person, which relate to parole dates.

(f) The date the person is scheduled to be released to the community, including release to a reentry work furlough program.

(g) The date the person was placed on parole.

(h) The date the person was discharged from the jurisdiction of the Youth Authority and the basis for the discharge.

(i) In any case where the person has escaped from any institution under the jurisdiction of the Youth Authority, a physical description of the person and the circumstances of the escape.

The provisions of this section shall not be construed to authorize the release of any information which could place any individual in personal peril; which could threaten Youth Authority security; or which is exempt from disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).
(Added Stats 1983 ch 1028; amended Stats 1989 ch 1048)

1764.1. Disclosure of juvenile court information. Notwithstanding any other provision of law, the director or his or her designee may release the information described in Section 1764 regarding a person committed to the Youth Authority by a juvenile court for an offense described in subdivision (a) of Section 676, to any member of the public who requests the information, unless the court has ordered confidentiality under subdivision (c) of Section 676.
(Added Stats 1986 ch 359; amended Stats 1989 ch 1048)

1764.2. Disclosure of information to victim. (a) Nothwithstanding any other provision of law, the director or his or her designee shall release the information described in Section 1764 regarding a person committed to the Youth Authority for an offense described in subdivision (a) of Section 676, to the victim or the next of kin of the victim of the offense, 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 or his or her designee shall, with respect to persons committed to the Youth Authority, including persons committed to the Department of Corrections who have been transferred to the Youth Authority, for an offense described in subdivision (a) of Section 676, inform each victim of that offense, or the victim's next of kin, of his or her right to request and receive information pursuant to subdivision (a) and Section 1767.

(Added Stats 1989 ch 1048)

1764.3. Victim notification. (a) Whenever a person is committed to the Youth Authority by a court of criminal jurisdiction, or is committed to the Department of Corrections and subsequently transferred to the Youth Authority, for a conviction of a violent felony listed in subdivision (c) of Section 667.5 of the Penal Code, the director or his or her designee shall, with respect to that person, provide all notices that would be required to be provided by the Board of Prison Terms or the Department of Corrections pursuant to Sections 3058.6 and 3058.8 of the Penal Code, if that person were confined in their respective institutions.

(b) In order to be entitled to receive from the department, pursuant to subdivision (a), the notice set forth in Section 3058.8 of the Penal Code, the requesting party shall keep the department informed of his or her current mailing address.

(c) The notice required under this section shall be provided within 10 days of release with respect to persons committed to the Youth Authority by a court of criminal jurisdiction.

(Added Stats 1989 ch 624)

1765. Continued study. (a) Except as otherwise provided in this chapter, the Youthful Offender Parole Board shall keep under continued study a person in its control and shall retain him or her, subject to the limitations of this chapter, under supervision and control so long as in its judgment such control is necessary for the protection of the public.

(b) The board shall discharge such person as soon as in its opinion there is reasonable probability that he or she can be given full liberty without danger to the public.

(Added Stats 1941 ch 937; amended Stats 1979 ch 860)

1766. Control. When a person has been committed to the Youth Authority, the Youthful Offender Parole Board may

(a) Permit him his liberty under supervision and upon such conditions as it believes best designed for the protection of the public.

(b) Order his or her confinement under such conditions as it believes best designed for the protection of the public, except that a person committed to the Youth Authority pursuant to Sections 731 or 1731.5 may not be held in physical confinement for a total period of time in excess of the maximum period of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought the minor under the jurisdiction of the juvenile court, or which resulted in the commitment of the young adult to the Youth Authority.

Nothing in this subdivision limits the power of the board to retain the minor or the young adult on parole status for the period permitted by Sections 1769, 1770, and 1771;

(c) Order reconfinement or renewed release under supervision as often as conditions indicate to be desirable;

(d) Revoke or modify any order except an order of discharge as often as conditions indicate to be desirable;

(e) Modify an order of discharge if conditions indicate that such modification is desirable and when such modification is to the benefit of the person committed to the authority;

(f) Discharge him or her from its control when it is satisfied that such discharge is consistent with the protection of the public.

(Added Stats 1941 ch 937; most recently amended Stats 1979 ch 860)

1766.1. Payment of Restitution Fine. When permitting an adult or minor committed to the Youth Authority his or her liberty pursuant to subdivision (a) of Section 1766, the Youthful Offender Parole Board shall impose as a condition thereof that the adult or minor pay in full any restitution fine or restitution order imposed pursuant to Section 13967 of the Government Code or Section 730.6 or 731.1 of this code. Payment shall be in installments set in an amount consistent with the adult's or minor's ability to pay.

(Added Stats 1983 ch 940; most recently amended Stats 1988 ch 181)

1766.5. Ward grievance procedure. The director shall establish and maintain a fair, simple, and expeditions system for resolution of grievances of all persons committed to the Youth Authority regarding the substance or application of any written or unwritten policy, rule, regulation, or practice of the department or of an agent or contractor of the department or any decision, behavior, or action by an employee, agent, contractor, or other person confined within the institutions or camps of the Youth Authority which is directed toward the grievant. other than matters involving individual discipline. The system shall do all of the following:

(a) Provide for the participation of employees of the department and of persons committed to the Youth Authority on as equal a basis and at the most decentralized level reasonably possible and feasible in the design, implementation, and operation of the system.

(b) Provide, to the extent reasonably possible, for the selection by their peers of persons committed to the Youth Authority as participants in the design, implementation, and operation of the system.

(c) Provide, within specific time limits, for written responses with written reasons in support of them to all grievances at all decision levels within the system.

(d) Provide for priority processing of grievances which are of an emergency nature which would, by passage of time required for normal processing, subject the grievant to substantial risk of personal injury or other damage.

(e) Provide for the right of grievants to be represented by another person committed to the Youth Authority who is confined within the institutions or camps of the Youth Authority, by an employee, or by any other person, including a volunteer, who is a regular participant in departmental operations.

(f) Provide for safeguards against reprisals against any grievant or participant in the resolution of a grievance.

(g) Provide, at one or more decision levels of the process, for a full hearing of the grievance at which all parties to the controversy and their representatives shall have the opportunity to be present and to present evidence and contentions regarding the grievance.

(h) Provide a method of appeal of grievance decisions available to all parties to the grievance, including, but not limited to, final right of appeal to advisory arbitration of the grievance by a neutral person not employed by the department, the decision of the arbitrator to be adopted by the department unless the decision is in violation of law, would result in physical danger to any persons, would require expenditure of funds not reasonably available for that purpose to the department, or, in the personal judgment of the director, would be detrimental to the public or to the proper and effective accomplishment of the duties of the department.

(i) Provide for the monitoring of the system by the department and also, pursuant to contract or other appropriate means, for a biennial evaluation of the system by a public or private agency independent of the department to the extent necessary to ascertain whether the requirements of this section are being met. The results of which evaluation shall be filed with the department, the Legislature, the Attorney General, and the State Public Defender.

(Added Stats 1976 ch 710; amended Stats 1983 ch 636)

1767. Victim appearance at parole hearing. 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 Youthful Offender Parole Board, 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. The requesting party shall keep the board apprised of his or her current mailing address.

The victim or next of kin has the right to appear, personally or by counsel, at the hearing and to adequately and reasonably express his or her views concerning the crime and the person responsible. The board, in deciding whether to release the person on parole, shall consider the statements of victims and next of kin made 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.

The provisions of this section shall not be amended by the Legislature except by statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

(Added Prop 8, June 8, 1982 Primary)

1767.1. Notification of parole hearing. At least 30 days before the Youthful Offender Parole Board meets to review or consider the parole of any person under 18 years of age who has been committed to the control of the Department of the Youth Authority for the commission of any offense described in subdivision (b) of Section 707, the board shall send written notice of hearing to each of the following persons: the judge of the court which committed the person

to the authority, the attorney for the person, the district attorney of the county from which the person was committed, the law enforcement agency that investigated the case, and, where he or she has filed a request for such notice with the board, the victim or next of kin of the victim of the offense for which the person was committed to the authority. The notice to the victim or next of kin of the victim shall be sent to the last mailing address on file with the board.

Each of the persons so notified shall 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. Nothing in this subdivision shall be construed to permit any person so notified to attend the hearing.

(Added Stats 1981 ch 645)

1767.2. Condition of probation or parole. Every order granting probation or parole to any person under the control of the authority who has been convicted of any of the offenses enumerated in Section 290 of the Penal Code shall require as a condition of such probation or parole that such person totally abstain from the use of alcoholic liquor or beverages.

(Added Stats 1950 (1st Ex Sess), ch 25)

1767.3. Revocation of parole. (a) The Youthful Offender Parole Board may suspend, cancel, or revoke any parole and may order returned to custody of the department any person committed to it who is on parole.

(b) The written order of the chairperson of the board is a sufficient warrant for any peace officer to return to the custody of the department any person committed to it who is on parole or who has been permitted his or her liberty on condition.

(c) The written order of the Director of the Department of the Youth Authority is a sufficient warrant for any peace officer to return to the custody of the department, pending further proceedings before the Youthful Offender Parole Board or the Board of Prison Terms, any person committed to, or in the custody of, the department who is on parole or who has been permitted his or her liberty on condition, or for any peace officer to return to the custody of the department any person who has escaped from the custody of the department or from any institution or facility in which he or she has been placed by the department.

(d) All peace officers shall execute the orders in like manner as a felony warrant.

(Added Stats 1943 ch 238; most recently amended Stats 1988 ch 160)

1767.4. Expenses of return. Whenever any person paroled by the Youthful Offender Parole Board is returned to the department upon the order of the board by a peace officer or probation officer, the 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 department.

(Added Stats 1947 ch 362; amended Stats 1979 ch 860)

1767.5. Payments for care of paroled persons. The authority may pay any private home for the care of any person committed to the authority and paroled by the Youthful Offender Parole Board to the custody of the private home (including both persons committed to the authority under this chapter and

persons committed to it by the juvenile court) at a rate to be approved by the Department of Finance. Payments for such care of paroled persons may be made from funds available to the authority for such purpose, or for the support of the institution or facility under the jurisdiction of the authority from which the person has been paroled.

(Added Stats 1945 ch 780; amended Stats 1979 Ch 860)

1767.6. Copy of police reports. In parole revocation proceedings, a parolee or his attorney shall receive a copy of any police, arrest, and crime reports pertaining to such proceedings. Portions of such reports containing confidential information need not be disclosed if the parolee or his attorney has been notified that confidential information has not been disclosed.

(Added Stats 1978 ch 856, effective 9/19/78)

1767.7. Revolving fund. A sum may be withdrawn by the authority from the funds available for the support of the authority without at the time furnishing vouchers and itemized statements. This sum shall be used as a revolving fund for payments for the care of persons paroled to private homes as provided in Section 1767.5. At the close of each fiscal year, or at any other time, upon demand of the Department of Finance the money so drawn shall be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the State Controller.

(Added Stats 1949 ch 262; amended Stats 1979 ch 214)

1767.8. Notification of parole hearing. In the case of any person under the control of the Youth Authority for the commission of any offense of rape in violation of subdivision (2) or subdivision (3) of Section 261 of the Penal Code, or murder, written notice of any hearing to consider the release on parole of the person shall be sent by the Youthful Offender Parole Board to the following persons at least 30 days before the hearing: the judge of the court by whom the person was committed to the authority, the attorney for the person, the district attorney of the county from which the person was committed, and the law enforcement agency which investigated the case. The board 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 board and keeps it apprised of his or her current mailing address.

(Added Stats 1981 ch 588; Renumbered Stats 1983 ch 101)

1767.9. Notification of parole hearing. At least 30 days before the Youthful Offender Parole Board meets to review or consider the parole of any person over 18 years of age who has been committed to the control of the Youth Authority for the commission of any offense described in subdivision (b) of Section 707, the board shall send written notice thereof to each of the following persons: the judge of the court which committed the person to the authority, the attorney for the person, the district attorney of the county from which the person was committed, the law enforcement agency that investigated the case, and, where he or she has filed a request for such notice with the board, the victim or next of kin of the victim of the offense for which the person was committed to the authority. The burden shall be on the requesting party to keep the board apprised of his or her current mailing address.

Each of the persons so notified shall 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. Nothing in this subdivision shall be construed to permit any person so notified to attend the hearing.

At the hearing the presiding officer shall state findings and supporting reasons for the decision of the board. The findings and reasons shall be reduced to writing, and shall be made available for inspection by members of the public no later than 30 days from the date of the hearing.

(Added Stats 1981 ch 591; Renumber and amended Stats 1983 ch 101)

1768. Correctional activities. As a means of correcting the socially harmful tendencies of a person committed to the authority, the director may

(a) Require participation by him in vocational, physical, educational and corrective training and activities;

(b) Require such conduct and modes of life as seem best adapted to fit him for return to full liberty without danger to the public welfare;

(c) Make use of other methods of treatment conducive to the correction of the person and to the prevention of future public offenses by him;

(d) Provide useful work projects or work assignments for which such persons may qualify and be paid wages for such work from any moneys made available to the director for this purpose.

(Added Stats 1941 ch 937; most recently amended Stats 1969 ch 1023)

1768.7. Escape. (a) Any person committed to the authority 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, who escapes or attempts to escape while outside or away from such an institution or facility under custody of Youth Authority officials, officers, or employees, or who, with intent to abscond from the custody of the Youth Authority, fails to return to such an institution or facility at the prescribed time while outside or away from the institution or facility on furlough or temporary release, is guilty of a felony.

(b) Any offense set forth in subdivision (a) which is accomplished by force or violence is punishable by imprisonment in the state prison for a term of two, four, or six years. Any offense set forth in subdivision (a) which is accomplished without force or violence is punishable by imprisonment in the state prison for a term of 16 months, two or three years or in the county jail not exceeding one year.

(c) For purposes of this section, "committed to the authority" means a commitment to the Youth Authority pursuant to Section 731 or 1731.5; a remand to the custody of the Youth Authority pursuant to Section 707.2; a placement at the Youth Authority pursuant to Section 704, 1731.6, or 1753.1; or a transfer to the custody of the Youth Authority pursuant to subdivision (c) of Section 1731.5.

(Added Stats 1945 ch 781; most recently amended Stats 1985 ch 1283)

1768.8. Assault or battery. (a) An assault or battery by any person confined in an institution under the jurisdiction of the Youth Authority upon the person of any individual who is not confined therein shall be punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in the county jail not exceeding one year, or by both a fine and imprisonment.

(b) An assault or battery by any person confined in an institution under the jurisdiction of the Youth Authority upon the person of any individual who is not confined therein, which inflicts serious bodily injury upon the victim, is punishable by imprisonment in the state prison for two, three, or four years, or in county jail for not more than one year.

(Added Stats 1984 ch 709; amended Stats 1989 ch 995)

1768.9. AIDS—Testing. (a) Notwithstanding any other provision of law, a person under the jurisdiction or control of the Department of the Youth Authority is obligated to submit to a test for the probable causative agent of AIDS upon a determination of the chief medical officer of the facility that clinical symptoms of AIDS or AIDS-related complex, as recognized by the Centers for Disease Control, is present in the person. In the event that the subject of the test refuses to submit to such a test, the department may seek a court order to require him or her to submit to the test.

(b) Prior to ordering a test pursuant to subdivision (a), the chief medical officer shall ensure that the subject of the test receives pretest counseling. The counseling shall include:

(1) Testing procedures, effectiveness, reliability, and confidentiality.

(2) The mode of transmission of HIV.

(3) Symptoms of AIDS and AIDS-related complex.

(4) Precautions to avoid exposure and transmission.

The chief medical officer shall also encourage the subject of the test to undergo voluntary testing prior to ordering a test. The chief medical officer shall also ensure that the subject of the test receives posttest counseling.

(c) The following procedures shall apply to testing conducted under this section:

(1) The withdrawal of blood shall be performed in a medically approved manner. Only a physician, registered nurse, licensed vocational nurse, licensed medical technician, or licensed phlebotomist may withdraw blood specimens for the purposes of this section.

(2) The chief medical officer shall order that the blood specimens be transmitted to a licensed medical laboratory which has been approved by the State Department of Health Services for the conducting of AIDS testing, and that tests, including all readily available confirmatory tests, be conducted thereon for medically accepted indications of exposure to or infection with HIV.

(3) The subject of the test shall be notified face-to-face as to the results of the test.

(d) All counseling and notification of test results shall be conducted by one of the following:

(1) A physician and surgeon who has received training in the subjects described in subdivision (b).

(2) A registered nurse who has received training in the subjects described in subdivision (b).

(3) A psychologist who has received training in the subjects described in subdivision (b) and who is under the purview of either a registered nurse or physician and surgeon who has received training in the subjects described in subdivision (b).

(4) A licensed social worker who has received training in the subjects described in subdivision (b) and who is under the purview of either a registered nurse or physician and surgeon who has received training in the subjects described in subdivision (b).

(5) A trained volunteer counselor who has received training in the subjects described in subdivision (b) and who is under the supervision of either a registered nurse or physician and surgeon who has received training in the subjects described in subdivision (b).

(e) The Department of the Youth Authority shall provide medical services appropriate for the diagnosis and treatment of those infected with HIV.

(f) The Department of the Youth Authority may operate separate housing facilities for wards and inmates who have tested positive for HIV infection and who continue to engage in activities which transmit HIV. These facilities shall be comparable to those of other wards and inmates with access to recreational and educational facilities, commensurate with the facilities available in the institution.

(g) Notwithstanding any other provision of law, the chief medical officer of a facility of the Department of the Youth Authority may do all of the following:

(1) Disclose results of a test for the probable causative agent of AIDS to the superintendent or administrator of the facility where the test subject is confined.

(2) When test results are positive, inform the test subject's known sexual partners or needle contacts in a Department of the Youth Authority facility of the positive results, provided that the test subject's identity is kept confidential. All wards and inmates who are provided with this information shall be provided with the counseling described in subdivision (b).

(3) Include the test results in the subject's confidential medical record which is to be maintained separate from other case files and records.

(h) Actions taken pursuant to this section shall not be subject to subdivisions (a) to (c), inclusive, of Section 199.21 of the Health and Safety Code. In addition, the requirements of subdivision (a) of Section 199.22 of the health and Safety code shall not apply to testing performed pursuant to this section.

(Added Stats 1988 ch 1119; repealed and added Stats 1989 ch 765)

1769. Discharge. (a) Every person committed to the Department of the Youth Authority 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 the person reaches his or her 21st 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).

(b) Every person committed to the Department of the Youth Authority by a juvenile court who has been found to be a person described in Section 602 by reason of the violation of any of the offenses listed in subdivision (b) of Section 707, shall be discharged upon the expiration of a two-year period of control or when the person reaches his or her 25th 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).

(Added Stats 1941 ch 937; most recently amended Stats 1982 ch 1602)

1770. Discharge. 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).

(Added Stats 1941 ch 937; amended Stats 1963 ch 1693)

1770.1. (Repealed by Stats 1986 ch 161)

1771. Discharge age 25. Every person convicted of a felony and committed to the authority shall be discharged when such person reaches his 25th birthday, 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 of this chapter. In the event such a petition under Article 5 is filed the authority shall retain control until the final disposition of the proceeding under Article 5.

(Added Stats 1941 ch 937; amended Stats 1963 ch 1693)

1772. Discharge; Release from penalties. (a) Every person honorably discharged from control by the Youthful Offender Parole Board who has not, during the period of control by the authority been placed by the authority in a state prison shall thereafter be released from all penalties and disabilities resulting from the offense or crime for which he or she was committed, and every person discharged may petition the court which committed him or her, and the court may upon such petition set side 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, any disqualification for any employment or occupational license, or both, created by any other provision of law. However, such a person shall not be eligible for appointment as a peace officer employed by any public agency if his or her appointment would otherwise be prohibited by Section 1029 of the Government Code.

(b) Notwithstanding the provisions of subdivision (a), such person may be appointed and employed as a peace officer by the Department of the Youth Authority if (1) at least five years have passed since his or her 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 Youthful Offender Parole Board, or (2) the person was employed as a peace officer by the Department of the Youth Authority on or before January 1, 1983. No person who is under the jurisdiction of the Department of the Youth Authority shall be admitted to an examination for a peace officer position with the department unless and until the person has been honorably discharged from the jurisdiction of the department by the Youthful Offender Parole Board.

(c) Every person discharged from control by the Youthful Offender Parole Board shall be informed of this privilege in writing at the time of discharge.

"Honorably discharged" as used in this section means and includes every person whose discharge is based upon a good record on parole.

(Added Stats 1941 ch 937; most recently amended Stats 1982 ch 778)

1773. Right to abortion. No condition or restriction upon the obtaining of an abortion by a female committed to the authority, pursuant to the Therapeutic Abortion Act (Chapter 11 (commencing with Section 25950), Division 20 of the

Health and Safety Code), other than those contained in that act, shall be imposed. Females found to be pregnant and desiring abortions, shall be permitted to determine their eligibility for an abortion pursuant to law, and if determined to be eligible, shall be permitted to obtain an abortion.

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

If Assembly Bill No. 2097 of the 1972 Regular Session of the Legislature is chaptered, this section shall remain in effect only until the 61st day after the final adjournment of the 1974 Regular Session of the Legislature, and as of that date is repealed.

(Added Stats 1972 ch 1363)

1774. Right to medical services. Any female who has been committed to the authority shall have the right to summon and receive the services of any physician and surgeon of her choice in order to determine whether she is pregnant. The director may adopt reasonable rules and regulations with regard to the conduct of examinations to effectuate such determination.

If she is found to be pregnant, such female is entitled to a determination of the extent of the medical services needed by her and to the receipt of such services from the physician and surgeon of her choice. Any expenses occasioned by the services of a physician and surgeon whose services are not provided by the facility shall be borne by such female.

Any physician providing services pursuant to this section shall possess a current, valid, and unrevoked certificate to engage in the practice of medicine issued pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

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

(Added Stats 1972 ch 1362)

1776. Parole Violators; Reimbursement for costs of detaining. Whenever an alleged parole violator is detained in a county detention facility pursuant to a valid exercise of the powers of the Youth Authority as specified in Sections 1753, 1755, and 1767.3 and when such detention is initiated by the Youth Authority and is related solely to a violation of the conditions of parole and is not related to a new criminal charge, the county shall be reimbursed for the costs of such detention by the Department of the Youth Authority. Such reimbursement shall be expended for maintenance, upkeep, and improvement of juvenile hall and jail conditions, facilities, and services. Before the county is reimbursed by the department, the total amount of all charges against that county authorized by law for services rendered by the department shall be first deducted from the gross amount of the reimbursement authorized by this section. Such net reimbursement shall be calculated and paid monthly by the department. The department shall withhold all or part of such net reimbursement to a county whose juvenile hall or jail facility or facilities do not conform to minimum standards for local detention facilities as authorized by Section 6030 of the Penal Code or Section 210 of this code.

"Costs of such detention," as used in this section, shall include the same cost factors as are utilized by the Department of Corrections in determining the cost of prisoner care in state correctional facilities.

(Added Stats 1977 ch 1157; most recently amended Stats 1980 ch 676)

1777. Detention Costs Use of Social Security Funds. Any moneys received pursuant to the Federal Social Security Act by a ward who is incarcerated by the Youth Authority are liable for the reasonable costs of the ward's support and maintenance.

(Added Stats 1983 ch 936)

Commitment to State Prison After Expiration of Control

1780. Petition. 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 Youthful Offender Parole Board believes that unrestrained freedom for said person would be dangerous to the public, the board 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 board bases its opinion that discharge from its control at the time stated would be dangerous to the public, but no such petition shall be dismissed merely because of its form or an asserted insufficiency of its allegations; every order shall be reviewed upon its merits.

(Added Stats 1941 ch 937; amended Stats 1979 ch 860)

1781. Notification. Upon the filing of a petition under this article, the court shall notify the person whose liberty is involved, and if he is a minor his parent or guardian if practicable, of the application and shall afford him 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 is unable to provide his own counsel, the court shall appoint counsel to represent him.

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 subdivision (2) or subdivision (3) of Penal Code Section 261, or murder, the Youthful Offender Parole Board 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 which investigated the case. The board 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 board and keeps it apprised of his or her current mailing address. Notice shall be sent at least 30 days before the hearing.

(Added Stats 1941 ch 937; amended Stats 1981 ch 588)

1782. Court orders. Such committing court may thereupon discharge the person, admit him or her to probation or may commit him or her to the state prison. 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 Youth Authority.

(Added Stats 1941 ch 937; most recently amended Stats 1979 ch 860)

1783. Appeals. An appeal may be taken from the order of the court committing a person to the State prison under this chapter in the same manner as appeals are taken from convictions in the criminal cases under the Penal Code.

(Added Stats 1941 ch 937)

Juvenile Justice Community Resource Programs

1784. Purpose. The Legislature finds and declares all of the following:

(a) That the mobilization of community resources to assist in providing youthful offenders with necessary educational, psychological, medical, and other services which relate to root causes of delinquency is vital.

(b) That due to increased and heavy caseloads, probation officers cannot be expected to assume the full burden of providing necessary services to youthful offenders.

(c) That addressing the root causes of delinquent behavior in a cost-effective manner yields enormous societal benefits in the prevention of future criminality and the integration of the offender into productive society.

(d) That by encouraging community participation, programs such as the Juvenile Justice Connection Project in Los Angeles County have achieved great success in providing services to young people at a substantial savings to the taxpayer.

(e) That efforts to implement similar projects throughout the state should be encouraged and supported.

(Added Stats 1984 ch 1752)

1784.1. Program. (a) The Director of the Youth Authority shall, upon request, provide technical assistance to judges, probation officers, law enforcement officials, school administrators, welfare administrators, and other public and private organizations and citizen groups concerning the development and implementation of juvenile justice community resource programs.

(b) As used in this article, "juvenile justice community resource program" means a program which does both of the following:

(1) Develops a directory or bank of public and private agencies, practitioners, and other community resources to offer services that are needed by youthful offenders, including, but not limited to, medical, psychological, educational, recreational, and vocational services.

(2) Provides diagnostic screening for youthful offenders referred to the program and matches the offender with a provider of services.

(c) As used in this article, "youthful offender" means a person described by Section 601 or 602.

(Added Stats 1984 ch 1752)

1784.2. Funding. (a) The Director of the Youth Authority shall provide grants from funds made available for this purpose, for the development, implementation, and support of juvenile justice community resource programs.

(b) Any public or private nonprofit agency that does not directly deliver services may apply to the director for funding as a juvenile justice community resource program pursuant to this article.

(c) Funding may consist of organizational and program grants.

(1) As used in this article, "organizational grants" means grants for the purpose of funding community organization efforts in order to develop a bank of public and private agencies, and other community resources, to provide services needed by youthful offenders and to provide financial support to the referral program. An applicant may receive only one organizational grant, which may not exceed thirty thousand dollars ($30,000).

(2) As used in this article, "program grants" means grants to support the operating costs of the referral programs. A program grant may not exceed fifty thousand dollars ($50,000) per applicant per year. As a further limitation, beginning in the second year of the program grant, the amount of the program grant may not exceed a prescribed percentage of the referral program's operating budget, as follows: 50 percent in the second year of the program grant, 33 percent in the third year, 25 percent in the fourth year, and 20 percent in the fifth and subsequent years of the program grant.

(d) The director shall consider all of the following factors, together with any other circumstances he or she deems appropriate, in selecting applicants to receive funds pursuant to this article.

(1) The stated goals of applicants.

(2) The number of youthful offenders to be served and the needs of the community.

(3) Evidence of community support, including, but not limited to, business, labor, professional, educational, charitable, and social service groups.

(e) In addition to the factors specified in subdivision (d), in selecting applicants to receive program grants, the director shall also consider all of the following:

(1) Description of the number and type of service providers available.

(2) Existence of support and involvement by participants in the local juvenile justice system, including law enforcement, probation, prosecution, and the judiciary.

(3) The organizational structure of the agency which will operate the program.

(4) Specific plans for meeting the percentage of local funding of operating costs as specified in paragraph (2) of subdivision (c).

(f) After consultation with the advisory committee, and upon evaluation of all applicants pursuant to the above criteria and any other criteria established by the advisory committee, the director shall select the public or private nonprofit agencies which he or she deems qualified to receive funds for the establishment and operation of the programs.

(g) The initial evaluation, selection, and funding of applicants shall take place prior to January 1, 1986.

(h) Upon establishment of the programs, the director shall conduct appraisals of their performance and shall issue a report on their performance to the Legislature in January of each year. Programs shall be determined to have performed satisfactorily in order to qualify for continuation grants. In evaluating the performance of the programs, the director shall consider, among other things, all of the following:

(1) The number and type of service providers assembled.

(2) The number of clients referred to the program by the juvenile court or probation department.

(3) The number of clients screened by the program.

(4) A description of the number of clients who received services and a description of the type of services delivered.

(5) Estimates of the market value of the services provided.

(6) The amount and sources of local funding.

(Added Stats 1984 ch 1752)

1784.3. Advisory committee. The Director of the Youth Authority shall appoint an eight-member advisory committee on community resource referral programs to advise him or her on matters relating to this article. Committee members shall include representatives of business, labor, professional, charitable, educational, and social service groups, as well as those working within the juvenile justice system. The members of the committee shall be entitled to their reasonable expenses, including travel expenses, incurred in the discharge of their duties.

(Added Stats 1984 ch 1752)

1784.4. Funding. The director may accept funds and grants from any source, public or private, to assist in accomplishing the purposes of this article.

(Added Stats 1984 ch 1752)

Runaway and Homeless Youth

1785. State advisory group. The state advisory group established pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) shall perform the duties imposed by this article.

Staff services shall be provided to the advisory group for the purposes of this article by the Youth Authority, the Office of Criminal Justice Planning, and the California Child, Youth and Family Coalition, an association of community-based agencies.

(Added Stats 1984 ch 1612)

1786. State advisory group activities. The advisory group shall do all of the following:

(a) Identify existing programs dealing with runaway and homeless youth.

(b) Develop a directory of service providers.

(c) Study the feasibility of the establishment of a statewide referral system (a "hotline") for runaway and homeless youth.

(d) Compile statistics on runaway and homeless youth.

(e) Identify existing and potential funding sources for services to runaway and homeless youth.

(f) Coordinate and provide advice to administrators of programs relating to runaway and homeless youth on issues relating to federal funding of those programs.

The advisory group shall report to the Governor and the Legislature annually.

The staff provided to the advisory group for the purpose of this article shall seek funding for the activities specified in this section from existing agencies, both federal and state, as well as from private funding sources.

(Added Stats 1984 ch 1612)

Crime and Delinquency Prevention

1790. Purpose. The purpose of this article is to reduce crime and delinquency by assisting the development, establishment and operation of comprehensive public and private community based programs for crime and delinquency prevention.

(Added Stats 1974 ch 1401)

1791. Leadership. The Department of the Youth Authority shall exercise leadership on behalf of the state in order to accomplish the purpose of this article. All state agencies shall cooperate with the Department of the Youth Authority in order to bring about a statewide program for the reduction and prevention of crime and delinquency.

(Added Stats 1974 ch 1401)

1792. Funds. The Director of the Youth Authority may provide funds for financial support, in amounts determined by him, from funds available for such purposes, to public or private agencies engaging in crime and delinquency prevention programs. No public or private organization may receive such support unless it complies with the standards developed pursuant to Section 1793.

(Added Stats 1974 ch 1401)

1792.1. Allocations to delinquency prevention commissions. The director shall make annual allocations from funds made available to him for such purposes for administrative expenses to county delinquency prevention commissions established pursuant to Sections 233 and 235 not to exceed one thousand dollars ($1,000) per year for each commission.

(Added Stats 1974 ch 1401; Amended Stats 1978 ch 380)

1792.2. Delinquency prevention projects. The director may make additional matching allocations from funds available to him for such purposes, in amounts determined by him, to county delinquency prevention commissions for the development and operation of delinquency prevention projects or programs administered and operated by local governmental or nongovernmental organizations under the general supervision of the county delinquency prevention commission.

(Added Stats 1974 ch 1401)

1793. Standards. The Director of the Youth Authority shall develop standards for the operation of programs funded under Sections 1792, 1792.1 and 1792.2. He shall seek advice from interested citizens, appropriate representatives of public and private agencies and youth groups in developing such standards.

(Added Stats 1974 ch 1401)

1794. Application for funds. Application for funds under Sections 1792, 1792.1, and 1792.2 shall be made to the Director of the Youth Authority in the manner and form prescribed by the department. The department shall prescribe the amounts, time, and manner of payments of assistance if granted.

(Added Stats 1974 ch 1401)

1795. Technical assistance. To help communities develop effective local programs, the Director of the Youth Authority may, upon request, provide

technical assistance to judges, probation officers, law enforcement officials, school administrators, welfare administrators, and other public and private organizations, and citizen groups. The assistance may include studies and surveys to identify problems, development of written instructional or information materials, preparation of policy statements and procedural guides, field consultation with appropriate persons in the community, and other assistance as appears appropriate.

(Added Stats 1974 ch 1401)

1796. Demonstration projects. The Director of the Youth Authority may from funds available to him for such purposes provide funds for demonstration or experimental projects designed to test the validity of new methods or strategies in delinquency prevention programs.

(Added Stats 1974 ch 1401)

1797. Public committees. The director may assist in the establishment of public committees having as their object the prevention or decrease of crime and delinquency among youth, and the director may participate in the work of any such existing or established committees.

(Added Stats 1974 ch 1401)

1798. Advisory commission. An advisory commission shall be established which shall be known as the State Commission on Juvenile Justice, Crime and Delinquency Prevention. The members of the commission shall be persons with a demonstrated interest in juvenile justice or crime and delinquency prevention issues, or representatives of youth groups or other public and private agencies with a focus on the needs of youth. The commission shall not exceed 16 members, one of whom shall be appointed by the Senate Rules Committee, one of whom shall be appointed by the Speaker of the Assembly, and four of whom shall be chairpersons of the regional citizens' advisory committees established pursuant to Section 1798.5. The remaining 10 commission members shall be appointed by the Director of the Youth Authority, and shall include one public defender and one district attorney who are currently assigned to juvenile justice duties.

The commission shall advise the Director of the Youth Authority on matters relating to this article, and its activities shall include the inspection of Youth Authority facilities, providing advice to the director regarding department programs and delinquency prevention funding, and acting as a liaison between the Youth Authority and the public. The members of the commission shall be entitled to their reasonable expenses, including travel expenses, incurred in the discharge of their duties.

(Added Stats 1974 ch 1401; Amended Stats 1984 ch 1479)

1798.5. Regional citizen advisory committees. The Director of the Youth Authority shall appoint four regional citizens' advisory committees each of which shall assist in the inspection of the Youth Authority facilities within its region and provide public comment to the director concerning the operations of the Youth Authority. The membership of the advisory committees shall be drawn from representatives of youth groups, county juvenile justice and delinquency prevention commissions, community-based organizations, charitable organiza-

tions, probation departments, the judiciary, social services, law enforcement, the defense bar, education, and the general public.

(Added Stats 1984 ch 1479)

1799. Contracts. The director may, with the approval of the Director of General Services, enter into contracts with the federal government, other state governments, counties, cities, private foundations, private organizations, or any other group to accomplish the purposes of this article.

(Added Stats 1974 ch 1401)

Extended Detention of Dangerous Persons

1800. Basic procedure. Whenever the Youthful Offender Parole Board determines that the discharge of a person from the control of the Youth Authority at the time required by Section 1766, 1769, 1770, 1770.1, or 1771, as applicable, would be physically dangerous to the public because of the person's mental or physical deficiency, disorder, or abnormality, the board, through its chairman, shall request the prosecuting attorney to petition the committing court for an order directing that the person remain subject to the control of the authority 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 board bases its opinion that discharge from control of the Youth Authority at the time stated would be physically dangerous to the public, but no such petition shall be dismissed nor shall an order be denied merely because of technical defects in the application.

The prosecuting attorney shall promptly notify the Youthful Offender Parole Board of a decision not to file a petition.

(Added Stats 1963 ch 1693; most recently amended Stats 1984 ch 546)

1801. Notice Counsel. If a petition is filed with the court for an order as provided in Section 1800, 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 application, and shall afford the person an opportunity to appear in court with the aid of counsel and of process to compel attendance of witnesses and production of evidence. When the person is unable to provide his or her own counsel, the court shall appoint counsel to represent him or her.

If after a full hearing the court is of the opinion that discharge of the person would be physically dangerous to the public because of his or her mental or physical deficiency, disorder, or abnormality, the court shall order the Youth Authority to continue the treatment of the person. If the court is of the opinion that discharge of the person from continued control of the authority would not be physically dangerous to the public, the court shall order the person to be discharged from control of the authority.

(Added Stats 1963 ch 1693; amended Stats 1984 ch 546)

1801.5. Jury trial. If the person is ordered returned to the Youth Authority following a hearing by the court, the person, or his or her parent or guardian on the person's behalf, may, within 10 days after the making of such order, file a

written demand that the question of whether he or she is physically dangerous to the public be tried by a jury in the superior court of the county in which he or she was committed. Thereupon, 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 demand for a jury trial. The court shall submit to the jury the question: Is the person physically dangerous to the public because of his mental or physical deficiency, disorder, or abnormality? The court's previous order entered pursuant to Section 1801 shall not be read to the jury, nor alluded to in such trial. The person shall be entitled to all rights guaranteed under the federal and state constitutions in criminal proceedings. The trial shall require a unanimous jury verdict, employing the standard of proof beyond a reasonable doubt.

(Added Stats 1971 ch 1680; amended Stats 1984 ch 546)

1802. Automatic review; transfer of custody. When an order for continued detention is made as provided in Section 1801, the control of the authority over the person shall continue, subject to the provisions of this chapter, but, unless the person is previously discharged as provided in Section 1766, the Youthful Offender Parole Board shall, within two years after the date of such order in the case of persons committed by the juvenile court, or within two years after the date of such 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 Section 1800 if continued detention is deemed necessary. Such applications may be repeated at intervals as often as in the opinion of the board may be necessary for the protection of the public, except that the department shall have the power, in order to protect other persons in the custody of the department to transfer the custody of any person over 21 years of age to the Director of Corrections for placement in the appropriate institution.

Each person shall be discharged from the control of the authority at the termination of the period stated in this section unless the board has filed a new application and the court has made a new order for continued detention as provided above in this section.

(Added Stats 1963 ch 1693; most recently amended Stats 1980 ch 1117)

1803. Right of appeal. An order of the committing court made pursuant to this article 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 authority.

(Added Stats 1963 ch 1693)

County Justice System Subvention Program

1805. Legislative intent. It is the intent of the Legislature in enacting this article to protect society from crime and delinquency by helping counties maintain and improve local correctional systems and crime and delinquency prevention programs by encouraging the continued availability of county operated juvenile correctional facilities, and by providing funding for services required or authorized by Chapter 1071 of the Statutes of 1976. It is also the intent of the Legislature to reduce the administrative costs of justice system programs,

to provide maximum flexibility in meeting local needs in the delivery of services, and to enhance justice system planning and coordination efforts at the state and local levels.

(Added Stats 1983 ch 288, eff. 7/15/83)

1806. Eligible services. (a) From any state moneys made available to it for the program, commencing with fiscal year 1983–84, the Department of the Youth Authority shall provide funds to counties for the following purposes:

(1) To develop and maintain local programs for minors and adults who are eligible for commitment to the Department of Corrections or to the Department of the Youth Authority or who are considered to be at a high risk of becoming eligible for commitment.

(2) To maintain local programs for minors who have been found to be persons described by Section 602 and who are committed to a juvenile hall or to a juvenile home, ranch, camp, or forestry camp established pursuant to Sections 850 and 880.

(3) To develop and maintain programs to prevent crime and delinquency by persons who are not wards of the juvenile court or under court ordered probation supervision or serving a sentence as a result of a conviction in a court of criminal jurisdiction.

(4) To maintain programs or services required or authorized by Chapter 1071 of the Statutes of 1976.

(5) To provide funding for necessary county administrative expenses for the county justice system block grant program, including those attributable to the advisory group described in Section 1807.

(b) In utilizing funds for the purposes set forth in subdivision (a), counties shall give primary consideration to programs which are local alternatives to the commitment of minors and adults to the Department of Corrections or the Department of the Youth Authority.

(c) Funds granted to counties under this article shall not be used for capital construction; for travel outside of the State of California; for law enforcement investigation or apprehension purposes; for the expense of prosecution or defense, except to the extent required by Chapter 1071 of the Statutes of 1976; or for the costs of confinement or detention in a jail, juvenile hall, or other secure lock-up prior to sentencing or disposition by the court.

(d) Any funds obtained by any county under former Section 1806 from appropriations for the fiscal years 1978–79 to 1982–83, inclusive, used to supplant local funds that would have otherwise been expended in support of local criminal justice activities need not be repaid to the state based upon audit exceptions noted by the Controller.

(Added Stats 1983 ch 288; most recently amended Stats 1984 ch 1353, effective 9/26/84)

1807. Policies and procedures. (a) Each county which intends to apply for a block grant under this article shall establish a county justice system advisory group, or may elect to substitute for that group an existing governmental entity so long as the existing entity includes or is expanded to include the officials and representatives listed in subdivision (b). The county justice system advisory group shall be responsible for making recommendations to the board of supervisors concerning the applicants to be selected for funding under this article.

(b) The county justice system advisory group shall be composed of the chief probation officer; the sheriff; the presiding judge of the superior court; the chairperson of the juvenile justice commission or of the delinquency prevention commission; the district attorney; the public defender; the county superintendent of schools; the county administrative officer; one chief of police of a city above the median population of cities within the county; one chief of police of a city below the median population of cities within the county; one representative of a private agency which provides services to juvenile offenders; one representative of a private agency which provides services to adult offenders; one public member who has never been employed by a law enforcement agency; and one representative from each of three private community-based adult or juvenile assistance agencies involved in the prevention or treatment of delinquency or criminal activity, each appointed by the board of supervisors. The board of supervisors may expand the membership as it deems necessary. Any member of the group may designate an alternate.

(c) In any county lacking two chiefs of police, a substitute member who is a representative of city government shall be selected by the board of supervisors to serve as a member of the group. In any county in which there is more than one eligible person for a position of membership designated in subdivision (b), the board of supervisors shall select one of them as a member of the group. In any county in which a position of membership designated in subdivision (b) does not exist, the board of supervisors shall select, to the extent possible, an equivalant substitute.

(d) In the case where the city and county are a single entity, the appointive members of the county justice system advisory group shall be appointed by the mayor subject to confirmation by the board of supervisors. The county justice system advisory group shall, pursuant to subdivision (f), submit the recommendations to the mayor and the board of supervisors. Any application for funding pursuant to subdivision (a) of Section 1808 shall be approved by the mayor and by the board of supervisors prior to submission to the Department of the Youth Authority.

(e) The chairperson of the group shall be selected by its members. Reasonable and necessary expenses incurred by the group and its members in the performance of its duties may be paid by the county, and any application for funding under this article may include a provision for payment of these expenses as specified in Section 1806.

(f) The advisory group shall, to the extent necessary to carry out its responsibilities pursuant to subdivision (a), assess county justice system needs, evaluate alternative programs for meeting those needs, and make written recommendations to the board of supervisors regarding those needs. One or more public hearings shall be conducted by the group for purposes of receiving public testimony to assist it in its duties. The group shall consider the testimony in the formulation of its recommendations to the board of supervisors.

(g) The board of supervisors shall conduct one or more public hearings to review and consider the recommendations of the group as a part of its determination of the allocation of the county's block grant.

(Added Stats 1983 ch 288; effective 7/15/83)

1808. Application form. (a) Applications for a block grant under this article shall be submitted to the Department of the Youth Authority on or before the date specified by the Department of the Youth Authority. The application shall consist of a resolution or order certified by the board of supervisors that the funds will be spent for the purposes set forth in subdivision (a) of Section 1806 and shall specify the amount of funds to be allocated to each of the five program purposes set forth in subdivision (a) of Section 1806.

(b) No county shall be entitled to receive funds under this article until the Department of the Youth Authority certifies to the Controller that the county's application complies with the provisions of subdivision (a).

(Added Stats 1983 ch 288, effective 7/15/83)

1809. Funding entitlements. (a) The funding fiscal year entitlement of each county applying for funding under this article shall be determined in the following manner:

(1) Counties which received funds in the 1982–83 fiscal year under former Article 7 (commencing with Section 1805) of Chapter 1 of Division 2.5, as that article existed during fiscal year 1982–83, in an amount determined pursuant to former subdivision (b) of Section 1813, shall receive the same amount in the funding year, as adjusted pursuant to other provisions of this section. To the extent that the total appropriation for purposes of this article differs from the total appropriation for the former article for the 1982–83 fiscal year, the funding year entitlement of counties pursuant to this paragraph shall be increased or decreased proportionally.

(2) Counties which received funds in the 1982–83 fiscal year under former Article 7 (commencing with Section 1805) of Chapter 1 of Division 2.5, as that article existed during fiscal year 1982–83, in an amount determined pursuant to former subdivision (a) of Section 1813, shall receive the portion of the total appropriation for the funding year that remains after the counties described in paragraph (1) of subdivision (a) have been allocated their entitlements. The amount each county described in this paragraph shall be entitled to shall be determined on a per capita basis by dividing the total amount available for distribution to the counties by the total population of all such counties. The population data to be used for purposes of this paragraph shall be the estimated population as certified by the Department of Finance for July 1 of the year preceding the funding year; however, no county shall be considered to have a population of less than 20,000 persons.

(b) It is the intent of the Legislature that the amount appropriated for purposes of block grants to counties under this article shall continue during future funding fiscal years at no less than the amount available under former Article 7 (commencing with Section 1805) of Chapter 1 of Division 2.5 during the 1982–83 fiscal year, as adjusted by the annual cost increase percentages as the Legislature shall determine appropriate for other local assistance programs for which there is no statutory cost-of-living adjustment provision.

(c) The Legislature hereby declares that the annual appropriation for purposes of this article includes all reimbursements for the state-mandated costs of

Chapter 1071 of the Statutes of 1976 and that any county electing to apply for funding under this article waives its entitlement under any other provision of law to those state-mandated costs.

(d) Each county's funding year entitlement distribution shall be made quarterly, in advance, in four equal payments. Each county shall, by September 30 of each year, submit a financial statement showing funds expended for each of the five program categories specified by subdivision (a) of Section 1806 during the preceding funding year.

(e) Any block grant funds, including any income earned on the funds, not used for actual expenditures for the purposes set forth in subdivision (a) of Section 1806 during the funding year or one subsequent fiscal year shall revert to the state, except that interest earned on block grant funds is available for use by the county for any purpose. All distributions and expenditures of funds under this article shall be subject to audit by the Controller.

(Added Stats 1983 ch 288, effective 7/15/83)

1810. Entitlement reductions. (First of two) (a) If during any fiscal year in which a county receives funds under this article, the county reduces the capacity of its juvenile homes, ranches, camps, or forestry camps below the capacity for those facilities during fiscal year 1982–83, and if during the 12-month period subsequent to the month of the reduction, or any subsequent 12-month period, there is an increase of commitments from the county's juvenile court to the Department of the Youth Authority above the number of the commitments during the 1982–83 fiscal year, the county's entitlement to funding under this article shall be reduced by an amount equivalent to the actual cost, as determined by the Department of the Youth Authority, of increasing capacity to the fiscal year 1982–83 level or by an amount equal to the increase in commitments from the juvenile court to the Department of the Youth Authority, whichever is less. However, if within 90 days of receiving notice from the department of the extent of the increase in commitments, the county increases its juvenile home, ranch, camp or forestry camp capacity for the rest of the current fiscal year in an amount equal to the reduction of that capacity, or in an amount equal to the increase in commitments from the juvenile court to the Department of the Youth Authority, whichever is less (except that the increases in capacity shall be in increments of 10 beds to the extent required to meet or surpass the required increase, but not in excess of the amount of the reduction of capacity), the funding shall not be reduced.

Any reduction shall be applied to the next payment or payments to which the county is otherwise entitled.

(b) Any commitment of funds or reduction in entitlement required under subdivision (a) shall not reduce the county's entitlement below the level of funding required to maintain the programs or services mandated by Chapter 1071 of the Statutes of 1976, as approved by the Board of Control for fiscal year 1977–78 and as increased by inflationary factors determined by the Department of Finance.

(c) A county that provides juvenile home, ranch, or camp space to another county pursuant to contract shall not have its entitlement reduced pursuant to this section if it reduces its capacity based on a reduction in the amount of space provided pursuant to contract.

(d) The provisions of this section shall not be applicable to a reduction in capacity occurring as a result of an act of God. In addition, this section does not apply to the County of Santa Barbara because of an involuntary loss of the lease of a juvenile camp, ranch, or school facility. However, the County of Santa Barbara shall have until June 1, 1990, to develop a comparable facility, facilities, or programs. In addition, prior to June 1, 1990, funding pursuant to Section 1805 originally intended for the facility of the County of Santa Barbara which is to be closed because of the involuntary loss of the lease, shall be used to expand existing juvenile programs in the county.

(e) As used in this section, "juvenile home, ranch, camp, or forestry camp" means those facilities as are established pursuant to Article 24 (commencing with Section 880) of Chapter 2 of Part 1 of Division 2.

(f) The Director of the Youth Aughority may exempt Riverside or Tulare County, or both from the sanctions required by this section for a period of three years in response to a request for exemption submitted by the county which (1) identifies the facility which is being closed, (2) outlines the county's plan to replace the facility in question or to establish programs to limit commitments to state-operated facilities, including, but not limited to, a measure providing for the construction of a new facility which requires voter approval, and outlines the county's plan to fund the operation of the new facility, and (3) demonstrates facts showing that the fiscal status of the county does not provide sufficient local general purpose revenue to continue present operations under those sanctions or that health and safety constraints require closure of an existing facility.

(g) This section shall remain in effect only until June 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before June 1, 1990, deletes or extends that date.

(Added Stats 1978 ch 461; most recently amended Stats 1989 ch 1332, effective 10/2/89 until 6/1/90 when this section as added by Stats 1983 ch 288 Sec 5 and amended by Stats 1989 ch 1332 Sec 2 shall become operative)

1810. Entitlement reductions. (Second of two) (a) If during any fiscal year in which a county receives funds under this article, the county reduces the capacity of its juvenile homes, ranches, camps, or forestry camps below the capacity for those facilities during fiscal year 1982–83, and if during the 12-month period subsequent to the month of the reduction, or any subsequent 12-month period, there is an increase of commitments from the county's juvenile court to the Department of the Youth Authority above the number of the commitments during the 1982–83 fiscal year, the county's entitlement to funding under this article shall be reduced by an amount equivalent to the actual cost, as determined by the Department of the Youth Authority, of increasing capacity to the fiscal year 1982–83 level or by an amount equal to the increase in commitments from the juvenile court to the Department of the Youth Authority, whichever is less. However, if within 90 days of receiving notice from the department of the extent of the increase in commitments, the county increases its juvenile home, ranch, camp, or forestry camp capacity for the rest of the current fiscal year in an

amount equal to the reduction of that capacity, or in an amount equal to the increase in commitments from the juvenile court to the Department of the Youth Authority, whichever is less (except that the increases in capacity shall be in increments of 10 beds to the extent required to meet or surpass the required increase, but not in excess of the amount of the reduction of capacity), the funding shall not be reduced.

Any reduction shall be applied to the next payment or payments to which the county is otherwise entitled.

(b) Any commitment of funds or reduction in entitlement required under subdivision (a) shall not reduce the county's entitlement below the level of unding required to maintain the programs or services mandated by Chapter 1071 of the Statutes of 1976, as approved by the Board of Control for fiscal year 1977–78 and as increased by inflationary factors determined by the Department of Finance.

(c) A county that provides juvenile home, ranch, or camp space to another county pursuant to contract shall not have its entitlement reduced pursuant to this section if it reduces its capacity based on a reduction in the amount of space provided pursuant to contract.

(d) The provisions of this section shall not be applicable to a reduction in capacity occurring as a result of an act of God.

(e) As used in this section,"juvenile home, ranch, camp, or forestry camp" means those facialities as are established pursuant to Article 24 (commencing with Section 880) of Chapter 2 of Part 1 of Division 2.

(f) The Director of the Youth Authority may exempt a county from the sanctions required by this section for a period of three years in response to a request for exemption submitted by the county which (1) identifies the facility which is being closed, (2) outlines the county's plan to replace the facility in question or to establish programs to limit commitments to state-operated facilities, including, but not limited to, a measure providing for the construction of a new facility which requires voter approval, and (3) demonstrates facts showing that the fiscal status of the county does not provide sufficient local general purpose revenue to continue present operations under those sanctions or that health and safety constraints require closure of an existing facility.

(g) This section shall become operative on June 1, 1990.

(Added Stats 1983 ch 288; amended Stats 1989 ch 1332, operative 6/1/90)

1811. Reversion of funds. (a) Except as provided in subdivision (b), any funds which were received by a county pursuant to former Article 7 (commencing with Section 1805) of Chapter 1 of Division 2.5 but were not expended prior to the repeal of the county justice system subvention program as enacted by Chapter 461 of the Statutes of 1978, shall revert to the state unless those funds are expended within the fiscal year subsequent to the year of distribution.

(b) Notwithstanding any other provision of law, any funds encumbered annually by a county pursuant to former Article 7 (commencing with Section 1805) of Chapter 1 of Division 2.5) for capital construction shall revert to the state unless those funds are expended by June 30, 1985.

(c) All expenditures made pursuant to this section shall be in accordance with the provisions of the county justice system subvention program as enacted by Chapter 461 of the Statutes of 1978.

(Added Stats 1983 ch 288; effective 7/15/83)

1812. Rules and regulations. The Department of the Youth Authority shall adopt such rules and regulations as are necessary for the administration of this article.

(Added Stats 1983 ch 288; effective 7/15/83)

Work Furloughs

1830. Authorization. The Director of the Youth Authority may, with approval of the Youthful Offender Parole Board, participate in a local work furlough program established pursuant to subdivision (a) of Section 1208 of the Penal Code, or conduct or discontinue a work furlough rehabilitation program, in accordance with the provisions of this article, for appropriate classes of wards at one or more Youth Authority institutions. He or she may designate any officer or employee of the department to be the Youth Authority work furlough administrator and may assign personnel to assist the administrator.

(Added Stats 1967 ch 1070; most recently amended Stats 1979 ch 860)

1831. Eligibility. When a person is committed to a facility under the jurisdiction of the Youth Authority, the Youth Authority 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 1833, 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.

(Added Stats 1967 ch 1070)

1832. Employment. If the Youth Authority work furlough administrator so directs that the ward be permitted to continue in his regular employment, the administrator shall arrange for a continuation of such employment so far as possible without interruption. If the ward does not have regular employment, and the administrator has authorized the ward to secure employment for himself, the ward may do so, and the administrator may assist him in doing so. Any employment so secured must be suitable for the ward. Such employment 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 such area. In no event may any such employment be permitted where there is a labor dispute in the establishment in which the ward is, or is to be, employed.

(Added Stats 1967 ch 1070)

1833. Confinements. Whenever the ward is not employed and between the hours or periods of employment, he shall be confined in a detention facility unless the court or administrator directs otherwise.

(Added Stats 1967 ch 1070)

1834. Earnings. The earnings of the ward shall be collected by the Youth Authority work furlough administrator, and it shall be the duty of the ward's

employer to transmit such wages to the administrator at the latter's request. Earnings levied upon pursuant to writ of execution or in other lawful manner 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 he shall have no liability to the ward for such earnings. From such earnings the administrator shall pay the ward's board and personal expenses, both inside and outside the detention facility, and shall deduct so much of the costs of administration of this article as is allocable to such ward. If sufficient funds are available after making the foregoing payments, the administrator may, with the consent of the ward, pay, in whole or in part, the preexisting debts of the ward. Any balance shall be retained until the ward's discharge and thereupon shall be paid to him.

(Added Stats 1967 ch 1070; most recently amended Stats 1974 ch 1516, operative 1/1/77)

1835. Termination. In the event the ward violates the conditions laid down for his conduct, custody, or employment, the Youth Authority work furlough administrator may order termination of work furloughs for such minor.

(Added Stats 1967 ch 1070)

Youth Correctional Centers

1850. Purpose. The purpose of this article is to protect society more effectively by providing a system of flexible constraints and controls that utilize short-term confinement for selected youthful offenders, followed by intensive probation supervision. To this end it is the intent of the Legislature that this article be liberally interpreted in conformity with its declared purpose.

(Added Stats 1969 ch 1193)

1851. Authorization. In order to provide appropriate facilities for the rehabilitative treatment of young offenders who otherwise may be committed to the Department of the Youth Authority or the Department of Corrections, and in order to provide this treatment in the community where family and personal relationships can be strengthened rather than severed, and in order to provide a range of alternative dispositions to the courts before whom young offenders appear, and in order to provide opportunities for private citizens to contribute actively to the rehabilitation of offenders in their own neighborhood, youth correctional centers may be established by ordinance by boards of supervisors of any county, as provided in this article.

(Added Stats 1969 ch 1193)

1852. Management. Complete operation and authority for administration of the youth correctional center shall be vested in the county. The board of supervisors shall place responsibility for internal management with the chief probation officer.

(Added Stats 1969 ch 1193)

1853. Eligibility. Juvenile court wards and criminal offenders eligible for probation may be committed to youth correctional centers as a condition of probation, provided they come within all of the following descriptions:

(1) Who have not, at the time of commitment, reached the age of 25 years.

(2) Who have not been found guilty of a capital offense in a criminal proceeding.

(3) Who have been declared a ward of the juvenile court pursuant to Section 602, Welfare and Institutions Code, or who have been found guilty in a criminal proceeding of one or more public offenses where the maximum term of confinement is not less than six months if the sentences run consecutively.

(4) Whose rehabilitation and reformation requires short-term confinement followed by intensive probation supervision.

The juvenile court may in its discretion commit any eligible ward of the juvenile court to the youth correctional center program and any criminal court may in its discretion commit any eligible offender to the youth correctional center program as a condition of probation, except that no commitment shall be placed into effect until the chief probation officer has certified to the committing court that the youth correctional center has adequate facilities to provide rehabilitative treatment for the offender.

(Added Stats 1969 ch 1193)

1854. Control. While under commitment to the youth correctional center, the offender is subject to the control of the chief probation officer. The offender may be confined to the center at all times; he may be released for brief periods to work, attend school, or engage in educational or recreational pursuits; or he may be allowed to live in the community and return to the center for specific services as directed by the chief probation officer.

(Added Stats 1969 ch 1193)

1855. Earnings. Earnings of offenders who reside in the center and work in the community shall be collected by the chief probation officer. From such earnings the chief probation officer may pay the offender's board and personal expenses and such administrative costs as are allocable to him. Any balance may be paid periodically to the offender as deemed appropriate by the chief probation officer. Upon the offender's release from juvenile court wardship or termination of his probation, all funds credited to his account shall be paid to him.

(Added Stats 1969 ch 1193)

1856. Return to court. When in the opinion of the chief probation officer an offender appears to be unamenable to the program of the youth correctional center, he shall be returned to the committing court for further disposition. The court shall then make an alternative disposition.

(Added Stats 1969 ch 1193)

1857. Standards. The Youth Authority shall adopt and prescribe the minimum standards of construction, operation, programs of education or rehabilitative training or treatment, and qualifications of personnel for youth correctional centers established pursuant to this article. No county establishing or conducting such a youth correctional center shall be entitled to receive any state funds provided for in this article unless and until the minimum standards and qualifications referred to in this section are complied with by such county.

(Added Stats 1969 ch 1193)

1858. Capacity. No youth correctional center established pursuant to this article shall be planned to accommodate more than 350 youths under supervision

at any one time. Any youth correctional center that consistently exceeds this capacity shall be ineligible to receive subsidy funds.

(Added Stats 1969 ch 1193)

1859. Maintenance subsidy. Where any such youth correctional center is established, and where the minimum standards and qualifications provided for in Section 1857 have been complied with by the county, the State of California through the Youth Authority, out of any money appropriated for this purpose, shall reimburse the county at the rate of two hundred dollars ($200) per month per person being supervised by the youth correctional center during the first six months of such person's first-time participation in the center program. This amount shall be adjusted annually, upward or downward, by the Director of Finance in accordance with the proportionate increase or decrease in per capita costs for supervising Youth Authority wards in institutions and on parole.

Whenever a claim made by a county pursuant to this section covering a prior fiscal year is found to have been in error, adjustment may be made on a current claim without necessity of applying the adjustment to the appropriation for the prior fiscal year.

(Added Stats 1969 ch 1193)

1860. Construction and maintenance subsidy. (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 youth correctional centers established by counties which apply therefor.

(b) "Construction" as used in this section includes construction of new buildings and acquisition of existing buildings and initial equipment of any such 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 as a youth correctional center, 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 improvement 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 which 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 offender the program is designed to accommodate.

(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, and the Youth Authority shall prescribe the time and manner of payment of state assistance, if granted.

(Added Stats 1969 ch 1193; most recently amended Stats 1971 ch 1411)

1861. Report to Legislature. The Department of the Youth Authority shall report to the Legislature no later than the fifth legislative day of the 1974 Regular Session on the experiences and the results under the provisions of this

article. Pending review by the Legislature of such report, the state shall not participate financially in the establishment of more than four youth correctional centers.

(Added Stats 1969 ch 1193)

Youth Service Bureaus

1900. Legislative finding. The Legislature hereby finds that the most significant trend in the development of delinquency prevention programs has been in the direction of multipurpose youth service bureau projects implemented at the neighborhood level, receiving delinquent and predelinquent youth referred by parents, schools, police, probation, and other agencies, as well as self-referral. Designed especially for less seriously delinquent youth, programmatic aspects often include group and individual counseling, work and recreation programs, employment counseling, special education, utilization of paraprofessionals and volunteers, outreach services, and youth participation in the decision-making process. Often activities encouraging youths' families, local community citizens, and representatives of established agencies are included in project activities. While youth service bureau programs have been effective in diverting youth out of the justice system, it has also been the case that these programs have been hampered in their operations due to lack of consistent and stable funding. Therefore, it is proposed that a significant number of youth service bureaus be established throughout the state and be located in areas with a high concentration of vulnerable youth, by means of a cost-sharing plan between local communities and the state.

(Added Stats 1974 ch 1488, operative 7/1/75)

1901. Establishment and operation. Pursuant to the provisions of this article, any public or private organization may make application to the Department of the Youth Authority for the purpose of receiving funding from the Department of the Youth Authority for the establishment or operation or both of one or more youth service bureaus. Such youth service bureaus shall develop and operate direct and indirect service programs designed to:

(a) Divert young people from the justice system;

(b) Prevent delinquent behavior by young people;

(c) Provide opportunities for young people to function as responsible members of their communities.

(Added Stats 1974 ch 1488, operative 7/1/75)

1902. Minimum standards. (a) The Department of the Youth Authority shall develop, adopt, prescribe, monitor and enforce minimum standards for youth service bureaus funded under the provisions of this article. Such standards shall be for the purposes of carrying out, and not inconsistent with, the provisions of this article.

(b) The Department of the Youth Authority shall seek advice from knowledgeable individuals, groups and agencies in the development of such standards.

(Added Stats 1974 ch 1488, operative 7/1/75)

1903. Funding. Application for funding of youth service bureaus under the provisions of this article shall be made in the manner prescribed by the Department of the Youth Authority.

(Added Stats 1974 ch 1488, operative 7/1/75)

1904. Cost sharing. From any state moneys made available to it for such purpose, the Department of the Youth Authority shall, in accordance with this article, share in the cost of each youth service bureau meeting the standards prescribed for youth service bureaus by the department at the rate of 50 percent of the actual fiscal year costs of each youth service bureau, or eighty-seven thousand two hundred dollars ($87,200) per fiscal year for each youth service bureau, whichever amount is the lesser.

The provisions of this section shall not be construed to prohibit the grant of a cost-of-living increase to youth service bureaus. It shall be determined in the annual Budget Act whether local matching funds shall be required with any cost-of-living increase granted from the General Fund.

(Added Stats 1974 ch 1488; most recently amended Stats 1983 ch 1201)

1905. Records, statistics. Each youth service bureau funded under this article shall maintain accurate and complete case records, reports, statistics and other information necessary for the conduct of its programs; establish appropriate written policies and procedures to protect the confidentiality of individual client records; and submit monthly reports to the Department of the Youth Authority concerning services and activities.

(Added Stats 1979 ch 1159, effective 9/29/79)

1906. Report to Legislature. The Department of the Youth Authority shall submit a report to the Legislature by January 1, 1984, describing the youth service bureaus funded by this article. Such report shall include, but not be limited to, the types of services and programs offered by each bureau, the number and characteristics of the clients served, the source of referrals, the services provided to clients and the dispositions of cases.

(Added Stats 1979 ch 1159; most recently amended Stats 1983 ch 1201)

YOUTH CENTER AND YOUTH SHELTER BOND ACT OF 1988

General Provisions

2000. Citation. This chapter shall be known and may be cited as the Youth Center and Youth Shelter Bond Act of 1988.

(Added Stats 1988 ch 1535)

2001. Definition. For purposes of this chapter:

(a) "Acquiring" means obtaining ownership of an existing facility in fee simple for use as a youth center or youth shelter.

(b) "Altering" or "renovating" means making modifications to an existing facility which are necessary for cost-effective use as a youth center or youth shelter, including restoration, repair, expansion, and all related physical improvements.

(c) "Applicant" means any local agency or nonprofit private agency or organization, and any joint venture of public and nonprofit private agencies or organizations.

(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) "Equipment" means tangible personal property having a useful life of more than one year and an acquisition cost of three hundred dollars ($300) or more.

(g) "Fund" means the 1988 County Correctional Facility Capital Expenditure and Youth Facility Bond Fund, created pursuant to Section 4496.10 of the Penal Code.

(h) "Nonprofit" means an institution or organization which is owned and operated by one or more corporations or associations with no part of the net earnings benefiting any private shareholder or individual.

(i) "Programs" means a variety of services and activities provided in a youth center, including, but not limited to, recreation, health and fitness, delinquency prevention such as antigang programs and how-to resistance to peer group pressures, counseling for such problems as drug and alcohol abuse and suicide, citizenship and leadership development, and youth employment.

(j) "Services" means those services provided in youth shelters, including, but not limited to, food, shelter, counseling, outreach, basic health screening, referral and linkage to other services offered by public and private agencies, and long-term planning for reunification with the family or in a suitable home where family reunification is not possible.

(k) "Youth center" means a facility where children, ages 6 to 17, inclusive, come together for programs and activities.

(*l*) "Youth shelter " means a facility that provides a variety of services to homeless minors living on the street to assist them with their immediate survival needs and to help reunite them with their parents or, as a last alternative, find a suitable home.

(Added Stats 1988 ch 1535)

Youth Center and Youth Shelter Bond Act Program

2010. Allocation to Youth Authority. Money in the 1988 County Correctional Facility Capital Expenditure and Youth Facility Bond Fund created pursuant to Section 4496.10 of the Penal Code shall, upon appropriation by the Legislature, be available, for allocation, upon the request of the Director of the Department of the Youth Authority and for the purposes specified in this chapter.

(Added Stats 1988 ch 1535)

2011. Award of funds. (a) The department shall, upon appropriation pursuant to Section 2010, make awards to public or private nonprofit agencies or joint ventures, or both, for the purpose of acquiring, renovating, constructing, and purchasing equipment for youth centers or youth shelters. This chapter shall not apply to institutions of a type under the jurisdiction of the department prior to the operative date of this act adding this section.

(b) If a public or private nonprofit agency or joint venture, or both, is granted an award pursuant to subdivision (a) for a youth shelter which will provide

services for both runaway youths and abused and neglected children, the department shall credit the allocation of bond proceeds awarded to reflect the proportion of funds to be used by the recipient for services for runaway youths and the proportion of funds to be used for services for abused or neglected children.

(Added Stats 1988 ch 1535; most recently amended Stats 1989 ch 1130, effective 9/30/89)

2012. Criteria. (a) A recipient of a contract for the acquisition of a facility to be used as a youth center or youth shelter shall assure that the facility will be used for that purpose for at least 10 years from the date of acquisition.

(b) A recipient of a contract for the construction of a facility to be used as a youth center or youth shelter shall assure the department the facility will be used for that purpose for at least 20 years after completion of construction.

(c) A recipient of a contract for the renovation of an existing facility to be used as a youth center or youth shelter shall assure the department the facility will be used for that purpose for the following periods:

(1) Not less than three years from the date the contract terminates, where the amount of the award does not exceed thirty thousand dollars ($30,000).

(2) If the award exceeds thirty thousand dollars ($30,000), the fixed period of time shall increase one year for each additional ten thousand dollars ($10,000) or part thereof, to a maximum of seventy-five thousand dollars ($75,000).

(3) For awards which exceed seventy-five thousand dollars ($75,000), the fixed period of time shall not be less than 10 years.

(Added Stats 1988 ch 1535)

2013. Recapture of funds. (a) The State of California shall be entitled to recapture a portion of state funds from the recipient of a contract if, within 10 years after acquisition, 20 years after completion of construction, or 3 to 10 years after renovation, as provided in paragraph (1), (2), or (3) of subdivision (c) of Section 2012, either of the following occurs:

(1) The recipient of a contract ceases to be a public or nonprofit agency.

(2) The facility is no longer used for youth center or youth shelter activities.

(b) The amount recovered shall be that proportion of the current value of the facility equal to the proportion of state funds contributed to the original cost. The current value of the facility shall be determined by an agreement between the owner of the facility and the State of California, or by an action in the court in the jurisdiction in which the facility is located.

(Added Stats 1988 ch 1535; most recently amended Stats 1989 ch 1130, effective 9/30/89)

2014. Prohibitions against use. A facility altered, acquired, renovated, constructed, or equipped using funds allocated under this chapter may not be used and may not be intended to be used for sectarian instruction or as a place for religious worship.

(Added Stats 1988 ch 1535)

2015. Use of funds. In a youth center or youth shelter facility that is shared with other age groups, funds received under this chapter may support only the following:

(a) That part of the facility used by young people.

(b) A proportionate share of the costs based on the extent of use of the facility by young people.

(Added Stats 1988 ch 1535)

2016. Advisory Committee. The department prior to issuing a request for proposal shall create an advisory committee to secure from this committee advice on the request for proposal and the criteria for reviewing and evaluating the responses. In no case shall the department issue a request for proposals for youth centers and youth shelters any later than three months after the money is deposited in the fund for the purposes of this chapter. The advisory committee shall consist of representatives, including, but not limited to, of the Office of Criminal Justice Planning, law enforcement, League of California Cities, County Supervisors Association of California, California Collaboration for Youth, California Child, Youth and Family Coalition, California Park and Recreation Society, YWCA, California Association of Probation Officers, California Parent-Teachers' Association, Girl Scouts of America, two appointees each by the Speaker of the Assembly and Senate Rules Committee representing providers of community youth services including service providers for homeless youth.

The department shall review and evaluate proposals for funding. The proposals shall be consistent with the criteria developed by the department in consultation with its advisory bodies.

(Added Stats 1988 ch 1535)

2017. Criteria. Proposals for both youth centers and youth shelters 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) (A) Contain a match for funding which is:

(i) Equal to 25 percent of the total amount requested, when the applicant is a public agency or joint venture involving a public agency.

(ii) Equal to 15 percent of the total amount requested, when the applicant is a private nonprofit agency.

(B) The match may be 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 will satisfy the requirement for community input.

(6) Document plans to utilize and coordinate with other organizations serving the same youth population including making available center facilities where possible.

(Added Stats 1988 ch 1535)

2018. Criteria. (a) (1) Funds shall be available in response to requests for proposals. The department shall rank the proposals for funding on a priority

consideration based on established greatest need in the most heavily populated areas, the most underserved areas, and the most economically disadvantaged areas, both in urban and rural counties.

(2) After ranking the priorities pursuant to paragraph (1) of subdivision (a), funds shall be given to applicants in the following order of priority taking into consideration the factors set forth in subdivision (b).

(A) Private nonprofit agencies.

(B) Joint ventures between public and private nonprofit agencies.

(C) Public agencies.

(b) In ranking the proposals, the department shall also consider the following factors:

(1) The number of youths to be served.

(2) The cost effectiveness of the proposal.

(3) The utilization of, and coordination with, other agencies serving youth.

(4) Experience in program management, particularly in programs serving the needs of youth.

(5) Experience in programs serving youth.

(c) The department shall, to the extent possible given 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 youth.

The department shall consider any protest or objection regarding the award of a contract, whether submitted before or after the award, provided that the protest is filed within the time period established in the request for proposals, made pursuant to Section 2016. All protests or objections shall be filed in writing. The protesting party shall be notified in writing of the final decision on the protest, and the notification shall set forth the rationale upon which the decision is based.

(Added Stats 1988 ch 1535)

2019. Funding priority. The funds shall be given to applicants for youth shelters for abused and neglected children without regard to the priorities set forth in subdivision (a) of Section 2018.

(Added Stats 1989 ch 1130, effective 9/30/89)

2020. Other programs. (a) For purposes of administering this chapter and the allocation of bond proceeds, the department shall treat funding for the youth centers and youth shelters as separate programs and shall fund each separately.

(b) (1) Funding for youth shelters shall be awarded as follows:

(A) At least 70 percent to shelters for runaway youths.

(B) A maximum of 30 percent to shelters for abused and neglected children. Funds allocated for shelters for abused and neglected children shall be prioritized among no more than three counties of the 1st to 10th class, inclusive, as defined by Section 28020 of the Government Code. The criteria for selection of these counties shall be given to applicants in the following order of priority:

(i) Counties with existing youth shelters, as defined in subdivision (f) of Section 4496.04 of the Penal Code, with demonstrated overcrowding problems.

(ii) Counties which have a demonstrated need for additional youth shelter beds and which have initiated planning and the permit process for construction of a new shelter.

(2) Any remaining money that has not been awarded to shelters for abused or neglected children after the initial awards are made pursuant to Section 2011 shall be awarded to shelters for runaway youths.

(c) In addition to its advisory committee, the department shall seek the cooperation and advice of the Office of Criminal Justice Planning and other appropriate agencies in the administration of the youth shelter program.

(Added Stats 1988 ch 1535; amended Stats 1989 ch 1130, effective 9/30/89)

2021. Prohibition on funding. No grant made pursuant to this chapter shall exceed one million dollars ($1,000,000).

(Added Stats 1988 ch 1535)

2022. Priority. The committee, as defined in Section 4496.04 of the Penal Code, shall give priority to the issuance of bonds in order to carry out the actions specified in subdivision (b) of Section 4496.12 of the Penal Code.

(Added Stats 1988 ch 1535)

2023. Needs assessment. The department shall develop a statewide needs assessment which shall be completed and sent to the Legislature by May 3, 1991, with preliminary information provided to the Legislature by April 15, 1990, regarding the need for multipurpose youth centers and youth shelters for runaway youths. The needs assessment shall identify all of the following:

(a) The capability of existing centers and shelters presently to address the needs of California youths.

(b) The nature and extent of youth needs that are presently unmet or unaddressed by existing facilities.

(c) The nature and extent of future need for multipurpose youth centers and youth shelters.

(d) Cost estimates for addressing needs identified in subdivisions (b) and (c).

(e) Other information, issues, and trends relevant to understanding and serving the youths under study.

(Added Stats 1989 ch 1130, effective 9/30/89)

2024. Administration of funds. The department shall administer funds appropriated for youth centers and youth shelters as specified in subdivision (b) of Section 4496.12 of the Penal Code.

(Added Stats 1989 ch 1130, effective 9/30/89)

NARCOTIC ADDICTS

CALIFORNIA REHABILITATION CENTER

3300. California Rehabilitation Center. There is hereby established an institution and branches, under the jurisdiction of the Department of Corrections, to be known as the California Rehabilitation Center. Branches may be established in existing institutions of the Department of Corrections or of the Department of the Youth Authority, in halfway houses as described in Section 3153, in such other facilities as may be made available on the grounds of other state institutions, and

in city and county correctional facilities where treatment facilities are available. Branches shall not be established on the grounds of such other institutions in any manner which will result in the placement of patients of such institutions into inferior facilities. Branches placed in a facility of the State Department of Mental Health shall have prior approval of the Director of Mental Health, and branches placed in a facility of the State Department of Developmental Services shall have the prior approval of the Director of Developmental Services. The branches in the Department of the Youth Authority shall be established on order of the Secretary of the Youth and Adult Correctional Agency and shall be subject to the administrative direction of the Director of the Youth Authority. Branches placed in city or county facilities shall have prior approval of the legislative body of the city or county.

Persons confined pursuant to this section in branches established in city and county correctional facilities shall be housed separately from the prisoners therein, and shall be entitled to receive treatment substantially equal to that which would be afforded such persons if confined in the main institution of the California Rehabilitation Center.

(Added Stats 1965 ch 1226; most recently amended Stats 1982 ch 624)

5590. Regional facilities. (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 adjuged 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).

(Added Stats 1989 ch 1327, effective 10/2/89)

5591. Authorization to establish. 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.

(Added Stats 1989 ch 1327, effective 10/2/89)

5592. 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.

(Added Stats 1989 ch 1327, effective 10/2/89)

5593. Composition of board. (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 5590.

(Added Stats 1989 ch 1327, effective 10/2/89)

5594. Admission criteria. Prior to the opening of any regional facility, the board of directors shall develop written admission criteria, approved by the Department of the Youth Authority, for those minors who are most at risk of entering the adult criminal justice system as emotionally disordered offenders 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 the ages of 12 and 18 years, 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.

(Added Stats 1989 ch 1327, effective 10/2/89)

5595. Admission restrictions. No ward shall be admitted to any regional facility described in this chapter who meets any of the following:

(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.

(Added Stats 1989 ch 1327, effective 10/2/89)

5596. 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 Department of the Youth Authority 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, psychiatrist or psychologist, social worker, registered nurse, and recreation or occupational therapist.

(2) A pediatrician and dentist 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 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 which 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.

(Added Stats 1989 ch 1327, effective 10/2/89)

5597. Referrals. 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.

(Added Stats 1989 ch 1327, effective 10/2/89)

5598. Education. 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.

(Added Stats 1989 ch 1327, effective 10/2/89)

5598.5. Report to Youth Authority. 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.

(Added Stats 1989 ch 1327, effective 10/2/89)

5599. Regulations. 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.

(Added Stats 1989 ch 1327, effective 10/2/89)

ADMISSIONS AND JUDICIAL COMMITMENTS

JUDICIAL COMMITMENTS

COMMITMENT CLASSIFICATION

Juvenile Court Wards

6550. Minors subject to jurisdiction of juvenile court. If the juvenile court, after finding that the minor is a person described by Section 600, 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.

(Added Stats 1969 ch 722; effective 8/8/69, operative 7/1/69)

6551. Observation and evaluation. If the court is in doubt as to whether the person is mentally disordered or mentally retarded, the court shall order the person to be taken to a facility designated by the county and approved by the State Department of Mental Health 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 mental 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.

If the professional person in charge of the facility finds that the person is mentally retarded, the juvenile court may direct the filing in any other court of a petition for the commitment of a minor as a mentally retarded person to the State Department of Developmental Services for placement in a state hospital. In such 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 such 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.

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 any mental disorder requiring intensive treatment or mental retardation, 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.

Any expenditure for the evaluation or intensive treatment of a minor under this section shall be considered an expenditure made under Part 2 (commencing with Section 5600) of Division 5 and shall be reimbursed by the state as are other local expenditures pursuant to that part.

The jurisdiction of the juvenile court over the minor shall be suspended during such time as 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 a mentally retarded person is filed or under remand for 90 days for intensive treatment or commitment ordered by such court.

(Added Stats 1969 ch 722; most recently amended Stats 1988 ch 1517)

6552. Voluntary commitment for mental health services. 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, Section 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, county, 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.

(Added Stats 1976 ch 445)

Extracts from Penal Code

17. Felony, misdemeanor defined. (a) A felony is a crime which is punishable with death or by imprisonment in the state prison. Every other crime or public offense is a misdemeanor except those offenses that are classified as infractions.

(b) When a crime is punishable, in the discretion of the court, by imprisonment in the state prison or by fine or imprisonment in the county jail, it is a misdemeanor for all purposes under the following circumstances:

(1) After a judgment imposing a punishment other than imprisonment in the state prison.

(2) When the court, upon committing the defendant to the Youth Authority, designates the offense to be a misdemeanor.

(3) When the court grants probation to a defendant without imposition of sentence and at the time of granting probation, or on application of the defendant or probation officer thereafter, the court declares the offense to be a misdemeanor.

(4) When the prosecuting attorney files in a court having jurisdiction over misdemeanor offenses a complaint specifying that the offense is a misdemeanor, unless the defendant at the time of his or her arraignment or plea objects to the offense being made a misdemeanor, in which event the complaint shall be amended to charge the felony and the case shall proceed on the felony complaint.

(5) When, at or before the preliminary examination or prior to filing an order pursuant to Section 872, the magistrate determines that the offense is a misdemeanor, in which event the case shall proceed as if the defendant had been arraigned on a misdemeanor complaint.

(c) When a defendant is committed to the Youth Authority for a crime punishable, in the discretion of the court, by imprisonment in the state prison or by fine or imprisonment in the county jail, the offense shall, upon the discharge of the defendant from the Youth Authority, thereafter be deemed a misdemeanor for all purposes.

(d) A violation of any code section listed in Section 19.8 is an infraction subject to the procedures described in Sections 19.6 and 19.7 when:

(1) The prosecutor files a complaint charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being informed of his or her rights, elects to have the case proceed as a misdemeanor, or;

(2) The court, with the consent of the defendant, determines that the offense is an infraction in which event the case shall proceed as if the defendant had been arraigned on an infraction complaint.

(Enacted 1872; most recently amended Stats 1989 ch 897)

25. Insanity and diminished capacity defense. (a) The defense of diminished capacity is hereby abolished. In a criminal action, as well as any juvenile court proceeding, evidence concerning an accused person's intoxication, trauma, mental illness, disease, or defect shall not be admissible to show or negate capacity to form the particular purpose, intent, motive, malice aforethought, knowledge, or other mental state required for the commission of the crime charged.

(b) In any criminal proceeding, including any juvenile court proceeding, in which a plea of not guilty by reason of insanity is entered, this defense shall be found by the trier of fact only when the accused person proves by a preponderance of the evidence that he or she was incapable of knowing or understanding the nature and quality of his or her act and of distinguishing right from wrong at the time of the commission of the offense.

(c) Notwithstanding the foregoing, evidence of diminished capacity or of a mental disorder may be considered by the court only at the time of sentencing or other disposition or commitment.

(d) The provisions of this section shall not be amended by the Legislature except by statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

(Added Prop 8, June 8, 1982 Primary)

26. Capable of committing crimes. All persons are capable of committing crimes except those belonging to the following classes:

One—Children under the age of 14, in the absence of clear proof that at the time of committing the act charged against them, they knew its wrongfulness.

Two—Idiots.

Three—Persons who committed the act or made the omission charged under an ignorance or mistake of fact, which disproves any criminal intent.

Four—Persons who committed the act charged without being conscious thereof.

Five—Persons who committed the act or made the omission charged through misfortune or by accident, when it appears that there was no evil design, intention, or culpable negligence.

Six—Persons (unless the crime be punishable with death) who committed the act or made the omission charged under threats or menaces sufficient to show that they had reasonable cause to and did believe their lives would be endangered if they refused.

(Enacted 1872; most recently amended Stats 1981 ch 404)

STREET TERRORISM ENFORCEMENT AND PREVENTION ACT

186.20. Citation of Act. This chapter shall be known and may be cited as the "California Street Terrorism Enforcement and Prevention Act."

(Added and repealed Stats 1988 ch 1256, eff. until 1/1/92)

186.21. Purpose. The Legislature hereby finds and declares that it is the right of every person, regardless of race, color, creed, religion, national origin, sex, age, sexual orientation, or handicap, to be secure and protected from fear, intimidation, and physical harm caused by the activities of violent groups and individuals. It is not the intent of this chapter to interfere with the exercise of the constitutionally protected rights of freedom of expression and association. The Legislature hereby recognizes the constitutional right of every citizen to harbor and express beliefs on any lawful subject whatsoever, to lawfully associate with others who share similar beliefs, to petition lawfully constituted authority for a redress of perceived grievances, and to participate in the electoral process.

The Legislature, however, further finds that the State of California is in a state of crisis which has been caused by violent street gangs whose members threaten, terrorize, and commit a multitude of crimes against the peaceful citizens of their neighborhoods. These activities, both individually and collectively, present a clear and present danger to public order and safety and are not constitutionally protected. The Legislature finds that there are nearly 600 criminal street gangs operating in California, and that the number of gang-related murders is increasing. The Legislature also finds that in Los Angeles County alone there were 328 gang-related murders in 1986, and that gang homicides in 1987 have increased 80 percent over 1986. It is the intent of the Legislature in enacting this chapter to seek the eradication of criminal activity by street gangs by focusing upon patterns of criminal gang activity and upon the organized nature of street gangs, which together, are the chief source of terror created by street gangs. The Legislature further finds that an effective means of punishing and deterring the criminal activities of street gangs is through forfeiture of the profits, proceeds, and instrumentalities acquired, accumulated, or used by street gangs.

(Added and repealed Stats 1988 ch 1256, eff. until 1/1/92)

186.22. Criminal penalties. (First of two) (a) Any person who actively participates in any criminal street gang with knowledge that its members engage in or have engaged in a pattern of criminal gang activity, and who willfully promotes, furthers, or assists in any felonious criminal conduct by members of that gang, shall be punished by imprisonment in the county jail for a period not to exceed one year, or by imprisonment in the state prison for one, two, or three years.

(b) (1) Except as provided in paragraph (2), any person who is convicted of a felony which is committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall, upon conviction of that felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of one, two, or three years at the court's discretion. The court shall order the imposition of the middle term of the sentence enhancement, unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its choice of sentence enhancements on the record at the time of the sentencing.

(2) Any person who violates this subdivision in the commission of a felony punishable by imprisonment in the state prison for life, shall not be paroled until a minimum of 15 calendar years have been served.

(c) Any person who is convicted of a public offense punishable as a felony or a misdemeanor, which is committed for the benefit of, at the direction of, or in association with, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison for one, two, or three years, provided that any person sentenced to imprisonment in the county jail shall be imprisoned for a period not to exceed one year, but not less than 180 days, and shall not be eligible for release upon completion of sentence, parole, or any other basis, until he or she has served 180

days. If the court grants probation or suspends the execution of sentence imposed upon the defendant, it shall require as a condition thereof that the defendant serve 180 days in the county jail.

(d) Notwithstanding any other provision of law, the court may strike the additional punishment for the enhancements provided in this section or refuse to impose the minimum jail sentence for misdemeanors in an unusual case where the interests of justice would best be served, if the court specifies on the record and enters into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(e) As used in this chapter, "pattern of criminal gang activity" means the commission, attempted commission, or solicitation of two or more of the following offenses, provided at least one of those offenses occurred after the effective date of this chapter and the last of those offenses occurred within three years after a prior offense, and the offenses are committed on separate occasions, or by two or more persons:

(1) Assault with a deadly weapon or by means of force likely to produce great bodily injury, as defined in Section 245.

(2) Robbery, as defined in Chapter 4 (commencing with Section 211) of Title 8 of Part 1.

(3) Unlawful homicide or manslaughter, as defined in Chapter 1 (commencing with Section 187) of Title 8 of Part 1.

(4) The sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances as defined in Sections 11054, 11055, 11056, 11057, and 11058 of the Health and Safety Code.

(5) Shooting at an inhabited dwelling or occupied motor vehicle, as defined in Section 246.

(6) Arson, as defined in Chapter 1 (commencing with Section 450) of Title 13.

(7) The intimidation of witnesses and victims, as defined in Section 136.1.

(8) Grand theft of any vehicle, trailer, or vessel as described in Section 487h.

(f) As used in this chapter, "criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in paragraphs (1) to (8), inclusive, of subdivision (e), which has a common name or common identifying sign or symbol, whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

(g) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

(Added Stats 1988 ch 1256; amended Stats 1989 ch 930, eff. until 1/1/93)

186.22. Criminal penalties. (Second of two) (a) Any person who actively participates in any criminal street gang with knowledge that its members engage in or have engaged in a pattern of criminal gang activity, and who willfully promotes, furthers, or assists in any felonious criminal conduct by members of that gang, shall be punished by imprisonment in the county jail for a period not to exceed one year, or by imprisonment in the state prison for one, two, or three years.

(b) (1) Except as provided in paragraph (2), any person who is convicted of a felony which is committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall, upon conviction of that felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of one, two, or three years at the court's discretion. The court shall order the imposition of the middle term of the sentence enhancement, unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its choice of sentence enhancements on the record at the time of the sentencing.

(2) Any person who violates this subdivision in the commission of a felony punishable by imprisonment in the state prison for life, shall not be paroled until a minimum of 15 calendar years have been served.

(c) Any person who is convicted of a public offense punishable as a felony or a misdemeanor, which is committed for the benefit of, at the direction of, or in association with, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison for one, two, or three years, provided that any person sentenced to imprisonment in the county jail shall be imprisoned for a period not to exceed one year, but not less than 180 days, and shall not be eligible for release upon completion of sentence, parole, or any other basis, until he or she has served 180 days. If the court grants probation or suspends the execution of sentence imposed upon the defendant, it shall require as a a condition thereof that the defendant serve 180 days in the county jail.

(d) Notwithstanding any other provision of law, the court may strike the additional punishment for the enhancements provided in this section or refuse to impose the minimum jail sentence for misdemeanors in an unusual case where the interests of justice would best be served, if the court specifies on the record and enters into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(e) As used in this chapter, "pattern of criminal gang activity" means the commission, attempted commission, or solicitation of two or more of the following offenses, provided at least one of those offenses occurred after the effective date of this chapter and the last of those offenses occurred within three years after a prior offense, and the offenses are committed on separate occasions, or by two or more persons:

(1) Assault with a deadly weapon or by means of force likely to produce great bodily injury, as defined in Section 245.

(2) Robbery, as defined in Chapter 4 (commencing with Section 211) of Title 8 of Part 1.

(3) Unlawful homicide or manslaughter, as defined in Chapter 1 (commencing with Section 187) of Title 8 of Part 1.

(4) The sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances as defined in Sections 11054, 11055, 11056, 11057, and 11058 of the Health and Safety Code.

(5) Shooting at an inhabited dwelling or occupied motor vehicle, as defined in Section 246.

(6) Arson, as defined in Chapter 1 (commencing with Section 450) of Title 13.

(7) The intimidation of witnesses and victims, as defined in Section 136.1.

(f) As used in this chapter, "criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in paragraphs (1) to (7), inclusive, of subdivision (e), which has a common name or common identifying sign or symbol, whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

(Added Stats 1989 ch 930, operative 1/1/93)

186.22a. Abatement of Nuisance. (a) Every building or place, other than residential buildings in which there are three or fewer dwelling units, used by members of a criminal street gang for the purpose of the commission of the offenses listed in subdivision (c) of Section 186.22 or any offense involving dangerous or deadly weapons, burglary, or rape, and every building or place, other than residential buildings in which there are three or fewer dwelling units, wherein or upon which that criminal conduct by gang members takes place, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

(b) Any action for injunction or abatement filed pursuant to this section shall proceed according to the provisions of Article 3 (commencing with Section 11570) of Chapter 10 of Division 10 of the Health and Safety Code, except that all of the following shall apply:

(1) The court shall not assess a civil penalty against any person unless that person knew or should have known of the unlawful acts.

(2) No order of eviction or closure may be entered.

(3) All injunctions issued shall be limited to those necessary to protect the health and safety of the residents or the public or those necessary to prevent further criminal activity.

(4) Suit may not be filed until 30-day notice of the unlawful use or criminal conduct has been provided to the owner by mail, return receipt requested, postage prepaid, to the last known address.

(c) No nonprofit or charitable organization which is conducting its affairs with ordinary care or skill, and no governmental entity, shall be abated pursuant to this chapter.

(d) Nothing in this chapter shall preclude any aggrieved person from seeking any other remedy provided by law.

(Added and repealed Stats 1988 ch 1256, eff. until 1/1/92)

186.23. Exemption—Labor. This chapter does not apply to employees engaged in concerted activities for their mutual aid and protection, or the activities of labor organizations or their members or agents.

(Added and repealed Stats 1988 ch 1256, eff. until 1/1/92)

186.24. Severability. If any part or provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, including the application of that part or provision to other persons

or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this chapter are severable.
(Added and repealed Stats 1988 ch 1256, eff. until 1/1/92)

186.25. Local Ordinances—Preemption. Nothing in this chapter shall prevent a local governing body from adopting and enforcing laws consistent with this chapter relating to gangs and gang violence. Where local laws duplicate or supplement this chapter, this chapter shall be construed as providing alternative remedies and not as preempting the field.
(Added and repealed Stats 1988 ch 1256, eff. until 1/1/92)

186.27. Effective Date. This chapter shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1992, deletes or extends that date.
(Added and repealed Stats 1988 ch 1256, eff. until 1/1/92)

243.5. Assault and battery on school property. (a) When a person commits an assault or battery on school property during hours when school activities are being conducted, a peace officer may, without a warrant, notwithstanding subdivision (2) or (3) of Section 836, arrest the person who commits the assault or battery:
(1) Whenever the person has committed the assault or battery, although not in the peace officer's presence.
(2) Whenever the peace officer has reasonable cause to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.
(b) "School," as used in this section, means any elementary school, junior high school, four-year high school, senior high school, adult school or any branch thereof, opportunity school, continuation high school, regional occupational center, evening high school, technical school, or community college.
(Added Stats 1981 ch 566; most recently amended Stats 1987 ch 828)

243.6. Battery against a school employee. When a battery is committed against a school employee in retaliation for an act performed in the course of his or her duties, whether on or off campus, during the schoolday or at any other time, and the person committing the offense knows or reasonably should know that the victim is a school employee, the battery is punishable by imprisonment in the county jail not exceeding one year, or by a fine not exceeding two thousand dollars ($2,000), or by both such fine and imprisonment. However, if an injury is inflicted on the victim, the battery shall be punishable by imprisonment in the county jail for not more than one year, or by a fine of not more than two thousand dollars ($2,000), or by imprisonment in the state prison for 16 months, or two or three years.
For purposes of this section, "school employee" has the same meaning as defined in subdivision (d) of Section 245.5.
This section shall not apply to conduct arising during the course of an otherwise lawful labor dispute.
(Added Stats 1989 ch 1306)

272. Contributing to the delinquency of a minor. Every person who commits any act or omits the performance of any duty, which act or omission

causes or tends to cause or encourage any person under the age of 18 years to come within the provisions of Section 300, 601, or 602 of the Welfare and Institutions Code or which act or omission contributes thereto, or any person who, by any act or omission, or by threats, commands, or persuasion, induces or endeavors to induce any person under the age of 18 years or any ward or dependent child of the juvenile court to fail or refuse to conform to a lawful order of the juvenile court, or to do or to perform any act or to follow any course of conduct or to so live as would cause or manifestly tend to cause any such person to become or to remain a person within the provisions of Section 300, 601, or 602 of the Welfare and Institutions Code, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding two thousand five hundred dollars ($2,500), or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment in a county jail, or may be released on probation for a period not exceeding five years. For purposes of this section, a parent or legal guardian to any person under the age of 18 years shall have the duty to exercise reasonable care, supervision, protection, and control over their minor child.

(Added Stats 1961 ch 1616; most recently amended Stats 1988 ch 1256)

273b. Proper confinement of minor. No child under the age of 16 years shall be placed in any courtroom, or in any vehicle for transportation to any place, in company with adults charged with or convicted of crime, except in the presence of a proper official.

(Added Stats 1905; most recently amended Stats 1987 ch 828)

290. Registration of sex offenders. (a) Any person who, since July 1, 1944, has been or is hereafter convicted in this state of the offense of assault with intent to commit rape or sodomy under Section 220, or of any offense defined in subdivisions (1), (2), (3), (4), and (6) of Section 261, or of any offense defined in Section 264.1, 266, 267, 285, 286, 288, 288a, 288.5, 289, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses; or any person who since that date or at any time hereafter is discharged or paroled from a penal institution where he or she was confined because of the commission or attempt to commit one of the above-mentioned offenses; or any person who since that date or at any time hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code; or any person who has been since that date or is hereafter convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, shall, within 30 days after the effective date of this section or within 14 days of coming into any county, or city, or city and county in which he or she temporarily resides or is domiciled for that length of time register with the chief of police of the city in which he or she is domiciled or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus

of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities.

(b) Any person who, after August 1, 1950, is discharged or paroled from a jail, prison, school, road camp, or other institution where he or she was confined because of the commission or attempt to commit one of the above-mentioned offenses or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital and the official shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person, and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All such forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within such times as to be received by the local law enforcement agency or agencies, and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempt to commit any of the above-mentioned offenses and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted and the court shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, and shall send one copy to the Department of Justice, and shall forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commis-

sion of the following offenses shall be subject to registration under the procedures of this section: assault with intent to commit rape, sodomy, or oral copulation, or any violation of Section 264.1, 288, 288.5, or 289 under Section 220; or any offense defined in Section 288, paragraph (1) of subdivision (b) or subdivision (c) or (d) of Section 286, paragraph (1) of subdivision (b) or subdivision (c) or (d) of Section 288a, subdivision (2) of Section 261, or subdivision (a) of Section 289; or any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration of any foreign objection in concert with force or fear of bodily injury.

(2) Any person who is discharged or paroled from the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(3) Prior to discharge or parole from the Youth Authority, all persons subject to registration shall be informed of the duty to register under the procedures set forth in this section. Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(4) The duty to register under this section for offenses adjudicated by a juvenile court shall terminate when a person reaches the age of 25.

(5) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person required to register attains the age of 25 or has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code, whichever event occurs first. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) The registration shall consist of (1) a statement in writing signed by the person, giving such information as may be required by the Department of Justice, and (2) the fingerprints and photograph of the person. Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, and photograph to the Department of Justice.

(f) If any person required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person required to register under this section who violates any of its provisions is guilty of a misdemeanor. Any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy, or of any violation of Section 261, 264.1, 286, 288, 288a, 288.5, or 289, and who is required to register

under this section who willfully violates any of the provisions of this section is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days nor more than one year in the county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in the county jail and of completing probation of at least one year.

(2) Any person who has two prior convictions for the offense of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a public offense punishable by imprisonment in the county jail not exceeding one year, or by imprisonment in state prison for 16 months, or two or three years.

The existence of any fact which would bring a person under this paragraph shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the Board of Prison Terms, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked.

(i) The statements, photographs, and fingerprints herein required shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including fire fighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision does not apply to any person temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (f) if the person did register within 30 days.

(Added Stats 1985 ch 1474; most recently amended Stats 1989 ch 1407)

290.2. Blood and saliva samples. (a) Any person who is required to register under Section 290 because of the commission of, or the attempt to commit, a felony offense specified in Section 290, or who is convicted of murder

in violation of Section 190 or 190.05, or who is convicted of a felony offense of assault or battery in violation of Section 217.1, 220, 241.1, 243, 243.1, 243.3, 243.4, 243.7, 244, 245, 245.2, 245.3, or 245.5, and who is discharged or paroled from a state prison, county jail, or any institution under the jurisdiction of the Youth Authority where he or she was confined, or is granted probation, or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, the granting of probation or release, be required to provide two specimens of blood and a saliva sample to that institution or, in the case of a person granted probation, to a person and at a location within the county designated for testing. The county shall make every effort to utilize one location for testing a person under this section.

The withdrawal of blood shall be performed in a medically approved manner. Only a physician, registered nurse, licensed vocational nurse, duly licensed clinical laboratory technologist, or clinical laboratory bioanalyst may withdraw the blood specimens for purposes of this section.

(b) The Department of Justice shall provide all blood specimen vials, mailing tubes, labels, and instructions for the collection of the blood specimens and saliva samples. The specimens and samples shall thereafter be forwarded to the Department of Justice for analysis of deoxyribonucleic acid (DNA) and other genetic typing analysis at the department's DNA laboratory.

The Department of Justice shall perform DNA analysis and other genetic typing analysis only for law enforcement purposes.

(c) The Department of Justice DNA laboratory shall perform genetic typing only for those markers having value for law enforcement purposes.

For purposes of this subdivision, "marker" shall have the meaning generally ascribed to it by members of the scientific community experienced in the use of DNA technology.

(d) The DNA and other genetic typing information shall be filed with the offender's file maintained by the Sex Registration Unit of the Department of Justice or in a computerized data bank system, and shall not be included in the state summary criminal history information.

The computerized data bank system shall be limited to containing information only on individuals convicted of crimes specified in subdivision (a), or evidence accumulated from crime scenes during ongoing investigations and believed to have been left by a person suspected of having committed a violent felony specified in subdivision (c) of Section 667.5 or an offense specified in Section 290. Evidence accumulated pursuant to this provision from any crime scene with respect to a particular person shall be stricken from the data bank when it is determined that the person is no longer a suspect in the case.

(e) The DNA and other genetic typing information shall be released only to law enforcement agencies and district attorneys' offices, at the request of the agency, except as specified in this section. Dissemination of this information to law enforcement agencies and district attorneys' offices outside the state shall be done in conformity with the provisions of this section.

(f) Any person who knowingly discloses DNA or other genetic typing information developed pursuant to this section to unauthorized individuals or agencies, or for other than law enforcement purposes, shall be guilty of a misdemeanor.

(g) Furnishing DNA or other genetic typing information to defense counsel for criminal defense purposes in compliance with discovery is not a violation of this section.

(h) It is not a violation of this section to disseminate statistical or research information obtained from the offender's file or the computerized data bank system, provided that the subject of the file is not identified and cannot be identified from the information disclosed. It is also not a violation of this section to include information obtained from a file as follows: (1) in a transcript or record of a judicial proceeding, or (2) in any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(i) The Department of Justice shall make public the methodology and procedures to be used in its DNA program prior to the commencement of DNA testing in its laboratories. The Department of Justice shall review and consider on an ongoing basis the findings and results of any peer review and validation studies submitted to the department by members of the relevant scientific community experienced in the use of DNA technology.

(Added Stats 1983 ch 700; most recently amended Stats 1989 ch 1304)

290.3. Penalty for failure to register. Every person convicted of a violation of any offense listed in subdivision (a) of Section 290 shall, in addition to any imprisonment or fine, or both, imposed for violation of the underlying offense, be punished by a fine of one hundred dollars ($100) upon the first conviction or a fine of two hundred dollars ($200) upon the second and each subsequent conviction, unless the court determines that the defendant does not have the ability to pay the fine.

Out of the moneys deposited with the county treasurer pursuant to this section, there shall be transferred, once a month, to the Controller for deposit in the General Fund, an amount equal to all fines collected during the preceding month upon conviction of, or upon the forfeiture of bail by, any person arrested or convicted of, an offense listed in Section 290. Moneys deposited in the General Fund pursuant to this section shall, when appropriated by the Legislature and until July 1, 1994, be used for the purposes of Chapter 10 (commencing with Section 13890) of Title 6 of Part 4.

(Added Stats 1988 ch 1134)

308. Sale of tobacco to minors. (a) Every person, firm or corporation which knowingly sells, gives, or in any way furnishes to another person who is under the age of 18 years any tobacco, cigarette, or cigarette papers, or any other preparation of tobacco, or any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, products prepared from tobacco, or any controlled substance, is subject to either a criminal action for a misdeameanor or to a civil action brought by a city attorney, a county counsel, or a district attorney,

punishable by a fine of two hundred dollars ($200) for the first offense, five hundred dollars ($500) for the second offense, and one thousand dollars ($1,000) for the third offense.

Notwithstanding Section 1464 or any other provision of law, 25 percent of each civil and criminal penalty collected pursuant to this subdivision shall be paid to the office of the city attorney, county counsel, or district attorney, whoever is responsible for bringing the successful action, and 25 percent of each civil and criminal penalty collected pursuant to this subdivision shall be paid to the city or county for the administration and cost of the community service work component provided in subdivision (b).

Proof that a defendant, or his or her employee or agent, demanded, was shown, and reasonably relied upon evidence of majority shall be defense to any action brought pursuant to this subdivision. Evidence of majority of a person is a facsimile of or a reasonable likeness of a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act, or an identification card issued to a member of the armed forces.

For purposes of this section, the person liable for selling or furnishing tobacco products to minors by a tobacco vending machine shall be the person authorizing the installation or placement of the tobacco vending machine upon premises he or she manages or otherwise controls and under circumstances in which he or she has knowledge, or should otherwise have grounds for knowledge, that the tobacco vending machine will be utilized by minors.

(b) Every person under the age of 18 years who purchases or receives any tobacco, cigarette, or cigarette papers, or any other preparation of tobacco, or any other instrument or paraphernalia that is designed for the smoking of tobacco, products prepared from tobacco, or any controlled substance shall, upon conviction, be punished by a fine of fifty dollars ($50) or 25 hours of community service work.

(c) Every person, firm or corporation which sells, or deals in tobacco or any preparation thereof, shall post conspicuously and keep so posted in his, her, or their place of business a copy of this act, and any such person failing to do so shall upon conviction be punished by a fine of ten dollars ($10) for the first offense and fifty dollars ($50) for each succeeding violation of this provision, or by imprisonment for not more than 30 days.

The Secretary of State is hereby authorized to have printed sufficient copies of this act to enable him or her to furnish dealers in tobacco with copies thereof upon their request for the same.

(d) For purposes of determining the liability of persons, firms, or corporations controlling franchises or business operations in multiple locations for the second and subsequent violations of this section, each individual franchise or business location shall be deemed a separate entity.

(e) It is the Legislature's intent to regulate the subject matter of this section. As a result, no city, county, or city and county shall adopt any ordinance or regulation inconsistent with this section.

(f) Notwithstanding any other provision of this section, the Director of Corrections may sell or supply tobacco and tobacco products, including cigarettes

and cigarette papers, to any person confined in any institution or facility under his, her, or its jurisdiction who has attained the age of 16 years, if the parent or guardian of the person consents thereto, and may permit smoking by any such person in any such institution or facility. No officer or employee of the Department of Corrections shall be considered to have violated this section by any act authorized by this subdivision.

(Added by Stats 1891 ch 70; most recently amended Stats 1989 ch 223)

308a. (Repealed Stats 1989 ch 223)

PEACE OFFICERS

457.1. Registration of arsonists. (First of two) (a) As used in this section, "arson" means a violation of Section 451 or 453.

(b) Upon a conviction of the offense of arson or attempted arson, the court may impose, in addition to any other penalty prescribed by law, a requirement that the person shall, within 30 days, register with the chief of police of the city in which he or she resides, or the sheriff of the county if he or she resides in an unincorporated area, and shall register within 30 days of coming into any county or city in which he or she expects to reside or is temporarily domiciled for at least 30 days. The court shall not require the person to register unless it finds that the person in committing the offense exhibited compulsive behavior, and unless it states on the record the reasons for its findings.

(c) Any person required to register pursuant to this section who is discharged or paroled from a jail, prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of arson shall, prior to the discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement. The official shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The official in charge of the place of confinement shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement shall give one copy of the form to the person, and shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall be transmitted within such times as to be received by the local law enforcement agency and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(d) Any person who is required to register pursuant to this section who is released on probation or discharged upon payment of a fine shall, prior to the release or discharge, be informed of his or her duty to register under this section by the court in which he or she has been convicted, and the court shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been

explained to him or her. The court shall obtain the address where the person expects to reside upon his or her release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, and shall send two copies to the Department of Justice, which, in turn, shall forward one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(e) The registration shall consist of (1) a statement in writing signed by the person, giving the information as may be required by the Department of Justice, and (2) the fingerprints and photograph of the person. Within three days thereafter, the registering law enforcement agency shall forward the statement, fingerprints, and photograph to the Department of Justice.

(f) If any person required to register by this section changes his or her residence address, he or she shall inform, in writing within 10 days, the law enforcement agency with whom he or she last registered of his or her new address. The law enforcement agency shall, within three days after receipt of the information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence.

(g) In the case of a person convicted for the first time of arson, the person shall be required to comply with the requirements of this section only for a period of five years after the discharge from prison, release from jail, or termination of probation or parole of the person convicted.

(h) Any person required to register under the provisions of this section who violates any of the provisions thereof is guilty of a misdemeanor. Any person who has been convicted of arson or attempted arson and who is required to register under the provisions of this section who willfully violates any of the provisions thereof is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days nor more than one year in the county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in the county jail and of completing probation of at least one year.

(i) Whenever any person is released on parole or probation and is required to register under the provisions of this section but fails to do so within the time prescribed, the Board of Prison Terms, the Youth Authority, or the court, as the case may be, shall order the parole or probation of that person revoked.

(j) The statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

(k) In any case in which a person who would be required to register pursuant to this section is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county, including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where that assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person temporarily released under guard from the institution where he or she is confined.

(*l*) Nothing in this section shall be construed to conflict with the provisions of Section 1203.4 concerning termination of probation and release from penalties and disabilities of probation.

A person required to register under this section may initiate a proceeding under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3, and upon obtaining a certificate of rehabilitation, shall be relieved of any further duty to register under this section. This certificate shall not relieve the petitioner of the duty to register under this section for any offense subject to this section of which he or she is convicted in the future.

(Added Stats 1984 ch 1574; amended Stats 1987 ch 753, eff. until 6/30/90)

457.1. Registration of arsonists. (Second of two) (a) As used in this section, "arson" means a violation of Section 451 or 453.

(b) Upon a conviction of the offense of arson or attempted arson, the court may impose, in addition to any other penalty prescribed by law, a requirement that the person shall register with the chief of police of the city in which he or she resides, or with the sheriff of the county if he or she resides in an unincorporated area, within 30 days of coming into any county or city in which he or she expects to reside or is temporarily domiciled for at least 30 days. The court may require the person to register under this subdivision only if it finds any of the following:

(1) The person committing the offense has previously been convicted of a violation of Section 451 or 453.

(2) The person is convicted of multiple counts of Section 451 or 453, relating to different events or occurrences.

(3) The person in committing the offense exhibited compulsive behavior.

The court shall state on the record the reasons for its findings and the reasons for requiring or not requiring registration.

(c) Any person required to register pursuant to this section who is discharged or paroled from a jail, prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of arson shall, prior to the discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement. The official shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The official in charge of the place of confinement shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement shall give one copy of the form to the person, and shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall be transmitted within such times as to be received by the local law enforcement agency and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(d) Any person who is required to register pursuant to this section who is released on probation or discharged upon payment of a fine shall, prior to the release or discharge, be informed of his or her duty to register under this section by the court in which he or she has been convicted, and the court shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon his or her release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, and shall send two copies to the Department of Justice, which, in turn, shall forward one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(e) The registration shall consist of (1) a statement in writing signed by the person, giving the information as may be required by the Department of Justice, and (2) the fingerprints and photograph of the person. Within three days thereafter, the registering law enforcement agency shall forward the statement, fingerprints, and photograph to the Department of Justice.

(f) If any person required to register by this section changes his or her residence address, he or she shall inform, in writing within 10 days, the law enforcement agency with whom he or she last registered of his or her new address. The law enforcement agency shall, within three days after receipt of the information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence.

(g) In the case of a person convicted for the first time of arson, the person shall be required to comply with the requirements of this section only for a period of five years after the discharge from prison, release from jail, or termination of probation or parole of the person convicted.

(h) Any person required to register under this section who violates any of the provisions thereof is guilty of a misdemeanor. Any person who has been convicted of arson or attempted arson and who is required to register under this section who willfully violates any of the provisions thereof is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days nor more than one year in the county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in the county jail and of completing probation of at least one year.

(i) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the Board of Prison Terms, the Department of Youth Authority, or the court, as the case may be, shall order the parole or probation of that person revoked.

(j) The statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

(k) In any case in which a person who would be required to register pursuant to this section is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county, including firefighting, disaster control, or of whatever nature the assignment may be, the local law

enforcement agency having jurisdiction over the place or places where that assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This subdivision shall not apply to any person temporarily released under guard from the institution where he or she is confined.

(*l*) Nothing in this section shall be construed to conflict with Section 1203.4 concerning termination of probation and release from penalties and disabilities of probation.

A person required to register under this section may initiate a proceeding under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3, and upon obtaining a certificate of rehabilitation, shall be relieved of any further duty to register under this section. This certificate shall not relieve the petitioner of the duty to register under this section for any offense subject to this section of which he or she is convicted in the future.

(Added Stats 1984 ch 1574; most recently amended Stats 1989 ch 311, operative 7/1/90)

830. Delineation of peace officers. Any person who comes within the provisions of this chapter and who otherwise meets all standards imposed by law on a peace officer is a peace officer, and notwithstanding any other provision of law, no person other than those designated in this chapter is a peace officer. The restriction of peace officer functions of any public officer or employee shall not affect his or her status for purposes of retirement.

(Added Stats 1968 ch 1222; amended Stats 1989 ch 1165)

830.1. Peace officers. (a) Any sheriff, undersheriff, or deputy sheriff, regularly employed and paid in that capacity, of a county, any police officer of a city, any police officer of a district (including police officers of the San Diego Unified Port District Harbor Police) authorized by statute to maintain a police department, any marshal or deputy marshal of a municipal court, any constable or deputy constable, regularly employed and paid in that capacity, of a judicial district, any port warden or special officer of the Harbor Department of the City of Los Angeles, or any inspector or investigator regularly employed and paid in that capacity in the office of a district attorney, is a peace officer. The authority of these peace officers extends to any place in the state, as follows:

(1) As to any public offense committed or which there is probable cause to believe has been committed within the political subdivision which employs the peace officer.

(2) Where the peace officer has the prior consent of the chief of police, or person authorized by him to give consent, if the place is within a city or of the sheriff, or person authorized by him or her to give consent, if the place is within a county.

(3) As to any public offense committed or which there is probable cause to believe has been committed in the peace officer's presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of the offense.

(b) The Deputy Director, assistant directors, chiefs, assistant chiefs, special agents, and narcotics agents of the Department of Justice, and those investigators who are designated by the Attorney General are peace officers. The authority of

these peace officers extends to any place in the state as to a public offense committed or which there is probable cause to believe has been committed within the state.

(Added Stats 1968 ch 1222; most recently amended Stats 1989 ch 1165)

830.2. Peace officers. The following persons are peace officers whose authority extends to any place in the state:

(a) Any member of the California Highway Patrol, provided that the primary duty of the peace officer shall be the enforcement of the provisions of the Vehicle Code or of any other law relating to the use or operation of vehicles upon the highways, as that duty is set forth in the Vehicle Code.

(b) Any member of the California State Police Division, provided that the primary duty of the peace officer shall be to provide police services for the protection of state officers, and the protection of state properties and occupants thereof, as set forth in the Government Code.

(c) Members of the California National Guard have the powers of peace officers when they are (1) called or ordered into active state service by the Governor pursuant to the provisions of Section 143 or 146 of the Military and Veterans Code, (2) serving within the area wherein military assistance is required, and (3) directly assisting civil authorities in any of the situations specified in Section 143 or 146. The authority of the peace officer extends to the area wherein military assistance is required as to a public offense committed or which there is reasonable cause to believe has been committed within that area. The requirements of Section 1031 of the Government Code are not applicable under those circumstances.

(d) A member of the University of California Police Department appointed pursuant to Section 92600 of the Education Code, provided that the primary duty of the peace officer shall be the enforcement of the law within the area specified in Section 92600 of the Education Code.

(e) A member of the California State University and College Police Departments appointed pursuant to Section 89560 of the Education Code, provided that the primary duty of the peace officer shall be the enforcement of the law within the area specified in Section 89560 of the Education Code.

(f) Any member of the Law Enforcement Liaison Unit of the Department of Corrections, provided that the primary duty of the peace officer shall be the investigation or apprehension of parolees, parole violators, or escapees from state institutions, the transportation of those persons, and the coordination of those activities with other criminal justice agencies.

(g) Members of the Wildlife Protection Branch of the Department of Fish and Game, provided that the primary duty of those deputies shall be the enforcement of the law as set forth in Section 856 of the Fish and Game Code.

(h) Employees of the Department of Parks and Recreation designated by the director pursuant to Section 5008 of the Public Resources Code, provided that the primary duty of the peace officer shall be the enforcement of the law as set forth in Section 5008 of the Public Resources Code.

(i) The Director of Forestry and employees or classes of employees of the Department of Forestry designated by the director pursuant to Section 4156 of

the Public Resources Code, provided that the primary duty of the peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of the Public Resources Code.

(j) Persons employed by the Department of Alcoholic Beverage Control for the enforcement of Division 9 (commencing with Section 23000) of the Business and Professions Code and designated by the Director of Alcoholic Beverage Control, provided that the primary duty of any of these peace officers shall be the enforcement of the laws relating to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code.

(Added Stats 1968 ch 1222; most recently amended Stats 1989 ch 1166)

830.3. Peace officers. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. These peace officers may carry firearms only if authorized and under those terms and conditions as are specified by their employing agencies:

(a) Persons employed by the Division of Investigation of the Department of Consumer Affairs and investigators of the Board of Medical Quality Assurance and the Board of Dental Examiners, who are designated by the Director of Consumer Affairs, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(b) Voluntary fire wardens as are designated by the Director of Forestry pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 4156 of that code.

(c) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 1655 of that code.

(d) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code.

(e) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 13104 of that code.

(f) Inspectors of the food and drug section as are designated by the chief pursuant to subdivision (a) of Section 216 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 216 of that code.

(g) All investigators of the Division of Labor Standards Enforcement, as designated by the Labor Commissioner, provided that the primary duty of these peace officers shall be enforcement of the law as prescribed in Section 95 of the Labor Code.

(h) All investigators of the State Departments of Health Services, Social Services, Mental Health, Developmental Services, Alcohol and Drug Programs and the Office of Statewide Health Planning and Development, and the Public Employees' Retirement System, provided that the primary duty of these peace officers shall be the enforcement of the law relating to the duties of his or her department, or office. Notwithstanding any other provision of law, investigators of the Public Employees' Retirement System shall not carry firearms.

(i) Marshals and police appointed by the Board of Directors of the California Exposition and State Fair, pursuant to Section 3332 of the Food and Agricultural Code, provided that the primary duty of the peace officer shall be the enforcement of the law as prescribed in that section.

(j) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and those investigators as designated by the chief, provided that the primary duty of those investigators shall be enforcement of Section 556 of the Insurance Code.

(k) Employees of the Department of Housing and Community Development designated under Section 18023 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 18023 of that code.

(*l*) Investigators of the office of the Controller, provided that the primary duty of these investigators shall be the enforcement of the law relating to the duties of that office. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(m) Investigators of the Department of Corporations designated by the Commissioner of Corporations, provided that the primary duty of these investigators shall be enforcement of the provisions of law administered by the Department of Corporations. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(n) Persons employed by the Contractors' State License Board designated by the Director of Consumer Affairs pursuant to Section 7011.5 of the Business and Professions Code, provided that the primary duty of these persons shall be the enforcement of the law as that duty is set forth in Section 7011.5, and in Chapter 9 (commencing with Section 7000) of Division 3, of that code. The Director of Consumer Affairs may designate as peace officers not more than three persons who shall at the time of their designation be assigned to the special investigations unit of the board. Notwithstanding any other provision of law, the persons designated pursuant to this subdivision shall not carry firearms.

(o) The chief and coordinators of the Law Enforcement Division of the Office of Emergency Services.

(p) Investigators of the Office of the Secretary of State, designated by the Secretary of State, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of the Government Code and Section 12172.5 of that

code. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(q) The Deputy Director for Security, as designated by Section 8880.38 of the Government Code, and all lottery security personnel assigned to the California State Lottery and designated by the director, provided that the primary duty of any of those peace officers shall be the enforcement of the laws related to assuring the integrity, honesty, and fairness of the operation and administration of the California State Lottery.

(r) Investigators employed by the Investigation Division of the Employment Development Department, designated by the director of the department, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 317 of the Unemployment Insurance Code.

Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(Added Stats 1968 ch 1222; most recently amended Stats 1989 ch 1166)

830.4. Peace officers. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their duties under the conditions as specified by statute. Those peace officers may carry firearms only if authorized and under terms and conditions specified by their employing agency.

(a) Members of the California National Guard have the powers of peace officers when they are involved in any or all of the following:

(1) Called or ordered into active state service by the Governor pursuant to the provisions of Section 143 or 146 of the Military and Veterans Code.

(2) Serving within the area wherein military assistance is required.

(3) Directly assisting civil authorities in any of the situations specified in Section 143 or 146.

The authority of the peace officer under this subdivision extends to the area wherein military assistance is required as to a public offense committed or which there is reasonable cause to believe has been committed within that area. The requirements of Section 1031 of the Government Code are not applicable under those circumstances.

(b) Guards and messengers of the Treasurer's office when performing assigned duties as a guard or messenger.

(c) Security officers of the Department of Justice when performing assigned duties as security officers.

(d) Security officers of the California State Police Division. Notwithstanding any other provision of law, the act which designated the persons described in this subdivision as peace officers shall serve only to define those persons as peace officers, the extent of their jurisdiction, and the nature and scope of their authority, powers, and duties, and there shall be no change in the status of those persons for purposes of retirement, workers' compensation or similar injury or death benefits, or other employee benefits.

(e) Security officers of Hastings College of the Law. These officers shall have authority of peace officers only within the City and County of San Francisco. Notwithstanding any other provisions of law, the peace officers designated by this

subdivision shall not be authorized by this subdivision to carry firearms either on or off duty. Notwithstanding any other provision of law, the act which designated the persons described in this subdivision as peace officers shall serve only to define those persons as peace officers, the extent of their jurisdiction, and the nature and scope of their authority, powers, and duties, and there shall be no change in the status of those persons for purposes of retirement, workers' compensation or similar injury or death benefits, or other employee benefits.

(Added Stats 1968 ch 1222; most recently amended Stats 1989 ch 1165)

830.5. Peace Officers. The following persons are peace officers whose authority extends to any place in the state while engaged in the performance of the duties of their respective employment and for the purpose of carrying out the primary function of their employment or as required under Sections 8597, 8598, and 8617 of the Government Code. Except as specified in this section, these peace officers may carry firearms only if authorized and under those terms and conditions specified by their employing agency:

(a) A parole officer of the Department of Corrections or the Department of the Youth Authority, probation officer, or deputy probation officer, or a board coordinating parole agent employed by the Youthful Offender Parole Board. Except as otherwise provided in this subdivision, the authority of these parole or probation officers shall extend only as follows:

(1) To conditions of parole or of probation by any person in this state on parole or probation.

(2) To the escape of any inmate or ward from a state or local institution.

(3) To the transportation of such persons.

(4) To violations of any penal provisions of law which are discovered in the course of and arise in connection with his or her employment.

Any parole officer of the Department of Corrections, the Department of the Youth Authority, or the Youthful Offender Parole Board is authorized to carry firearms but only as determined by the director on a case-by-case or unit-by-unit basis and only under those terms and conditions specified by the director or chairperson.

(b) A correctional officer employed by the Department of Corrections or any employee of the Department of the Youth Authority having custody of wards or any employee of the Department of Corrections designated by the Director of Corrections or any medical technical assistant series employee designated by the Director of Corrections or designated by the Director of Corrections and employed by the State Department of Mental Health to work in the California Medical Facility or employee of the Board of Prison Terms designated by the Secretary of the Youth and Adult Correctional Agency or employee of the Department of the Youth Authority designated by the Director of the Youth Authority or any superintendent, supervisor, or employee having custodial responsibilities in an institution operated by a probation department, or any transportation officer of a probation department.

(c) The following persons may carry a firearm while not on duty: a parole officer of the Department of Corrections or the Department of the Youth Authority, a correctional officer employed by the Department of Corrections or any employee of the Department of the Youth Authority having custody of wards

or any employee of the Department of Corrections designated by the Director of Corrections. A parole officer of the Youthful Offender Parole Board may carry a firearm while not on duty only when so authorized by the chairperson of the board and only under the terms and conditions specified by the chairperson. Nothing in this section shall be interpreted to require licensure pursuant to Section 12025. The director or chairperson may deny or revoke for good cause a person's right to carry a firearm under this subdivision. That person shall, upon request, receive a hearing, as provided for in the negotiated grievance procedure between the exclusive employee representative and the Department of Corrections, the Department of the Youth Authority, or the Youthful Offender Parole Board, to review the director's or the chairperson's decision.

(d) Persons permitted to carry firearms pursuant to this section, either on or off duty, shall meet the training requirements of Section 832 and shall qualify with the firearm at least quarterly. It is the responsibility of the individual officer to maintain his or her eligibility to carry firearms off-duty.

(Added Stats 1968 ch 1222; most recently amended Stats 1989 ch 1165)

830.6. Reserve peace officers. (a) (1) Whenever any qualified person is deputized or appointed by the proper authority as a reserve or auxiliary sheriff or city police officer, a deputy sheriff, a reserve police officer of a regional park district or of a transit district, or a deputy of the Department of Fish and Game, or a special agent of the Department of Justice, and is assigned specific police functions by that authority, the person is a peace officer; provided, the person qualifies as set forth in Section 832.6, and provided further, that the authority of the person as a peace officer shall extend only for the duration of the person's specific assignment. A transit district reserve officer may carry firearms only if authorized by, and under those terms and conditions as are specified by, his or her employing agency.

(2) Whenever any qualified person is deputized or appointed by the proper authority as a reserve or auxiliary sheriff or city police officer, a deputy sheriff, or a reserve police officer of a regional park district or of a transit district, and is so designated by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution, either individually or by class, and is assigned to the prevention and detection of crime and the general enforcement of the laws of this state by that authority, the person is a peace officer; provided the person qualifies as set forth in paragraph (1) of subdivision (a) of Section 832.6, and provided further, that the authority of the person shall include the full powers and duties of a peace officer as provided by Section 830.1, or in the case of a transit district reserve police officer, the powers and duties which are authorized in Section 830.33.

(b) Whenever any person is summoned to the aid of any uniformed peace officer, the summoned person shall be vested with the powers of a peace officer as are expressly delegated to him or her by the summoning officer or as are otherwise reasonably necessary to properly assist the officer.

(Added Stats 1968 ch 1222; most recently amended Stats 1989 ch 1165)

832. Training in powers of arrest. (a) Every person described in this chapter as a peace officer, shall satisfactorily complete an introductory course of training prescribed by the Commission on Peace Officer Standards and Training.

On or after July 1, 1989, satisfactory completion of the course shall be demonstrated by passage of an appropriate examination developed or approved by the commission. Training in the carrying and use of firearms shall not be required of any peace officer whose employing agency prohibits the use of firearms.

(b) (1) Every such peace officer described in this chapter, within 90 days following the date that he or she was first employed by any employing agency, shall, prior to the exercise of the powers of a peace officer, have satisfactorily completed the course of training as described in subdivision (a).

(2) Every peace officer described in Section 13510 or in subdivision (a) of Section 830.2 may satisfactorily complete the training required by this section as part of the training prescribed pursuant to Section 13510.

(c) Persons described in this chapter as peace officers who have not satisfactorily completed the course described in subdivision (a) as specified in subdivision (b), shall not have the powers of a peace officer until they satisfactorily complete the course.

(d) Any peace officer who on March 4, 1972, possesses or is qualified to possess the basic certificate as awarded by the Commission on Peace Officer Standards and Training shall be exempted from this section.

(Added Stats 1971 ch 1504; most recently amended Stats 1987 ch 157)

836. Powers of arrest. A peace officer may make an arrest in obedience to a warrant, or may, pursuant to the authority granted him by the provisions of Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, without a warrant, arrest a person:

1. Whenever he has reasonable cause to believe that the person to be arrested has committed a public offense in his presence.

2. When a person arrested has committed a felony, although not in his presence.

3. Whenever he has reasonable cause to believe that the person to be arrested has committed a felony, whether or not a felony has in fact been committed.

(Enacted 1872, most recently amended Stats 1968 ch 1222)

836.5. Arrest by public officer or employee. (a) A public officer or employee, when authorized by ordinance, may arrest a person without a warrant whenever he has reasonable cause to believe that the person to be arrested has committed a misdemeanor in his presence which is a violation of a statute or ordinance which the officer or employee has the duty to enforce.

(b) There shall be no civil liability on the part of, and no cause of action shall arise against, any public officer or employee acting pursuant to subdivision (a) and within the scope of his authority for false arrest or false imprisonment arising out of any arrest which is lawful or which the public officer or employee, at the time of the arrest, had reasonable cause to believe was lawful. No such officer or employee shall be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest, prevent escape, or overcome resistance.

(c) In any case in which a person is arrested pursuant to subdivision (a) and the person arrested does not demand to be taken before a magistrate, the public officer or employee making the arrest shall prepare a written notice to appear and release the person on his promise to appear, as prescribed by Chapter 5C (commencing with Section 853.6). The provisions of that chapter shall thereafter

apply with reference to any proceeding based upon the issuance of a written notice to appear pursuant to this authority.

(d) The governing body of a local agency, by ordinance, may authorize its officers and employees who have the duty to enforce a statute or ordinance to arrest persons for violations of such statute or ordinance as provided in subdivision (a).

(e) For the purpose of this section, "ordinance" includes an order, rule, or regulation of any air pollution control district.

(f) For purposes of this section, a "public officer or employee" includes an officer or employee of a nonprofit transit corporation wholly owned by a local agency and formed to carry out the purposes of the local agency.

(Added by Stats 1969 ch 1205; most recently amended by Stats 1982 ch 1235.)

853.6a. Fish and game violations. If the person arrested appears to be under the age of 18 years, and the arrest is for a violation of the Fish and Game Code not declared to be a felony, a violation of Section 640 or Section 640a, or a violation of subdivision (m) of Section 602, the notice under Section 853.6 shall instead provide that the person shall appear before the juvenile court, a juvenile court referee, or a juvenile traffic hearing officer within the county in which the offense charged is alleged to have been committed, and the officer shall instead, as soon as practicable, file the duplicate notice with the prosecuting attorney unless the prosecuting attorney directs the officer to file the duplicate notice with the clerk of the juvenile court, the juvenile court referee, or the juvenile traffic hearing officer. If the notice is filed with the prosecuting attorney, within 48 hours before the date specified on the notice to appear, the prosecutor, within his or her discretion, may initiate proceedings by filing the notice or a formal petition with the clerk of the juvenile court, or the juvenile court referee or juvenile traffic hearing officer, before whom the person is required to appear by the notice.

(Added Stats 1968 ch 55; most recently amended by Stats 1983 ch 22)

1000. Determination by district attorney. (a) This chapter shall apply whenever a case is before any court upon an accusatory pleading for violation of Section 11350, 11357, 11364, 11365, 11377, or 11550 of the Health and Safety Code, or Section 11358 of the Health and Safety Code if the marijuana planted, cultivated, harvested, dried, or processed is for personal use, or Section 11368 of the Health and Safety Code if the narcotic drug was secured by a fictitious prescription and is for the personal use of the defendant and was not sold or furnished to another, or subdivision (d) of Section 653f if the solicitation was for acts directed to personal use only, or Section 381 or subdivision (f) of Section 647 of the Penal Code, if for being under the influence of a controlled substance, or Section 4230 of the Business and Professions Code, and it appears to the district attorney that, except as provided in subdivision (b) of Section 11357 of the Health and Safety Code, all of the following apply to the defendant:

(1) The defendant has no conviction for any offense involving controlled substances prior to the alleged commission of the charged divertible offense.

(2) The offense charged did not involve a crime of violence or threatened violence.

(3) There is no evidence of a violation relating to narcotics or restricted dangerous drugs other than a violation of the sections listed in this subdivision.

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

(5) The defendant's record does not indicate that he or she has been diverted pursuant to this chapter within five years prior to the alleged commission of the charged divertible offense.

(6) The defendant has no prior felony conviction within five years prior to the alleged commission of the charged divertible offense.

(b) The district attorney shall review his or her file to determine whether or not paragraphs (1) to (6), inclusive, of subdivision (a) are applicable to the defendant. Upon the agreement of the district attorney, law enforcement, the public defender, the presiding judge of the criminal division of the municipal court or a judge designated by the presiding judge, and the probation department of each county, this procedure shall be completed as soon as possible after the initial filing of the charges. If the defendant is found eligible, the district attorney shall file with the court a declaration in writing or state for the record the grounds upon which the determination is based, and shall make this information available to the defendant and his or her attorney. This procedure is intended to allow the court to hold the diversion hearing at the arraignment. If the defendant is found ineligible, the district attorney shall file with the court a declaration in writing or state for the record the grounds upon which the determination is based, and shall make this information available to the defendant and his or her attorney.

(c) Successful completion of diversion for a violation of Section 11368 of the Health and Safety Code shall not prohibit any administrative agency from taking disciplinary action against a licensee or from denying a license. Nothing in this subdivision shall be construed to expand or restrict the provisions of Section 1000.5.

(Added Stats 1972 ch 1255; most recently amended Stats 1988 ch 1086)

1000.1. Notification. (a) If the district attorney determines that this chapter may be applicable to the defendant, he shall advise the defendant and his attorney in writing of such determination. This notification shall include:

(1) A full description of the procedures of diversionary investigation.

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

(3) A clear statement that the court may decide in a hearing not to divert the defendant and that he may have to stand trial for the alleged offense.

(4) A clear statement that should the defendant fail in meeting the terms of his diversion, or should he be convicted of a misdemeanor which reflects the divertee's propensity for violence, or should the divertee be convicted of any felony, he may be required, after a court hearing, to stand trial for the original alleged offense.

(5) An explanation of criminal record retention and disposition resulting from participation in the diversion and the divertee's rights relative to answering questions about his arrest and diversion following successful completion of the diversion program.

(b) If the defendant consents and waives his right to a speedy trial, the district attorney shall refer the case to the probation department. The probation

department shall make an investigation and take into consideration the defendant's age, employment and service records, educational background, community and family ties, prior controlled substance use, treatment history, if any, demonstrable motivation, and other mitigating factors in determining whether the defendant is a person who would be benefited by education, treatment, or rehabilitation. The probation department shall also determine which community programs or programs of the probation department the defendant would benefit from and which of those programs would accept the defendant. The probation department shall report its findings and recommendation to the court. The court shall make the final determination regarding education, treatment, or rehabilitation for the defendant.

(c) No statement, or any information procured therefrom, made by the defendant to any probation officer or drug treatment worker, which is made during the course of any investigation conducted by the probation department or drug treatment program pursuant to subdivision (b), and prior to the reporting of the probation department's findings and recommendations to the court, shall be admissible in any action or proceeding brought subsequent to the investigation.

No statement, or any information procured therefrom, with respect to the specific offense with which the defendant is charged, which is made to any probation officer or drug program worker subsequent to the granting of diversion, shall be admissible in any action or proceeding.

In the event that diversion is either denied, or is subsequently revoked once it has been granted, neither the probation investigation nor statements or information divulged during that investigation shall be used in any sentencing procedures.

(Added Stats 1972 ch 1255; most recently amended Stats 1984 ch 1179)

1000.2. Diversion. The court shall hold a hearing and, after consideration of the probation department's report and any other information considered by the court to be relevant to its decision, shall determine if the defendant consents to further proceedings under this chapter and waives his right to a speedy trial and if the defendant should be diverted and referred for education, treatment, or rehabilitation. If the court does not deem the defendant a person who would be benefited by diversion, or if the defendant does not consent to participate, the proceedings shall continue as in any other case.

At such time that a defendant's case is diverted, any bail bond or undertaking, or deposit in lieu thereof, on file by or on behalf of the defendant shall be exonerated, and the court shall enter an order so directing.

The period during which the further criminal proceedings against the defendant may be diverted shall be for no less than six months nor longer than two years. Progress reports shall be filed by the probation department with the court not less than every six months.

(Added Stats 1972 ch 1255 most recently amended by Stats 1975 ch 1267)

1000.3. Resumption of criminal proceedings. If it appears to the probation department that the divertee is performing unsatisfactorily in the assigned program, or that the divertee is not benefiting from education, treatment, or rehabilitation, or that the divertee is convicted of a misdemeanor which reflects

the divertee's propensity for violence, or if the divertee is convicted of a felony, after notice to the divertee, the court shall hold a hearing to determine whether the criminal proceedings should be reinstituted. If the court finds that the divertee is not performing satisfactorily in the assigned program, or that the divertee is not benefiting from diversion, or the court finds that the divertee has been convicted of a crime as indicated above, the criminal case shall be referred back to the court for resumption of the criminal proceedings. If the divertee has performed satisfactorily during the period of diversion, at the end of the period of diversion, the criminal charges shall be dismissed.

(Added Stats 1975 ch 1267)

1000.5. Records. Any record filed with the Department of Justice shall indicate the disposition in those cases diverted pursuant to this chapter. Upon successful completion of a diversion program the arrest upon which the diversion was based shall be deemed to have never occurred. The divertee may indicate in response to any question concerning his prior criminal record that he was not arrested or diverted for such offense. A record pertaining to an arrest resulting in successful completion of a diversion program shall not, without the divertee's consent, be used in any way which could result in the denial of any employment benefit, license, or certificate.

(Added Stats 1975 ch 1267)

1191.1. Victim's statement. The victim of any crime, or his or her parent or guardian if the victim is a minor, or the next of kin of the victim if the victim has died, has the right to attend all sentencing proceedings under this chapter and shall be given adequate notice by the probation officer of all sentencing proceedings concerning the person who committed the crime.

The victim, or his or her parent or guardian if the victim is a minor, or next of kin has the right to appear, personally or by counsel, at the sentencing proceeding and to reasonably express his or her views concerning the crime, the person responsible, and the need for restitution. The court in imposing sentence shall consider the statements of victims, parents, or guardians, and next of kin made pursuant to this section and shall state on the record its conclusion concerning whether the person would pose a threat to public safety if granted probation.

The provisions of this section shall not be amended by the Legislature except by statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

(Initiative adopted 6/8/82; most recently amended Stats 1984 ch 1425)

1191.2. Probation officer's obligation. In providing notice to the victim pursuant to Section 1191.1, the probation officer shall also provide the victim with information concerning the victim's right to civil recovery against the defendant and the victim's opportunity to be compensated from the Restitution Fund. This information shall be in the form of written material prepared by the Judicial Council and shall be provided to each victim for whom the probation officer has a current mailing address.

(Added Stats 1983 ch 932)

1192.7. Serious felony. (a) Plea bargaining in any case in which the indictment or information charges any serious felony, any felony in which it is alleged that a firearm was personally used by the defendant, or any offense of driving while under the influence of alcohol, drugs, narcotics, or any other intoxicating substance, or any combination thereof, is prohibited, unless there is insufficient evidence to prove the people's case, or testimony of a material witness cannot be obtained, or a reduction or dismissal would not result in a substantial change in sentence.

(b) As used in this section "plea bargaining" means any bargaining, negotiation, or discussion between a criminal defendant, or his or her counsel, and a prosecuting attorney or judge, whereby the defendant agrees to plead guilty or nolo contendere, in exchange for any promises, commitments, concessions, assurances, or consideration by the prosecuting attorney or judge relating to any charge against the defendant or to the sentencing of the defendant.

(c) As used in this section, "serious felony" means any of the following:

(1) Murder or voluntary manslaughter; (2) mayhem; (3) rape; (4) sodomy by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (5) oral copulation by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (6) lewd or lascivious act on a child under the age of 14 years; (7) any felony punishable by death or imprisonment in the state prison for life; (8) any other felony in which the defendant personally inflicts great bodily injury on any person, other than an accomplice, or any felony in which the defendant personally uses a firearm; (9) attempted murder; (10) assault with intent to commit rape or robbery; (11) assault with a deadly weapon or instrument on a peace officer; (12) assault by a life prisoner on a noninmate; (13) assault with a deadly weapon by an inmate; (14) arson; (15) exploding a destructive device or any explosive with intent to injure; (16) exploding a destructive device or any explosive causing great bodily injury or mayhem; (17) exploding a destructive device or any explosive with intent to murder; (18) burglary of an inhabited dwelling house, or trailer coach as defined by the Vehicle Code, or inhabited portion of any other building; (19) robbery or bank robbery; (20) kidnapping; (21) holding of a hostage by a person confined in a state prison; (22) attempt to commit a felony punishable by death or imprisonment in the state prison for life; (23) any felony in which the defendant personally used a dangerous or deadly weapon; (24) selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give to a minor any heroin, cocaine, phencyclidine (PCP), or any methamphetamine-related drug, as described in paragraph (2) of subdivision (d) of Section 11055 of the Health and Safety Code, or any of the precursors of methamphetamines, as described in subparagraph (A) of paragraph (1) of subdivision (f) of Section 11055 or subdivision (a) of Section 11100 of the Health and Safety Code; (25) any violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; (26) grand theft involving a firearm; (27) any attempt to commit a crime listed in this subdivision other than an assault.

(d) As used in this section, "bank robbery" means to take or attempt to take, by force or violence, or by intimidation from the person or presence of another any property or money or any other thing of value belonging to, or in the care, custody, control, management, or possession of, any bank, credit union, or any savings and loan association.

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

(1) "Bank" means any member bank of the Federal Reserve System, and any bank, banking association, trust company, savings bank, or other banking institution organized or operating under the laws of the United States, and any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

(2) "Savings and loan association" means any federal savings and loan association and any "insured institution" as defined in Section 401 of the National Housing Act, as amended, and any federal credit union as defined in Section 2 of the Federal Credit Union Act.

(3) "Credit union" means any federal credit union and any state-chartered credit union the accounts of which are insured by the Administrator of the National Credit Union Administration.

(e) 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.

(Added Prop. 8, 6/8/82 Primary; most recently amended Stats 1989 ch 1044)

1192.8. Serious felony. For purposes of subdivision (c) of Section 1192.7, "serious felony" also means any violation of Section 288.5.

(Added Stats 1989 ch 1402)

Adult Probation Law

1202.4. Restitution fine: felony conviction. (a) In any case in which a defendant is convicted of a felony, the court shall order the defendant to pay a restitution fine as provided in subdivision (a) of Section 13967 of the Government Code. Such restitution fine shall be in addition to any other penalty or fine imposed and shall be ordered regardless of the defendant's present ability to pay. However, if the court finds that there are compelling and extraordinary reasons, the court may waive imposition of the fine. When such a waiver is granted, the court shall state on the record all reasons supporting the waiver.

(b) In any case in which the defendant is ordered to pay restitution as a condition of probation, the order to pay the restitution fine, or portion thereof, may be stayed pending the successful completion of probation, and thereafter the stay shall become permanent.

(c) If the restitution fine has been stayed pending successful completion of probation, upon revocation of probation and imposition of sentence the stay shall be lifted. The amount of restitution fine shall be offset by any restitution payments actually made as a condition of probation.

(Added Stats 1983 ch 1092; most recently amended Stats 1984 ch 1340)

1202.5. Crime Prevention. (a) In any case in which a defendant is convicted of any of the offenses enumerated in Section 211, 459, 487, or 488, the

court may order the defendant to pay a fine of ten dollars ($10) in addition to any other penalty or fine imposed. If the court determines that the defendant has the ability to pay all or part of the fine, the court may set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner in which the court believes reasonable and compatible with the defendant's financial ability. In making a determination of whether a defendant has the ability to pay, the court shall take into account the amount of any other fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution.

(b) All fines collected pursuant to this section shall be transferred to the local law enforcement agency in the jurisdiction where the offense took place. All moneys collected shall be used exclusively to implement, support, and continue local crime prevention programs.

(c) As used in this section, "law enforcement agency" includes, but is not limited to, police departments, sheriffs departments, and probation departments.
(Added Stats 1985 ch 1321)

1203. Summary determination of probation. (a) As used in this code, "probation" shall mean the suspension of the imposition or execution of a sentence and the order of conditional and revocable release in the community under the supervision of the probation officer. As used in this code, "conditional sentence" shall mean the suspension of the imposition or execution of a sentence and the order of revocable release in the community subject to the conditions established by the court without the supervision of the probation officer. It is the intent of the Legislature that both conditional sentence and probation are authorized whenever probation is authorized in any code as a sentencing option for infractions or misdemeanors.

(b) Except as provided in subdivision (j), in every case in which a person is convicted of a felony and is eligible for probation, before judgment is pronounced, the court shall immediately refer the matter to the probation officer to investigate and report to the court, at a specified time, upon the circumstances surrounding the crime and the prior history and record of the person, which may be considered either in aggravation or mitigation of the punishment. The probation officer shall immediately investigate and make a written report to the court of his or her findings and recommendations, including his or her recommendations as to the granting or denying of probation and the conditions of probation, if granted. Pursuant to Section 828 of the Welfare and Institutions Code, the probation officer shall include in his or her report any information gathered by a law enforcement agency relating to the taking of the defendant into custody as a minor, which shall be considered for purposes of determining whether adjudications of commissions of crimes as a juvenile warrant a finding that there are circumstances in aggravation pursuant to Section 1170 or to deny probation. The probation officer shall also include in the report his or her recommendation of the amount the defendant should be required to pay as a restitution fine pursuant to Section 13967 of the Government Code. The probation officer shall also include in his or her report a recommendation as to whether the court shall require, as a condition of probation, restitution to the victim or to the Restitution Fund. The report shall be made available to the court

and the prosecuting and defense attorneys at least five days, or upon request of the defendant or prosecuting attorney, nine days prior to the time fixed by the court for the hearing and determination of the report, and shall be filed with the clerk of the court as a record in the case at the time of the hearing. The time within which the report shall be made available and filed may be waived by written stipulation of the prosecuting and defense attorneys which is filed with the court or an oral stipulation in open court which is made and entered upon the minutes of the court. At a time fixed by the court, the court shall hear and determine the application, if one has been made, or, in any case, the suitability of probation in the particular case. At the hearing, the court shall consider any report of the probation officer and shall make a statement that it has considered such report which shall be filed with the clerk of the court as a record in the case. If the court determines that there are circumstances in mitigation of the punishment prescribed by law or that the ends of justice would be served by granting probation to the person, it may place the person on probation. If probation is denied, the clerk of the court shall immediately send a copy of the report to the Department of Corrections at the prison or other institution to which the person is delivered.

(c) If a defendant is not represented by an attorney, the court shall order the probation officer who makes the probation report to discuss its contents with the defendant.

(d) In every case in which a person is convicted of a misdemeanor, the court may either refer the matter to the probation officer for an investigation and a report or summarily pronounce a conditional sentence. If such a case is not referred to the probation officer, in sentencing the person, the court may consider any information concerning the person which could have been included in a probation report. The court shall inform the person of the information to be considered and permit him or her to answer or controvert such information. For this purpose, upon the request of the person, the court shall grant a continuance before the judgment is pronounced.

(e) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any of the following persons:

(1) Unless the person had a lawful right to carry a deadly weapon, other than a firearm, at the time of the perpetration of the crime or his or her arrest, any person who has been convicted of arson, robbery, burglary, burglary with explosives, rape with force or violence, murder, attempt to commit murder, trainwrecking, kidnapping, escape from the state prison, or a conspiracy to commit one or more of those crimes and was armed with such weapon at either of those times.

(2) Any person who used or attempted to use a deadly weapon upon a human being in connection with the perpetration of the crime of which he or she has been convicted.

(3) Any person who willfully inflicted great bodily injury or torture in the perpetration of the crime of which he or she has been convicted.

(4) Any person who has been previously convicted twice in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony.

(5) Unless the person has never been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, any person who has been convicted of burglary with explosives, rape with force or violence, murder, attempt to commit murder, trainwrecking, extortion, kidnapping, escape from the state prison, a violation of Section 286, 288, or 288a, 288.5, or a conspiracy to commit one or more of those crimes.

(6) Any person who has been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, if he or she committed any of the following acts:

(A) Unless the person had a lawful right to carry a deadly weapon at the time of the perpetration of the previous crime or his or her arrest for the previous crime, he or she was armed with a weapon at either of those times.

(B) The person used or attempted to use a deadly weapon upon a human being in connection with the perpetration of the previous crime.

(C) The person willfully inflicted great bodily injury or torture in the perpetration of the previous crime.

(7) Any public official or peace officer of this state or any city, county, or other political subdivision who, in the discharge of the duties of his or her public office or employment, accepted or gave or offered to accept or give any bribe, embezzled public money, or was guilty of extortion.

(8) Any person who knowingly furnishes or gives away phencyclidine.

(9) Any person who intentionally inflicted great bodily injury in the commission of arson under subdivision (a) of Section 451 or who intentionally set fire to, burned, or caused the burning of, an inhabited structure or inhabited property in violation of subdivision (b) of Section 451.

(10) Any person who, in the commission of a felony, inflicts great bodily injury or causes the death of a human being by the discharge of a firearm from or at an occupied motor vehicle proceeding on a public street or highway.

(11) Any person who possesses a short-barreled rifle or a short-barreled shotgun under Section 12020, a machinegun under Section 12220, or a silencer under Section 12520.

(f) When probation is granted in a case which comes within the provisions of subdivision (e), the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(g) If a person is not eligible for probation, the judge shall refer the matter to the probation officer for an investigation of the facts relevant to determination of the amount of a restitution fine pursuant to Section 13967 of the Government Code in all cases where the determination is applicable. The judge, in his or her discretion, may direct the probation officer to investigate all facts relevant to the sentencing of the person. Upon that referral, the probation officer shall immediately investigate the circumstances surrounding the crime and the prior record and history of the person and make a written report to the court of his or her findings. The findings shall include a recommendation of the amount of the restitution fine as provided in Section 13967 of the Government Code.

(h) In any case in which a defendant is convicted of a felony and a probation report is prepared pursuant to subdivision (b) or (g), the probation officer shall obtain and include in the report a statement of the comments of the victim concerning the offense. The court may direct the probation officer not to obtain a statement in any case where the victim has in fact testified at any of the court proceedings concerning the offense.

(i) No probationer shall be released to enter another state unless his or her case has been referred to the Administrator, Interstate Probation and Parole Compacts, pursuant to the Uniform Act for Out-of-State Probationer or Parolee Supervision (Article 3 (commencing with Section 11175) of Chapter 2 of Title 1 of Part 4).

(j) In any court where a county financial evaluation officer is available, in addition to referring the matter to the probation officer, the court may order the defendant to appear before the county financial evaluation officer for a financial evaluation of the defendant's ability to pay restitution, in which case the county financial evaluation officer shall report his or her findings regarding restitution and other court-related costs to the probation officer on the question of the defendant's ability to pay those costs.

Any order made pursuant to this subdivision may be enforced as a violation of the terms and conditions of probation upon willful failure to pay and at the discretion of the court and as stated in the order, may be enforced in the same manner as a judgment in a civil action, if any balance remains unpaid at the end of the defendant's probationary period.

(Enacted 1872; most recently amended Stats 1989 ch 1402)

1203.01. Filing statement of views. Immediately after judgment has been pronounced, the judge and the district attorney, respectively, may cause to be filed with the clerk of the court a brief statement of their views respecting the person convicted or sentenced and the crime committed, together with any reports the probation officer may have filed relative to the prisoner. The judge and district attorney shall cause those statements to be filed if no probation officer's report has been filed. The attorney for the defendant and the law enforcement agency that investigated the case may likewise file with the clerk of the court statements of their views respecting the defendant and the crime of which he or she was convicted. Immediately after the filing of those statements and reports, the clerk of the court shall mail a copy thereof, certified by that clerk, with postage prepaid, addressed to the Department of Corrections at the prison or other institution to which the person convicted is delivered. Within 60 days after judgment has been pronounced, the clerk shall mail a copy of the charging documents, the transcript of the proceedings at the time of the defendant's guilty plea, if the defendant pleaded guilty, and the transcript of the proceedings at the time of sentencing, with postage prepaid, to the prison or other institution to which the person convicted is delivered. The clerk shall also mail a copy of any statement submitted by the court, district attorney, or law enforcement agency, pursuant to this section, with postage prepaid, addressed to the attorney for the defendant, if any, and to the defendant, in care of the Department of Corrections, and a copy of any statement submitted by the attorney for the defendant, with postage prepaid, shall be mailed to the district attorney.

(Added Stats 1947 ch 1178; most recently amended 1989 ch 702)

1203.016. Home detention. (a) Notwithstanding any other provision of the law, the board of supervisors of any county may authorize the correctional administrator, as defined in subdivision (h), to offer a program under which minimum security inmates and low-risk offenders committed to a county jail or other county correctional facility or inmates participating in a work furlough program may voluntarily participate in a home detention program during their sentence in lieu of confinement in the county jail or other county correctional facility.

(b) The board of supervisors may prescribe reasonable rules and regulations under which a home detention program may operate. As a condition of participation in the home detention program, the inmate shall give his or her consent in writing to participate in the home detention program and shall in writing agree to comply with the rules and regulations of the program, including, but not limited to, the following rules:

(1) The participant shall remain within the interior premises of his or her residence during the hours designated by the correctional administrator.

(2) The participant shall admit any person or agent designated by the correctional administrator into his or her residence at any time for purposes of verifying the participant's compliance with the conditions of his or her detention.

(3) The participant shall agree to the use of electronic monitoring or supervising devices for the purpose of helping to verify his or her compliance with the rules and regulations of the home detention program. The devices shall not be used to eavesdrop or record any conversation, except a conversation between the participant and the person supervising the participant which is to be used solely for the purposes of voice identification.

(4) The participant shall agree that the correctional administrator in charge of the county correctional facility from which the participant was released may, without further order of the court, immediately retake the person into custody to serve the balance of his or her sentence if the electronic monitoring or supervising devices are unable for any reason to properly perform their function at the designated place of home detention or if the person fails to remain within the place of home detention as stipulated in the agreement or for any other reason no longer meets the established criteria for release under this section. A copy of the agreement shall be delivered to the participant and a copy retained by the correctional administrator.

(c) Whenever the peace officer supervising a participant has reasonable cause to believe that the participant is not complying with the rules or conditions of the program, or that the electronic monitoring devices are unable to function properly in the designated place of confinement, the peace officer may, under general or specific authorization of the correctional administrator, and without a warrant of arrest, retake the person into custody to complete the remainder of the original sentence.

(d) Nothing in this section shall be construed to require the correctional administrator to allow a person to participate in this program if it appears from the record that the person has not satisfactorily complied with reasonable rules and regulations while in custody. A person shall be eligible for participation in a home detention program only if the correctional administrator concludes that the person meets the criteria for release established under this section.

(e) The correctional administrator may permit home detention program participants to seek and retain employment in the community, attend psychological counseling sessions or educational or vocational training classes, or seek medical and dental assistance.

(f) At the time of sentencing or at any time that the court deems it necessary, the court may restrict or deny the defendant's participation in a home detention program.

(g) The board of supervisors may prescribe a program administrative fee, not to exceed the pro rata cost of the electronic monitoring or supervising device and the cost of administration of the program, to be paid by each home detention participant according to his or her ability to pay. Inability to pay shall not preclude participation in the program.

(h) As used in this section, the following words used in this section have the following meanings:

(1) "Correctional administrator" means the sheriff, probation officer, or other official in charge of a county correctional facility or work furlough program.

(2) "Minimum security inmate" means an inmate who, by established local classification criteria, would be eligible for placement in a Type IV local detention facility, as described in Title 15 of the California Code of Regulations, or for placement into the community for work or school activities, or who is determined to be a minimum security risk under a classification plan developed pursuant to Section 1050 of Title 15 of the California Code of Regulations.

(3) "Low-risk offender" means a probationer, as defined by the National Institute of Corrections model probation system.

(i) The Board of Corrections shall monitor home detention programs operated pursuant to this section and shall report to the Legislature on or before January 1, 1992, regarding their effectiveness. The report shall include an evaluation of the costs of the programs, the impact upon jail overcrowding, and the effect upon the safety of the public.

(j) This section shall remain operative only until January 1, 1993, and as of that date is repealed.

(Added and repealed by Stats 1988 ch 1603, operative until 1/1/93)

1203.02. Special requirement. The court, or judge thereof, in granting probation to a defendant convicted of any of the offenses enumerated in Section 290 of this code shall inquire into the question whether the defendant at the time the offense was committed was intoxicated or addicted to the excessive use of alcoholic liquor or beverages at that time or immediately prior thereto, and if the court, or judge thereof, believes that the defendant was so intoxicated, or so addicted, such court, or judge thereof, shall require as a condition of such probation that the defendant totally abstain from the use of alcoholic liquor or beverages.

(Added Stats 1st Ex Sess 1950 ch 25; amended Stats 1951 ch 1608)

1203.03. Diagnosis by Department of Corrections. (a) In any case in which a defendant is convicted of an offense punishable by imprisonment in the state prison, the court, if it concludes that a just disposition of the case requires such diagnosis and treatment services as can be provided at a diagnostic facility of the Department of Corrections, may order that defendant be placed tempo-

rarily in such facility for a period not to exceed 90 days, with the further provision in such order that the Director of the Department of Corrections report to the court his diagnosis and recommendations concerning the defendant within the 90-day period.

(b) The Director of the Department of Corrections shall, within the 90 days, cause defendant to be observed and examined and shall forward to the court his diagnosis and recommendation concerning the disposition of defendant's case. Such diagnosis and recommendation shall be embodied in a written report and copies of the report shall be served only upon the defendant or his counsel, the probation officer, and the prosecuting attorney by the court receiving such report. After delivery of the copies of the report, the information contained therein shall not be disclosed to anyone else without the consent of the defendant. After disposition of the case, all copies of the report, except the one delivered to the defendant or his counsel, shall be filed in a sealed file and shall be available thereafter only to the defendant or his counsel, the prosecuting attorney, the court, the probation officer, or the Department of Corrections.

(c) Notwithstanding subdivision (b), the probation officer may retain a copy of the report for the purpose of supervision of the defendant if the defendant is placed on probation by the court. The report and information contained therein shall be confidential and shall not be disclosed to anyone else without the written consent of the defendant. Upon the completion or termination of probation, the copy of the report shall be returned by the probation officer to the sealed file prescribed in subdivision (b).

(d) The Department of Corrections shall designate the place to which a person referred to it under the provisions of this section shall be transported. After the receipt of any such person, the department may return the person to the referring court if the director of the department, in his discretion, determines that the staff and facilities of the department are inadequate to provide such services.

(e) The sheriff of the county in which an order is made placing a defendant in a diagnostic facility pursuant to this section, or any other peace officer designated by the court, shall execute the order placing such defendant in the center or returning him therefrom to the court. The expense of such sheriff or other peace officer incurred in executing such order is a charge upon the county in which the court is situated.

(f) It is the intention of the Legislature that the diagnostic facilities made available to the counties by this section shall only be used for the purposes designated and not in lieu of sentences to local facilities.

(g) Time spent by a defendant in confinement in a diagnostic facility of the Department of Corrections pursuant to this section or as an inpatient of the California Rehabilitation Center shall be credited on the term of imprisonment in state prison, if any, to which defendant is sentenced in the case.

(h) In any case in which a defendant has been placed in a diagnostic facility pursuant to this section and, in the course of his confinement, he is determined to be suffering from a remediable condition relevant to his criminal conduct, the department may, with the permission of defendant, administer treatment for such condition. If such treatment will require a longer period of confinement than the period for which defendant was placed in the diagnostic facility, the

Director of Corrections may file with the court which placed defendant in the facility a petition for extension of the period of confinement, to which shall be attached a writing signed by defendant giving his consent to the extension. If the court finds the petition and consent in order, it may order the extension, and transmit a copy of the order to the Director of Corrections.

(Added by Stats 1957 ch 975; most recently amended Stats 1977 ch 165, effective 6/29/77, operative 7/1/77)

1203.04. Restitution. (a) In every case where a person is convicted of a crime and is granted probation, the court shall require, as a condition of probation, that the person make restitution as follows:

(1) To the victim, if the crime involved a victim. For purposes of this section, "victim" shall include the immediate surviving family of the actual victim in homicide cases. Payments shall be made to the Restitution Fund to the extent the victim has received assistance pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code.

(2) To the Restitution Fund, if the crime did not involve a victim.

(b) If the court finds, and states its reasons for the finding on the record, that there are compelling and extraordinary reasons why restitution should not be required as provided in subdivision (a), the court shall require, as a condition of probation, that the person perform specified community service.

(c) The court may avoid imposing the requirement of community service as a condition of probation only if it finds, and states its reasons for the finding on the record, that there are compelling and extraordinary reasons not to require community service in addition to its finding as to why restitution pursuant to subdivision (a) should not be required.

(d) For purposes of paragraph (1) of subdivision (a), "restitution" means full or partial payment for the value of stolen or damaged property, medical expenses, and wages or profits lost due to injury or to time spent as a witness or in assisting the police or prosecution, which losses were caused by the defendant as a result of committing the crime for which he or she was convicted. 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.

Restitution collected pursuant to this section shall be credited to any other judgments obtained by the victim against the defendant arising out of the crime for which the defendant was convicted.

(e) For purposes of paragraph (2) of subdivision (a), the amount of restitution to be paid to the Restitution Fund shall be set at the discretion of the court and commensurate with the seriousness of the offense; but shall not exceed ten thousand dollars ($10,000) if the person is convicted of a felony; and shall not exceed one thousand dollars ($1,000) if the person is convicted of a misdemeanor.

(f) Nothing in this section shall be construed to limit the authority of the court to grant or deny probation or provide conditions of probation.

(g) As used in this section, probation includes a "conditional sentence" as that term is defined in subdivision (a) of Section 1203.

(Added by Stats 1970 ch 33; most recently amended Stats 1984 ch 1340)

1203.045. Probation ineligibility. (a) Except in unusual cases where the interests of justice would best be served if the person is granted probation,

probation shall not be granted to any person convicted of a crime of theft of an amount exceeding one hundred thousand dollars ($100,000).

(b) The fact that the theft was of an amount exceeding one hundred thousand dollars ($100,000) shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(c) When probation is granted, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(Added Stats 1983 ch 327)

1203.046. Probation ineligibility. (a) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any person who is convicted of violating Section 653j by using, soliciting, inducing, encouraging, or intimidating a minor to commit a felony in violation of that section.

(b) When probation is granted pursuant to subdivision (a), the court shall specify on the record and shall enter into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(Added Stats. 1987 ch 1087; amended Stats 1989 ch 897)

1203.048. Probation ineligibility. (a) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any person convicted of a violation of Section 502 or subdivision (b) of Section 502.7 involving the taking of or damage to property with a value exceeding one hundred thousand dollars ($100,000).

(b) The fact that the value of the property taken or damaged was an amount exceeding one hundred thousand dollars ($100,000) shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilt or nolo contendere or by trial by the court sitting without a jury.

(c) When probation is granted, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(Added Stats 1989 ch 1357)

1203.05. Availability of probation report for inspection or copying. Any report of the probation officer filed with the court, including any report arising out of a previous arrest of the person who is the subject of the report, may be inspected or copied only as follows:

(a) By any person, from the date judgment is pronounced or probation granted or, in the case of a report arising out of a previous arrest, from the date the subsequent accusatory pleading is filed, to and including 60 days from the date judgment is pronounced or probation is granted, whichever is earlier.

(b) By any person, at any time, by order of the court, upon filing a petition therefor by such person.

(c) By the general public, if the court upon its own motion orders that a report or reports shall be open or that the contents of the report or reports shall be disclosed.

(d) By any person authorized or required by law to inspect or receive copies of the report.

(Repealed and added Stats, 1981 ch 283)

1203.06. Probation Ineligibiliity. Notwithstanding the provisions of Section 1203:

(a) Probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any of the following persons:

(1) Any person who personally used a firearm during the commission or attempted commission of any of the following crimes:

(i) Murder.

(ii) Robbery, in violation of Section 211.

(iii) Kidnapping, in violation of Section 207.

(iv) Kidnapping for ransom, extortion, or robbery, in violation of Section 209.

(v) Burglary of the first degree, as defined in Section 460.

(vi) Except as provided in Section 1203.065, rape in violation of subdivision (2) of Section 261.

(vii) Assault with intent to commit rape or sodomy, in violation of Section 220.

(viii) Escape, in violation of Section 4530 or 4532.

(ix) A felony violation of Section 136.1 or 137.

(2) Any person previously convicted of a felony specified in subparagraphs (i) through (viii) of paragraph (1), or assault with intent to commit murder under former Section 217, who is convicted of a subsequent felony and who was personally armed with a firearm at any time during its commission or attempted commission or was unlawfully armed with a firearm at the time of his or her arrest for the subsequent felony.

(b) (1) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(2) This subdivision does not prohibit the adjournment of criminal proceedings pursuant to Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(3) As used in subdivision (a) "used a firearm" means to display a firearm in a menacing manner, to intentionally fire it, or to intentionally strike or hit a human being with it.

(4) As used in subdivision (a) "armed with a firearm" means to knowingly carry a firearm as a means of offense or defense.

(Added Stats 1975 ch 1004; most recently amended Stats 1987 ch 828)

1203.065. Probation ineligibility. (a) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person convicted of violating subdivision (2) of Section 261, or Section 264.1, or Section 266h, or Section 266i, or Section 266j, or subdivision (a) of Section 289, or of committing sodomy or oral copulation in

violation of Section 286 or 288a by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person or subdivision (c) of Section 311.4.

(b) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any person convicted of a violation of Section 220 for assault with intent to commit any of the following: rape, sodomy, oral copulation, any violation of Section 264.1, any violation of subdivision (b) of Section 288, or any violation of Section 289.

When probation is granted, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(c) 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.

(Added Stats 1979 ch 944; most recently amended Stats 1989 ch 897)

1203.066. Probation eligibility. (a) Notwithstanding Section 1203, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provisions of this section be stricken pursuant to Section 1385 for, any of the following persons:

(1) A person convicted of violating Section 288 when the act is committed by the use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(2) A person who caused bodily injury on the child victim in committing a violation of Section 288.

(3) A person convicted of a violation of Section 288 and who was a stranger to the child victim or made friends with the child victim for the purpose of committing an act in violation of Section 288, unless the defendant honestly and reasonably believed the victim was 14 years old or older.

(4) A person who used a weapon during the commission of a violation of Section 288.

(5) A person convicted of committing a violation of Section 288 and who has had a prior conviction of Section 261, 264.1, 267, 285, 288, or 289, of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, of assaulting another with intent to commit a crime specified in this paragraph in violation of Section 220, or a violation of Section 266.

(6) A person convicted of kidnapping the child victim in violation of either Section 207 or 209 and who kidnapped the victim for the purpose of committing a violation of Section 288.

(7) A person who is convicted of committing a violation of Section 288 on more than one victim at the same time or in the same course of conduct.

(8) A person who in violating Section 288 or 288.5 has substantial sexual conduct with a victim under the age of 11 years.

(9) A person who occupies a position of special trust and commits an act of substantial sexual conduct. "Position of special trust" means that position occupied by a person in a position of authority who by reason of that position is able to exercise undue influence over the victim. Position of authority includes,

but is not limited to, the position occupied by a natural parent, adoptive parent, stepparent, foster parent, relative, household member, adult youth leader, recreational director who is an adult, adult athletic manager, adult coach, teacher, counselor, religious leader, doctor, or employer.

(10) A person who, in committing a violation of Section 288, used obscene matter, as defined in Section 311, or matter (as defined in Section 311) depicting sexual conduct, as defined in Section 311.3.

(b) "Substantial sexual conduct" means penetration of the vagina or rectum by the penis of the offender or by any foreign object, oral copulation, or masturbation of either the victim or the offender.

(c) Paragraphs (7), (8), (9), and (10) of subdivision (a) shall not apply when the court makes all of the following findings:

(1) The defendant is the victim's natural parent, adoptive parent, stepparent, relative, or is a member of the victim's household who has lived in the household.

(2) Imprisonment of the defendant is not in the best interest of the child.

(3) Rehabilitation of the defendant is feasible in a recognized treatment program designed to deal with child molestation, and if the defendant is to remain in the household, a program that is specifically designed to deal with molestation within the family.

(4) There is no threat of physical harm to the child victim if there is no imprisonment. The court upon making its findings pursuant to this subdivision is not precluded from sentencing the defendant to jail or prison, but retains the discretion not to. The court shall state its reasons on the record for whatever sentence it imposes on the defendant.

The court shall order the psychiatrist or psychologist appointed pursuant to Section 288.1 to include a consideration of the factors specified in paragraphs (2), (3), and (4) in making his or her report to the court.

(d) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(Added Stats 1981 ch 1064; most recently amended Stats 1989 ch 1402)

1203.07. Probation ineligibility—drug and narcotic offenses. (a) Notwithstanding Section 1203, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any of the following persons:

(1) Any person who is convicted of violating Section 11351 of the Health and Safety Code by possessing for sale 14.25 grams or more of a substance containing heroin.

(2) Any person who is convicted of violating Section 11352 of the Health and Safety Code by selling or offering to sell 14.25 grams or more of a substance containing heroin.

(3) Any person convicted of violating Section 11351 of the Health and Safety Code by possessing heroin for sale or convicted of violating Section 11352 of the

Health and Safety Code by selling or offering to sell heroin, and who has one or more prior convictions for violating Section 11351 or Section 11352 of the Health and Safety Code.

(4) Any person who is convicted of violating Section 11378.5 of the Health and Safety Code by possessing for sale 14.25 grams or more of any salt or solution of phencyclidine or any of its analogs as specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or in paragraph (3) of subdivision (e) of Section 11055 of the Health and Safety Code, or any of the precursors of phencyclidine as specified in paragraph (2) of subdivision (f) of Section 11055 of the Health and Safety Code.

(5) Any person who is convicted of violating Section 11379.5 of the Health and Safety Code by transporting for sale, importing for sale, or administering, or offering to transport for sale, import for sale, or administer, or by attempting to import for sale or transport for sale, phencyclidine or any of its analogs or precursors.

(6) Any person who is convicted of violating Section 11379.5 of the Health and Safety Code by selling or offering to sell phencyclidine or any of its analogs or precursors.

(7) Any person who is convicted of violating Section 11379.6 of the Health and Safety Code by manufacturing or offering to perform an act involving the manufacture of phencyclidine or any of its analogs or precursors.

As used in this section "manufacture" refers to the act of any person who manufactures, compounds, converts, produces, derives, processes, or prepares, either directly or indirectly by chemical extraction or independently by means of chemical synthesis.

(8) Any person who is convicted of violating Section 11380 of the Health and Safety Code by using, soliciting, inducing, encouraging, or intimidating a minor to act as an agent to manufacture, compound, or sell any controlled substance specified in subdivision (d) of Section 11054 of the Health and Safety Code, except paragraphs (13), (14), (15), (20), (21), (22), and (23) of subdivision (d), or specified in subdivisions (d), (e), or (f) of Section 11055 of the Health and Safety Code, except paragraph (3) of subdivision (e) and subparagraphs (A) and (B) of paragraph (2) of subdivision (f).

(9) Any person who is convicted of violating Section 11380.5 of the Health and Safety Code by the use of a minor as an agent or who solicits, induces, encourages, or intimidates a minor with the intent that the minor shall violate the provisions of Section 11378.5, 11379.5, or 11379.6 of the Health and Safety Code insofar as the violation relates to phencyclidine or any of its analogs or precursors.

(10) Any person who is convicted of violating subdivision (b) of Section 11383 of the Health and Safety Code by possessing piperidine, pyrrolidine, or morpholine, and cyclohexanone, with intent to manufacture phencyclidine or any of its analogs.

(11) Any person convicted of violating Section 11351, 11351.5, or 11378 of the Health and Safety Code by possessing for sale cocaine base, cocaine, or methamphetamine, or convicted of violating Section 11352 or 11379 of the Health and Safety Code, by selling or offering to sell cocaine base, cocaine, or methamphetamine and who has one or more convictions for violating Section 11351, 11351.5, 11352, 11378, 11378.5, 11379, or 11379.5 of the Health and Safety Code. For

purposes of prior convictions under Sections 11352, 11379, and 11379.5 of the Health and Safety Code, this subdivision shall not apply to the transportation, offering to transport, or attempting to transport a controlled substance.

(b) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the information or indictment, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(Added Stats 1975 ch 1087; most recently amended Stats 1989 ch 1135)

1203.073. Probation ineligibility. (a) A person convicted of a felony specified in subdivision (b) may be granted probation only in an unusual case where the interests of justice would best be served; when probation is granted in such a case, the court shall specify on the record and shall enter in the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(b) Except as provided in subdivision (a), probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any of the following persons:

(1) Any person who is convicted of violating Section 11351 of the Health and Safety Code by possessing for sale, or Section 11352 of the Health and Safety Code by selling, 28.5 grams or more of cocaine as specified in paragraph (6) of subdivision (b) of Section 11055 of the Health and Safety Code, or a substance containing 28.5 grams or more of cocaine as specified in paragraph (6) of subdivision (b) of Section 11055 of the Health and Safety Code, or 57 grams or more of a substance containing cocaine as specified in paragraph (6) of subdivision (b) of Section 11055 of the Health and Safety Code.

(2) Any person who is convicted of violating Section 11378 of the Health and Safety Code by possessing for sale, or Section 11379 of the Health and Safety Code by selling, 28.5 grams or more of methamphetamine, or a substance containing 28.5 grams or more of methamphetamine, or 57 grams or more of a substance containing methamphetamine.

(3) Any person who is convicted of violating subdivision (a) of Section 11379.6 of the Health and Safety Code, except those who manufacture phencyclidine, or who is convicted of an act which is punishable under subdivision (b) of Section 11379.6 of the Health and Safety Code, except those who offer to perform an act which aids in the manufacture of phencyclidine.

(4) Except as otherwise provided in Section 1203.07, any person who is convicted of violating Section 11353 or 11380 of the Health and Safety Code by using, soliciting, inducing, encouraging, or intimidating a minor to manufacture, compound, or sell heroin, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054 of the Health and Safety Code, cocaine as specified in paragraph (6) of subdivision (b) of Section 11055 of the Health and Safety Code, or methamphetamine.

(5) Any person who is convicted of violating Section 11351.5 of the Health and Safety Code by possessing for sale 14.25 grams or more of cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054 of the Health and Safety Code, or a substance containing 14.25 grams or more of cocaine base as specified in

paragraph (1) of subdivision (f) of Section 11054 of the Health and Safety Code, or 57 grams or more of a substance containing at least five grams of cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054 of the Health and Safety Code.

(6) Any person who is convicted of violating Section 11352 of the Health and Safety Code by transporting for sale, importing for sale, or administering, or by offering to transport for sale, import for sale, or administer, or by attempting to import for sale or transport for sale, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054 of the Health and Safety Code.

(7) Any person who is convicted of violating Section 11352 of the Health and Safety Code by selling or offering to sell cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054 of the Health and Safety Code.

As used in this section, the term "manufacture" refers to the act of any person who manufactures, compounds, converts, produces, derives, processes, or prepares, either directly or indirectly by chemical extraction or independently by means of chemical synthesis.

(Added Stats 1982 ch 1283; most recently amended Stats 1987 ch 1174, effective 9/26/87)

1203.074. Denial of probation: Suppress law enforcement entry. (a) A person convicted of a felony specified in subdivision (b) may be granted probation only in an unusual case where the interests of justice would best be served; when probation is granted in such a case, the court shall specify on the record and shall enter in the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(b) Except as provided in subdivision (a), probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person who is convicted of violating Section 11366.6 of the Health and Safety Code.

(Added Stats 1985 ch 1533)

1203.075. Probation ineligibility. Notwithstanding the provisions of Section 1203:

(a) Probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provisions of this section be stricken pursuant to Section 1385 for, any person who, with the intent to inflict such injury, personally inflicts great bodily injury on the person of another in the commission or attempted commission of any of the following crimes:

(1) Murder.
(2) Robbery, in violation of Section 211.
(3) Kidnapping, in violation of Section 207.
(4) Kidnapping for ransom, extortion, or robbery, in violation of Section 209.
(5) Burglary of the first degree, as defined in Section 460.
(6) Rape, in violation of subdivision (2) of Section 261.
(7) Assault with intent to commit rape or sodomy, in violation of Section 220.
(8) Escape, in violation of Section 4530 or 4532.
(9) A violation of subdivision (a) of Section 289.
(10) Sodomy, in violation of Section 286.
(11) Oral copulation, in violation of Section 288a.

(b) (1) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by a trial by the court sitting without a jury.

(2) This subdivision 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.

(3) As used in subdivision (a), "great bodily injury" means "great bodily injury" as defined in Section 12022.7.

(Added Stats 1979 ch 671; most recently amended Stats 1987 ch 828)

1203.08. Probation ineligibility—prior convictions. (a) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any adult person convicted of a designated felony who has been previously convicted as an adult under charges separately brought and tried two or more times of any designated felony or in any other place of a public offense which, if committed in this state, would have been punishable as a designated felony, if all the convictions occurred within a 10-year period. Such 10-year period shall be calculated exclusive of any period of time during which the person has been confined in a state or federal prison.

(b) (1) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the information or indictment, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(2) Except where the existence of such fact was not admitted or found to be true pursuant to paragraph (1), or the court finds that a prior conviction was invalid, the court shall not strike or dismiss any prior convictions alleged in the information or indictment.

(3) This subdivision 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.

(c) As used in this section, "designated felony" means any felony specified in Sections 187, 192, 207, 209, 211, 217, 245, 288, or subdivision (2), (3), or (4) of Section 261, subdivision 1 of Section 460, or when great bodily injury occurs in perpetration of an assault to commit robbery, mayhem, or rape, as defined in Section 220.

(Added Stats 1976 ch 1135; Amended and Renumbered Stats 1977 ch 735)

1203.085. Probation ineligibility—offense committee on parole. (a) Any person convicted of an offense punishable by imprisonment in a state prison but without an alternate sentence to the county jail shall not, in any case, be granted probation or have the execution or imposition of sentence suspended, if such offense was committed while the person was on state prison parole, pursuant to Section 3000, following a term of imprisonment imposed for a "violent felony" as defined in subdivision (c) of Section 667.5.

(b) Any person convicted of a "violent felony" as defined in subdivision (c) of Section 667.5, shall not, in any case, be granted probation or have the execution

or imposition of sentence suspended, if such offense was committed while the person was on state prison parole, pursuant to Section 3000.

(c) The existence of any fact which would make a person ineligible for probation under subdivision (a) or (b) shall be alleged in the information or indictment, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(Added Stats. 1977 ch 1153; amended and renumbered Stats 1980 ch 132, effective 5/29/80)

1203.09. Probation ineligibility—offense against aged. (a) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person who commits or attempts to commit one or more of the crimes listed in subdivision (b) against a person who is 60 years of age or older; or against a person who is blind, a paraplegic, or a quadriplegic, and such disability is known or reasonably should be known to the person committing the crime; and who during the course of the offense inflicts great bodily injury upon such person.

(b) Subdivision (a) applies to the following crimes:

(i) Murder.

(ii) Assault with intent to commit murder, in violation of Section 217.

(iii) Robbery, in violation of Section 211.

(iv) Kidnapping, in violation of Section 207.

(v) Kidnapping for ransom, extortion, or robbery, in violation of Section 209.

(vi) Burglary of the first degree, as defined in Section 460.

(vii) Rape by force or violence, in violation of subdivision (2) of Section 261.

(viii) Assault with intent to commit rape, sodomy, or robbery, in violation of Section 220.

(c) The existence of any fact which would make a person ineligible for probation under either subdivision (a) or (f) shall be alleged in the information or indictment, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(d) As used in this section "great bodily injury" means "great bodily injury" as defined in Section 12022.7.

(e) This section shall apply in all cases, including those cases where the infliction of great bodily injury is an element of the offense.

(f) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person convicted of having committed one or more of the following crimes against a person who is 60 years of age or older: assault with a deadly weapon or instrument, battery which results in physical injury which requires professional medical treatment, robbery, or mayhem.

(Added Stats 1977 ch 1150; most recently amended by Stats 1983 ch 993, effective 9/22/83)

1203.1. Suspension of imposition of sentence. The court or judge thereof, in the order granting probation, may suspend the imposing, or the

execution, of the sentence and may direct that the suspension may continue for a period of time not exceeding the maximum possible term of the sentence, except as hereinafter set forth, and upon those terms and conditions as it shall determine. The court, or judge thereof, in the order granting probation and as a condition thereof may imprison the defendant in the county jail for a period not exceeding the maximum time fixed by law in the case; however, where the maximum possible term of the sentence is five years or less, then the period of suspension of imposition or execution of sentence may, in the discretion of the court, continue for not over five years; may fine the defendant in a sum not to exceed the maximum fine provided by law in the case; or may in connection with granting probation, impose either imprisonment in county jail, or fine, or both, or neither; shall provide for restitution in proper cases; and may require bonds for the faithful observance and performance of any or all of the conditions of probation.

The court shall consider whether the defendant as a condition of probation shall make restitution to the victim or the Restitution Fund. Any restitution payment received by a probation department in the form of cash or money order shall be forwarded to the victim within 30 days from the date the payment is received by the department. Any restitution payment received by a probation department in the form of a check or draft shall be forwarded to the victim within 45 days from the date the payment is received by the department, provided, that payment need not be forwarded to a victim until 180 days from the date the first such payment is received, if the restitution payments for that victim received by the probation department total less than fifty dollars ($50). In cases where the court has ordered the defendant to pay restitution to multiple victims and where the administrative cost of disbursing restitution payments to multiple victims involves a significant cost, any restitution payment received by a probation department shall be forwarded to multiple victims when it is cost effective to do so, but in no event shall restitution disbursements be delayed beyond 180 days from the date the payment is received by the probation department. In counties or cities and counties where road camps, farms, or other public work is available the court may place the probationer in such a road camp, farm, or other public work instead of in jail; Section 25359 of the Government Code shall apply to probation and the court shall have the same power to require adult probationers to work, as prisoners confined in the county jail are required to work, at public work. Each county board of supervisors may fix the scale of compensation of the adult probationers in that county. In all cases of probation the court may require as a condition of probation that the probationer go to work and earn money for the support of his or her dependents or to pay any fine imposed or reparation condition, to keep an account of his or her earnings, to report them to the probation officer and apply those earnings as directed by the court.

The court shall also consider whether the defendant as a condition of probation shall make restitution to a public agency for the costs of an emergency response pursuant to Article 8 (commencing with Section 53150) of Chapter 1 of Part 1 of Division 2 of the Government Code.

In all such cases if as a condition of probation a judge of the superior court sitting by authority of law elsewhere than at the county seat requires a convicted person to serve his or her sentence at intermittent periods the sentence may be

served on the order of the judge at the city jail nearest to the place at which the court is sitting, and the cost of his or her maintenance shall be a county charge.

Upon conviction of any offense involving child abuse or neglect, the court may require, in addition to any or all of the above-mentioned terms of imprisonment, fine, and other reasonable conditions, that the defendant shall participate in counseling or education programs, or both, including, but not limited to, parent education or parenting programs operated by community colleges, school districts, other public agencies, or private agencies.

The court may impose and require any or all of the above-mentioned terms of imprisonment, fine, and conditions, and other reasonable conditions, as it may determine are fitting and proper to the end that justice may be done, that amends may be made to society for the breach of the law, for any injury done to any person resulting from that breach, and generally and specifically for the reformation and rehabilitation of the probationer, and that should the probationer violate any of the terms or conditions imposed by the court in the matter, it shall have authority to modify and change any and all such terms and conditions and to reimprison the probationer in the county jail within the limitations of the penalty of the public offense involved. Upon the defendant being released from the county jail under the terms of probation as originally granted or any modification subsequently made, and in all cases where confinement in a county jail has not been a condition of the grant of probation, the court shall place the defendant or probationer in and under the charge of the probation officer of the court, for the period or term fixed for probation. However, upon the payment of any fine imposed and the fulfillment of all conditions of probation, probation shall cease at the end of the term of probation, or sooner, in the event of modification. In counties and cities and counties in which there are facilities for taking fingerprints, those of each probationer shall be taken and a record of them kept and preserved.

Notwithstanding any other provisions of law to the contrary, except as provided in Sections 13967 and 13967.5 of the Government Code and Sections 1202.4, 1203.04, 1463.16, paragraph (1) of subdivision (a) of Section 1463.18, and Section 1464, all fines collected by a county probation officer in any of the courts of this state, as a condition of the granting of probation or as a part of the terms of probation, shall be paid into the county treasury and placed in the general fund for the use and benefit of the county.

If the court orders restitution to be made to the victim, the board of supervisors may add a fee to cover the actual administrative cost of collecting restitution but not to exceed 10 percent of the total amount ordered to be paid. The fees shall be paid into the general fund of the county treasury for the use and benefit of the county.

(Added Stats 1935; most recently amended Stats 1988 ch 975)

1203.1a. Probation officer's power to authorize temporary removal or release of inmate of detention facility. The probation officer of the county may authorize the temporary removal under custody or temporary release without custody of any inmate of the county jail, honor farm, or other detention facility, who is confined or committed as a condition of probation, after suspension of imposition of sentence or suspension of execution of sentence, for purposes

preparatory to his return to the community, within 30 days prior to his release date, if he concludes that such an inmate is a fit subject therefor. Any such temporary removal shall not be for a period of more than three days. When an inmate is released for purposes preparatory to his return to the community, the probation officer may require the inmate to reimburse the county, in whole or in part, for expenses incurred by the county in connection therewith.

(Added Stats 1971 ch 1357)

1203.1b. Cost of probation services. (a) In any case in which a defendant is convicted of an offense and granted probation, the court, taking into account any amount which the defendant is ordered to pay in fines, assessments, and restitution, shall make a determination of the ability of the defendent to pay all or a portion of the reasonable cost of probation; and of conducting the presentence investigation and preparing the presentence report made pursuant to Section 1203. The reasonable cost of the services and of probation shall not exceed the amount determined to be the actual average cost thereof. The court shall order the defendant to appear before a county officer designated by the court to make an inquiry into the ability of the defendant to pay all or a portion of such costs. At a hearing, the defendant shall be entitled to have, but shall not be limited to, the opportunity to be heard in person, to present witnesses and other documentary evidence, and to confront and cross-examine adverse witnesses, and to disclosure of the evidence against the defendant, and a written statement of the findings of the court or the county officer. If the court determines that the defendant has the ability to pay all or part of the costs, the court shall set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner in which the court believes reasonable and compatible with the defendant's financial ability; or with the consent of the defendant, the court shall order the probation officer to set the amount of payment, which shall not exceed the maximum amount set by the court, and the manner in which the payment shall be made to the county. In making a determination of whether a defendant has the ability to pay, the court shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution. The court may hold additional hearings during the probationary period.

If practicable, the court or the probation officer shall order payments to be made on a monthly basis. Execution may be issued on the order in the same manner as a judgment in a civil action. The order to pay all or part of the costs shall not be enforced by contempt.

A payment schedule for reimbursement of the costs of presentence investigation based on income shall be developed by the probation department of each county and approved by the presiding judges of the municipal and superior courts.

(b) The term "ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of conducting the presentence investigation, preparing the presentence report, and probation, and shall include, but shall not be limited to, the defendant's:

(1) Present financial position.

(2) Reasonably discernible future financial position. In no event shall the court consider a period of more than six months from the date of the hearing for purposes of determining reasonably discernible future financial position.

(3) Likelihood that the defendant shall be able to obtain employment within the six-month period from the date of the hearing.

(4) Any other factor or factors which may bear upon the defendant's financial capability to reimburse the county for the costs.

(c) At any time during the pendency of the judgment rendered according to the terms of this section, a defendant against whom a judgment has been rendered may petition the rendering court to modify or vacate its previous judgment on the grounds of a change of circumstances with regard to the defendant's ability to pay the judgment. The court shall advise the defendant of this right at the time of rendering of the judgment.

(d) All sums paid by a defendant pursuant to this section shall be allocated for the operating expenses of the county probation department.

(e) The provisions of this section shall be operative in a county upon the adoption of an ordinance to that effect by the board of supervisors.

(Added Stats 1980 ch 555; most recently amended Stats 1989 ch 1059)

1203.1c. Payment of incarceration costs. (a) In any case in which a defendant is convicted of an offense and is ordered to serve a period of confinement in a county jail, city jail, or other local detention facility as a term of probation or a conditional sentence, the court may, after a hearing, make a determination of the ability of the defendant to pay all or a portion of the reasonable costs of such incarceration, including incarceration pending disposition of the case. The reasonable cost of such incarceration shall not exceed the amount determined by the board of supervisors, with respect to the county jail, and by the city council, with respect to the city jail, to be the actual average cost thereof on a per-day basis. The court may, in its discretion, hold additional hearings during the probationary period. The court may, in its discretion before such hearing, order the defendant to file a statement setting forth his or her assets, liability and income, under penalty of perjury, and may order the defendant to appear before a county officer designated by the board of supervisors to make an inquiry into the ability of the defendant to pay all or a portion of such costs. At the hearing, the defendant shall be entitled to have the opportunity to be heard in person or to be represented by counsel, to present witnesses and other evidence, and to confront and cross-examine adverse witnesses. A defendant represented by counsel appointed by the court in the criminal proceedings shall be entitled to such representation at any hearing held pursuant to this section. If the court determines that the defendant has the ability to pay all or a part of the costs, the court may set the amount to be reimbursed and order the defendant to pay that sum to the county, or to the city with respect to incarceration in the city jail, in the manner in which the court believes reasonable and compatible with the defendant's financial ability. Execution may be issued on the order in the same manner as on a judgment in a civil action. The order to pay all or part of the costs shall not be enforced by contempt.

If practicable, the court shall order payments to be made on a monthly basis and the payments shall be made payable to the county officer designated by the board of supervisors, or to a city officer designated by the city council with respect to incarceration in the city jail.

A payment schedule for reimbursement of the costs of incarceration pursuant to this section based upon income shall be developed by the county officer designated by the board of supervisors, or by the city council with respect to incarceration in the city jail, and approved by the presiding judges of the municipal and superior courts.

(b) "Ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of incarceration and includes, but is not limited to, the defendant's:

(1) Present financial obligations, including family support obligations, and fines, penalties and other obligations to the court.

(2) Reasonably discernible future financial position. In no event shall the court consider a period of more than one year from the date of the hearing for purposes of determining reasonable discernible future position.

(3) Likelihood that the defendant shall be able to obtain employment within the one year period from the date of the hearing.

(4) Any other factor or factors which may bear upon the defendant's financial ability to reimburse the county or city for the costs.

(c) All sums paid by a defendant pursuant to this section shall be deposited in the general fund of the county or city.

(d) This section shall be operative in a county upon the adoption of an ordinance to that effect by the board of supervisors, and shall be operative in a city upon the adoption of an ordinance to that effect by the city council. Such ordinance shall include a designation of the officer responsible for collection of moneys ordered pursuant to this section and shall include a determination, to be reviewed annually, of the average per-day costs of incarceration in the county jail, city jail, or other local detention facility.

(Added Stats 1982 ch 1131; most recently amended 1985 ch 1409, 1485)

1203.1e. Collection of costs—parole. (a) In any case in which a defendant is ordered to serve a period of confinement in a county jail or other local detention facility, and the defendant is eligible to be released on parole by the county board of parole commissioners, the court shall, after a hearing, make a determination of the ability of the person to pay all or a portion of the reasonable cost of providing parole supervision. The reasonable cost of those services shall not exceed the amount determined to be the actual average cost of providing parole supervision.

(b) If the court determines that the person has the ability to pay all or part of the costs, the court may set the amount to be reimbursed and order the person to pay that sum to the county in the manner in which the court believes reasonable and compatible with the person's financial ability. In making a determination of whether a person has the ability to pay, the court shall take into account the amount of any fine imposed upon the person and any amount the person has been ordered to pay in restitution.

If practicable, the court shall order payments to be made on a monthly basis as directed by the court. Execution may be issued on the order in the same manner as a judgment in a civil action. The order to pay all or part of the costs shall not be enforced by contempt.

(c) For the purposes of this section, "ability to pay" means the overall capability of the person to reimburse the costs, or a portion of the costs, of providing parole supervision and shall include, but shall not be limited to, consideration of all of the following factors:

(1) Present financial position.

(2) Reasonably discernible future financial position. In no event shall the board consider a period of more than six months from the date of the hearing for purposes of determining reasonably discernible future financial position.

(3) Likelihood that the person shall be able to obtain employment within the six-month period from the date of the hearing.

(4) Any other factor or factors which may bear upon the person's financial capability to reimburse the county for the costs.

(d) At any time during the pendency of the order made under this section, a person against whom an order has been made may petition the court to modify or vacate its previous order on the grounds of a change of circumstances with regard to the person's ability to pay. The court shall advise the person of this right at the time of making the order.

(e) All sums paid by any person pursuant to this section shall be deposited in the general fund of the county.

(f) The parole of any person shall not be denied or revoked in whole or in part based upon the inability or failure to pay under this section.

(g) The county board of parole commissioners shall not have access to offender financial data prior to the rendering of any parole decision.

(Added Stats 1989 ch 1327, eff. 10/2/89)

1203.1k. Amount of restitution. For any order of restitution made under Section 1203.1, the court may order the specific amount of restitution and the manner in which restitution shall be made to a victim based on the probation officer's report or it may, with the consent of the defendant, order the probation officer to set the amount of restitution and the manner in which restitution shall be made to a victim. The defendant shall have the right to a hearing before the judge to dispute the determinations made by the probation officer in regard to the amount or manner in which restitution is to be made to the victim. If the court orders restitution to be made to the Restitution Fund, the court, and not the probation officer, shall determine the amount and the manner in which restitution is to be made to the Restitution Fund.

(Added Stats. 1987 ch 890)

1203.2. Authority to arrest. (a) At any time during the probationary period of a person released on probation under the care of a probation officer pursuant to this chapter, or of a person released on conditional sentence or summary probation not under the care of a probation officer, if any probation officer or peace officer has probable cause to believe that the probationer is violating any term or condition of his or her probation or conditional sentence, the officer may, without warrant or other process and at any time until the final

disposition of the case, rearrest the person and bring him or her before the court or the court may, in its discretion, issue a warrant for his or her rearrest. Upon such rearrest, or upon the issuance of a warrant for rearrest the court may revoke and terminate such probation if the interests of justice so require and the court, in its judgment, has reason to believe from the report of the probation officer or otherwise that the person has violated any of the conditions of his or her probation, has become abandoned to improper associates or a vicious life, or has subsequently committed other offenses, regardless whether he or she has been prosecuted for such offenses. However, probation shall not be revoked for failure of a person to make restitution pursuant to Section 1203.04 as a condition of probation unless the court determines that the defendant has willfully failed to pay and has the ability to pay. Restitution shall be consistent with a person's ability to pay. The revocation, summary or otherwise, shall serve to toll the running of the probationary period.

(b) Upon its own motion or upon the petition of the probationer, probation officer or the district attorney of the county in which the probationer is supervised, the court may modify, revoke, or terminate the probation of the probationer pursuant to this subdivision. The court shall give notice of its motion, and the probation officer or the district attorney shall give notice of his or her petition to the probationer, his or her attorney of record, and the district attorney or the probation officer, as the case may be. The probationer shall give notice of his or her petition to the probation officer and notice of any motion or petition shall be given to the district attorney in all cases. The court shall refer its motion or the petition to the probation officer. After the receipt of a written report from the probation officer, the court shall read and consider the report and either its motion or the petition and may modify, revoke, or terminate the probation of the probationer upon the grounds set forth in subdivision (a) if the interests of justice so require.

The notice required by this subdivision may be given to the probationer upon his or her first court appearance in the proceeding. Upon the agreement by the probationer in writing to the specific terms of a modification or termination of a specific term of probation, any requirement that the probationer make a personal appearance in court for the purpose of a modification or termination shall be waived. Prior to the modification or termination and waiver of appearance, the probationer shall be informed of his or her right to consult with counsel, and if indigent the right to secure court appointed counsel. If the probationer waives his or her right to counsel a written waiver shall be required. If probationer consults with counsel and thereafter agrees to a modification or termination of the term of probation and waiver of personal appearance, the agreement shall be signed by counsel showing approval for the modification or termination and waiver.

(c) Upon any revocation and termination of probation the court may, if the sentence has been suspended, pronounce judgment for any time within the longest period for which the person might have been sentenced. However, if the judgment has been pronounced and the execution thereof has been suspended, the court may revoke the suspension and order that the judgment shall be in full force and effect. In either case, the person shall be delivered over to the proper officer to serve his or her sentence, less any credits herein provided for.

(d) In any case of revocation and termination of probation, including, but not limited to, cases in which the judgment has been pronounced and the execution thereof has been suspended, upon the revocation and termination, the court may, in lieu of any other sentence, commit the person to the Department of the Youth Authority if he or she is otherwise eligible for such commitment.

(e) If probation has been revoked before the judgment has been pronounced, the order revoking probation may be set aside for good cause upon motion made before pronouncement of judgment. If probation has been revoked after the judgment has been pronounced, the judgment and the order which revoked the probation may be set aside for good cause within 30 days after the court has notice that the execution of the sentence has commenced. If an order setting aside the judgment, the revocation of probation, or both is made after the expiration of the probationary period, the court may again place the person on probation for that period and with those terms and conditions as it could have done immediately following conviction.

(Added Stats 1935 ch 604; most recently amended Stats 1989 ch 1319)

1203.2a. Request for imposition of sentence. If any defendant who has been released on probation is committed to a prison in this state or another state for another offense, the court which released him or her on probation shall have jurisdiction to impose sentence, if no sentence has previously been imposed for the offense for which he or she was granted probation, in the absence of the defendant, on the request of the defendant made through his or her counsel, or by himself or herself in writing, if such writing is signed in the presence of the warden of the prison in which he or she is confined or the duly authorized representative of the warden, and the warden or his or her representative attests both that the defendant has made and signed such request and that he or she states that he or she wishes the court to impose sentence in the case in which he or she was released on probation, in his or her absence and without him or her being represented by counsel.

The probation officer may, upon learning of the defendant's imprisonment, and must within 30 days after being notified in writing by the defendant or his or her counsel, or the warden or duly authorized representative of the prison in which the defendant is confined, report such commitment to the court which released him or her on probation.

Upon being informed by the probation officer of the defendant's confinement, or upon receipt from the warden or duly authorized representative of any prison in this state or another state of a certificate showing that the defendant is confined in prison, the court shall issue its commitment if sentence has previously been imposed. If sentence has not been previously imposed and if the defendant has requested the court through counsel or in writing in the manner herein provided to impose sentence in the case in which he or she was released on probation in his or her absence and without the presence of counsel to represent him or her, the court shall impose sentence and issue its commitment, or shall make other final order terminating its jurisdiction over the defendant in the case in which the order of probation was made. If the case is one in which sentence has previously been imposed, the court shall be deprived of jurisdiction over defendant if it does not issue its commitment or make other final order

terminating its jurisdiction over defendant in the case within 60 days after being notified of the confinement. If the case is one in which sentence has not previously been imposed, the court is deprived of jurisdiction over defendant if it does not impose sentence and issue its commitment or make other final order terminating its jurisdiction over defendant in the case within 30 days after defendant has, in the manner prescribed by this section, requested imposition of sentence.

Upon imposition of sentence hereunder the commitment shall be dated as of the date upon which probation was granted. If the defendant is then in a state prison for an offense committed subsequent to the one upon which he or she has been on probation, the term of imprisonment of such defendant under a commitment issued hereunder shall commence upon the date upon which defendant was delivered to prison under commitment for his or her subsequent offense. Any terms ordered to be served consecutively shall be served as otherwise provided by law.

In the event the probation officer fails to report such commitment to the court or the court fails to impose sentence as herein provided, the court shall be deprived thereafter of all jurisdiction it may have retained in the granting of probation in said case.

(Added Stats 1941 ch 645; most recently amended Stats 1989 ch 1420)

1203.3. Authority to revoke or modify. (a) The court shall have authority at any time during the term of probation to revoke, modify, or change its order of suspension of imposition or execution of sentence. It may at any time when the ends of justice will be subserved thereby, and when the good conduct and reform of the person so held on probation shall warrant it, terminate the period of probation, and discharge the person so held, but no order shall be made without written notice first given by the court or the clerk thereof to the proper probation officer of the intention to revoke, modify, or change its order, and in all cases, if the court has not seen fit to revoke the order of probation and impose sentence or pronounce judgment, the defendant shall at the end of the term of probation or any extension thereof, be by the court discharged subject to the provisions of these sections.

(b) If a probationer is ordered to serve time in jail, and the probationer escapes while serving that time, the probation is revoked as a matter of law on the day of the escape.

(c) If probation is revoked under this section, upon taking the probationer into custody, the probationer shall be accorded a hearing or hearings consistent with the holding in the case of People v. Vickers, 8 Cal. 3d 451. The purpose of that hearing or hearings is not to revoke probation, as the revocation has occurred as a matter of law in accordance with this section, but rather to afford the defendant an opportunity to require the prosecution to establish that the alleged violation did in fact occur and to justify the revocation.

(Added Stats 1935; most recently amended Stats 1986 ch 850)

1203.4. Dismissal of plea and accusation. (a) In any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of the period of probation, or in any other case in which a court, in its discretion and the interests

of justice, determines that a defendant should be granted the relief available under this section, the defendant shall, at any time after the termination of the period of probation, if he or she is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense, be permitted by the court to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty; or, if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and except as noted below, he or she shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted, except as provided in Section 13555 of the Vehicle Code. The probationer shall be informed, in his or her probation papers, of this right and privilege and his or her right, if any, to petition for a certificate of rehabilitation and pardon. The probationer may make the application and change of plea in person or by attorney, or by the probation officer authorized in writing; however, in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The order shall state, and the probationer shall be informed, that the order does not relieve him or her of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery.

Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in his or her custody or control any firearm capable of being concealed upon the person or prevent his or her conviction under Section 12021.

This subdivision shall apply to all applications for relief under this section which are filed on or after November 23, 1970.

(b) Subdivision (a) of this section does not apply to any misdemeanor which is within the provisions of subdivision (b) of Section 42001 of the Vehicle Code, or to any infraction.

(c) A person who petitions for a change of plea or setting aside of a verdict under this section may be required to reimburse the county for the cost of services rendered at a rate to be determined by the county board of supervisors not to exceed sixty dollars ($60), and to reimburse any city for the cost of services rendered at a rate to be determined by the city council not to exceed sixty dollars ($60). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (f) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services established pursuant to this subdivision.

(d) No relief shall be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section.

It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(e) If, after receiving notice pursuant to subdivision (d), the prosecuting attorney fails to appear and object to a petition for dismissal, the prosecuting attorney may not move to set aside or otherwise appeal the grant of that petition.

(Added Stats 1935 ch 604; most recently amended Stats 1989 ch 917)

1203.4a. Withdrawal of plea. (a) Every defendant convicted of a misdemeanor and not granted probation shall, at any time after the lapse of one year from the date of pronouncement of judgment, if he or she has fully complied with and performed the sentence of the court, is not then serving a sentence for any offense and is not under charge of commission of any crime and has, since the pronouncement of judgment, lived an honest and upright life and has conformed to and obeyed the laws of the land, be permitted by the court to withdraw his or her plea of guilty or nolo contendere and enter a plea of not guilty; or if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and in either case the court shall thereupon dismiss the accusatory pleading against such defendant, who shall thereafter be released from all penalties and disabilities resulting from the offense of which he has been convicted, except as provided in Section 12021.1 of this code or Section 13555 of the Vehicle Code. The defendant shall be informed of the provisions of this section, either orally or in writing, at the time he or she is sentenced. The defendant may make such application and change of plea in person or by attorney, or by the probation officer authorized in writing; provided, that in any subsequent prosecution of such defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if relief had not been granted pursuant to this section.

This subdivision applies to convictions which occurred before as well as those occurring after, the effective date of this section.

(b) Subdivision (a) does not apply to any misdemeanor falling within the provisions of subdivision (b) of Section 42001 of the Vehicle Code, or to any infraction.

(c) A person who petitions for a dismissal of a charge under this section may be required to reimburse the county for the cost of services rendered at a rate to be determined by the county board of supervisors not to exceed sixty dollars ($60), and to reimburse any city for the cost of services rendered at a rate to be determined by the city council not to exceed sixty dollars ($60). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (f) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services established pursuant to this subdivision.

(Added Stats 1963 ch 1647; most recently amended Stats 1988 ch 1394)

1203.45. Sealing of records. (a) In any case in which a person was under the age of 18 years at the time of commission of a misdemeanor and is eligible for, or has previously received, the relief provided by Section 1203.4 or 1203.4a, that person, in a proceeding under Section 1203.4 or 1203.4a, or a separate proceeding,

may petition the court for an order sealing the record of conviction and other official records in the case, including records of arrests resulting in the criminal proceeding and records relating to other offenses charged in the accusatory pleading, whether defendant was acquitted or charges were dismissed. If the court finds that the person was under the age of 18 at the time of the commission of the misdemeanor, and is eligible for relief under Section 1203.4 or 1203.4a or has previously received such relief, it may issue its order granting the relief prayed for. Thereafter the conviction, arrest, or other proceeding shall be deemed not to have occurred, and the petitioner may answer accordingly any question relating to their occurrence.

(b) This section applies to convictions which occurred before, as well as those which occur after, the effective date of this section.

(c) This section shall not apply to offenses for which registration is required under Section 290, to violations of Division 10 (commencing with Section 11000) of the Health and Safety Code, or to misdemeanor violations of the Vehicle Code relating to operation of a vehicle or of any local ordinance relating to operation, standing, stopping, or parking of a motor vehicle.

(d) This section does not apply to a person convicted of more than one offense, whether the second or additional convictions occurred in the same action in which the conviction as to which relief is sought occurred or in another action, except in the following cases:

(1) One of the offenses includes the other or others.

(2) The other conviction or convictions were for the following:

(i) Misdemeanor violations of Chapters 1 (commencing with Section 21000) to 9 (commencing with Section 22500), inclusive, or Chapters 12 (commencing with Section 23100) to 14 (commencing with Section 23340), inclusive, of Division 11 of the Vehicle Code, other than Section 23103, 23104, 23153, 25153, or 23220.

(ii) Violation of any local ordinance relating to the operation, stopping, standing, or parking of a motor vehicle.

(3) The other conviction or convictions consisted of any combination of paragraphs (1) and (2).

(e) This section shall apply in any case in which a person was under the age of 21 at the time of the commission of an offense as to which this section is made applicable if that offense was committed prior to March 7, 1973.

(f) 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.

(g) A person who petitions for an order sealing a record under this section may be required to reimburse the county for the cost of services rendered at a rate to be determined by the county board of supervisors not to exceed sixty dollars ($60), and to reimburse any city for the cost of services rendered at a rate to be determined by the city council not to exceed sixty dollars ($60). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (f) of Section 987.8 and shall not be a prerequisite

to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services established pursuant to this subdivision.

(Added Stats 1961 ch 2054; most recently amended Stats 1983 ch 1118)

1203.5. Creation of adult probation officer. The offices of adult probation officer, assistant adult probation officer, and deputy adult probation officer are hereby created. The probation officers, assistant probation officers, and deputy probation officers appointed in accordance with Chapter 2 (commencing with Section 200) of Division 2 of Part 1 of the Welfare and Institutions Code shall be ex officio adult probation officers, assistant adult probation officers, and deputy adult probation officers except in any county or city and county whose charter provides for the separate office of adult probation officer. When the separate office of adult probation officer has been established he or she shall perform all the duties of probation officers except for matters under the jurisdiction of the juvenile court. Any adult probation officer may accept appointment as member of the Board of Corrections and serve in that capacity in addition to his or her duties as adult probation officer and may receive the per diem allowance authorized in Section 6025.1.

(Added Stats 1935; most recently amended Stats 1987 ch 828)

1203.6. Appointment or dismissal. The adult probation officer shall be appointed and may be removed for good cause by the judge of the superior court or, in a county with two superior court judges, by the judge who is senior in point of service. In the case of a superior court of more than two judges, a majority of the judges shall make the appointment, and may effect removal.

The salary of the probation officer shall be established by the board of supervisors.

The adult probation officer shall appoint and may remove all assistants, deputies and other persons employed in his department, and their compensation shall be established, according to the merit system or civil service system provisions of the county. If no merit system or civil service system exists in the county, the board of supervisors shall provide for appointment, removal, and compensation of such personnel.

This section is applicable in a charter county whose charter establishes the office of adult probation officer and provides that such officer shall be appointed in accordance with general law subject to the merit system provisions of the charter.

(Added by Stats 1965 ch 1624)

1203.9. Transfer of jurisdiction. (a) Whenever any person is released upon probation, the case may be transferred to any court of the same rank in any other county in which the person resides permanently, meaning the stated intention to remain for the duration of probation; provided that the court of the receiving county shall first be given an opportunity to determine whether the person does reside in and has stated the intention to remain in that county for the duration of probation. If the court finds that the person does not reside in or has not stated an intention to remain in that county for the duration of probation, it may refuse to accept the transfer. The court and the probation department shall

give the matter of investigating such transfers precedence over all actions or proceedings therein, except actions or proceedings to which special precedence is given by law, to the end that all such transfers shall be completed expeditiously.

(b) If the court of the receiving county finds that the person does permanently reside in or has permanently moved to such county, it may, in its discretion, either accept the entire jurisdiction over the case, or assume supervision of the probationer on a courtesy basis.

(c) The order of transfer shall contain an order committing the probationer to the care and custody of the probation officer of the receiving county. A copy of the orders and probation reports shall be transmitted to the court and probation officer of that county, and thereafter the receiving court shall have entire jurisdiction over the case, with the like power to again request transfer of the case whenever it seems proper.

(Added Stats 1935; most recently amended Stats 1980 ch 343)

1203.10. Required information and recommendation. At the time of the plea or verdict of guilty of any person over 18 years of age, the probation officer of the county of the jurisdiction of said criminal shall, when so directed by the court, inquire into the antecedents, character, history, family environment, and offense of such person, and must report the same to the court and file his report in writing in the records of such court. When directed, his report shall contain his recommendation for or against the release for such person on probation. If any such person shall be released on probation and committed to the care of the probation officer, such officer shall keep a complete and accurate record in suitable books or other form in writing of the history of the case in court, and of the name of the probation officer, and his act in connection with said case; also the age, sex, nativity, residence, education, habit of temperance, whether married or single, and the conduct, employment and occupation, and parents' occupation, and condition of such person committed to his care during the term of such probation and the result of such probation. Such record of such probation officer shall be and constitute a part of the records of the court, and shall at all times be open to the inspection of the court or of any person appointed by the court for that purpose, as well as of all magistrates, and the chief of police, or other heads of the police, unless otherwise ordered by the court. Said books of records shall be furnished for the use of said probation officer of said county, and shall be paid for out of the county treasury.

Five years after termination of probation in any case subject to this section, the probation officer may destroy any records and papers in his possession relating to such case.

(Added Stats 1935; amended Stats 1961 ch 2043)

1203b. Conditional sentence. All courts shall have power to suspend the imposition or execution of a sentence and grant a conditional sentence in misdemeanor and infraction cases without referring such cases to the probation officer. Unless otherwise ordered by the court, persons granted a conditional sentence in the community shall report only to the court and the probation officer shall not be responsible in any way for supervising or accounting for such persons.

(Amended Stats 1951 ch 502; most recently amended Stats 1982 ch 247; effective 6/9/82)

1203c. Report to Department of Corrections. Notwithstanding any other provisions of law, whenever a person is committed to an institution under the jurisdiction of the Department of Corrections, whether probation has been applied for or not, or granted and revoked, it shall be the duty of the probation officer of the county from which the person is committed to send to the Department of Corrections a report upon the circumstances surrounding the offense and the prior record and history of the defendant as may be required by the Administrator of the Youth and Adult Corrections Agency. These reports shall accompany the commitment papers. The reports shall be prepared in the form prescribed by the administrator following consultation with the Board of Corrections, except that in a case in which defendant is ineligible for probation, a report upon the circumstances surrounding the offense and the prior record and history of defendant, prepared by the probation officer on request of the court and filed with the court before sentence, shall be deemed to meet any such requirements of form. In order to allow the probation officer opportunity to interview, for the purpose of preparation of these reports, the prisoner shall be held in the county jail for 48 hours, excluding Saturdays, Sundays and holidays, subsequent to imposition of sentence and prior to delivery to the custody of the Director of Corrections, unless the probation officer shall have indicated need for a lesser period of time.

(Added Stats 1935 ch 1564; amended Stats 1963 ch 1785)

1203d. Availability of probation report. No court shall pronounce judgment upon any defendant, as to whom the court has requested a probation report pursuant to Section 1203.10, unless a copy of the probation report has been made available to the court, the prosecuting attorney, and the defendant or his or her attorney, at least two days or, upon the request of the defendant, five days prior to the time fixed by the court for consideration of the report with respect to pronouncement of judgment. The report shall be filed with the clerk of the court as a record in the case at the time the court considers the report.

If the defendant is not represented by an attorney, the court, upon ordering the probation report, shall also order the probation officer who prepares the report to discuss its contents with the defendant.

The sentence recommendations of the report shall also be made available to the victim of the crime, or the victim's next of kin if the victim has died, through the district attorney's office. The victim or the victim's next of kin shall be informed of the availability of this information through the notice provided pursuant to Section 1191.1.

(Added Stats 1969 ch 522; most recently amended Stats 1985 ch 984)

1203h. Child abuse or neglect. If the court initiates an investigation pursuant to subdivision (a) or (d) of Section 1203 and the convicted person was convicted of violating any section of this code in which a minor is a victim of an act of abuse or neglect, then the investigation may include a psychological evaluation to determine the extent of counseling necessary for successful rehabilitation and which may be mandated by the court during the term of probation. Such evaluation may be performed by psychiatrists, psychologists, or

licensed clinical social workers. The results of the examination shall be included in the probation officer's report to the court.

(Added Stats 1977 ch 1130; most recently amended Stats 1983 ch 282)

1205.5. Exception. The provisions of Section 1205 shall not apply to restitution fines ordered in felony cases.

(Added Stats 1983 ch 1092; effective 9/27/83, operative 1/1/84)

1208. Work furlough. (a) The provisions of this section, insofar as they relate to employment, shall be operative in any county in which the board of supervisors by ordinance finds, on the basis of employment conditions, the state of the county jail facilities, and other pertinent circumstances, that the operation of this section, insofar as it relates to employment, in that county is feasible. The provisions of this section, insofar as they relate to job training, shall be operative in any county in which the board of supervisors by ordinance finds, on the basis of job training conditions, the state of the county jail facilities, and other pertinent circumstances, that the operation of this section, insofar as it relates to job training, in that county is feasible. The provisions of this section, insofar as they relate to education, shall be operative in any county in which the board of supervisors by ordinance finds, on the basis of education conditions, the state of the county jail facilities, and other pertinent circumstances, that the operation of this section, insofar as it relates to education, in that county is feasible. In any ordinance the board shall prescribe whether the sheriff, the probation officer, the director of the county department of corrections, or the superintendent of a county industrial farm or industrial road camp in the county shall perform the functions of the work furlough administrator. The board may, in that ordinance, provide for the performance of any or all functions of the work furlough administrator by any one or more of those persons, acting separately or jointly as to any of the functions; and may, by a subsequent ordinance, revise the provisions within the authorization of this section. The board of supervisors may also terminate the operation of this section, either with respect to employment, job training, or education in the county if it finds by ordinance that because of changed circumstances, the operation of this section, either with respect to employment, job training, or education in that county is no longer feasible.

Notwithstanding any other provision of law, the board of supervisors may by ordinance designate a facility for confinement of prisoners classified for the work furlough program and designate the work furlough administrator as the custodian of the facility. The work furlough administrator may, with the approval of the board of supervisors, enter into contracts with appropriate public or nonprofit private agencies or private entities to provide a facility and services for the housing, sustenance, counseling, supervision, and related services for inmates eligible for work furlough. No agency or private entity entering into a contract may itself employ any person who is in the work furlough program. The sheriff or director of the county department of corrections, as the case may be, is authorized to transfer custody of prisoners to the work furlough administrator to be confined in a facility for the period during which they are in the work furlough program.

All privately operated work furlough facilities and programs used for the detention of persons sentenced into the custody of the sheriff, the director of a

county department of corrections, or the chief probation officer, shall be under the jurisdiction of, and subject to the terms of a contract entered into with, the work furlough administrator. Each contract shall include, but not be limited to, a provision whereby the private agency or entity agrees to operate in compliance with all appropriate state and local building, zoning, health, safety, and fire statutes, ordinances, and regulations and the minimum jail standards for Type IV facilities as established by regulations adopted by the Board of Corrections. The private agency or entity shall select and train its personnel in accordance with selection and training requirements adopted by the Board of Corrections as set forth in Subchapter 1 (commencing with Section 100) of Chapter 1 of Division 1 of Title 15 of the California Code of Regulations. Failure to comply with the appropriate health, safety, and fire laws or minimum jail standards adopted by the board may be cause for termination of the contract. Upon discovery of a failure to comply with these requirements, the work furlough administrator shall notify the privately operated program director that the contract may be canceled if the specified deficiencies are not corrected within 60 days.

All private work furlough facilities and programs shall be inspected biennially by the Board of Corrections unless the work furlough administrator requests an earlier inspection pursuant to Section 6031.1. Each private agency or entity shall pay a fee to the Board of Corrections commensurate with the cost of those inspections and a fee commensurate with the cost of the initial review of the facility.

(b) When a person is convicted of a misdemeanor and sentenced to the county jail, or is imprisoned in the county jail for nonpayment of a fine, for contempt, or as a condition of probation for any criminal offense, the work furlough administrator may, if he or she concludes that the person is a fit subject to continue in his or her regular employment, direct that the person be permitted to continue in that employment, if that is compatible with the requirements of subdivision (d), or may authorize the person to secure employment for himself or herself, unless the court at the time of sentencing or committing has ordered that the person not be granted work furloughs. The work furlough administrator may, if he or she concludes that the person is a fit subject to continue in his or her job training program, direct that the person be permitted to continue in that job training program, if that is compatible with the requirements of subdivision (d), or may authorize the person to secure local job training for himself or herself, unless the court at the time of sentencing has ordered that person not be granted work furloughs. The work furlough administrator may, if he or she concludes that the person is a fit subject to continue in his or her regular educational program, direct that the person be permitted to continue in that educational program, if that is compatible with the requirements of subdivision (d), or may authorize the person to secure education for himself or herself, unless the court at the time of sentencing has ordered that person not be granted work furloughs.

(c) If the work furlough administrator so directs that the prisoner be permitted to continue in his or her regular employment, job training, or educational program, the administrator shall arrange for a continuation of that employment or for that job training or education, so far as possible without interruption. If the prisoner does not have regular employment or a regular job training or educational program, and the administrator has authorized the prisoner to secure

employment, job training, or education for himself or herself, the prisoner may do so, and the administrator may assist the prisoner in doing so. Any employment, job training, or education so secured shall be suitable for the prisoner. The employment, and the job training or educational program if it includes earnings by the prisoner, shall 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 that area. In no event may any employment, job training, or educational program involving earnings by the prisoner be permitted where there is a labor dispute in the establishment in which the prisoner is, or is to be, employed, trained, or educated.

(d) Whenever the prisoner is not employed or being trained or educated and between the hours or periods of employment, training, or education, the prisoner shall be confined in the facility designated by the board of supervisors for work furlough confinement unless the work furlough administrator directs otherwise. If the prisoner is injured during a period of employment, job training, or education, the work furlough administrator shall have the authority to release him or her from the facility for continued medical treatment by private physicians or at medical facilities at the expense of the employer, workers' compensation insurer, or the prisoner. The release shall not be construed as assumption of liability by the county or work furlough administrator for medical treatment obtained.

The work furlough administrator may release any prisoner classified for the work furlough program for a period not to exceed 72 hours for medical, dental, or psychiatric care, or for family emergencies or pressing business which would result in severe hardship if the release were not granted, or to attend those activities as the administrator deems may effectively promote the prisoner's successful return to the community, including, but not limited to, an attempt to secure housing, employment, entry into educational programs, or participation in community programs.

(e) The earnings of the prisoner may be collected by the work furlough administrator, and it shall be the duty of the prisoner's employer to transmit the wages to the administrator at the latter's request. Earnings levied upon pursuant to writ of execution or in other lawful manner shall not be transmitted to the administrator. If the administrator has requested transmittal of earnings prior to levy, that request shall have priority. In a case in which the functions of the administrator are performed by a sheriff, and the sheriff receives a writ of execution for the earnings of a prisoner subject to this section but has not yet requested transmittal of the prisoner's earnings pursuant to this section, the sheriff shall first levy on the earnings pursuant to the writ. When an employer or educator transmits earnings to the administrator pursuant to this subdivision, the sheriff shall have no liability to the prisoner for those earnings. From the earnings the administrator shall pay the prisoner's board and personal expenses, both inside and outside the jail, and shall deduct so much of the costs of administration of this section as is allocable to the prisoner or if the prisoner is unable to pay that sum, a lesser sum as is reasonable, and, in an amount determined by the administrator, shall pay the support of the prisoner's dependents, if any. If sufficient funds are available after making the foregoing payments, the administrator may, with the consent of the prisoner, pay, in whole or in part, the

preexisting debts of the prisoner. Any balance shall be retained until the prisoner's discharge. Upon discharge the balance shall be paid to the prisoner.

(f) The prisoner shall be eligible for time credits pursuant to Sections 4018 and 4019.

(g) In the event the prisoner violates the conditions laid down for his or her conduct, custody, job training, education, or employment, the work furlough administrator may order the balance of the prisoner's sentence to be spent in actual confinement.

(h) Willful failure of the prisoner to return to the place of confinement not later than the expiration of any period during which he or she is authorized to be away from the place of confinment pursuant to this section is punishable as provided in Section 4532.

(i) As used in this section, the following definitions apply:

(1) "Education" includes vocational and educational training and counseling, and psychological, drug abuse, alcoholic, and other rehabilitative counseling.

(2) "Educator" includes a person or institution providing that training or counseling.

(3) "Employment" includes care of children, including the daytime care of children of the prisoner.

(4) "Job training" 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.).

(j) This section shall be known and may be cited as the "Cobey Work Furlough Law."

(Added Stats 1957; most recently amended Stats 1989 ch 48)

1208.5. Inter-county transfer. The boards of supervisors of two or more counties having work furlough programs may enter into agreements whereby a person sentenced to, or imprisoned in, the jail of one county, but regularly residing in another county or regularly employed in another county, may be transferred by the sheriff of the county in which he or she is confined to the jail of the county in which he or she resides or is employed, in order that he or she may be enabled to continue in his or her regular employment or education in such other county through such county's work furlough program. Such agreement may make provision for the support of transferred persons by the county from which they are transferred. The board of supervisors of any county may, by ordinance, delegate the authority to enter into such agreements to the work furlough administrator.

(Added by Stats 1967, Ch. 399; most recently amended Stats 1984 ch 838)

1214. Restitution; enforcement. (a) If the judgment is for a fine, including a restitution fine ordered pursuant to Section 13967 of the Government Code, with or without imprisonment, the judgment may be enforced in the manner provided for the enforcement of money judgments generally.

(b) In any case in which a defendant is ordered to pay restitution as a condition of probation or of a conditional sentence, including where restitution is required by Section 1203.04, the order to pay restitution is deemed a money judgment if the defendant was informed of his or her right to have a judicial determination of the amount and was provided with a hearing, waived a hearing, or stipulated

to the amount of the restitution ordered, and shall constitute a civil judgment enforceable in the same manner as is provided for the enforcement of any other money judgment. Upon the victim's request, the court shall provide the victim in whose favor the order of restitution is entered with a certified copy of that order.

(c) Chapter 3 (commencing with Section 683.010) of Division 1 of Title 9 of Part 2 of the Code of Civil Procedure shall not apply to a judgment for any fine ordered pursuant to Section 13967 of the Government Code.

(Enacted 1872; most recently amended Stats 1988 ch 662)

1239. Appeals. (a) Where an appeal lies on behalf of the defendant or the people, it may be taken by the defendant or his or her counsel, or by counsel for the people, in the manner provided in rules adopted by the Judicial Council.

(b) When upon any plea a judgment of death is rendered, an appeal is automatically taken by the defendant without any action by him or her or his or her counsel. The defendant's trial counsel, whether retained by the defendant or court appointed, shall continue to represent the defendant until completing the additional duties set forth in paragraph (1) of subdivision (e) of Section 1240.1.

(Added Stats 1982 ch 917; amended Stats 1988 ch 551)

1240. Appointment of state public defender. (a) When in a proceeding falling within the provisions of Section 15421 of the Government Code a person is not represented by a public defender acting pursuant to Section 27706 of the Government Code or other counsel and he is unable to afford the services of counsel, the court shall appoint the State Public Defender to represent the person except as follows:

(1) The court shall appoint counsel other than the State Public Defender when the State Public Defender has refused to represent the person because of conflict of interest or other reason.

(2) The court may, in its discretion, appoint either the State Public Defender or the attorney who represented the person at his trial when the person requests the latter to represent him on appeal and the attorney consents to the appointment. In unusual cases, where good cause exists, the court may appoint any other attorney.

(3) A court may appoint a county public defender, private attorney, or nonprofit corporation with which the State Public Defender has contracted to furnish defense services pursuant to Government Code Section 15402.

(4) When a judgment of death has been rendered the Supreme Court may, in its discretion, appoint counsel other than the State Public Defender or the attorney who represented the person at trial.

(b) If counsel other than the State Public Defender is appointed pursuant to this section, he may exercise the same authority as the State Public Defender pursuant to Chapter 3 (commencing with Section 15420) of Part 7 of Division 3 of Title 2 of the Government Code.

(Added Stats 1975 ch 1125, effective July 1, 1976)

1240.1. Grounds for appeal. (a) In any noncapital criminal, juvenile court, or civil commitment case wherein the defendant would be entitled to the appointment of counsel on appeal if indigent, it shall be the duty of the attorney who represented the person at trial to provide counsel and advice as to whether arguably meritorious grounds exist for reversal or modification of the judgment

on appeal. The attorney shall admonish the defendant that he or she is not able to provide advice concerning his or her own competency, and that the State Public Defender or other counsel should be consulted for advice as to whether an issue regarding the competency of counsel should be raised on appeal. The trial court may require trial counsel to certify that he or she has counseled the defendant as to whether arguably meritorious grounds for appeal exist at the time a notice of appeal is filed. Nothing in this section shall be construed to prevent any person having a right to appeal from doing so.

(b) It shall be the duty of every attorney representing an indigent defendant in any criminal, juvenile court, or civil commitment case to execute and file on his or her client's behalf a timely notice of appeal when the attorney is of the opinion that arguably meritorious grounds exist for a reversal or modification of the judgment or orders to be appealed from, and where, in the attorney's judgment, it is in the defendant's interest to pursue such relief as may be available to him or her on appeal; or when directed to do so by a defendant having a right to appeal.

With the notice of appeal the attorney shall file a brief statement of the points to be raised on appeal and a designation of any document, paper, pleading, or transcript of oral proceedings necessary to properly present those points on appeal when the document, paper, pleading or transcript of oral proceedings would not be included in the normal record on appeal according to the applicable provisions of the California Rules of Court. The executing of the notice of appeal by the defendant's attorney shall not constitute an undertaking to represent the defendant on appeal unless the undertaking is expressly stated in the notice of appeal.

If the defendant was represented by appointed counsel on the trial level, or if it appears that the defendant will request the appointment of counsel on appeal by reason of indigency, the trial attorney shall also assist the defendant in preparing and submitting a motion for the appointment of counsel and any supporting declaration or affidavit as to the defendant's financial condition. These documents shall be filed with the trial court at the time of filing a notice of appeal, and shall be transmitted by the clerk of the trial court to the clerk of the appellate court within three judicial days of their receipt. The appellate court shall act upon that motion without unnecessary delay. An attorney's failure to file a motion for the appointment of counsel with the notice of appeal shall not foreclose the defendant from filing a motion at any time it beceomes known to him or her that the attorney has failed to do so, or at any time he or she shall become indigent if he or she was not previously indigent.

(c) The State Public Defender shall, at the request of any attorney representing a prospective indigent appellant or at the request of the prospective indigent appellant himself or herself, provide counsel and advice to the prospective indigent appellant or attorney as to whether arguably meritorious grounds exist on which the judgment or order to be appealed from would be reversed or modified on appeal.

(d) The failure of a trial attorney to perform any duty prescribed in this section, assign any particular point or error in the notice of appeal, or designate any particular thing for inclusion in the record on appeal shall not foreclose any defendant from filing a notice of appeal on his or her own behalf or from raising

any point or argument on appeal; nor shall it foreclose the defendant or his or her counsel on appeal from requesting the augmentation or correction of the record on appeal in the reviewing court.

(e) (1) In order to expedite certification of the entire record on appeal in all capital cases, defendant's trial counsel, whether retained by the defendant or court-appointed, shall continue to represent the defendant until the entire record on the automatic appeal is certified. In any capital case, trial counsel shall check that the entire record on appeal has been prepared, and shall check for errors or omissions in that record and request any corrections thereto within the time provided by rules adopted by the Judicial Council.

(2) The duties imposed on trial counsel in paragraph (1) shall not foreclose the defendant's appellate counsel from requesting additions or corrections to the entire record on appeal in either the trial court or the Supreme Court.

(Added Stats 1982 ch 917; amended Stats 1988 ch 551)

1241. Fee for counsel. In any case in which counsel other than a public defender has been appointed by the Supreme Court or by a court of appeal to represent a party to any appeal or proceeding, such counsel shall receive a reasonable sum for compensation and necessary expenses, the amount of which shall be determined by the court and paid from any funds appropriated to the Judicial Council for that purpose. Claim for the payment of such compensation and expenses shall be made on a form prescribed by the Judicial Council and presented by counsel to the clerk of the appointing court. After the court has made its order fixing the amount to be paid the clerk shall transmit a copy of the order to the State Controller who shall draw his warrant in payment thereof and transmit it to the payee.

(Added Stats 1955 ch 1350; most recently amended Stats 1975 ch 1125, operative 7/1/76)

1269b. Bail. (a) The officer in charge of a jail where an arrested person is held in custody, an officer of a sheriff's department or police department of a city who is in charge of a jail or employed at a fixed police or sheriff's facility and is acting under an agreement with the agency which keeps the jail wherein an arrested person is held in custody, an employee of a sheriff's department or police department of a city who is assigned by such department to collect bail, the clerk of the justice or municipal court of the judicial district in which the offense was alleged to have been committed, and the clerk of the superior court in which the case against the defendant is pending may approve and accept bail in the amount fixed by the warrant of arrest, schedule of bail, or order admitting to bail in cash or surety bond executed by a certified, admitted surety insurer as provided in the Insurance Code, to issue and sign an order for the release of the arrested person, and to set a time and place for the appearance of the arrested person before the appropriate court and give notice thereof.

(b) If a defendant has appeared before a judge of the court on the charge contained in the complaint, indictment, or information, the bail shall be in the amount fixed by the judge at the time of the appearance; if that appearance has not been made, the bail shall be in the amount fixed in the warrant of arrest or, if no warrant of arrest has been issued, the amount of bail shall be pursuant to the

uniform countywide schedule of bail for the county in which the defendant is required to appear, previously fixed and approved as provided in subdivisions (c) and (d).

(c) It is the duty of the superior, municipal and justice court judges in each county to prepare, adopt, and annually revise, by a majority vote, at a meeting called by the presiding judge of the superior court of the county, a uniform countywide schedule of bail for all bailable felony offenses.

In adopting a uniform countywide schedule of bail for all bailable offenses the judges shall consider the seriousness of the offense charged. In considering the seriousness of the offense charged the judges shall assign an additional amount of required bail for each aggravating or enhancing factor chargeable in the complaint, including, but not limited to, additional bail for charges alleging facts which would bring a person within any of the following sections: Section 667.5, 667.51, 667.6, 667.8, 667.85, 667.9, 667.10, 12022, 12022.1, 12022.2, 12022.3, 12022.4, 12022.5, 12022.6, 12022.7, 12022.8, or 12022.9 of the Penal Code, or Section 11356.5, 11370.2, or 11370.4 of the Health and Safety Code.

In considering offenses wherein a violation of Chapter 6 (commencing with Section 11350) of Division 10 of the Health and Safety Code is alleged, the judge shall assign an additional amount of required bail for offenses involving large quantities of controlled substances.

(d) The municipal and justice court judges in each county shall prepare, adopt, and annually revise, subject to Section 40310 of the Vehicle Code, by a majority vote, at a meeting called by the presiding judge of the municipal court or the senior judge of the justice court at each county seat, a uniform, countywide schedule of bail for all misdemeanor and infraction offenses. For nonparking Vehicle Code offenses where a personal appearance is not required, the bail for each offense shall be no more than 20 percent above or below the amount set forth by the Uniform Traffic Bail Schedule approved the Judicial Council. The Judicial Council shall revise the Uniform Traffic Bail Schedule by January 1, 1989. The revision shall include the assignment of increased bail amounts for repeat offenders.

(e) Each countywide bail schedule shall contain a list of the offenses and the amounts of bail applicable thereto as the judges determine to be appropriate. If the schedules do not list all offenses specifically, they shall contain a general clause for designated amounts of bail as the judges of the county determine to be appropriate for all the offenses not specifically listed in the schedules. A copy of the countywide bail schedule shall be sent to the officer in charge of the county jail, to the officer in charge of each city jail within the county, to each superior, municipal and justice court judge and commissioner in the county, and to the Judicial Council.

(f) Upon posting bail the defendant or arrested person shall be discharged from custody as to the offense on which the bail is posted.

All money and surety bonds so deposited with an officer authorized to receive bail shall be transmitted immediately to the judge or clerk of the court by which the order was made or warrant issued or bail schedule fixed. If, in the case of felonies, an indictment is filed, the judge or clerk of the court shall transmit all of the money and surety bonds to the county clerk.

(g) If a defendant or arrested person so released fails to appear at the time and in the court so ordered upon his or her release from custody, Sections 1305 and 1306 apply.

(Added Stats 1945 ch 363; most recently amended Stats 1988 ch 988)

1269c. Change in amount of bail. In any case in which a defendant is arrested without a warrant for a bailable felony offense and a peace officer has reasonable cause to believe that the amount of bail set forth in the schedule of bail for that offense is insufficient to assure defendant's appearance, the peace officer shall prepare a declaration under penalty of perjury setting forth the facts and circumstances in support of his belief and file it with a magistrate, as defined in Section 808, in the county in which the offense is alleged to have been committed or having jurisdiction of the person of defendant, or a commissioner of such magistrate, requesting an order setting a higher bail. The defendant, either personally or through his attorney, friend, or member of family, also may make application to such magistrate for release on bail lower than that provided in the schedule of bail or on his own recognizance. The magistrate or commissioner to whom such application is made is authorized to set bail in such amount as he deems sufficient to assure the defendant's appearance, and to set such bail on such terms and conditions as he, in his discretion, deems appropriate, or he may authorize the defendant's release on his own recognizance. If, after such an application is made, no order changing the amount of bail is issued within eight hours after booking, the defendant shall be entitled to be released on posting the amount of bail set forth in the applicable bail schedule.

(Repealed and added Stats 1973 ch 810)

1464. Assessments; distribution of funds. (a) Subject to Chapter 12 (commencing with Section 76010) of Title 8 of the Government Code, there shall be levied an assessment in an amount equal to seven dollars ($7) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (C) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Chapter 12 (commencing with Section 76010) of Title 8 of the Government Code for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making the deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his or her immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Chapter 12 (commencing with Section 76010) of Title 8 of the Government Code shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) Of moneys so deposited, the revenues attributable to the increase in the assessment from five dollars ($5) to seven dollars ($7), as determined by the Department of Finance, shall be transmitted to the State Treasury to be deposited directly into the Restitution Fund. The remainder shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.38 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. These moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Restitution Fund an amount equal to 22.12 percent of the funds deposited in the Assessment Fund during the preceding month. Those funds shall be made available in accordance with subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 27.75 percent of the funds deposited in the Assessment Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 29.73 percent of the funds deposited in the Assessment Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 9.12 percent of the funds deposited in the Assessment Fund during the preceding month. Money in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.

(6) Once a month there shall be transferred into the Local Public Prosecutors and Public Defenders Training Fund established pursuant to Section 11503 an amount equal to 0.90 percent of the funds deposited in the Assessment Fund during the preceding month. The amount so transferred shall not exceed the sum of eight hundred fifty thousand dollars ($850,000) in any fiscal year. The remainder in excess of eight hundred fifty thousand dollars ($850,000) shall be transferred to the Restitution Fund.

(7) Once a month there shall be transferred into the Victim-Witness Assistance Fund an amount equal to 10.00 percent of the funds deposited in the Assessment Fund during the preceding month.

(g) (1) Nothwithstanding subdivision (f), of moneys so deposited, the revenues attributable to the assessment provided for in subdivision (i) of Section 27315 of the Vehicle Code shall, on a monthly basis, be transferred to the Traumatic Brain Injury Fund, created pursuant to Section 5564.6 of the Welfare and Institutions Code, until the amount deposited in the Traumatic Brain Injury Fund, as determined by the Department of Finance, for any fiscal year equals five hundred thousand dollars ($500,000). All moneys in excess of that amount shall be utilized in accordance with subdivision (f).

(2) Any moneys deposited in the Assessment Fund attributable to the assessments made pursuant to subdivision (i) of Section 27315 of the Vehicle Code on or after the date that Chapter 6.6 (commencing with Section 5564) of Part 1 of Division 5 of the Welfare and Institutions Code is repealed shall be utilized in accordance with subdivision (f).

(Added Stats 1980 ch 530; most recently amended Stats 1989 ch 1467)

1554.2. Extradition procedures. (a) When the return to this state of a person charged with crime in this state is required, the district attorney shall present to the Governor his written application for a requisition for the return of the person charged. In such application there shall be stated the name of the person so charged, the crime charged against him, the approximate time, place and circumstances of its commission, and the state in which he is believed to be, including the location of the accused therein at the time the application is made. Such application shall certify that, in the opinion of the district attorney, the ends of justice require the arrest and return of the accused to this state for trial and that the proceeding is not instituted to enforce a private claim.

(b) When the return to this state is required of a person who has been convicted of a crime in this state and who has escaped from confinement or has violated the terms of his bail, probation or parole the district attorney of the county in which the offense was committed, the Board of Prison Terms, the Director of Corrections, the California Institution for Women, the Youth Authority, or the sheriff of the county from which escape from confinement was made, shall present to the Governor a written application for a requisition for the return of such person. In such application there shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape or of the violation of the terms of his bail, probation or parole, and the state in which he is believed to be, including the location of such person therein at the time application is made.

(c) The application shall be verified, shall be executed in duplicate, and shall be accompanied by two certified copies of the indictment, the information, or the verified complaint made to the magistrate stating the offense with which the accused is charged, or the judgment of conviction or the sentence. The officer or board requesting the requisition may also attach such affidavits and other documents in duplicate as are deemed proper to be submitted with such application. One copy of the application, with the action of the Governor indicated by endorsement thereon, and one of the certified copies of the indictment, verified complaint, information, or judgment of conviction or sentence shall be filed in the office of the Secretary of State. The other copies of all papers shall be forwarded with the Governor's requisition.

(d) Upon receipt of an application under this section, the Governor or agent authorized in writing by the Governor whose authorization has been filed with the Secretary of State, may sign a requisition for the return of the person charged and any other document incidental to that requisition or to the return of the person charged.

(Added by Stats 1937; most recently amended Stats 1983 ch 793)

The Deuel Vocational Institution

2035. Establishment. There is hereby established an institution for confinement of males under the custody of the Director of Corrections and the Youth Authority to be known as the Deuel Vocational Institution.

(Added Stats 1945 ch 1454; most recently amended Stats 1951 ch 1663)

2036. Purpose. The Deuel Vocational Institution 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 institutions under the jurisdiction of the Youth Authority and too immature in crime for confinement in prisons.

(Added Stats 1945 ch 1454; most recently amended Stats 1975 ch 370)

2037. Confinement. There may be transferred to and confined in the Deuel Vocational Institution any male, subject to the custody, control and discipline of the Director of Corrections, or any male, subject to the custody, control and discipline of the Youth Authority who has been committed to the Youth Authority under the provisions of Section 1731.5 of the Welfare and Institutions Code, who the Director of Corrections or Youth Authority, as the case may be, believes will be benefited by confinement in such an institution.

(Added Stats 1945 ch 1454; most recently amended Stats 1987 ch 828)

2038. Management and Director of Corrections. The Director of Corrections shall make rules and regulations for the government of the Deuel Vocational Institution and the management of its affairs.

(Added Stats 1945 ch 1454; most recently amended Stats 1951 ch 1663)

2039. Appointment of employees. The Governor, upon recommendation of the Director of Corrections and in accordance with Section 6050, shall appoint a warden for the Deuel Vocational Institution. The director shall appoint, subject to civil service, those officers and employees as may be necessary.

(Added Stats 1945 ch 1454; most recently amended Stats 1989 ch 1420)

2040. Responsibilities of Director of Corrections. The Director of Corrections shall construct and equip, in accordance with law, suitable buildings, structures, and facilities for the Deuel Vocational Institution.

(Amended by Stats 1951, ch 1663.)

2041. California Vocational Institution Same as DVI. Part 3 (commencing with Section 2000) shall apply to the Deuel Vocational Institution and to the persons confined therein so far as those provisions may be applicable.

Whenever the name California Vocational Institution appears in any statute, it shall be deemed for all purposes to refer to the Deuel Vocational Institution.

(Added Stats 1945 ch 1454; most recently amended Stats 1987 ch 828)

2042. Escape. Every minor person confined in the Deuel Vocational Institute who escapes or attempts to escape therefrom is guilty of a crime and shall be imprisoned in a state prison, or in the county jail for not exceeding one year.

(Added Stats 1947 ch 50; most recently amended Stats 1982 ch 1104)

2054. Classes for inmates. The Director of Corrections may establish and maintain classes for inmates by utilizing personnel of the Department of Corrections, or by entering into an agreement with the governing board of a school district or private school or the governing boards of school districts under which the district shall maintain classes for such inmates. The governing board of a school district or private school may enter into such an agreement regardless of whether the institution or facility at which the classes are to be established and maintained is within or without the boundaries of the school district.

Any agreement entered into between the Director district or private school pursuant to this section may require the Department of Corrections to reimburse the school district or private school for the cost to the district or private school of maintaining such classes. "Cost" as used herein includes contributions required of any school district to the State Teachers' Retirement System, but such cost shall not include an amount in excess of the amount expended by the district for salaries of the teachers for such classes, increased by one-fifth. Salaries of such teachers for the purposes of this section shall not exceed the salaries as set by the governing board for teachers in other classes for adults maintained by the district, or private schools.

Attendance or average daily attendance in classes established pursuant to this section or in classes in trade and industrial education or vocational training for adult inmates of institutions or facilities under the jurisdiction of the Department of Corrections shall not be reported to the State Department of Education for apportionment and no apportionment from the State School Fund shall be made on account of average daily attendance in such classes.

No school district or private school shall provide for the academic education of adult inmates of state institutions or facilities under the jurisdiction of the Department of Corrections except in accordance with this section.

The Legislature hereby declares that for each fiscal year funds for the support of the academic education program for inmates of the institutions or facilities under the jurisdiction of the Department of Corrections shall be provided, upon appropriation by the Legislature, to the Department of Corrections at the rate of forty dollars ($40) multiplied by the total number of inmates which the Department of Corrections estimates will be in such institutions or facilities on December 31st of the fiscal year, except as provided in Section 2054.1.

(Added Stats 1955 ch 1944; most recently amended Stats 1976 ch 303, effective 6/30/76, operative 7/1/76)

2054.1. Funds. The rate specified in Section 2054 shall be further increased or decreased in the same proportion as the median salaries for full-time high school teachers in the public schools of this State have increased or decreased since the 1956–57 Fiscal Year.

"Median Salaries" as used herein is the amount which the Superintendent of Public Instruction reports will be paid to full-time high school teachers in the public schools of this State during the fiscal year. Such reports shall be based upon information compiled by the Department of Education on salaries of certificated employees in the public schools of this State.

This section applies only to the program of academic education for inmates.

(Added Stats 1957 ch 2245)

2655. (Repealed Stats 1987 ch 828)

2960. Placement in county mental health facility. The Legislature finds that there are prisoners who have a treatable, severe mental disorder that was one of the causes of, or was an aggravating factor in the commission of the crime for which they were incarcerated. Secondly, the Legislature finds that if the severe mental disorders of those prisoners are not in remission or cannot be kept in remission at the time of their parole or upon termination of parole, there is a danger to society, and the state has a compelling interest in protecting the public. Thirdly, the Legislature finds that in order to protect the public from those persons it is necessary to provide mental health treatment until the severe mental disorder which was one of the causes of or was an aggravating factor in the person's prior criminal behavior is in remission and can be kept in remission.

The Legislature further finds and declares the Department of Corrections should evaluate each prisoner for severe mental disorders during the first year of the prisoner's sentence, and that severely mentally disordered prisoners should be provided with an appropriate level of mental health treatment while in prison and when returned to the community.

(Added Stats 1969 ch 872; most recently amended Stats 1986 ch 858)

3405. Right to abortion. No condition or restriction upon the obtaining of an abortion by a prisoner, pursuant to the Therapeutic Abortion Act (Chapter 11 (commencing with Section 25950), Division 20 of the Health and Safety Code), other than those contained in that act, shall be imposed. Prisoners found to be pregnant and desiring abortions, shall be permitted to determine their eligibility for an abortion pursuant to law, and if determined to be eligible, shall be permitted to obtain an abortion.

The rights provided for females by this section shall he posted in at least one conspicous place to which all female prisoners have access.

(Added Stats 197 ch 1363; amended Stats 1987 ch 828)

3406. Right to medical services—state prison. Any female prisoner shall have the right to summon and receive the services of any physician and surgeon of her choice in order to determine whether she is pregnant. The warden may adopt reasonable rules and regulations with regard to the conduct of examinations to effectuate this determination.

If the prisoner is found to be pregnant, she is entitled to a determination of the extent of the medical services needed by her and to the receipt of these services

from the physician and surgeon of her choice. Any expenses occasioned by the services of a physician and surgeon whose services are not provided by the institution shall be borne by the prisoner.

Any physician providing services pursuant to this section shall possess a current, valid, and unrevoked certificate to engage in the practice of medicine issued pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

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

(Added Stats 1972 ch 1362; amended Stats 1989 ch 1420)

4016.5. Parole violators reimbursement for detention. A city or county shall be reimbursed by the Department of Corrections for costs incurred resulting from the detention of state prisoners or parolees and from parole revocation proceedings when the detention meets any of the following conditions:

(a) The detention relates to a violation of the conditions of parole or the rules and regulations of the Director of Corrections and does not relate to a new criminal charge.

(b) The detention is pursuant to (1) an order of the Board of Prison Terms under the authority granted by Section 3060, or (2) an order of the Governor under the authority granted by Section 3062 or (3) an exercise of a state parole or correctional officer's peace officer powers as specified in Section 830.5.

(c) Security services and facilities are provided for hearings which are conducted by the Board of Prison Terms to revoke parole.

Such reimbursement shall be expended for maintenance, upkeep, and improvement of jail conditions, facilities, and services. Before the county is reimbursed by the department, the total amount of all charges against that county authorized by law for services rendered by the department shall be first deducted from the gross amount of reimbursement authorized by this section. The net reimbursement shall be calculated and paid monthly by the department. The department shall withhold all or part of the net reimbursement to a county whose jail facility or facilities do not conform to minimum standards for local detention facilities as authorized by Section 6030 only if the county is failing to make reasonable efforts to correct differences, with consideration given to the resources available for those purposes.

"Costs incurred resulting from the detention," as used in this section, shall include the same cost factors as are utilized by the Department of Corrections in determining the cost of prisoner care in state correctional facilities.

(Added Stats 1974 ch 1237; most recently amended ch 961, effective 9/10/84)

4018.1. AIDS—Information. Subject to the availability of adequate state funding for these purposes, the sheriff of each county shall provide inmates who have been sentenced for drug-related offenses with information about behavior that places a person at high risk for contracting the human immunodeficiency virus (HIV), and about the prevention of the transmission of acquired immune deficiency syndrome (AIDS). Each county sheriff or the chief county probation officer shall provide all inmates who have been sentenced for drug-related offenses, who are within one month of release, or who have been placed on probation, with information about behavior that places a person at high risk for

contracting HIV, about the prevention of the transmission of AIDS, and about agencies and facilities that provide testing, counseling, medical, and support services for AIDS victims. Information about AIDS prevention shall be solicited by each county sheriff or chief county probation officer 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 under this section.

(Added Stats 1988 ch 1301)

4023.6. Medical services—local detention facilities. Any female prisoner in any local detention facility shall have the right to summon and receive the services of any physician and surgeon of her choice in order to determine whether she is pregnant. The superintendent of such facility may adopt reasonable rules and regulations with regard to the conduct of examinations to effectuate such determination.

If the prisoner is found to be pregnant, she is entitled to a determination of the extent of the medical services needed by her and to the receipt of such services from the physician and surgeon of her choice. Any expenses occasioned by the services of a physician and surgeon whose services are not provided by the facility shall be borne by the prisoner.

For the purposes of this section, "local detention facility" means any city, county, or regional facility used for the confinement of any female prisoner for more than 24 hours.

Any physician providing services pursuant to this section shall possess a current, valid, and unrevoked certificate to engage in the practice of medicine issued pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

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

(Added Stats 1972 ch 1362)

4024.1. Discharge of prisoners. (a) The sheriff, chief of police, or any other person responsible for a county or city jail may apply to the presiding judge of the justice, municipal, or superior court to receive general authorization for a period of 30 days to release inmates pursuant to the provisions of this section.

(b) Whenever, after being authorized by a court pursuant to subdivision (a), the actual inmate count exceeds the actual bed capacity of a county or city jail, the sheriff, chief of police, or other person responsible for such county or city jail may accelerate the release, discharge, or expiration of sentence date of sentenced inmates up to a maximum of five days.

(c) The total number of inmates released pursuant to this section shall not exceed a number necessary to balance the inmate count and actual bed capacity.

(d) Inmates closest to their normal release, discharge, or expiration of sentence date shall be given accelerated release priority.

(e) The number of days that release, discharge, or expiration of sentence is accelerated shall in no case exceed 10 percent of the particular inmate's original sentence, prior to the application thereto of any other credits or benefits authorized by law.

(Added Stats 1977 ch 200)

4027. Religious freedom—local detention facilities. It is the intention of the Legislature that all prisoners confined in local detention facilities shall be afforded reasonable opportunities to exercise religious freedom.

As used in this section "local detention facility" means any city, county, or regional facility used for the confinement of prisoners for more than 24 hours.

(Added Stats 1972 ch 1349)

4028. Right to abortion—local detention facilities. No condition or restriction upon the obtaining of an abortion by a female detained in any local detention facility, pursuant to the Therapeutic Abortion Act (Chapter 11 (commencing with Section 25950), Division 20 of the Health and Safety Code), other than those contained in that act, shall be imposed. Females found to be pregnant and desiring abortions shall be permitted to determine their eligibility for an abortion pursuant to law, and if determined to be eligible, shall be permitted to obtain an abortion.

For the purposes of this section, "local detention facility" means any city, county, or regional facility used for the confinement of any female person for more than 24 hours.

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

(Added Stats 1972 ch 1363; amended Stats 1987 ch 828)

4496. Title. This title shall be known and may be cited as the County Correctional Facility Capital Expenditure and Youth Facility Bond Act of 1988.

(Added Stats 1988 ch 264)

4496.02. Background Information. The Legislature finds and declares all of the following:

(a) While the County Jail Capital Expenditure Bond Act of 1981, the County Jail Capital Expenditure Bond Act of 1984, and the County Correctional Facility Capital Expenditure Bond Act of 1986 have helped eliminate many of the critically overcrowded conditions found in county correctional facilities in the state, many problems remain.

(b) Numerous county jails and juvenile facilities throughout California are dilapidated and overcrowded.

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

(d) County jails are threatened with closure or the imposition of court supervision if health and safety deficiencies are not corrected immediately.

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

(f) Local facilities for adults and juveniles are operating over capacity and the population of these facilities is still increasing. It is essential to the public safety that construction of new facilities proceed as expeditiously as possible to relieve overcrowding and to maintain public safety and security.

(Added Stats 1988 ch 264)

4496.04. Definitions. As used in this title, the following terms have the following meanings:

(a) "Committee" means the 1988 County Correctional Facility Capital Expenditure and Youth Facility Finance Committee created pursuant to Section 4496.34.

(b) "Fund" means the 1988 County Correctional Facility Capital Expenditure and Youth Facility Bond Fund created pursuant to Section 4496.10.

(c) "County correctional facilities" means county jail facilities, including separate facilities for the care of mentally ill inmates and persons arrested because of intoxication, but does not include county juvenile facilities.

(d) "County juvenile facilities" means county juvenile halls, juvenile homes, ranches, or camps, and other juvenile detention facilities.

(e) "Youth center" means a facility where children, ages 6 to 17, inclusive, come together for programs and activities, including, but not limited to, recreation, health and fitness, delinquency prevention such as antigang programs and programs fostering resistance to peer group pressures, counseling for problems such as drug and alcohol abuse and suicide, citizenship and leadership development, and youth employment.

(f) "Youth shelter" means a facility that provides a variety of services to homeless minors living on the street or abused and neglected children to assist them with their immediate survival needs and to help reunite them with their parents or, as a last alternative, to find a suitable home.

(Added Stats 1988 ch 264)

4496.10. Proceeds. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the 1988 County Correctional Facility Capital Expenditure and Youth Facility Bond Fund, which is hereby created.

(Added Stats 1988 ch 264)

4496.12. Funds. (a) (1) Moneys in the fund, up to a limit of four hundred ten million dollars ($410,000,000), may be available for the construction, reconstruction, remodeling, and replacement of county correctional facilities, and the performance of deferred maintenance on county correctional facilities. However, deferred maintenance for facilities shall only include items with a useful life of at least 10 years.

(2) Moneys in the fund, up to a limit of sixty-five million dolars ($65,000,000), may be available for the construction, reconstruction, remodeling, and replacement of county juvenile facilities, and the performance of deferred maintenance on county juvenile facilities, but may only be used for the purpose of reducing overcrowding and eliminating health, fire, and life safety hazards.

(3) Expenditure shall be made only if county matching funds of 25 percent are provided as determined by the Legislature, except that this requirement may be

modified or waived by the Legislature where it determines that it is necessary to facilitate the expeditious and equitable construction of state and local correctional facilities.

(b) Moneys in the fund, up to a limit of twenty-five million dollars ($25,000,000), may be available for the purpose of making awards to public or private nonprofit agencies or joint ventures, or a combination of those entities, for purpose of purchasing equipment and for acquiring, renovating, or constructing youth centers or youth shelters, as may be provided by statute. Fifteen million dollars ($15,000,000) shall be available for youth centers and ten million dollars ($10,000,000) shall be available for youth shelters and shall be distributed by the Department of the Youth Authority. However, any remaining money that has not been awarded under this subdivision within two years of the effective date of this title shall be available for both youth centers and youth shelters.

(Added Stats 1988 ch 264)

4496.16. Eligibility. In order to be eligible to receive funds for the purposes specified in subdivision (a) of Section 4496.12 derived from the issuance of bonds under this title, a county shall do all of the following:

(a) Adopt a plan to prohibit the detention of all juveniles in county jails unless otherwise authorized by law.

(b) Demonstrate that it has adequate facilities for mentally ill inmates or detainees and for those persons arrested because of inebriation, or demonstrate that it has a plan for the provision of services to these persons.

(c) Demonstrate that it has utilized, to the greatest practicable extent, alternatives to jail incarceration.

(Added Stats 1988 ch 264)

4496.17. Administration of funds. The Department of the Youth Authority shall administer funds appropriated for juvenile facilities as specified in paragraph (2) of subdivision (a) of Section 4496.12.

(Added Stats 1989 ch 1130)

4496.19. Expenditure. Money in the fund may only be expended for projects specified in this chapter as allocated in appropriations made by the Legislature.

(Added Stats 1988 ch 264)

4496.30. Bonds. Bonds in the total amount of five hundred million dollars ($500,000,000), exclusive of refunding bonds, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this title and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds shall, when sold, be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

(Added Stats 1988 ch 264)

4496.32. Bonds. The bonds authorized by this title shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of

Division 4 of Title 2 of the Government Code), and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this title.

(Added Stats 1988 ch 264)

4496.34. Definitions. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this title, the 1988 County Correctional Facility Capital Expenditure and Youth Facility Finance Committee is hereby created. For purposes of this title, the finance committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Governor, the Controller, the Treasurer, the Director of Finance, or their designated representatives. A majority of the committee may act for the committee.

(b) For purposes of the State General Obligation Bond Law, the Board of Corrections is designated the "board."

(Added Stats 1988 ch 264)

4496.36. Bonds. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the actions specified in Section 4496.12 and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

(Added Stats 1988 ch 264)

4496.38. Collection. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year, and it is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

(Added Stats 1988 ch 264)

4496.40. General Fund. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum which is necessary to carry out the provisions of Section 4496.42, appropriated without regard to fiscal years.

(Added Stats 1988 ch 264)

4496.42. Funds. For the purposes of carrying out this title, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which have been authorized by the committee to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section, plus any interest that the amounts would have

earned in the Pooled Money Investment Account, shall be returned to the General Fund from money received from the sale of bonds for the purpose of carrying out this title.

(Added Stats 1988 ch 264)

4496.44. Fund. All money deposited in the fund which is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditure for bond interest.

(Added Stats 1988 ch 264)

4496.46. Bonds. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code.

(Added Stats 1988 ch 264)

4496.47. Pooled Money Investment Board. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purposes of carrying out the provisions of this chapter. The amount of the request shall not exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. The board shall execute such documents as required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

(Added Stats 1988 ch 264)

4496.48. Definition. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this title are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

(Added Stats 1988 ch 264)

4497. Legislative intent. (a) The Legislature finds and declares that approval by the electors of the County Correctional Facilities Capital Expenditure and Youth Facility Bond Act of 1988 has made new funds available for the construction and renovation of county jails and county juvenile facilities. The Legislature hereby directs the Board of Corrections to allocate and administer the moneys intended in the County Correctional Facilities Capital Expenditure and Youth Facility Bond Act of 1988 for county jails, and the Department of the Youth Authority to allocate and administer the moneys intended in the County Correctional Facilities Capital Expenditure and Youth Facility Bond Act of 1988 for juvenile facilities, in accordance with the provisions of this title.

(b) Money appropriated for allocation under this title may be used for the renovation, replacement, reconstruction, or construction of county jail facilities, county medical facilities designated to house persons charged with or convicted of a crime and who are mentally ill, and county juvenile facilities. Money

appropriated by this title may also be used for construction of separate local detention facility space for detoxification of persons arrested because of intoxication.

(c) It is the Legislature's intention to make the money appropriated for allocation under this title available to counties with established and documented needs for capital projects for jail and juvenile facilities. However, that money shall not be used to build facilities that the counties cannot afford to operate fully and safely.

(Added Stats 1989 ch 1327)

4497.20. Administration of funds. (a) The Department of the Youth Authority is hereby directed to administer the moneys intended for juvenile facilities in the County Correctional Facility Capital Expenditure and Youth Facility Bond Act of 1988, in accordance with the provisions of this chapter.

(b) It is the intention of the Legislature to make the money appropriated for allocation under this chapter available to counties with established and documented needs for capital projects for juvenile facilities.

(c) Counties that apply for funds to alleviate overcrowding shall submit a preliminary staffing plan for the proposed facility, along with an analysis of other operating costs anticipated for the facility, to the Department of the Youth Authority for review and comment. Prior to submission of the staffing plan and operating cost analysis to the department, the board of supervisors shall have reviewed and approved the submittal in or following public hearings. The chief probation officer shall also have reviewed and commented on the preliminary staffing plan and operating cost analysis. The department shall comment in writing to the chief probation officer and board of supervisors. This response shall be a public record.

(d) The Department of the Youth Authority shall conduct an assessment of the needs of counties for juvenile facilities in California which shall be submitted to the Legislature by June 30, 1990.

(Added Stats 1989 ch 1327)

4497.22. Appropriation of funds. Funds appropriated to the Department of the Youth Authority for allocation under this chapter shall be allocated as provided by this chapter.

(Added Stats 1989 ch 1327)

4497.24. Allocation of funds. Two million dollars ($2,000,000) shall be set aside initially for the counties that did not have juvenile facilities on January 1, 1987. These funds shall be used to construct county juvenile facilities and are hereby allocated as follows:

Amador	$ 33,000
Calaveras	80,000
Colusa	75,000
Inyo	846,000
Lassen	350,000
Mariposa	50,000
Modoc	126,000
Mono	18,000
Plumas	45,000

San Benito	243,000
Sierra	10,000
Trinity	30,000
Tuolumne	94,000

(Added Stats 1989 ch 1327)

4497.26. Facilities for youth with special needs. Ten million dollars ($10,000,000) shall be set aside initially for counties that do not have efficient and adequate facilities for youth with special problems. Two or more counties may apply jointly to construct those facilities regionally. No more than three million three hundred thousand dollars ($3,300,000) shall be awarded for the construction of each regional facility.

(Added Stats 1989 ch 1327)

4497.28. Allocation of funds. Forty-eight million seven hundred fifty thousand dollars ($48,750,000) shall be set aside initially for counties to alleviate overcrowding and eliminate health, fire, and life safety deficiencies in juvenile facilities or provide efficient and adequate facility for youth with special problems. These funds are hereby allocated on a per capita share basis to all counties except those listed in Section 4497.24, as follows:

Alameda	$ 2,161,656
Butte	303,787
Contra Costa	1,329,808
Del Norte	34,798
El Dorado	210,354
Fresno	1,064,299
Humboldt	201,133
Imperial	196,087
Kern	901,792
Kings	163,725
Lake	89,431
Los Angeles	14,970,647
Madera	143,542
Marin	400,004
Mendocino	132,407
Merced	297,871
Monterey	605,660
Napa	184,952
Nevada	134,321
Orange	3,934,095
Placer	272,121
Riverside	1,700,581
Sacramento	1,696,928
San Bernardino	2,235,602
San Diego	4,123,745
San Francisco	1,275,871
San Joaquin	794,440
San Luis Obispo	360,682
San Mateo	1,093,529

Santa Barbara	596,961
Santa Clara	2,488,758
Santa Cruz	393,914
Shasta	242,890
Siskiyou	75,338
Solano	544,764
Sonoma	636,457
Stanislaus	591,915
Sutter	107,352
Tehama	81,253
Tulare	517,621
Ventura	1,125,195
Yolo	234,887
Yuba	98,827

(Added Stats 1989 ch 1327)

4497.30. Needs assessment. Three million twenty-five thousand dollars ($3,025,000) shall be set aside initially for bond interest costs and two hundred fifty thousand dollars ($250,000) shall be set aside to conduct a statewide assessment of the counties' needs for juvenile facilities.

(Added Stats 1989 ch 1327)

4497.32. Use of funds. (a) Funds which were set aside initially as provided by Sections 4497.24 to 4497.30, inclusive, that are not used and funds that were allocated under the provisions of the County Correctional Facility Capital Expenditure Bond Act of 1986 that are not used shall be allocated by the Department of the Youth Authority to those counties that received an allocation under Section 4497.28 which was not sufficient to fund the remaining portion of the total cost of the approved projects. The amount of each of those county's allocation shall be that county's per capita share of the total funds available for all counties with partially funded projects, or the amount needed to complete funding of that county's approved projects, whichever is less. At no time shall the allocation exceed 75 percent of the total eligible costs.

(b) The allocation procedure described in subdivision (a) shall be repeated until all of the available funds are awarded.

(c) Funds awarded by the Department of the Youth Authority under this section shall be used for the construction, reconstruction, remodeling, or replacement of county juvenile facilities, and for the performance of deferred maintenance on juvenile facilities, but may only be used for the purpose of reducing current overcrowding and eliminating health, fire, and life safety hazards.

(Added Stats 1989 ch 1327)

4497.34. Corrective action plans. (a) Counties with overcrowded juvenile facilities shall not be elibible to receive funds to construct, reconstruct, remodel, or replace juvenile facilities unless they have adopted a plan to correct overcrowded conditions within their facilities which includes the use of alternatives to detention. The corrective action plan shall provide for the use of five or more methods or procedures to minimize the number of minors detained and shall be approved by the board of supervisors during or subsequent to a public hearing.

(b) To be eligible for funding under this chapter, the county shall enter into a contract with the Department of the Youth Authoirity and begin construction or renovation work within four years of the operative date of the regulations that implement this chapter. If a county fails to meet this requirement, any allocations or awards to that county under this chapter shall be deemed void and any moneys allocated or awarded to that county shall revert to the Department of the Youth Authority for reallocation to another county as provided by Section 4497.32. The department may waive this requirement if it determines that there are unavoidable delays in starting construction.

(c) To be eligible for funding for juvenile facilities under the County Correctional Facility Capital Expenditure Bond Act of 1986, the county shall enter into a contract with the Department of the Youth Authority and begin construction or renovation work by July 31, 1991. If a county fails to meet this requirement, all allocations or awards that have been made to that county under that act shall be deemed void and any moneys allocated or awarded to that county shall revert to the Department of the Youth Authority and are reappropriated for reallocation as provided by Section 4497.32. The department may waive this requirement if it determines that there are unavoidable delays in starting construction.

(Added Stats 1989 ch 1327)

4497.36. Applications. An application for funds shall be in the manner and form prescribed by the Department of the Youth Authority.

(Added Stats 1989 ch 1327)

4497.38. Awards. Awards shall be made only if county matching funds of 25 percent are provided.

(Added Stats 1989 ch 1327)

4497.40. Report to the Legislature. The Department of the Youth Authority shall report to the Legislature by July 1, 1991, on the status of funds expended and provide a complete list of funds allocated to each county.

(Added Stats 1989 ch 1327)

4497.50. Requirements—Prison Industries. In order to be eligible to receive funds derived from the issuance of General Obligation Bonds under the County Correctional Facility Capital Expenditure and Youth Facility Bond Act of 1988, a county or city and county shall do all the following:

(a) In the design and planning of facilities whose construction, reconstruction, or remodeling is financed under the County Correctional Facility Capital Expenditure and Youth Facility Bond Act of 1988, products for construction, renovation, equipment, and furnishings produced and sold by the Prison Industry Authoity or local jail industry programs shall be utilized in the plans and specifications unless the county or city and county demonstrates either of the following to the satisfaction of the Board of Corrections or the Department of the Youth Authority:

(1) The products cannot be produced and delivered without causing delay to the construction of the property.

(2) The products are not suitable for the facility or competitively priced and cannot otherwise be reasonably adapted.

(b) Counties and cities and counties shall consult with the staff of the Prison Industry Authority or local jail industry program to develop new products and adapt existing products to their needs.

(c) The Board of Corrections or the Department of the Youth Authority shall not enter into any contract with any county or city and county until that county's or city and county's plan for purchase from and consultation with the Prison Industry Authority or local jail industry program is reviewed and approved by the Board of Corrections or the Department of the Youth Authority.

(Added Stats 1989 ch 1327)

4497.52. Competitive bidding. Notwithstanding any other provision of law, a county or city and county may contract for the purchase of products as specified in Section 4497.50 with the Prison Industry Authority or local jail industry program without the formality of obtaining bids or otherwise complying with provisions of the Public Contract Code.

(Added Stats 1989 ch 1327)

4497.54. Prison Industry liaison. The Prison Industry Authority shall designate an individual as County Jail and Juvenile Facility Liaison who shall work with counties to maximize the utilization of Prison Industry Authority products for construction, renovation, equipment, and furnishing, to ensure that manufactured products meet the contract specifications and delivery dates, and to assure consultation with counties for development of new products and adaption of existing products to meet their needs.

(Added Stats 1989 ch 1327)

4497.56. Purpose. It is the intent of the Legislature to maximize the utilization of Prison Industry Authority products for jail construction, renovation, equipment, and furnishings to ensure that prisoners work productively and contribute to reducing the cost to the taxpayers of their incarceration.

(Added Stats 1989 ch 1327)

4504. When person deemed confined in prison. For purposes of this chapter:

(a) A person is deemed confined in a "state prison" if he is confined in any of the prisons and institutions specified in Section 5003 by order made pursuant to law, including, but limited to, commitments to the Department of Corrections or the Department of the Youth Authority, regardless of the purpose of such confinement and regardless of the validity of the order directing such confinement, until a judgment of a competent court setting aside such order becomes final.

(b) A person is deemed "confined in" a prison although, at the time of the offense, he is temporarily outside its walls or bounds for the purpose of serving on a work detail or for the purpose of confinement in a local correctional institution pending trial or for any other purpose for which a prisoner may be allowed temporarily outside the walls or bounds of the prison, but a prisoner who has been released on parole is not deemed "confined in" a prison for purposes of this chapter.

(Added Stats 1963 ch 2027; most recently amended Stats 1969 ch 1010)

4537. Release of information on escapees. 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.

(Added Stats 1984 ch 1420; amended Stats 1986 ch 359)

4700. (Repealed Stats 1986 ch 1310)

4700.1. Transportation agreements. For any trial or hearing referred to in Section 4750, the sheriff of the county where such trial or hearing is had and the person in charge of the prison may agree that the county shall transport prisoners in a state prison to and from such prison. Upon such agreement, the county, and not the Department of Corrections, shall perform the transportation referred to in this section.

(Added Stats 1963 ch 1781; most recently amended Stats 1986 ch 1310)

4750. Reimbursement. A city or county shall be entitled to reimbursement for reasonable and necessary costs connected with state prisons or prisoners in connection with any of the following:

(a) Any crime committed at a state prison, whether by a prisoner, employee, or other person.

With respect to a prisoner, "crime committed at a state prison" as used in this subdivision, includes, but is not limited to, crimes committed by the prisoner while detained in local facilities as a result of a transfer pursuant to Section 2910 or 6253, or in conjunction with any hearing, proceeding, or other activity for which reimbursement is otherwise provided by this section.

(b) Any crime committed by a prisoner in furtherance of an escape. Any crime committed by an escaped prisoner within 10 days after the escape and within 100 miles of the facility from which the escape occurred shall be presumed to have been a crime committed in furtherance of an escape.

(c) Any hearing on any return of a writ of habeas corpus prosecuted by or on behalf of a prisoner.

(d) Any trial or hearing on the question of the sanity of a prisoner.

(e) Any costs not otherwise reimbursable under Section 1557 or any other related provision in connection with any extradition proceeding for any prisoner released to hold.

(f) Any costs incurred by a coroner in connection with the death of a prisoner.

(g) Any costs incurred in transporting a prisoner within the host county or as requested by the prison facility or incurred for increased security while a prisoner is outside a state prison.

(Added Stats 1986 ch 1310; amended Stats 1987 ch 1303, effective 9/28/87)

4751. Reimbursement for additional costs. Costs incurred include all of the following:

(a) Costs of law enforcement agencies in connection with any matter set forth in Section 4750, including the investigation or evaluation of any of those matters regardless of whether a crime has in fact occurred, a hearing held, or an offense prosecuted.

(b) Costs of any trial or hearing of any matter set forth in Section 4750, including costs for the preparation of the trial, pretrial hearing, actual trial or hearing, expert witness fees, the costs of guarding or keeping the prisoner, the transportation of the prisoner, the costs of appeal, and the execution of the sentence. The cost of detention in a city or county correctional facility shall include the same cost factors as are utilized by the Department of Corrections in determining the cost of prisoner care in state correctional facilities.

(c) The costs of the prosecuting attorney in investigating, evaluating, or prosecuting cases related to any matter set forth in Section 4750, whether or not the prosecuting attorney decides to commence legal action.

(d) Costs incurred by the public defender or court appointed attorney with respect to any matter set forth in Section 4750.

(e) Any other costs reasonably incurred by a county in connection with any matter set forth in Section 4750.

(Added Stats 1986 ch 1310)

4752. Administrative costs. As used in this chapter, reasonable and necessary costs shall be based upon all operating costs, including the cost of elected officials while serving in line functions and including all administrative costs associated with providing the necessary services and securing reimbursement therefor. Administrative costs include a proportional allowance for overhead determined in accordance with current accounting practices.

(Added Stats 1986 ch 1310)

4753. Cost statement. A city or county shall designate an officer or agency to prepare a statement of costs that shall be reimbursed under this chapter.

The statement shall be sent to the Controller for approval. The Controller shall reimburse the city or county within 60 days after receipt of the statement or provide a written statement as to the reason for not making reimbursement at that time.

(Added Stats 1986 ch 1310)

4754. Definition. As used in this chapter, "prisoner" means any person committed to a state prison, including a person who has been transferred to any other facility, has escaped, or is otherwise absent, but does not include a person while on parole.

(Added Stats 1986 ch 1310)

4755. Detainers. Whenever a person has entered upon a term of imprisonment in a penal or correctional institution, and whenever during the continuance of the term of imprisonment there is a detainer lodged against the prisoner by a law enforcement or prosecutorial agency of the state or its subdivisions, the Department of Corrections may do either of the following:

(a) Release the inmate to the agency lodging the detainer, within seven days prior to the scheduled release date provided the inmate is kept in custody until the scheduled release date.

(b) Retain the inmate in custody up to seven days after the scheduled release date to facilitate pickup by the agency lodging the detainer.

(Added Stats 1986 ch 1310)

5000. Corrections in Youth and Adult Correctional Agency. There is in the Youth and Adult Correctional Agency the Department of Corrections.

(Added Stats 3d Ex Sess 1944 ch 2; amended most recently Stats 1982 ch 624)

5009. Religious freedom. It is the intention of the Legislature that all prisoners shall be afforded reasonable opportunities to exercise religious freedom.

(Added Stats 1972 ch 1349)

5085. Presley institute. (a) There is hereby created in state government the Robert Presley Institute of Corrections Research and Training, hereafter referred to as "the institute" for the purposes of supporting research as provided by Section 5091, and enhancing education and training for corrections personnel within the youth and adult corrections system in California.

(b) The Legislature declares that the institute shall research and recommend short-term and long-term approaches to address the following:

(1) Evaluate the assumptions of our penal system including the prevention of violence, protection of public safety, safe, secure, and cost-effective incarceration, and the reintegration of offenders into society.

(2) Identify the methods and practices necessary for the most beneficial operation of the state's correctional institutions.

(3) Reduce prison, jail, and youth facility violence and recidivism rates.

(4) Ensure that California remains the nationwide leader in modern, humane, secure, and efficient correctional systems.

(5) Review current educational and training practices for correctional staff and recommend new curricula and training regimens intended to enhance the professionalism, expertise, and effectiveness of these personnel.

(Added Stats 1986 ch 1288; amended Stats 1987 ch 1450)

5086. Governing board. The institute shall be governed by a 17-member board of trustees, hereafter referred to as "the board," which shall consult with the governing body of the University of California, and the governing bodies of the California State University and the California community colleges. The institute shall also consult with the Governor and the Legislature on matters related to corrections research, education, and training.

(Added Stats 1986 ch 1288; amended Stats 1987 ch 1450)

5087. Membership. The board shall be composed of 17 voting members. The members shall be selected from persons with experience or education in the fields of corrections, correctional training, criminal justice, criminal law, sociology, public health, architecture, urban planning, mental health, public protection, political science, psychology, or psychiatry. The Director of Corrections and the Director of the Youth Authority shall serve as ex officio voting members of the board. The Chairperson of the Board of the National Institute of Corrections or

his or her designee, shall serve as an ex officio voting member of the board. The chancellor of the campus affiliated with the institute is authorized to serve as an ex officio voting member of the board.

(Added Stats 1986 ch 1288; amended Stats 1987 ch 1450)

5088. Membership. The Governor shall appoint six members of the board, one of whom shall be designated by the Governor as chairperson. The Speaker of the Assembly and the Senate Rules Committee shall each appoint two members of the board. The Chancellors of the California State University and the California Community Colleges shall each appoint one member of the board. The President of the University of California is authorized to appoint one member of the board.

(Added Stats 1986 ch 1288; amended Stats 1987 ch 1450)

5089. Vacancies. (a) In the event of a vacancy due to resignation, death, removal by the appointing authority pursuant to subdivision (b), or expiration of term of a appointed office, the appointing authority shall fill the vacancy following receipt of written notification from the board that a vacancy has occurred.

(b) Vacancies shall be filled by appointment for the unexpired term. The appointing authority may remove any member of the board disqualified by reason of neglect of any duty required by law, or for incompetency, or dishonorable conduct.

(c) The board shall meet regularly at least four times during each year with at least one meeting each year to be held in a geographic location readily available to a large segment of the population of California. The board shall hold extra meetings as necessary on the call of the chairperson or a majority of the voting members of the board. Nine voting members of the board constitute a quorum. The vote of a majority of the voting members of the board is necessary for the transaction of the business of the board.

(Added Stats 1986 ch 1288; amended Stats 1987 ch 1450)

5091. Duties. It is the intent of the Legislature that beginning January 1, 1987, the institute shall do all of the following:

(a) Finance research on issues of interest to state and local correctional agencies, universities, colleges, and other academic or corrections research institutions. The board shall receive and assign priority to research requests from correctional agencies, the Legislature and others. With respect to assigning priority to research requests, the board shall give preference to research tasks beyond the ordinary capability of in-house agency research divisions.

(b) Establish a clearinghouse for correctional information and research and disseminate material of interest, including the results of institute-financed research, to correctional practitioners, the Legislature, universities, colleges, courts, and the public.

(c) Sponsor seminars in which experts and theoreticians from various fields relevant to correctional practice may interact for the purpose of assisting the conduct of California corrections.

(Added Stats 1986 ch 1288; amended Stats 1987 ch 1450)

5094. Funding. (a) It is the intent of the Legislature that funding for the institute's training, education, and research projects should be appropriated by

the Legislature. The board is encouraged to seek additional funds from the state college and university systems, private colleges and universities, foundations, the federal government, and other sources deemed appropriate by the board.

(b) The executive director shall, subject to review and approval of the board, negotiate the terms, services, and costs of contracts and research projects consistent with funds available. The board shall approve contracts negotiated by the executive director and shall retain legal counsel for purposes of contract review.

(c) Consistent with the funds available, the executive director shall obtain all necessary office space, equipment, supplies, and services he or she deems necessary for the institute to perform its mandated duties.

(Added Stats 1986 ch 1288; amended Stats 1987 ch 1450)

6001. Establishment and function of Youth Authority. The establishment, organization, jurisdiction, powers, duties, responsibilities and functions of the Youth Authority are continued as provided in the Youth Authority Act (Chapter 1 (commencing with Section 1700) of Division 2.5 of the Welfare and Institutions Code).

(Added Stats 1943; amended Stats 1987 ch 828)

6003. Limitation of Director, Department of Corrections. The Youth Authority and the Director of Corrections may, pursuant to Section 11253 and Sections 11256 to 11259, inclusive, of the Government Code, provide for the performance of any of the duties or the exercise of any of the powers of the Youth Authority by the Department of Corrections, subject to the direction and control of the Youth Authority, except that the power of classification and segregation of persons committed to the authority shall be exercised by the authority, and shall not be exercised by any other agency.

(Added Stats 1944; most recently amended Stats 1987 ch 828)

6004. Delineation of joint powers. Whenever the Director of Corrections or the Department of Corrections exercises any power or performs any duty of the Youth Authority pursuant to the authorization in Section 6003.

(a) The exercise of the power or the performance of the duty by the Director of Corrections or the Department of Corrections shall constitute an exercise of the power or a performance of the duty by the Youth Authority for the purposes of the Youth Authority Act (Chapter 1 (commencing with Section 1700) of Division 2.5 of the Welfare and Institutions Code).

(b) The operation of any service, place, institution, hospital, agency, or facility by the Department of Corrections under the authorization in Section 6003 shall be deemed operation by the Youth Authority.

(c) All public officers and other persons under a duty to make any reports or provide any information, access, or assistance to the Youth Authority in respect to the power or duty so exercised shall make the reports, or provide the information, access, or assistance to the Director of Corrections or the Department of Corrections.

(Added Stats 1944; amended Stats 1987 ch 828)

6005. Responsibility for court costs. Whenever a person confined to a correctional institution under the supervision of the Department of the Youth

Authority is charged with a public offense committed within the confines of such institution and is tried for such public offense, the county clerk of a county or the city finance officer of a city incurring any costs in connection with such matter must make out a statement of all the costs incurred by the county or city for the investigation, and the preparation of the trial, and the actual trial of such case, and of all guarding and keeping of such person, and of the execution of the sentence of such person, properly certified to by a judge of the superior court of such county. The statement shall be sent to the department for its approval. After such approval the department must cause the amount of such costs to be paid out of the money appropriated for the support of the department to the county treasurer of the county or the city finance officer of the city incurring such costs.

(Added Stats 1951 ch 1369; most recently amended Stats 1974 ch 801)

THE BOARD OF CORRECTIONS

General Provisions

6024. Existence of board. There is in the Youth and Adult Correctional Agency a Board of Corrections.

(Added Stats 1963 ch 1366; most recently amended by Stats 1982 ch 624)

6025. Composition of Board of Corrections. (a) The Board of Corrections shall be composed of 11 members, one of whom shall be the Secretary of the Youth and Adult Correctional Agency who shall be designated as the chairperson, one of whom shall be the Director of Corrections, one of whom shall be the Director of the Youth Authority, and eight of whom shall be appointed by the Governor after consultation with, and with the advice of, the Secretary of the Youth and Adult Correctional Agency, and with the advice and consent of the Senate. The gubernatorial appointments shall include:

(1) An employee of a local detention facility whose primary responsibility is staff training.

(2) A county sheriff.

(3) A county supervisor or county administrative officer.

(4) A chief probation officer.

(5) A manager or administrator of a county local detention facility.

(6) An administrator of a local community-based correctional program.

(7) Two public members.

(b) Of the members first appointed by the Governor, two shall be appointed for a term of two years, three for a term of three years, and three for a term of four years. The length of the original term to be served by each such member first appointed shall be determined by lot. Their successors shall serve for a term of three years and until appointment and qualification of their successors, each term to commence on the expiration date of the term of the predecessor. The terms of the two persons last appointed as qualified persons, by the Governor with the advice and consent of the Senate, under the provisions of this section as it read prior to January 1, 1977, shall expire on that date.

(c) The board shall select a vice chairperson from among its members. Six members of the board shall constitute a quorum.

(d) When the Board of Corrections is hearing charges against any member, the individual concerned shall not sit as a member of the board for the period of hearing of charges and the determination of recommendations to the Governor.

(e) If any appointed member is not in attendance for three consecutive meetings the board shall recommend to the Governor that the member be removed and the Governor shall make a new appointment, with the advice and consent of the Senate, for the remainder of the term.

(Added Stats 3d Ex Sess 1944 ch 2; most recently amended Stats 1986 ch 1519, effective 10/1/86)

6025.1. Expenses for Governor's appointees. Members of the board shall receive no compensation, but shall be reimbursed for their actual and necessary travel expenses incurred in the performance of their duties. For purposes of compensation, attendance at meetings of the board shall be deemed performance by a member of the duties of his state or local governmental employment.

(Added Stats 1949 ch 520; most recently amended by Stats 1976 ch 1237)

6025.5. Required reports. The Director of Corrections, Board of Prison Terms, the Youthful Offender Parole Board, and the Director of the Youth Authority shall file with the Board of Corrections for information of the board or for review and advice to the respective agency as the board may determine, all rules, regulations and manuals relating to or in implementation of policies, procedures, or enabling laws.

(Added Stats 1953 ch 1666; most recently amended Stats 1979 ch 255, 860)

6026. Coordination. The Board of Corrections shall be the means whereby the Department of Corrections and the Department of the Youth Authority may correlate their individual programs for the adults and youths under the jurisdiction of each.

(Added Stats 3d Ex Sess 1944 ch 2; Amended Stats 1953 ch 1666)

6027. Duties of Board of Corrections. It shall be the duty of the Board of Corrections to make a study of the entire subject of crime, with particular reference to conditions in the State of California, including causes of crime, possible methods of prevention of crime, methods of detection of crime and apprehension of criminals, methods of prosecution of persons accused of crime, and the entire subject of penology, including standards and training for correctional personnel, and to report its findings, its conclusions and recommendations to the Governor and the Legislature at such times as they may require.

(Added Stats 3d Ex Sess 1974 ch 2; Amended Stats 1976 ch 1237)

6028. Special commissions. Upon request of the Board of Corrections or upon his own initiative, the Governor from time to time may create by executive order one or more special commissions to assist the Board of Corrections in the study of crime pursuant to Section 6027. Each such special commission shall consist of not less than three nor more than five members, who shall be appointed by the Governor. The members of any such special commission shall service without compensation, except that they shall receive their actual and necessary expenses incurred in the discharge of their duties.

The executive order creating each special commission shall specify the subjects and scope of the study to be made by the commission, and shall fix a time within which the commission shall make its final report. Each commission shall cease to exist when it makes its final report.

(Added Stats 1947 ch 1181)

6028.1. Limitations of Special Commissions. Each such special commission may investigate any and all matters relating to the subjects specified in the order of creating it. In the exercise of its powers the commission shall be subject to the following conditions and limitations.

(a) A witness at any hearing shall have the right to have present at such hearing counsel of his own choice, for the purpose of advising him concerning his constitutional rights.

(b) No hearing shall be televised or broadcast by radio, nor shall any mechanical, photographic or electronic record of the proceedings at any hearing be televised or broadcast by radio.

(Added Stats 1947 ch 1181; most recently amended Stats 1951 ch 902)

6028.2. Assistance to special commissions. The Secretary of the Youth and Adult Correctional Agency may furnish for the use of any such commission such facilities, supplies, and personnel as may be available therefor.

(Added Stats 1947 ch 1181; most recently amended by Stats 1982 ch 394, 624, 1437)

6028.3. Transmittal of special commission reports. All such special commissions shall make all their reports and recommendations to the Board of Corrections. The Board of Corrections shall consider such reports and recommendations, and shall transmit them to the Governor and the Legislature, together with its own comments and recommendations on the subject matter thereof, within the first 30 days of the next succeeding general or budget session of the Legislature. The Board of Corrections shall also file copies of such reports with the Attorney General, the State Library and such other state departments as may appear to have an official interest in the subject matter of the report or reports in question.

(Added Stats 1947 ch 1181)

6028.4. Required report of Governor. The Governor shall report to each regular session of the Legislature the names of any persons appointed under Section 6028 together with a statement of expenses incurred.

(Added Stats 1947 ch 1181)

6029. Required submission of jail or detention plans. The plans and specifications of every jail, prison, or other place of detention of persons charged with or convicted of crime or of persons detained pursuant to the Juvenile Court Law (Chapter 2 (commencing with Section 200) of Division 2 of the Welfare and Institutions Code) or the Youth Authority Act (Chapter 1 (commencing with Section 1700) of Division 2.5 of the Welfare and Institutions Code), if such plans and specifications involve construction, reconstruction, remodeling, or repairs of an aggregate cost in excess of fifteen thousand dollars ($15,000), shall be submitted to the board for its recommendations. Upon request of any city, city and county, or county, the board shall consider the entire program or group of detention facilities currently planned or under consideration by the city, city and

county, or county, and make a study of the entire needs of the city, city and county, or county therefor, and make recommendations thereon. No state department or agency other than the board shall have authority to make recommendations in respect to plans and specifications for the construction of county jails or other county detention facilities or for alterations thereto, except such recommendations as the board may request from any such state department or agency.

(Added Stats 1945 ch 1313; most recently amended Stats 1987 ch 828)

6030. Minimum standards—local detention facilities. (a) The Board of Corrections shall establish minimum standards for local detention facilities by July 1, 1972. The Board of Corrections shall review such standards biennially and make any appropriate revisions.

(b) The standards shall include, but not be limited to, the following: health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined in local detention facilities, and personnel training.

(c) Such standards shall require that at least one person on duty at the facility is knowledgeable in the area of fire and life safety procedures.

(d) The standards shall also include requirements relating to the acquisition, storage, labeling, packaging, and dispensing of drugs.

(e) In establishing minimum standards, the Board of Corrections shall seek the advice of the following:

(1) For health and sanitary conditions:

The State Department of Health Services, physicians, psychiatrists, local public health officials, and other interested persons.

(2) For fire and life safety:

The State Fire Marshal, local fire officials, and other interested persons.

(3) For security, rehabilitation programs, recreation, and treatment of persons confined in local detention facilities:

The Department of Corrections, the Department of the Youth Authority, local juvenile justice commissions, local correctional officials, experts in criminology and penology, and other interested persons.

(4) For personnel training:

The Commission on Peace Officer Standards and Training, psychiatrists, experts in criminology and penology, the Department of Corrections, the Department of the Youth Authority, local correctional officials, and other interested persons.

(Added Stats 1957 ch 2025; most recently amended Stats 1986 ch 376)

6031. Inspection. The Board of Corrections shall inspect each local detention facility in the state by January 1, 1974, and shall inspect each such facility biennially thereafter.

(Added Stats 1971 ch 1789)

6031.1. Scope of inspection. Inspections of local detention facilities shall be made biennially. Inspections of privately operated work furlough facilities and programs shall be made biennially unless the work furlough administrator requests an earlier inspection. Inspections shall include, but not be limited to, the following:

(a) Health and safety inspections conducted pursuant to Section 459 of the Health and Safety Code.

(b) Fire suppression preplanning inspections by the local fire department.

(c) Security, rehabilitation programs, recreation, treatment of persons confined in the facilities, and personnel training by the staff of the Board of Corrections.

Reports of each facility's inspection shall be furnished to the official in charge of the local detention facility or, in the case of a privately operated facility, the work furlough administrator, the local governing body, the grand jury, and the presiding or sole judge of the superior court in the county where the facility is located. These reports shall set forth the areas wherein the facility has complied and has failed to comply with the minimum standards established pursuant to Section 6030.

(Added Stats 1971 ch 1789; most recently amended Stats 1987 ch 1054)

6031.2. Inspection reports. The Board of Corrections shall file with the Legislature by March 31, 1974, and on March 31, in each even-numbered year thereafter, reports of the inspection of those local detention facilities that have not complied with the minimum standards established pursuant to Section 6030. The reports shall specify those areas in which the facility has failed to comply and the estimated cost to the facility necessary to accomplish compliance with the minimum standards.

The reports shall also include an evaluation of standards required of and training provided for correctional personnel. The reports shall specify those areas in which standards and training are, in the board's estimation, inadequate.

(Added Stats 1971 ch 1789; amended Stats 1976 ch 1237)

6031.3. Federal funds. The Board of Corrections is authorized to apply for any funds that may be available from the federal government to further the purposes of Sections 6030 to 6031.2, inclusive.

(Added Stats 1971 ch 1789)

6031.4. Definition—local detention facility. (a) For the purpose of this title, "local detention facility" means any city, county, city and county, or regional facility used for the confinement for more than 24 hours of adults, or of both adults and minors, but does not include that portion of a facility for the confinement of both adults and minors which is devoted only to the confinement of minors.

(b) In addition to those provided for in subdivision (a), for the purposes of this title, "local detention facility" also includes any city, county, city and county, or regional facility, constructed on or after January 1, 1978, used for the confinement, regardless of the length of confinement, of adults or of both adults and minors, but does not include that portion of a facility for the confinement of both adults and minors which is devoted only to the confinement of minors.

(c) "Local detention facility" also includes any adult detention facility that holds local prisoners under contract on behalf of cities, counties, or cities and counties. Nothing in this subdivision shall be construed as affecting the establishment of private detention facilities.

(d) For purposes of this title, a local detention facility does not include those rooms that are used for holding persons for interviews, interrogations, or investigations, and are either separate from a jail or located in the administrative area of a law enforcement facility.

(Added Stats 1971 ch 1789; most recently amended Stats 1988 ch 386 eff. 8/8/88)

6031.5. Definition: correctional personnel. For the purposes of this chapter, the term "correctional personnel" means: (1) any person described by subdivision (a) or (b) of Section 830.5; or (2) any class of persons who perform supervision, custody, care or treatment functions and are employed by the Department of Corrections, the Department of the Youth Authority, any correctional or detention facility, probation department, community-based correctional program, or other state or local public facility or program responsible for the custody, supervision, treatment, or rehabilitation of persons accused of or adjudged responsible for criminal or delinquent conduct.

(Added Stats 1976 ch 1237)

Standards and Training of Local Corrections and Probation Officers

6035. Recruitment and training standards. (a) For the purpose of raising the level of competence of local corrections and probation officers, the board shall adopt, and may from time to time amend, rules establishing minimum standards for the selection and training for such officers employed by any city, county, or city and county. All such rules shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Any city, county, or city and county receiving state aid pursuant to Article 3 (commencing with Section 6040) shall adhere to the standards for selection and training established by the board. The board may defer the promulgation of selection standards until necessary research for job relatedness is completed. In such case, and until selection standards are adopted, a city, county, or city and county may receive state aid upon certification of willingness to adhere to the training standards pursuant to Section 6041.

(c) Minimum training standards may include, but are not limited to, basic, entry, continuation, supervisory, management, and specialized assignments.

(d) Training standards shall apply to all local corrections and probation officers employed by jurisdictions receiving funds under Article 3 (commencing with Section 6040). Exemptions from this requirement for personnel hired prior to July 1, 1980, shall be determined by the board. For the purpose of such exemptions, the board may develop written or oral equivalency examinations, a certification process which recognizes standards equivalency through a combination of professional experience and training, or a combination of examination and certification.

(Added Stats 1979 ch 1148; most recently amended Stats 1987 ch 828)

6036. Powers. For purposes of implementing this article, the board shall have the following powers:

(a) Approve or certify, or both, training and education courses at institutions approved by the board.

(b) Make such inquiries as may be necessary to determine whether every city, county, and city and county receiving state aid pursuant to this chapter is adhering to the standards for selection and training established pursuant to this chapter.

(c) Develop and operate a professional certificate program which provides recognition of achievement for local corrections and probation officers whose agencies participate in the program.

(d) Adopt such regulations as are necessary to carry out the purposes of this chapter.

(e) Develop and present training courses for local corrections and probation officers.

(f) Perform such other activities and studies as would carry out the intent of this article.

(Added Stats 1979 ch 1148; most recently amended Stats 1981 ch 1153)

6037. Administrative costs. In exercising its functions, the board shall endeavor to minimize costs of administration so that a maximum of funds will be expended for the purpose of providing training and other services to eligible corrections and probation departments.

(Added Stats 1979 ch 1148)

Corrections Training Fund

6040. Creation of fund. There is hereby created in the State Treasury a Corrections Training Fund, which is hereby appropriated, without regard to fiscal years, exclusively for the costs of administration, the development of appropriate standards, the development of training, program evaluation, and grants to local government pursuant to this article.

(Added Stats 1979 ch 1148; amended Stats 1980 ch 1003, effective 9/21/80)

6041. Application for state aid. Any city, county, or city and county which desires to receive state aid pursuant to this article shall make application to the board for such aid. The initial application shall be accompanied by a certified copy of an ordinance adopted by the governing body providing that, while receiving any state aid pursuant to this article, the city, county, or city and county, will adhere to the standards for selection and training established by the board. The application shall contain such information as the board may request.

(Added Stats 1979 ch 1148; amended Stats 1980 ch 1003, effective 9/21/80)

6042. Payment of state aid. The board shall annually allocate and the State Treasurer shall periodically pay from the Corrections Training Fund, at intervals specified by the board, to each city, county, or city and county which has applied and qualified for aid pursuant to this article an amount determined by the board pursuant to standards set forth in its regulations. In no event shall any allocation be made to any city, county, or city and county which is not adhering to the selection and training standards established by the board as applicable to such city, county, or city and county.

(Added Stats 1979 ch 1148; amended Stats 1980 ch 1003, effective 9/21/80)

6043. Ineligible. Peace officer personnel, whose jurisdictions are eligible for training subvention pursuant to Chapter 1 (commencing with Section 13500)

of Title 4 of Part 4 shall not be eligible to receive funds under this article, except that peace officers assigned full time to correctional duties may undergo training in correctional subjects and their jurisdictions may receive funds under this article for such training.

(Added Stats 1979 ch 1148; amended Stats 1980 ch 1003, effective 9/21/80)

6044. Annual Report. In order for the Legislature to determine the need to continue or modify the standards and training program for local corrections personnel, the board shall on June 30, 1981, and annually thereafter, submit a report to the Legislature regarding the progress and effectiveness of the program.

(Added Stats 1980 ch 1003, effective 9/21/80)

MEDICAL TESTING OF PRISONERS

General Provisions

7500. Legislative findings. The Legislature finds and declares all of the following:

(a) The public peace, health, and safety is endangered by the spread of acquired immune deficiency syndrome (AIDS) within state and local correctional institutions.

(b) The spread of AIDS within prison and jail populations presents a grave danger to inmates within those populations, law enforcement personnel, and other persons in contact with a prisoner infected with the AIDS virus, both during and after the prisoner's confinement. Law enforcement personnel and prisoners are particularly vulnerable to this danger, due to the high number of assaults and other violent acts which occur within correctional institutions.

(c) AIDS has the frightening potential of spreading more rapidly within the closed society of correctional institutions than outside these institutions. This major public health problem is compounded by the further potential of rapid spread of communicable disease outside correctional institutions, through contacts of an infected prisoner who is not treated and monitored upon his or her release.

(d) New diseases of epidemic proportions, such as AIDS may suddenly and tragically infect large numbers of people. This title primarily addresses a current problem of this nature, the spread of AIDS among those in correctional institutions and among the people of California.

(e) AIDS and AIDS-related conditions pose a major threat to the public health and safety of those governmental employees and others whose responsibilities bring them into most direct contact with persons afflicted with those illnesses, and the protection of the health and safety of these personnel is of equal importance to the people of the State of California as is the protection of the health of those afflicted with the diseases who are held in custodial situations.

(f) Testing described in this title of individuals housed within state and local correctional facilities for evidence of infection by the human immunodeficiency virus (HIV), AIDS, or AIDS-related complex would help provide a level of information necessary for effective disease control within these institutions and would help preserve the health of public employees, inmates, and persons in

custody, as well as that of the public at large. This testing is not intended to be, and shall not be construed as, a prototypical method of disease control for the public at large.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

7501. Legislative intent. In order to address the public health crisis described in Section 7500, it is the intent of the Legislature to do all of the following:

(a) Establish a procedure through which custodial and law enforcement personnel are required to report certain situations and may request and be granted a confidential HIV test of an inmate convicted of a crime, or a person arrested or taken into custody, if the custodial or law enforcement officer has reason to believe he or she has come into contact with the blood or semen of an inmate or in any other manner has come into contact with the inmate in a way that could result in HIV infection, based on the latest determinations and conclusions by the federal Centers for Disease Control and the State Department of Health Services on means for the transmission of AIDS, and if appropriate medical authorities, as provided for in this title, reasonably believe there is good medical reason for the test.

(b) Permit inmates to file similar requests stemming from contacts with other inmates.

(c) Require that probation and parole officers be notified when an inmate being released from incarceration is infected with AIDS, and permit these officers to notify certain persons who will come into contact with the parolee or probationer, if authorized by law.

(d) Authorize prison medical staff authorities to require tests of a jail or prison inmate under certain circumstances, if they reasonably believe, based upon the existence of supporting evidence, that the inmate may be suffering from AIDS or AIDS-related diseases and is a danger to other inmates or staff.

(e) Require supervisory and medical personnel of correctional institutions to which this title applies to notify staff if they are coming into close and direct contact with persons in custody who have tested positive or who have AIDS, and provide appropriate counseling and safety equipment.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

7502. Definitions. As used in this title, the following terms shall have the following meanings:

(a) "Correctional institution" means any state prison, county jail, city jail, California Youth Authority facility, county or city-operated juvenile facility, including juvenile halls, camps, or schools, or any other state or local correctional institution.

(b) "Counseling" means counseling by a licensed physician and surgeon, registered nurse, or other health professional who meets guidelines which shall be established by the State Department of Health Services for purposes of providing counseling on AIDS to inmates, persons in custody, and other persons pursuant to this title.

(c) "Law enforcement employee" means correctional officers, peace officers, and other staff of a correctional institution, California Highway Patrol officers, county sheriff's deputies, city police officers, parole officers, probation officers,

and city, county, or state employees including but not limited to, judges, bailiffs, court personnel, and public defenders, who, as part of the judicial process involving an inmate of a correctional institution, or a person charged with a crime, including a minor charged with an offense for which he or she may be made a ward of the court under Section 602 of the Welfare and Institutions Code, are engaged in the custody, transportation, or care of these persons.

(d) "AIDS" means acquired immune deficiency syndrome.

(e) "Human immunodeficiency virus" or "HIV" means the etiologic virus of AIDS.

(f) "HIV test" or "HIV testing" means any clinical laboratory test approved by the federal Food and Drug Administration for HIV, component of HIV, or antibodies to HIV.

(g) "Inmate" means any of the following:

(1) A person in a state prison, or city and county jail, who has been either convicted of a crime or arrested or taken into custody, whether or not he or she has been charged with a crime.

(2) Any person in a California Youth Authority facility, or county- or city-operated juvenile facility, who has committed an act, or been charged with committing an act specified in Section 602 of the Welfare and Institutions Code.

(h) "Bodily fluids" means blood, semen, or any other bodily fluid identified by either the federal Centers for Disease Control or State Department of Health Services in appropriate regulations as capable of transmitting HIV.

(i) "Minor" means a person under 15 years of age.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

7503. Regulations. The State Department of Health Services shall adopt guidelines permitting a chief medical officer to delegate his or her medical responsibilities under this title to other qualified physicians and surgeons, and his or her nonmedical responsibilities to other qualified persons, as appropriate. The chief medical officer shall not, however, delegate the duty to determine whether mandatory testing is required as provided for in Chapter 2 (commencing with Section 7510).

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

7504. Confidentiality—Exception. Actions taken pursuant to this title shall not be subject to subdivisions (a) to (c), inclusive, of Section 199.21 of the Health and Safety Code. In addition, the requirements of subdivision (a) of Section 199.22 of the Health and Safety Code, shall not apply to testing performed pursuant to this title.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

PROCEDURES FOR REQUIRING HIV TESTING

7510. Incident reports. (a) A law enforcement employee who believes that he or she came into contact with bodily fluids of either an inmate of a correctional institution, a person not in a correctional institution who has been arrested or taken into custody whether or not the person has been charged with a crime, including a person detained for or charged with an offense for which he or she may be made a ward of the court under Section 602 of the Welfare and Institutions Code, or a person on probation or parole due to conviction of a crime,

shall report the incident through the completion of a form provided by the State Department of Health Services. The form shall be directed to the chief medical officer, as defined in subdivision (c), who serves the applicable law enforcement agency. Utilizing this form the law enforcement employee may request an HIV test of the person who is the subject of the report. The forms may be combined with regular incident reports or other forms used by the correctional institution or law enforcement agency.

(b) The report required by subdivision (a) shall be submitted by the end of the law enforcement employee's shift during which the incident occurred, or if not practicable, as soon as possible, but no longer than two days after the incident, except that the chief medical officer may waive this filing period requirement if he or she finds that good cause exists. The report shall include names of witnesses to the incident, names of persons involved in the incident, and if feasible, any written statements from these parties. The law enforcement employee shall assist in the investigation of the incident, as requested by the chief medical officer.

(c) For purposes of this section and Section 7511, "chief medical officer" means:

(1) In the case of a report filed by a staff member of a state prison, the chief medical officer of that facility.

(2) In the case of a parole officer filing a report, the chief medical officer of the nearest state prison.

(3) In the case of a report filed by an employee of the California Youth Authority, the chief medical officer of the facility.

(4) In the case of a report filed against a subject who is an inmate of a city or county jail or a county- or city-operated juvenile facility, or who has been arrested or taken into custody whether or not the person has been charged with a crime, but who is not in a correctional facility, including a person detained for or charged with an offense for which he or she may be made a ward of the court under Section 602 of the Welfare and Institutions Code, the county health officer of the county in which the individual is jailed or charged with the crime.

(5) In the case of a report filed by a probation officer, the county health officer of the county in which the probation officer is employed.

(6) In any instance where the chief medical officer, as determined pursuant to this subdivision, is not a physician or surgeon, the chief medical officer shall designate a physician or surgeon to perform his or her duties under this title.

(Added and repealed Stats 1989 ch 1360; operative until 7/1/91)

7511. Testing—criteria. (a) The chief medical officer shall, regardless of whether a report filed pursuant to Section 7510 contains a request for HIV testing, decide whether or not to require HIV testing of the inmate or other person who is the subject of the report filed pursuant to Section 7510, within five calendar days of receipt of the report. If the chief medical officer decides to require HIV testing, he or she shall specify in his or her decision the circumstances, if any, under which followup testing will also be required.

(b) The chief medical officer shall take the following factors into account in determining whether to order an HIV test and followup testing:

(1) Whether an exchange of bodily fluids occurred which could have resulted in AIDS infection, based on the latest written guidelines and standards established by the federal Centers for Disease Control and the State Department of Health Services.

(2) Whether the person exhibits medical conditions or clinical findings categorizing him or her as a possible AIDS victim.

(3) Whether the health of the institution staff or inmates may have been endangered as to AIDS infection resulting from the reported incident.

(c) Prior to reaching a decision, the chief medical officer shall receive written or oral testimony from the law enforcement employee filing the report, from the subject of the report, and from witnesses to the incident, as he or she deems necessary for a complete investigation. The decision shall be in writing and shall state the reasons for the decision. A copy shall be provided by the chief medical officer to the law enforcement employee who filed the report and to the subject of the report, and where the subject is a minor, to the parents or guardian of the minor, unless the parent or guardian of the minor cannot be located.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

7512. Request to test. (a) An inmate of a correctional institution may request HIV testing of another inmate of that institution if he or she has reason to believe that he or she has come into contact with the bodily fluids of that inmate, in situations, which may include, but are not limited to, rape or sexual contact with a potentially infected inmate, tattoo or drug needle sharing, an incident involving injury in which bodily fluids are exchanged, or confinement with a cellmate under circumstances involving possible mingling of bodily fluids. A request may be filed under this section only within two calendar days of the date when the incident causing the request occurred, except that the chief medical officer may waive this filing period requirement when he or she finds that good cause exists.

(b) An inmate in a California Youth Authority facility or any county- or city-operated juvenile facility who is 15 years of age or older, may file a request for a test of another inmate in that facility, in the same manner as an inmate in a state prison, and is subject to the same procedures and rights. An inmate in a California Youth Authority facility or a county- or city-operated juvenile facility who is a minor may file such a request through a staff member of the facility in which he or she is confined. A staff member may file this request on behalf of a minor on his or her own volition if he or she believes that a situtation meeting the criteria specified in subdivision (a) has occurred warranting the request. The filing of a request by staff on behalf of an inmate of a California Youth Authority facility or local juvenile facility shall be within two calendar days of its discovery by staff, except that the chief medical officer may waive this filing period requirement if he or she finds that good cause exists.

When a request is filed on behalf of a minor, the facility shall notify the parent or guardian of the minor of the request and seek permission from the parent or guardian for the test request to proceed. If the parent or guardian refuses to grant permission for the test, the Director of the Youth Authority may request the juvenile court in the county in which the facility is located, to rule on whether the

test request procedure set forth in this title shall continue. The juvenile court shall make a ruling within five days of the case being brought before the court.

If the parent or guardian cannot be located, the superintendent of the facility shall approve or disapprove the request for a test.

(c) Upon receipt of a request for testing as provided in this section, a law enforcement employee shall submit the request to the chief medical officer, the identity of which shall be determined as if the request had been made by an employee of the facility. The chief medical officer shall follow the procedures set forth in Section 7511 with respect to investigating the request and reaching a decision as to mandatory testing of the inmate who is the subject of the request. The inmate submitting the request shall provide names or testimony of witnesses within the limits of his or her ability to do so. The chief medical officer shall make his or her decision based on the criteria set forth in Section 7511. A copy of the chief medical officer's decision shall be provided to the person submitting the request for HIV testing, to the subject of the request, and to the superintendent of the correctional institution. In the case of a minor, a copy of the decision shall be provided to the parents or guardian of the minor, unless the parent or guardian of the minor cannot be located.

7512.5. Clinical symptoms. In the absence of the filing of a report pursuant to Section 7510 or a request pursuant to Section 7512, the chief medical officer, may order a test of an inmate if he or she concludes there are clinical symptoms of AIDS or AIDS-related complex, as recognized by the Centers for Disease Control.

A copy of the decision shall be provided to the inmate, and where the inmate is a minor, to the parents or guardian of the minor, unless the parent or guardian of the minor cannot be located. Any decision made pursuant to this section shall not be appealable to a three-member panel provided for under Section 7515.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

7513. Notice of right to appeal. A description of the right to appeal a chief medical officer's decision shall accompany the copies of the decision required to be provided by Sections 7511, 7512, and 7512.5.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

7514. Counseling. It shall be the chief medical officer's responsibility to see that personal counseling is provided to a law enforcement employee filing a report pursuant to Section 7510, an inmate filing a request pursuant to Section 7512, and any potential test subject, at the time the initial report or request for tests is made, at the time when tests are ordered, and at the time when test results are provided to the employee, inmate, or test subject.

The chief medical officer may provide additional counseling to any of these individuals, upon his or her request, or whenever the chief medical officer deems advisable, and may arrange for the counseling to be provided in other jurisdictions. The chief medical officer shall encourage the subject of the report or request, the law enforcement employee who filed the report, the person who filed the request pursuant to Section 7512, or in the case of a minor, the minor on whose behalf the request was filed, to undergo voluntary HIV testing if the chief medical officer deems it medically advisable. All testing required by this title or

any voluntary testing resulting from the provisions of this title, shall be at the expense of the appropriate correctional institution.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

7515. Administrative appeal. (a) A decision of the chief medical officer made pursuant to Section 7511, 7512, or 7516 may be appealed, within three calendar days of receipt of the decision, to a three-person panel, either by the person required to be tested, or his or her parent or guardian when the subject is a minor, the law enforcement employee filing a report pursuant to either Section 7510 or 7516, or the person requesting testing pursuant to Section 7512, whichever is applicable, or the chief medical officer,upon his or her own motion. If no request for appeal is filed under this subdivision, the chief medical officer's decision shall be final.

(b) A panel required pursuant to subdivision (a) shall consist of three members, as follows:

(1) The chief medical officer making the original decision.

(2) When the decision arises out of a report filed pursuant to Section 7510, a supervisory representative from the law enforcement agency employing the person who filed the report. When a decision arises out of a chief medical officer's decision made pursuant to Section 7512.5, a supervisory representative of the correctional institution appointed by the institution's superintendent. When the decision arises out of a request filed pursuant to Section 7512, a supervisory representative of the law enforcement agency with jurisdiction over the facility.

(3) A physician and surgeon not on the staff of, or under contract with, a state, county, or city correctional institution or with an employer of a law enforcement employee as defined in subdivision (b) of Section 7502, and who has knowledge of the diagnosis and treatment of AIDS. The physician and surgeon appointed pursuant to this paragraph shall be selected by the State Department of Health Services from among a list of persons to be compiled by that department. The State Department of Health Services shall adopt standards for selecting persons for the list required by this paragraph, as well as for their reimbursement, and shall, to the extent possible, utilize its normal process for selecting consultants in compiling this list. The physician and surgeon appointed pursuant to this paragraph shall preside at the hearing and serve as chairperson.

A correctional institution or a county may create an ongoing panel or panels to hear appeals under this section, except that one member each shall meet the requirements of paragraphs (1), (2), and (3).

No panel shall be created under this paragraph by a state correctional institution except with the prior approval of the State Department of Health Services, and no panel shall be created pursuant to this paragraph by a county or city correctional institution except with the prior approval of the county health officer.

(c) A hearing conducted pursuant to this section shall be closed, except that each of the following persons shall have the right to attend the hearing, speak on the issues presented at the hearing, and call witnesses to testify at the hearing:

(1) The chief medical officer, who may also bring staff essential to the hearing, as well as the other two members of the panel.

(2) The subject of the chief medical officer's decision, except that a subject who is a minor may attend only with the consent of his or her parent or guardian, and if the subject is a minor, his or her parent or guardian.

(3) The law enforcement employee filing the report pursuant to Section 7510, or the person requesting HIV testing pursuant to Section 7512, whichever is applicable, and if the person is a minor, his or her parent or guardian.

(d) The subject of the test, or the person requesting the test pursuant to Section 7512, or who filed the report pursuant to Section 7510, whichever is applicable, may appoint a representative to attend the hearing in order to assist him or her.

(e) When a hearing is sought pursuant to this section, the decision shall be rendered within 10 days of the date upon which the appeal is filed pursuant to subdivision (a). A unanimous vote of all the panel shall be necessary in order to require that the subject of the hearing undergo HIV testing.

The criteria specified in Section 7511 for use by the chief medical officer shall also be utilized by the panel in making its decision.

The decision shall be in writing, stating reasons for the decision, and shall be signed by the members. A copy shall be provided by the chief medical officer to the person requesting the test, or filing the report, whichever is applicable, to the subject of the test, and, when the subject is in a correctional institution, to the superintendent of the institution, except that when the subject of the test or the person upon whose behalf the request for the test was made is a minor, copies shall also be provided to the parent or guardian of the person, unless the parent or guardian cannot be located.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

7516. Incident reports. (a) When a custodial officer or staff person of a correctional institution, observes or is informed of activity in a correctional institution that is classified as causing, or known to cause, the transmission of the AIDS virus, as described in subdivision (b), he or she may file a written report with the facility's chief medical officer which, in the case of city or county jails, shall be the county health officer.

(b) Reportable activities within a correctional institution for which a report may be filed pursuant to subdivision (a) include, but are not limited to, all of the following activities, if they could result in the transmission of AIDS, according to the standards provided for in this chapter:

(1) Sexual activity resulting in exchange of bodily fluids.

(2) IV drug use.

(3) Incidents involving injury to inmates or staff in which bodily fluids are exchanged.

(4) Tampering with medical and food supplies or medical or food equipment.

(5) Tattooing among inmates.

(c) The medical officer may investigate the report, conduct interviews, and determine whether the situation reported caused the probable exchange of body fluids in a manner that could result in the transmission of HIV, utilizing the criteria set forth in Section 7511, and pose a danger to the health and safety of the institution's staff and inmate population.

If the chief medical officer concludes this may have occurred, he or she shall require HIV testing of any inmate which he or she deems necessary pursuant to the investigation. Whenever an inmate is required to undergo an HIV test pursuant to this subdivision, he or she may appeal that decision as provided for in Section 7515.

(d) Testing under this section may only be required by a unanimous vote of all three members of the panel. The rights guaranteed inmates under Section 7515 shall apply.

When a hearing is convened pursuant to this section, the hearing shall be closed, except that both the person filing the original report and the chief medical officer as well as other panel members may also call witnesses to testify at the hearing.

When a hearing is sought pursuant to this section, the decision shall be rendered within 20 days of the date the hearing is sought by the medical officer.

(e) This section shall apply to situations involving individual inmates or group situations but shall not be utilized to require testing of all inmates in a correctional institution.

(f) The findings of the panel shall be set forth in writing, including reasons for the panel's decision, and shall be signed by the members of the panel. A copy of the decision shall be provided to the superintendent of the correctional institution, the subjects of the report and to any inmates or officers whom the panel concludes may have been exposed to HIV infection as established by provisions of this title.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

7516.5. Court appeal. Any decision by a panel pursuant to Section 7515 or 7516 may be appealed to the superior court, either by a law enforcement employee filing a report pursuant to Section 7510, a person requesting an HIV test pursuant to Section 7512, a medical officer convening a panel pursuant to Section 7516, or any person required to be tested pursuant to a panel's decision. A person required to be tested pursuant to Section 7512.5 may also appeal the decision to the superior court.

The court shall schedule a hearing as expeditiously as possible to review the decision of the panel or a decision made pursuant to Section 7512.5. The court shall uphold the decision being appealed if that decision is based upon substantial evidence.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

7516.8. Notice of decision. It shall be the responsibility of the chief medical officer to see that copies of the hearing decision are distributed in accordance with requirements of this chapter.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

7517. Confidentiality. Except as otherwise permitted by this title or any provision of law, any records, including decisions of a chief medical officer or an appeals panel, compiled pursuant to this chapter shall be confidential.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

7518. Regulations. (a) The State Department of Health Services shall, in consultation with local and state law enforcement agencies, county health officers, and federal health authorities, adopt guidelines for the making of decisions pursuant to this chapter.

(b) Oversight responsibility for implementation of Section 7515 in state prisons shall be vested with the Chief of Medical Services in the Department of Corrections. Oversight responsibility for implementation of Section 7515 in California Youth Authority facilities shall be vested with the Chief of Medical Services in the Department of the Youth Authority. Oversight responsibility for implementation of Section 7515 with respect to reports involving parole or probation officers shall be vested with the Chief of Parole and Community Services Division in the Department of Corrections.

Oversight responsibility at the county level shall rest with the county health officer.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

7519. Revocation. (a) When an individual, including a minor charged with an offense for which he or she may be made a ward of the court under Section 602 of the Welfare and Institutions Code, has either been charged with a crime, but is not being held in a correctional institution due to his or her release, either through the granting of bail, a release on the individual's own recognizance, or for any other reason, or been convicted of a crime, but not held in a correctional institution due to the imposition of probation, a fine, or any other alternative sentence, and the individual is required to undergo initial or followup testing pursuant to this title, the failure of the individual to submit to the test may be grounds for revocation of the individual's release or probation or other sentence, whichever is applicable.

(b) Any refusal by a parolee or probationer to submit to testing required pursuant to this title may be ruled as a violation of the person's parole or probation.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

NOTIFICATION REQUIREMENT

7520. Disclosure to Probation/Parole Agent. Upon the release of an inmate from a correctional institution, a medical representative of the institution shall notify the inmate's parole or probation officer, where it is the case, that the inmate has tested positive for infection with HIV, or has been diagnosed as having AIDS or AIDS-related conditions. The representative of the correctional institution shall obtain the latest available medical information concerning any precautions which should be taken under the circumstances, and shall convey that information to the parole or probation officer.

When a parole or probation officer learns from responsible medical authorities that a parolee or probationer under his or her jurisdiction has AIDS, or AIDS-related conditions, or has tested positive for HIV infection, the parole or probation officer shall be responsible for ensuring that the parolee or probationer contacts the county health department in order to be, or through his or her own

physician and surgeon is, made aware of counseling and treatment for AIDS commensurate with that available to the general population of that county.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

7521. Disclosure to spouse. (a) When a parole or probation officer learns from responsible medical authorities that a parolee or probationer in his or her custody has any of the conditions listed in Section 7520, but that the parolee or probationer has not properly informed his or her spouse, the officer may ensure that this information is relayed to the spouse only through either the chief medical officer of the institution from which the person was released or the physician and surgeon treating the spouse or the parolee or probationer. The parole or probation officer shall seek to ensure that proper counseling accompanies release of this information to the spouse, through the person providing the information to the inmate's spouse.

(b) If a parole or probation officer has received information from appropriate medical authorities that one of his or her parolees or probationers has AIDS or AIDS-related conditions, and the parolee or probationer has a record of assault on a peace officer, and the officer seeks the aid of local law enforcement officers to apprehend or take into custody the parolee or probationer, he or she shall inform the officers assisting him or her in apprehending or taking into custody the parolee or probationer, of the person's condition, to aid them in protecting themselves from contracting AIDS.

(c) Local law enforcement officers receiving information pursuant to this subdivision shall maintain confidentialityof information received pursuant to subdivision (b). Willful use or disclosure of this information is a misdemeanor. Parole or probation officers who willfully or negligently disclose information about AIDS infection, other than as prescribed under this title or any other provision of law, shall also be guilty of a misdemeanor.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

7522. Disclosure to law enforcement. (a) Supervisory and medical personnel in correctional institutions shall notify all law enforcement employees when those employees have had direct contact with the bodily fluids of, inmates or persons charged or in custody who either have tested positive for infection with HIV, or been diagnosed as having AIDS or AIDS-related conditions.

(b) Supervisory and medical personnel at correctional institutions shall provide to employees covered by this section the latest medical information regarding precautions to be taken under the circumstances, and shall furnish proper protective clothing and other necessary protective devices or equipment, and instruct staff on the applicability of this title.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

7523. Confidentiality. Information obtained by a law enforcement employee pursuant to this chapter shall be confidential, and shall not be disclosed except as specifically authorized by this chapter. Information obtained by a member of a panel pursuant to Section 7515 or 7516 shall not be disclosed except as authorized by this title.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

TESTING PROCEDURES

7530. Testing procedures. The following procedures shall apply to testing conducted under this title:

(a) The withdrawal of blood shall be performed in a medically approved manner. Only a physician, registered nurse, licensed vocational nurse, licensed medical technician, or licensed phlebotomist may withdraw blood specimens for the purposes of this title.

(b) The chief medical officer, as specified in Chapter 2 (commencing with Section 7510), shall order that the blood specimens be transmitted to a licensed medical laboratory which has been approved by the State Department of Health Services for the conducting of HIV testing, and that tests including all readily available confirmatory tests, be conducted thereon for medically accepted indications of exposure to or infection with HIV. The State Department of Health Services shall adopt standards for the approval of medical laboratories for the conducting of HIV testing under this title. The State Department of Health Services shall adopt standards for the conducting of tests under Section 7530.

(c) Copies of the test results shall be sent by the laboratory to the chief medical officer who made the decision under either Section 7511 or 7512 or who convened the panel under Section 7515 or 7516. The laboratory shall be responsible for protecting the confidentiality of these test results. Willful or negligent breach of this responsibility shall be grounds for a violation of the contract.

(d) The test results shall be sent by the chief medical officer to the designated recipients with the following disclaimer:

"The tests were conducted in a medically approved manner but tests cannot determine exposure to or infection by AIDS or other communicable diseases with absolute accuracy. Persons receiving this test result should continue to monitor their own health and should consult a physician as appropriate."

(e) If the person subject to the test is a minor, copies of the test result shall also be sent to the minor's parents or guardian.

(f) All persons, other than the test subject, who receive test results shall maintain the confidentiality of personal identifying data relating to the test results, except for disclosure which may be necessary to obtain medical or psychological care or advice, or to comply with this title.

(g) The specimens and the results of the tests shall not be admissible evidence in any criminal or disciplinary proceeding.

(h) Any person performing testing, transmitting test results, or disclosing information in accordance with this title shall be immune from civil liability for any action undertaken in accordance with this title.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

7531. Confirmatory tests. Notwithstanding any other provision of law, no positive test results obtained pursuant to this title shall be disclosed to any person unless the initial positive test result has been confirmed by appropriate confirmatory tests for positive reactors.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

PENALTIES

7540. Confidentiality—penalties. A person committing any of the following acts shall be guilty of a misdemeanor:

(a) Willful false reporting in conjunction with a report or a request for testing under this title.

(b) Willful use or disclosure of test results or confidential information in violation of any of the provisions of this title.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

MISCELLANEOUS PROVISIONS

7550. Report forms. The State Department of Health Services shall prepare standardized forms for the reports, notices, and findings required by this title, and distribute these forms to the Department of Corrections, the Department of the Youth Authority, and to each county health officer within three months of the effective date of this title.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

7551. Implementation. A correctional, custodial, or law enforcement agency to which this title applies shall be responsible for informing staff of the provisions ofthis title, and assisting in its implementation as it applies to the respective agency.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

7552. Prevention/education. (a) It is recommended that every city or county correctional, custodial, and law enforcement agency to which this title applies have a comprehensive AIDS and HIV prevention and education program in operation, by March 31, 1989. Recommended goals for the programs include all of the following:

(1) Education. Implementation of an educational plan which includes education and training for officers, support staff, and inmates on the prevention and transmission of HIV, with regular updates, at least every three months, with all persons held in custody for at least 12 hours in a correctional institution being provided at least with a pamphlet approved by the county health officer, with more detailed education for persons kept beyond three days.

(2) Body fluid precautions. Because all bodily fluids are considered as potentially infectious, supplying all employees of correctional institutions with the necessary equipment and supplies to follow accepted universal bodily fluids precautions, including gloves and devices to administer cardiopulmonary resuscitation, when dealing with infected persons or those in high-risk groups for HIV infection.

(3) Separate housing for infected individuals. Making available adequate separate housing facilities for housing inmates who have tested positive for HIV infection and who continue to engage in activities which transmit HIV, with facilities comparable to those of other inmates with access to recreational and educational facilities, commensurate with the facilities available in the correctional institution.

(4) Adequate AIDS medical services. The provision of medical services appropriate for the diagnosis and treatment of HIV infection.

(5) Theses guidelines are advisory only and do not constitute a state mandate.

(b) The program shall require confidentiality of information in accordance with this title and other provisions of the law.

(c) The Board of Corrections and the State Department of Health Services shall assist in developing the programs.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

7553. Surveys. With the approval of the county health officer, the State Department of Health Services, as it deems necessary for HIV detection and prevention, may conduct periodic anonymous unlinked serologic surveys of all or portions of the inmate population or persons under custody within a city or county.

(Added and repealed Stats 1988 ch 1579, effective 9/30/88; operative until 7/1/91)

11105. Summary criminal history information. (a) (1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

(i) "State summary criminal history information" means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, fingerprints, date of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about such person.

(ii) "State summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state as defined in Section 830.1, subdivisions (a), (b), and (f) of Section 830.2, subdivision (a) of Section 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision (a) of Section 830.31.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) Probation officers of the state.

(6) Parole officers of the state.

(7) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08 of the Penal Code.

(8) A public defender or attorney of record when representing a person in a criminal case and when authorized access by statutory or decisional law.

(9) Any agency, officer, or official of the state when such criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary

criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(10) Any city or county, or city and county, or district, or any officer, or official thereof when access is needed in order to assist such agency, officer, or official in fulfilling employment, certification, or licensing duties, and when such access is specifically authorized by the city council, board of supervisors or governing board of the city, county, or district when such criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(11) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120), Chapter 1, Title 1 of Part 4 of the Penal Code.

(12) Any person or entity when access is expressly authorized by statute when such criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(13) Health officers of a city, county, or city and county, or district, when in the performance of their official duties enforcing Section 3110 of the Health and Safety Code.

(14) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(c) The Attorney General may furnish state summary criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) Any public utility as defined in Section 216 of the Public Utilities Code which operates a nuclear energy facility when access is needed in order to assist in employing persons to work at such facility, provided that, if the Attorney General supplies such data, he shall furnish a copy of such data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To a peace officer of another country.

(4) To public officers (other than peace officers) of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States when such information is needed for the performance of their official duties.

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(6) The courts of the United States, other states or territories or possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States.

(8) To any individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation.

(9) Any public utility as defined in Section 216 of the Public Utilities Code, when access is needed in order to assist in employing current or prospective employees who in the course of their employment may be seeking entrance to private residences. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.

Any information obtained from the state summary criminal history is confidential and the receiving public utility shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility, and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed not more than 30 days after the case is resolved.

A violation of any of the provisions of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility to recover damages proximately caused by the violations. Any public utility's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.

Nothing in this section shall be construed as imposing any duty upon public utilities to request state summary criminal history information on any current or prospective employees.

(10) To any campus of the California State University and Colleges or the University of California, or any four-year college or university accredited by a regional accreditation organization approved by the United States Department of Education, when needed in conjunction with an application for admission by a convicted felon to any special education program for convicted felons, including, but not limited to, university alternatives and halfway houses. Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section shall include the convicted felon's fingerprints and any other information specified by the department.

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification

purposes, the fingerprint card accompanying such request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever state summary criminal history information is furnished as the result of an application and is to be used for employment, licensing or certification purposes, the Department of Justice may charge the person or entity making the request a fee which it determines to be sufficient to reimburse the department for the cost of furnishing such information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Notwithstanding any other provisions of law, any person or entity required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the person or entity for such expense. All moneys received by the department pursuant to this section, Section 12054 of the Penal Code, and Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to such sections and for maintenance and improvements to the systems from which the information is obtained when appropriated by the Legislature therefor.

(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7514 of the Business and Professions Code shall take priority over the processing of applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(i) Notwithstanding any other provision of law, the Department of Justice or any state or local enforcement agency may require the submission of fingerprints for the purpose of conducting summary criminal history information checks which are authorized by law.

(Amended Stats 1981 ch 269; most recently amended 1986 ch 923)

11105.2. Subsequent arrest information. (a) The Department of justice may provide subsequent arrest notification to any agency authorized by Section 11105 to receive state summary criminal history information to assist in fulfilling employment, licensing, or certification duties upon the arrest of any person whose fingerprints are maintained on file at the Department of Justice as the result of an application for licensing, employment, or certification. The notification shall consist of a current copy of the person's state summary criminal history transcript.

(b) Any agency, other than a law enforcement agency employing peace officers as defined in Section 830.1, subdivisions (a), (b), and (f) of Section 830.2, subdivision (a) of Section 830.3, subdivisions (a) and (b) of Section 830.5, and

subdivision (a) of Section 830.31, shall enter into a contract with the Department of Justice in order to receive notification of subsequent arrests for licensing, employment, or certification purposes.

(c) Any agency which submits the fingerprints of applicants for licensing, employment, or certification to the Department of Justice for the purpose of establishing a record of the applicant to receive notification of subsequent arrests shall immediately notify the department when the employment of the applicant is terminated, when the applicant's license or certificate is revoked, or when the applicant may no longer renew or reinstate the license or certificate. The Department of Justice shall terminate subsequent arrest notification on any applicant upon the request of the licensing, employment, or certifying authority.

(d) Any agency receiving a notification of subsequent arrest for a person unknown to the agency, or for a person no longer employed by the agency, or no longer eligible to renew the certificate or license for which subsequent arrest notification service was established shall immediately return the subsequent arrest notification to the Department of Justice, informing the department that the agency is no longer interested in the applicant. The agency shall not record or otherwise retain any information received as a result of the subsequent arrest notice.

(e) Any agency which submits the fingerprints of an applicant for employment, licensing, or certification to the Department of Justice for the purpose of establishing a record at the department to receive notification of subsequent arrest shall immediately notify the department if the applicant is not subsequently employed, or if the applicant is denied licensing or certification.

(f) An agency which fails to provide the Department of Justice with notification as set forth in subdivisions (c), (d), and (e) may be denied further subsequent arrest notification service.

(g) Notwithstanding subdivisions (c), (d), and (f), subsequent arrest notification by the Department of Justice and retention by the employing agency shall continue as to retired peace officers listed in subdivision (c) of Section 830.5.

(Added Stats 1981 ch 269; most recently amended Stats 1987 ch 56, effective 6/17/87)

11105.3. Sex crime information. (a) Notwithstanding any other provision of law, an employer may request from the Department of Justice records of all convictions involving any sex crimes, drug crimes, or crimes of violence of a person who applies for employment or volunteers for a position in which he or she would have supervisory or disciplinary power over a minor. The department shall furnish the information of the requesting employer and shall also send a copy of the information to the applicant.

(b) Any request for records under subdivision (a) shall include the applicant's fingerprints, which may be taken by the employer, and any other data specified by the department. The request shall be on a form approved by the department, and the department may charge a fee to be paid by the employer for the actual cost of processing the request. However, no fee shall be charged a nonprofit organization for processing the request. The department shall destroy an application within six months after the requested information is sent to the employer and applicant.

(c) The department shall adopt regulations to implement the provisions of this section.

(d) As used in this section "employer" means any nonprofit corporation or other organizations specified by the attorney General which employs or uses the services of volunteers in positions in which the volunteer or employee has supervisory or disciplinary power over a child or children.

(e) As used in this section "sex crime" means a conviction for a violation or attempted violation of Section 220, 261, 261.5, 264.1, 267, 272, 273a, 273d, 285, 286, 288, 288a, 289, 314, 647.6, or former Section 647a, or subdivision (d) of Section 647, or commitment as a mentally disordered sex offender under the provisions of former Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(f) As used in this section, "drug crime" means any felony or misdemeanor conviction, within 10 years of the date of the employer's request under subdivision (a), for a violation or attempted violation of the California Uniform Controlled Substances Act contained in Division 10 (commencing with Section 11000) of the Health and Safety Code, provided that no record of a misdemeanor conviction shall be transmitted to the employer unless the subject of the request has a total of three or more misdemeanor or felony convictions defined in subdivision (f) or (g) within the 10-year period.

(g) As used in this section, "crime of violence" means any felony or misdemeanor conviotion within 10 years of the date of the employer's request under subdivision (a), for any of the offenses specified in subdivision (c) of Section 657.5 or a violation or attempted violation of Chapter 3, (commencing with Section 207), Chapter 8 (commencing with Section 236), or Chapter 9 (commencing with Section 240) of Title 8 of Part 1, provided that no record of a misdemeanor conviction shall be transmitted to the employer unless the subject of the request has a total of three or more misdemeanor or felony convictions defined in subdivision (f) or (g) within the 10-year period.

(h) Conviction for a violation or attempted violation of an offense committed outside the State of California is a sex crime, drug crime, or crime of violence if the offense would have been a crime as defined in this section if committed in California.

(As added Stats 1981 ch 681; most recently amended Stats 1987 ch 1418)

11105.5. Notification required in sealing of record. When the Department of Justice receives a report that the record of a person has been sealed under Section 851.7, 851.8, or 1203.45, it shall send notice of that fact to all officers and agencies that it had previously notified of the arrest or other proceedings against the person.

(Added Stats 1965 ch 1910; most recently amended by Stats 1985 ch 106)

11114. (Repealed Stats 1988 ch 1456)

11114.1. (Repealed Stats 1988 ch 1456)

11114.2. (Repealed Stats 1988 ch 1456)

11116.10. Notice to victim of disposition of defendant's case. (a) Upon the request of a victim or a witness of a crime, the prosecuting attorney shall, within 60 days of the final disposition of the case, inform the victim by letter of such final disposition. Such notice shall state the information described in Section 13151.1.

(b) As used in this section, "victim" means any person alleged or found, upon the record, to have sustained physical or financial injury to person or property as a direct result of the crime charged.

(c) As used in this section, "witness" means any person who has been or is expected to testify for the prosecution, or who, by reason or having relevant information, is subject to call or likely to be called as a witness for the prosecution, whether or not any action or proceeding has yet been commenced.

(d) As used in this section, "final disposition," means an ultimate termination of the case at the trial level including, but not limited to, dismissal, acquittal, or imposition of sentence by the court, or a decision by the prosecuting attorney, for whatever reason, not to file the case.

(e) Subdivision (a) does not apply in any case where the offender or alleged offender is a minor unless such minor has been declared not a fit and proper subject to be dealt with under the juvenile court law.

(f) This section shall not apply to any case in which a disposition was made prior to the effective date of this section.

(Added Stats 1976 ch 1061; most recently amended Stats 1986 ch 1427)

Child Abuse Reporting

11164. Citation. (a) This article shall be known and may be cited as the Child Abuse and Neglect Reporting Act.

(b) The intent and purpose of this article is to protect children from abuse. In any investigation of suspected child abuse, all persons participating in the investigation of the case shall consider the needs of the child victim and shall do whatever is necessary to prevent psychological harm to the child victim.

(Added Stats 1987 ch 1444)

11165. Definitions. As used in this article "child" means a person under the age of 18 years.

(Repealed and added Stats 1987 ch 1459)

11165.1. Definition: sexual abuse. As used in this article, "sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(a) "Sexual assault" means conduct in violation of one or more of the following sections: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

(b) Conduct described as "sexual assault" includes, but is not limited to, all of the following:

(1) Any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen.

(2) Any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.

(3) Any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, except that, it does not include acts performed for a valid medical purpose.

(4) The intentional touching of the genitals or intimate parts (including the breasts, genital area, groin, inner thighs, and buttocks) or the clothing covering them, of a child, or of the perpetrator by a child, for purposes of sexual arousal or gratification, except that, it does not include acts which may reasonably be construed to be normal caretaker responsibilities; interactions with, or demonstrations of affection for, the child; or acts performed for a valid medical purpose.

(5) The intentional masturbation of the perpetrator's genitals in the presence of a child.

(c) "Sexual exploitation" refers to any of the following:

(1) Conduct involving matter depicting a minor engaged in obscene acts in violation of Section 311.2 (preparing, selling, or distributing obscene matter) or subdivision (a) of Section 311.4 (employment of minor to perform obscene acts).

(2) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any person responsible for a child's welfare, who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or a live performance involving obscene sexual conduct, or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, drawing, painting, or other pictorial depiction, involving obscene sexual conduct. For the purpose of this section, "person responsible for a child's welfare" means a parent, guardian, foster parent, or a licensed administrator or employee of a public or private residential home, residential school, or other residential institution.

(3) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, video tape, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for those activities by law enforcement and prosecution agencies and other persons described in subdivisions (c) and (e) of Section 311.3.

(Added Stats 1987 ch 1459)

11165.2. Definition. As used in this article, "neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(a) "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by Section 11165.3, including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(b) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16509.1 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child. An informed and appropriate medical decision made by parent or guardian after consultation with a physician or physicians who have examined the minor does not constitute neglect.

(Repealed and added Stats 1987 ch 1459)

11165.3. Willful Cruelty. As used in this article, "willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered.

(Repealed and added Stats 1987 ch 1459)

11165.4. Definition. As used in this article, "unlawful corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition. It does not include an amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to person or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the pupil, as authorized by Section 49001 of the Education Code. It also does not include the exercise of the degree of physical control authorized by Section 44807 of the Education Code. It also does not include an amount of force that is reasonable and necessary for a peace officer to quell a disturbance threatening physical injury to person or damage to property to prevent physical injury to person or damage to property, for purposes of self-defense, to obtain possession of weapons or other dangerous objects within the control of the child, or to apprehend an escapee.

(Added Stats 1987 ch 1459; amended Stats 1988 ch 39)

11165.5. Abuse in out-of-home care. As used in this article, "abuse in out-of-home care" means a situation of physical injury on a child which is inflicted by other than accidental means, or of sexual abuse or neglect, or unlawful corporal punishment or injury, or the willful cruelty or unjustifiable punishment of a child, as defined in this article, where the person responsible for the child's welfare is a licensee, administrator, or employee of any facility licensed to care for children, or an administrator or employee of a public or private school or other institution or agency. "Abuse in out-of-home care" does not include an injury caused by reasonable and necessary force used by a peace officer to quell a disturbance threatening physical injury to person or damage to property, to prevent physical injury to person or damage to property, for purposes of self-defense, to obtain possession of weapons or other dangerous objects within the control of a child, or to apprehend an escapee.

(Added Stats 1987 ch 1459; amended Stats 1988 ch 39)

11165.6. Definition. As used in this article, "child abuse" means a physical injury which is inflicted by other than accidental means on a child by another person. "Child abuse" also means the sexual abuse of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (unlawful corporal punishment or injury). "Child abuse" also means the neglect of a child or abuse in out-of-home care, as defined in this article. "Child abuse" does not mean a mutual affray between minors. "Child abuse" does not include an injury caused by reasonable and necessary force used by a peace officer to quell a disturbance threatening physical injury to person or damage to property, to prevent physical injury to person or damage to property, for purposes of self-defense, to obtain possession of weapons or other dangerous objects within the control of a child, or to apprehend an escapee.

(Added Stats 1987 ch 1459; amended Stats 1988 ch 39)

11165.7. Definition; Training. As used in this article, "child care custodian" means a teacher; an instructional aide, a teacher's aide, or a teacher's assistant employed by any public or private school, who has been trained in the duties imposed by this article, if the school district has so warranted to the State Department of Education; a classified employee of any public school who has been trained in the duties imposed by this article, if the school has so warranted to the State Department of Education; an administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensee, an administrator, or an employee of a licensed community care or child day care facility; headstart teacher; a licensing worker or licensing evaluator; public assistance worker; an employee of a child care institution including, but not limited to, foster parents, group home personnel and personnel of residential care facilities; a social worker or a probation officer or any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.

(b) Training in the duties imposed by this article shall include training in child abuse identification and training in child abuse reporting. As part of that training, school districts shall provide to all employees being trained a written copy of the reporting requirements and a written disclosure of the employees' confidentiality rights.

(c) School districts which do not train the employees specified in subdivision (a) in the duties of child care custodians under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided.

(Added Stats 1987 ch 1459)

11165.8. Definition. As used in this article, "health practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code; a marriage, family and child counselor; any emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code; a psychological assistant registered pursuant to Section 2913 of the

Business and Professions Code; a marriage, family and child counselor trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code; an unlicensed marriage, family and child counselor intern registered under Section 4980.44 of the Business and Professions Code; a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; or a religious practitioner who diagnoses, examines, or treats children.
(Added Stats 1987 ch 1459)

11165.9. Definition. As used in this article, "child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department. It does not include a school district police or security department.
(Added Stats 1987 ch 1459)

11165.10. Definition. As used in this article, "commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.
(Added Stats 1987 ch 1459)

11165.11. Definition. As used in this article, "licensing agency" means the State Department of Social Services office responsible for the licensing and enforcement of the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code), the California Child Day Care Act (Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code), and Chapter 3.5 (commencing with Section 1596.90) of Division 2 of the Health and Safety Code, or the county licensing agency which has contracted with the state for performance of those duties.
(Added Stats 1987 ch 1459)

11165.12. Definition. As used in this article, "unfounded report" means a report which is determined by a child protective agency investigator to be false, to be inherently improbable, to involve an accidential injury, or not to constitute child abuse as defined in Section 11165.6.
(Added Stats 1987 ch 1459)

11166. Child abuse reporting. (a) Except as provided in subdivision (b), any child care custodian, health practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. A child protective agency shall be notified and a report shall be prepared and sent even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and even if suspected child abuse was discovered during an autopsy. For the purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to

entertain such a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect child abuse. For the purpose of this article, the pregnancy of a minor does not, in and of itself, constitute the basis of reasonable suspicion of sexual abuse.

(b) Any child care custodian, health practitioner, or employee of a child protective agency who has knowledge of or who reasonably suspects that mental suffering has been inflicted on a child or his or her emotional well-being is endangered in any other way, may report such known or suspected instance of child abuse to a child protective agency.

(c) Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, video tape, negative or slide depicting a child under the age of 14 years engaged in an act of sexual conduct, shall report such instance of suspected child abuse to the law enforcement agency having jurisdiction over the case immediately or as soon as practically possible by telephone and shall prepare and send a written report of it with a copy of the film, photograph, video tape, negative or slide attached within 36 hours of receiving the information concerning the incident. As used in this subdivision, "sexual conduct" means any of the following:

(1) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.

(2) Penetration of the vagina or rectum by any object.

(3) Masturbation, for the purpose of sexual stimulation of the viewer.

(4) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.

(5) Exhibition of the genitals, pubic or rectal areas of any person for the purpose of sexual stimulation of the viewer.

(d) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse may report the known or suspected instance of child abuse to a child protective agency.

(e) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of child abuse, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by such selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so, shall thereafter make the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties and no person making such a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with the provisions of this article.

The internal procedures shall not require any employee required to make reports by this article to disclose his or her identity to the employer.

(g) A county probation or welfare department shall immediately or as soon as practically possible report by telephone to the law enforcement agency having

jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall only be reported to the county welfare department. A county probation or welfare department shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

A law enforcement agency shall immediately or as soon as practically possible report by telephone to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall only be reported to the county welfare department. A law enforcement agency shall report to the county welfare department every known or suspected instance of child abuse reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

(Added Stats 1980 ch 1071; most recently amended Stats 1988 ch 1580)

11166.1. (First of two) Duty of protective agency. When a child protective agency receives a report of abuse alleged to have occurred in facilities licensed to care for children by the State Department of Social Services, it shall, within 24 hours, notify the licensing office with jurisdiction over the facility. The child protective agency shall send the licensing agency a copy of its investigation and any other pertinent materials.

(Added Stats 1985 ch 1593; amended Stats 1987 ch 531)

11166.1. (Second of two) Punishment for impeding required reports. Any supervisor or administrator who violates subdivsion (f) of Section 11166 is guilty of a misdemeanor which is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than one thousand dollars ($1,000) or by both.

(Added Stats 1985 ch 1598)

11166.2. Duty of child protective agency. In addition to the reports required under Section 11166, a child protective agency shall immediately or as soon as practically possible report by telephone to the appropaiate licensing agency every known or suspected instance of child abuse, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department, when the instance of abuse occurs while the child is being cared for in a child day care facility, involves a child day care licensed staff person, or occurs while the child is under the supervision of a community care facility or involves a community care facility licensee or staff person. A child protective agency shall also send a

written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision. A child protective agency shall send the licensing agency a copy of its investigation report and any other pertinent materials.

(Added Stats 1985 ch 1598; amended Stats 1987 ch 531)

11166.3. Definition. (a) The Legislature intends that in each county the law enforcement agencies and the county welfare or social services department shall develop and implement cooperative arrangements in order to coordinate existing duties in connection with the investigation of suspected child abuse cases. The local law enforcement agency having jurisdiction over a case reported under Section 11166 shall report to the county welfare department that it is investigating the case within 36 hours after starting its investigation. The county welfare department or social services department shall, in accordance with the requirements of subdivision (c) of Section 288, evaluate what action or actions would be in the best interest of the child victim. Notwithstanding any other provision of law, the county welfare department or social services department shall submit in writing its findings and the reasons therefor to the district attorney on or before the completion of the investigation. The written findings and the reasons therefor shall be delivered or made accessible to the defendant or his or her counsel in the manner specified in Sections 859 and 1430. The child protective agency shall send a copy of its investigative report and any other pertinent materials to the licensing agency upon the request of the licensing agency.

(b) The local law enforcement agency having jurisdiction over a case reported under Section 11166 shall report to the district office of the State Department of Social Services any case reported under this section if the case involves a facility specified in paragraph (5) or (6) of Section 1502 or in Section 1596.750 or 1596.76 of the Health and Safety Code and the licensing of the facility has not been delegated to a county agency. The law enforcement agency shall send a copy of its investigation report and any other pertinent materials to the licensing agency upon the request of the licensing agency.

(Added Stats 1985 ch 1262; amended Stats 1987 ch 531)

11166.5. Employment Statement. (a) Any person who enters into employment on and after January 1, 1985, as a child care custodian, health practitioner, or with a child protective agency, prior to commencing his or her employment, and as a prerequisite to that employment, shall sign a statement on a form provided to him or her by his or her employer to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with its provisions.

The statement shall include the following provisions:

Section 11166 of the Penal Code requires any child care custodian, health practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse to report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and to prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

"Child care custodian" includes teachers; an instructional aide, a teacher's aide, or a teacher's assistant employed by any public or private school, who has been trained in the duties imposed by this article, if the school district has so warranted to the State Department of Education; a classified employee of any public school who has been trained in the duties imposed by this article, if the school has so warranted to the State Department of Education; administrative officers, supervisors of child welfare and attendance, or certificated pupil personnel employees of any public or private school; administrators of a public or private day camp; licensees, administrators, and employees of licensed community care or child day care facilities; headstart teachers; licensing workers or licensing evaluators; public assistance workers; employees of a child care institution including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities; and social workers or probation officers; or any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.

"Health practitioner" includes physicians and surgeons, psychiatrists, psychologists, dentists, residents, interns, podiatrists, chiropractors, licensed nurses, dental hygienists, optometrists, or any other person who is licensed under Division 2 (commencing with Section 500) of the Business and Professions Code; marriage, family and child counselors; emergency medical technicians I or II, paramedics, or other persons certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code; psychological assistants registered pursuant to Section 2913 of the Business and Professions Code; marriage, family and child counselor trainees as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code; unlicensed marriage, family and child counselor interns registered under Section 4980.44 of the Business and Professions Code; state or county public health employees who treat minors for venereal disease or any other condition; coroners; paramedics; and religious practitioners who diagnose, examine, or treat children.

The signed statements shall be retained by the employer. The cost of printing, distribution, and filing of these statements shall be borne by the employer.

This subdivision is not applicable to persons employed by child protective agencies as members of the support staff or maintenance staff and who do not work with, observe, or have knowledge of children as part of their official duties.

(b) On and after January 1, 1986, when a person is issued a state license or certificate to engage in a profession or occupation the members of which are required to make a report pursuant to Section 11166, the state agency issuing the license or certificate shall send a statement substantially similar to the one contained in subdivision (a) to the person at the same time as it transmits the document indicating licensure or certification to the person. In addition to the requirements contained in subdivision (a), the statement shall also indicate that failure to comply with the requirements of Section 11166 is a misdemeanor, punishable by up to six months in jail or by a fine of one thousand dollars ($1,000) or by both.

(c) As an alternative to the procedure required by subdivision (b), a state agency may cause the required statement to be printed on all application forms for a license or certificate printed on or after January 1, 1986.

(Added Stats 1984 ch 1718; most recently amended Stats 1987 ch 1459)

11167. Contents of report. (a) A telephone report of a known or suspected instance of child abuse shall include the name of the person making the report, the name of the child, the present location of the child, the nature and extent of the injury, and any other information, including information that led that person to suspect child abuse, requested by the child protective agency.

(b) Information relevant to the incident of child abuse may also be given to an investigator from a child protective agency who is investigating the known or suspected case of child abuse.

(c) Information relevant to the incident of child abuse may be given to the licensing agency when it is investigating a known or suspected case of child abuse, including the investigation report, and other pertinent materials.

(d) The identity of all persons who report under this article shall be confidential and disclosed only between child protective agencies, or to counsel representing a child protective agency, or to the district attorney in a criminal prosecution or in an action initiated under Section 602 of the Welfare and Institutions Code arising from alleged child abuse, or to counsel appointed pursuant to Section 318 of the Welfare and Institutions Code, or to the county counsel or district attorney in an action initiated under Section 232 of the Civil Code or Section 300 of the Welfare and Institutions Code, or to a licensing agency when abuse in out-of-home care is reasonably suspected, or when those persons waive confidentiality, or by court order.

No agency or person listed in this subdivision shall disclose the identity of any person who reports under this article to that person's employer, except with the employee's consent or by court order.

(e) Persons who may report pursuant to subdivision (d) of Section 11166 are not required to include their names.

(Added Stats 1980 ch 1071; most recently amended Stats 1987 ch 531)

11167.5. Confidentiality. (a) The reports required by Sections 11166 and 11166.2 shall be confidential and may be disclosed only as provided in subdivision (b). Any violation of the confidentiality provided by this article shall be a misdemeanor punishable by up to six months in jail or by a fine of five hundred dollars ($500) or by both.

(b) Reports of suspected child abuse and information contained therein may be disclosed only to the following:

(1) Persons or agencies to whom disclosure of the identity of the reporting party is permitted under Section 11167.

(2) Persons or agencies to whom disclosure of information is permitted under subdivision (b) of Section 11170.

(3) Persons or agencies with whom investigations of child abuse are coordinated under the regulations promulgated under Section 11174.

(4) Multidisciplinary personnel teams as defined in subdivision (d) of Section 18951 of the Welfare and Institutions Code.

(5) Persons or agencies responsible for the licensing of facilities which care for children, as specified in Section 11165.7.

(6) The State Department of Social Services or any county licensing agency which has contracted with the state, as specified in paragraph (3) of subdivision (b) of Section 11170, when an individual has applied for a community care license

or child day care license, or for employment in an out-of-home care facility, or when a complaint alleges child abuse by an operator or employee of an out-of-home care facility.

(7) Hospital scan teams. As used in this paragraph, "hospital scan team" means a team of three or more persons established by a hospital, or two or more hospitals in the same county, consisting of health care professionals and representatives of law enforcement and child protective services, the members of which are engaged in the identification of child abuse. The disclosure authorized by this section includes disclosure among hospital scan teams located in the same county.

(8) Coroners and medical examiners when conducting a postmortem examination of a child.

(9) The Board of Prison Terms may subpoena reports that (A) are not unfounded, pursuant to Section 11165.12, and (B) concern only the current incidents upon which parole revocation proceedings are pending against a parolee charged with child abuse. The reports and information shall be confidential pursuant to subdivision (d) of Section 11167.

(c) Nothing in this section shall be interpreted to require the Department of Justice to disclose information contained in records maintained under Section 11169 or under the regulations promulgated pursuant to Section 11174, except as otherwise provided in this article.

(d) This section shall not be interpreted to allow disclosure of any reports or records relevant to the reports of child abuse if the disclosure would be prohibited by any other provisions of state or federal law applicable to the reports or records relevant to the reports of child abuse.

(Added Stats 1983 ch 1082; most recently amended Stats 1989 ch 1169)

11168. Report forms. The written reports required by Section 11166 shall be submitted on forms adopted by the Department of Justice after consultation with representatives of the various professional medical associations and hospital associations and county probation or welfare departments. Such forms shall be distributed by the child protective agencies.

(Added Stats 1980 ch 1071)

11169. Written reports—Department of Justice. A child protective agency shall forward to the Department of Justice a report in writing of every case it investigates of known or suspected child abuse which is determined not to be unfounded, other than cases coming within subdivision (b) of Section 11165.2. A child protective agency shall not forward a report to the Department of Justice unless it has conducted an active investigation and determined that the report is not unfounded, as defined in Section 11165.12. If a report has previously been filed which subsequently proves to be unfounded, the Department of Justice shall be notified in writing of that fact and shall not retain the report. The report required by this section shall be in a form approved by the Department of Justice. A child protective agency receiving a written report from another child protective agency shall not send such report to the Department of Justice.

The immunity provisions of Section 11172 shall not apply to the submission of a report by a child protective agency pursuant to this section. However, nothing in this section shall be construed to alter or diminish any other immunity provisions of state or federal law.

(Added Stats 1980 ch 1071; most recently amended Stats 1988 ch 1497)

11170. Department of Justice index. (a) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(b) (1) The Department of Justice shall immediately notify a child protective agency which submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) which is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) of Section 11166, the investigating agency shall, upon completion of the investigation or after there has been a final disposition in the matter, inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services or to any county licensing agency which has contracted with the state for the performance of licensing duties any information received subsequent to January 1, 1981, pursuant to this section concerning any person who is an applicant for licensure or any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for employment in a position having supervisorial or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 226 of the Civil Code. If the department has information which has been received subsequent to January 1, 1981, concerning such a person, it shall also make available to the State Department of Social Services or the county licensing agency any other information maintained pursuant to subdivision (a).

(4) The department shall notify parents or legal guardians requesting a background examination of a professional child care provider pursuant to Chapter 3.65 (commencing with Section 1597.80) of Division 2 of the Health and Safety Code, of the fact that a substantiated report exists which indicates that the professional child care provider was a suspect of child abuse subsequent to January 1, 1981, or prior to January 1, 1981, if there was also a report subsequent to that date.

(5) The department shall notify parents or legal guardians requesting a background examination of a professional child care provider pursuant to Chapter 3.65 (commencing with Section 1597.80) of Division 2 of the Health and

Safety Code, of the fact that no substantiated report exists which indicates that the professional child care provider was a suspect of child abuse subsequent to January 1, 1981.

(Added Stats 1980 ch 1071; most recently amended Stats 1989 ch 153)

11171. X-rays without consent. (a) A physician and surgeon or dentist or their agents and by their direction may take skeletal X-rays of the child without the consent of the child's parent or guardian, but only for purposes of diagnosing the case as one of possible child abuse and determining the extent of such child abuse.

(c) Neither the physician-patient privilege nor the psychotherapist-patient privilege applies to information reported pursuant to this article in any court proceeding or administrative hearing.

(Added Stats 1980 ch 1071)

11171.5. X-rays of suspected victims. (a) If a peace officer, in the course of an investigation of child abuse, has reasonable cause to believe that the child has been the victim of physical abuse, the officer may apply to a magistrate for an order directing that the victim be X-rayed without parental consent.

Any X-ray taken pursuant to this subdivision shall be administered by a physician and surgeon or dentist or their agents.

(b) With respect to the cost of an X-ray taken by the county coroner or at the request of the county coroner in suspected child abuse cases, the county may charge the parent or legal guardian of the child-victim the costs incurred by the county for the X-ray.

(c) No person who administers an X-ray pursuant to this section shall be entitled to reimbursement from the county for any administrative cost that exceeds 5 percent of the cost of the X-ray.

(Added Stats 1985 ch 317)

11172. No liability. (a) No child care custodian, health practitioner, employee of a child protective agency, or commercial film and photographic print processor who reports a known or suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false or was made with reckless disregard of the truth or falsity of the report, and any such person who makes a report of child abuse known to be false or with reckless disregard of the truth or falsity of the report is liable for any damages caused. No person required to make a report pursuant to this article, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse, or causing photographs to be taken of a suspected victim of child abuse, without parental consent, or for disseminating the photographs with the reports required by this article. However, the provisions of this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) Any child care custodian, health practitioner, or employee of a child protective agency who, pursuant to a request from a child protective agency,

provides the requesting agency with access to the victim of a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of providing that access.

(c) The Legislature finds that even though it has provided immunity from liability to persons required to report child abuse, that immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of child abuse. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a child care custodian, health practitioner, an employee of a child protective agency, or commercial film and photographic print processor may present a claim to the State Board of Control for reasonable attorneys' fees incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The State Board of Control shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorneys' fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General of the State of California at the time the award is made and shall not exceed an hourly rate greater than the rate charged by the Attorney General of the State of California at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars ($50,000).

This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

(d) A court may award attorney's fees to a commercial film and photographic print processor when a suit is brought against the processor because of a disclosure mandated by this article and the court finds this suit to be frivolous.

(e) Any person who fails to report an instance of child abuse which he or she knows to exist or reasonably should know to exist, as required by this article, is guilty of a misdemeanor and is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than one thousand dollars ($1,000) or by both.

(Added Stats 1980 ch 1071; most recently amended Stats 1987 ch 1459)

11174. Guidelines. The Department of Justice, in cooperation with the State Department of Social Services, shall prescribe by regulation guidelines for the investigation of abuse in out-of-home care, as defined in Section 11165.5, and shall ensure that the investigation is conducted in accordance with the regulations and guidelines.

(Added Stats 1980 ch 1071; most recently amended Stats 1988 ch 269)

11174.1. Guidelines. (a) The Department of Justice, in cooperation with the State Department of Social Services, shall prescribe by regulation guidelines for the investigation of child abuse, as defined in Section 11165.6, in facilities licensed to care for children, and shall ensure that the investigation is conducted in accordance with the regulations and guidelines.

(b) For community treatment facilities, day treatment facilities, group homes, and foster family agencies, the State Department of Social Services shall prescribe the following regulations:

(1) Regulations designed to assure that all licensees and employees of community treatment facilities, day treatment facilities, group homes, and foster family agencies licensed to care for children have had appropriate training, as determined by the State Department of Social Services, in consultation with representatives of licensees, on the provisions of this article.

(2) Regulations designed to assure the community treatment facilities, day treatment facilities, group homes, and foster family agencies licensed to care for children maintain a written protocol for the investigation and reporting of child abuse, as defined in Section 11165.6, alleged to have occurred involving a child placed in the facility.

(c) The State Department of Social Services shall provide such orientation and training as it deems necessary to assure that its officers, employees, or agents who conduct inspections of facilities licensed to care for children are knowledgeable about the reporting requirements of this article and have adequate training to identify conditions leading to, and the signs of, child abuse, as defined in Section 11165.6.

(Added Stats 1985 ch 1593; most recently amended Stats 1989 ch 1053, effective 9/29/89)

11174.3. Interview. (a) Whenever a representative of a child protective agency deems it necessary, a suspected victim of child abuse may be interviewed during school hours, on school premises, concerning a report of suspected child abuse that occurred within the child's home. The child shall be afforded the option of being interviewed in private or selecting any adult who is a member of the staff of the school, including any certificated or classified employee or volunteer aide, to be present at the interview. A represenative of the child protective agency shall inform the child of that right prior to the interview. The purpose of the staff person's presence at the interview is to lend support to the child and enable him or her to be as comfortable as possible; however, the member of the staff so elected shall not participate in the interview. The member of the staff so present shall not discuss the facts or circumstances of the case with the child. The member of the staff so present, including, but not limited to, a volunteer aide, is subject to the confidentiality requirements of this article, a violation of which is punishable as specified in Section 11167.5. A representative of the school shall inform a member of the staff so selected by a child of the requirements of this section prior to the interview. A staff member selected by a child may decline the request to be present at the interview. If the staff person selected agrees to be present, the interview shall be held at a time during school hours when it does not involve an expense to the school. Failure to comply with the requirements of this section does not affect the admissibility of evidence in a criminal or civil proceeding.

(b) The Superintendent of Public Instruction shall notify each school district, and each child protective agency shall notify each of its employees who participate in the investigation of reports of child abuse, of the requirements of this section.

(Added Stats 1987 ch 640)

12027. Peace officers—concealable firearms. Section 12025 does not apply to or affect any of the following:

(a) (1) Any peace officer, listed in Section 830.1 or 830.2, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting that officer. Any peace officer described in this paragraph who has been honorably retired shall be issued an identification certificate by the agency the officer retired from.

Any officer retired after January 1, 1981, shall have an endorsement on the identification stating that the issuing agency approves the officer's carrying of a concealed firearm. The endorsement shall also include the date when the endorsement is to be renewed.

No endorsement or renewal endorsement issued pursuant to paragraph (2) shall be effective unless it has a "CCW Approved" stamp on it, except that any peace officer listed in subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who is retired between January 2, 1981, and on or before December 31, 1988, and who is authorized to carry a concealed firearm pursuant to this section, shall not be required to have a "CCW Approved" stamp until the time of the issuance, on or after January 1, 1989, of a renewal endorsement pursuant to paragraph (2). For purposes of this section and Section 12031, "CCW" means "carry concealed weapons."

(2) A retired peace officer who retired after January 1, 1981, shall petition the issuing agency for the renewal of his or her privilege to carry a concealed firearm every five years. An honorably retired peace officer, described in paragraph (1), retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a concealed firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of that peace officer, or at any time subsequent thereto, deny or revoke, for good cause the retired officer's privilege to carry a concealed firearm.

(3) An honorably retired peace officer listed in subdivision (c) of Section 830.5 authorized to carry concealed firearms by this subdivision shall meet the training requirements of Section 832 and shall qualify with the firearm at least annually. The individual retired peace officer shall be responsible for maintaining his or her eligibility to carry a concealed firearm. The Department of Justice shall provide subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

(b) The possession or transportation of unloaded firearms as merchandise by a person engaged in the business of manufacturing, repairing, or dealing in firearms who is licensed to engage in that business or the authorized representative or authorized agent of that person while engaged in the lawful course of the business.

(c) Members of the Army, Navy, or Marine Corps of the United States, or the National Guard, when on duty, or organizations which are by law authorized to purchase or receive such weapons from the United States or this state.

(d) Duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their respective organizations.

(e) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(f) Members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while such members are using any of the firearms referred to in this chapter upon such target ranges, or while going to and from such ranges.

(g) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from such hunting or fishing expedition.

(h) Transportation of unloaded firearms by a person operating a licensed common carrier or an authorized agent or employee thereof when transported in conformance with applicable federal law.

(i) Upon approval of the sheriff of the county in which they reside, honorably retired federal officers or agents of federal law enforcement agencies including, but not limited to, the Federal Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and officers or agents of the Internal Revenue Service who were authorized to carry weapons while on duty, who were assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

Retired federal officers or agents shall provide the sheriff with certification from the agency from which they retired certifying their service in the state, the nature of their retirement, and indicating the agency's concurrence that the retired federal officer or agent should be accorded the privilege of carrying a concealed firearm.

Upon that approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that he or she may carry a concealed firearm in accordance with this subdivision. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a concealed firearm, and may be revoked for good cause.

The sheriff of the county in which the retired federal officer or agent resides may require recertification prior to a permit renewal, and may suspend the privilege for cause. The sheriff may charge a fee necessary to cover any reasonable expenses incurred by the county.

(Added Stats 1953 ch 36; most recently amended Stats 1988 ch 1212)

Less Lethal Weapons

12600. Peace officer—less lethal weapons. A person who is a peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 may if authorized by and under such terms and conditions as are specified by his or her employing agency purchase, possess, or transport any less lethal weapon or ammunition therefor, for official use in the discharge of his or her duties.

12601. Definition. (a) "Less lethal weapon" shall apply to and include any device which is designed to or which has been converted to expel or propel less lethal ammunition by any action, mechanism, or process for the purpose of incapacitating, immobilizing, or stunning a human being through the infliction of any less than lethal impairment of physical condition, function, or senses, including physical pain or discomfort. It is not necessary that a weapon leave any lasting or permanent incapacitation, discomfort, pain, or other injury or disability in order to qualify as a less lethal weapon.

(b) Less lethal weapon includes the frame or receiver of any weapon described in subdivision (a), but shall not include any of the following unless such part or weapon has been converted as described in subdivision (a):

(1) Pistol, revolver, or firearm defined in Section 12001.

(2) Machine gun defined in Section 12200.

(3) Rifle or shotgun using fixed ammunition consisting of standard primer and powder and not capable of being concealed upon the person.

(4) Pistols, rifles, and shotguns which are firearms having a barrel less than 0.18 inches in diameter and which are designed to expel a projectile by any mechanical means or by compressed air or gas.

(5) When used as designed or intended by the manufacturer, any weapon commonly regarded as a toy gun, and which as such is incapable of inflicting any impairment of physical condition, function or senses.

(6) A destructive device defined in Section 12301.

(7) A tear gas weapon defined in Section 12402.

(8) A bow or crossbow designed to shoot arrows.

(9) A device commonly known as a slingshot.

(10) A device designed for the firing of stud cartridges, explosive rivets, or similar industrial ammunition.

(11) A device designed for signaling, illumination, or safety.

(c) "Less lethal ammunition" means any ammunition which (1) is designed to be used in any less lethal weapon or any other kind of weapon (including, but not limited to, firearms, pistols, revolvers, shotguns, rifles, and spring, compressed air, and compressed gas weapons) and (2) when used in such less lethal weapon or other weapon is designed to immobilize or incapacitate or stun a human being through the infliction of any less than lethal impairment of physical condition, function, or senses, including physical pain or discomfort.

(Added Stats 1980 ch 1069)

13100. Criminal offender record information. The Legislature finds and declares as follows:

(a) That the criminal justice agencies in this state require, for the performance of their official duties, accurate and reasonably complete criminal offender record information.

(b) That the Legislature and other governmental policymaking or policyre-searching bodies, and criminal justice agency management units require greatly improved aggregate information for the performance of their duties.

(c) That policing agencies and courts require speedy access to information concerning all felony and selected misdemeanor arrests and final dispositions of such cases.

(d) That criminal justice agencies may require regular access to detailed criminal histories relating to any felony arrest that is followed by the filing of a complaint.

(e) That, in order to achieve the above improvements, the recording, reporting, storage, analysis, and dissemination of criminal offender record information in this state must be made more uniform and efficient, and better controlled and coordinated.

(Added Stats 1973 ch 992, operative 7/1/78)

13101. Definition. As used in this chapter, "criminal justice agencies" are those agencies at all levels of government which perform as their principal functions, activities which either:

(a) Relate to the apprehension, prosecution, adjudication, incarceration, or correction of criminal offenders; or

(b) Relate to the collection, storage, dissemination or usage of criminal offender record information.

(Added Stats 1973 ch 992, operative 7/1/78)

13540. Designation of peace officer status. Any person or persons desiring peace officer status under Chapter 4.5 (commencing with Section 830) of Title 3 of Part 4 who, on January 1, 1990, were not entitled to be designated as peace officers under Chapter 4.5 shall request the Commission on Peace Officer Standards and Training to undertake a feasibility study regarding designating that person or persons as peace officers. The request and study shall be undertaken in accordance with regulations adopted by the commission. The commission may charge any person requesting a study, a fee, not to exceed the actual cost of undertaking the study. Nothing in this article shall apply to or otherwise affect the authority of the Director of Corrections, the Director of the Youth Authority, or Secretary of Youth and Adult Correctional Agency to designate peace officers as provided for in Section 830.5.

(Added Stats 1989 ch 1165)

13541. Studies. Any study undertaken under this article shall include, but shall not be limited to, the current and proposed duties and responsibilities of persons employed in the category seeking the designation change, their field law enforcement duties and responsibilities, their supervisory and management structure, and their proposed training methods and funding sources.

(Added Stats 1989 ch 1165)

13542. Requirements. In order for the commission to give a favorable recommendation as to a change in designation to peace officer status, the person or persons desiring the designation change shall be employed by an agency with a supervisory structure consisting of a chief law enforcement officer, the agency shall agree to comply with the training requirements set forth in Section 832, and shall be subject to the funding restriction set forth in Section 13526. The commission shall issue the study and its recommendations to the requesting agency within 18 months of the request if the request is made in accordance with the regulations of the commission. A copy of that study and recommendations shall also be submitted to the Legislature.

(Added Stats 1989 ch 1165)

13600. Joint apprenticeship committee. (a) The Legislature finds and declares that peace officers of the state correctional system, including youth and adult correctional facilities, have a role in the criminal justice system that has previously been ignored in terms of creation and application of sound selection criteria for applicants and their training prior to assuming their duties. For the purposes of this section, correctional peace officers are peace officers as defined in Section 830.5 and employed by the Department of Corrections or the Department of the Youth Authority.

The Legislature further finds that sound applicant selection and training are essential to public safety and in carrying out the missions of the Youth and Correctional Agency in the custody and care of the state's offender population. The greater degree of professionalism which will result from sound screening criteria and a significant training curriculum will greatly aid the Youth and Adult Correctional Agency in maintaining smooth, efficient, and safe operations and effective programs in the Departments of Corrections and the Youth Authority.

(b) The Department of Corrections-Department of Youth Authority Joint Apprenticeship Committee, as referred to in the Memorandum of Understanding for Unit 6, in consultation with the Presley Institute, shall research, establish, and monitor standards for the selection and training of correctional peace officer apprentices. Any standard for selection established under this subdivision shall be subject to approval by the State Personnel Board. The Joint Apprenticeship Committee may disapprove any training courses created pursuant to the standards developed by the committee if it determines that the courses do not meet the prescribed standards.

(Added Stats 1983 ch 1074; amended Stats 1987 ch 853)

13601. Training standards. The Joint Apprenticeship Committee, in consultation with the Presley Institute, shall develop standards for advanced correctional peace officer and supervisory curricula. Those standards shall be approved by both a majority of the management representatives and a majority of the Unit 6 representatives to the Joint Apprenticeship Committee. Upon approval, the standards shall be effective as soon as practicable after funding is made available through the state budget process. When a correctional peace officer is promoted, he or she shall be required to complete these secondary training experiences as a prerequisite to successful passage of probation.

The Joint Apprenticeship Committee shall develop standards for the training of correctional peace officers in the handling of stress associated with their duties. The Joint Apprenticeship Committee may disapprove any training courses created pursuant to the standards developed by the committee if it determines that the courses do not meet the prescribed standards.

(Added Stats 1983 ch 1074; amended Stats 1987 ch 853)

CALIFORNIA COUNCIL ON CRIMINAL JUSTICE

General Provisions and Definitions

13800. Definitions. As used in this title:

(a) "Council" means the California Council on Criminal Justice.

(b) "Office" means the Office of Criminal Justice Planning.

(c) "Local boards" means local criminal justice planning boards.

(d) "Federal acts" means the Federal Omnibus Crime Control and Safe Streets Act of 1968, the Federal Juvenile Delinquency Prevention and Control Act of 1968, and any act or acts amendatory or supplemental thereto.

(Added Stats 1973, ch 1047)

13801. Authority not granted. Nothing in this title shall be construed as authorizing the council, the office, or the local boards to undertake direct operational criminal justice responsibilities.

(Repealed and added Stats 1973 ch 1047)

California Council on Criminal Justice

13810. Creation and membership. There is hereby created in the state government the California Council on Criminal Justice, which shall be composed of the following members: the Attorney General; the Administrative Director of the Courts; 19 members appointed by the Governor, including the Commissioner of the Department of the Highway Patrol, the Director of the Department of Corrections, the Director of the Department of the Youth Authority, and the State Public Defender; eight members appointed by the Senate Rules Committee; and eight members appointed by the Speaker of the Assembly.

The remaining appointees of the Governor shall include different persons from each of the following categories: a district attorney, a sheriff, a county public defender, a county probation officer, a member of a city council, a member of a county board of supervisors, a faculty member of a college or university qualified in the field of criminology, police science, or law, a person qualified in the field of criminal justice research and six private citizens, including a representative of a citizens, professional, or community organization. The Senate Committee on Rules shall include among its appointments different persons from each of the following categories: a member of the Senate Committee on Judiciary, a representative of the counties, a representative of the cities, a judge designated by the Judicial Council, and four private citizens, including a representative of a citizens, professional, or community organization. The Speaker of the Assembly shall include among his appointments different persons from each of the following categories: a representative of the counties, a representative of the cities, a member of the Assembly Committee on Criminal Justice, a chief of police, a peace officer, and three private citizens, including a representative of a citizens, professional, or community organization directly related to delinquency prevention.

The Governor shall select a chairman from among the members of the council.

(Added Stats. 1973 ch 1047; most recently amended Stats 1976 ch 1432.)

13811. Attendance at meetings. The council shall meet no more than 12 times per year.

The council may create subcommittees of its own membership and each subcommittee shall meet as often as the subcommittee members find necessary. It is the intent of the Legislature that all council members shall actively participate in all council deliberations required by this chapter. Any member who misses three consecutive meetings or who attends less than 50 percent of the

council's regularly called meetings in any calendar year for any cause except severe temporary illness or injury shall be automatically removed from the council.

(Added Stats 1973 ch 1047)

13812. Reimbursement for expenses. Members of the council shall receive no compensation for their services but shall be reimbursed for their expenses actually and necessarily incurred by them in the performance of their duties under this title. No compensation or expenses shall be received by the members of any continuing task forces, review committees or other auxiliary bodies created by the council who are not council members, except that persons requested to appear before the council with regard to specific topics on one or more occasions shall be reimbursed for the travel expenses necessarily incurred in fulfilling such requests.

The Advisory Committee on Juvenile Justice and Delinquency Prevention appointed by the Governor pursuant to federal law may be reimbursed by the Office of Criminal Justice Planning for expenses necessarily incurred by the members. Staff support for the committee will be provided by the Office of Criminal Justice Planning.

(Added Stats 1973 ch 1047; most recently amended Stats 1975 ch 1230.)

13813. Duties. The council shall act as the supervisory board of the state planning agency pursuant to federal acts. It shall annually review and approve, or review, revise and approve, the comprehensive state plan for the improvement of criminal justice and delinquency prevention activities throughout the state, shall establish priorities for the use of such funds as are available pursuant to federal acts, and shall approve the expenditure of all funds pursuant to such plans or federal acts; provided that the approval of such expenditures may be granted to single projects or to groups of projects.

(Added Stats 1973 ch 1047; most recently amended Stats 1975 ch 1230)

OFFICE OF CRIMINAL JUSTICE PLANNING

13820. Creation—executive director. There is hereby created in the state government the Office of Criminal Justice Planning. The office shall be administered by an executive director, who shall be appointed by, and be responsible to, the Governor, and hold office at the pleasure of the Governor. The executive director shall be in sole charge of the administration of the office.

(Added Stats 1973 ch 1047)

13821. Employees. The executive director may appoint such deputies, assistants and other officers and employees and consultants as he may deem necessary and prescribe their powers and duties. The executive director shall establish policies and procedures for governing the internal operation of the office and coordination with local planning agencies, grant recipients and state and local officials.

(Added Stats 1973 ch 1047)

13822. Assistance of state agencies. The executive director may request and receive from any department or agency of the state or any political subdivision thereof such assistance, information and data as will enable him to carry out his functions and duties.

(Added Stats 1973 ch 1047)

13823. Duties. (a) In cooperation with local boards, the office shall:

(1) Develop with the advice and approval of the council, the comprehensive statewide plan for the improvement of criminal justice and delinquency prevention activity throughout the state.

(2) Define, develop and correlate programs and projects for the state criminal justice agencies.

(3) Receive and disburse federal funds, perform all necessary and appropriate staff services required by the council, and otherwise assist the council in the performance of its duties as established by federal acts.

(4) Develop comprehensive, unified and orderly procedures to insure that all local plans and all state and local projects are in accord with the comprehensive state plan, and that all applications for grants are processed efficiently.

(5) Cooperate with and render technical assistance to the Legislature, state agencies, units of general local government, combinations of such units, or other public or private agencies, organizations or institutions in matters relating to criminal justice and delinquency prevention.

(6) Conduct evaluation studies of the programs and activities assisted by the federal acts.

(b) The office may:

(1) Collect, evaluate, publish, and disseminate statistics and other information on the condition and progress of criminal justice in the state.

(2) Perform other functions and duties as required by federal acts, rules, regulations or guidelines in acting as the administrative office of the state planning agency for distribution of federal grants.

(Added Stats 1973 ch 1047; most recently amended Stats 1975 ch 1230)

13824. Projects eligible for funds. A brief description of all projects eligible for a commitment of council funds shall be made available to the public through a publication of the council having statewide circulation at least 30 days in advance of the meeting at which funds for such project can be committed by vote of the council.

(Added Stats 1973 ch 1047)

13826.5. Probation departments—implementation. County probation departments receiving funding under this chapter shall strictly enforce court-ordered conditions of probation for gang members.

(a) County probation departments supported under the Gang Violence Suppression Program shall implement the following activities:

(1) A Gang Violence Intensive Supervision Unit dealing with gang members shall be established.

(2) Criteria used to determine which probationer shall be assigned to the Gang Violence Intensive Supervision Unit shall be approved by the district attorney having a Gang Violence Prosecution Unit described in Section 13826.2.

(3) Probationers whose cases are assigned to the intensive supervision unit shall be informed of what types of behavior are prescribed or forbidden. The notice shall be provided in both oral and written form.

(4) Probationers whose cases are assigned to the intensive supervision unit shall be informed, in writing, that all court-ordered conditions of probation will be strictly enforced.

(5) Deputy probation officers in the intensive supervision unit shall have reduced probationer caseloads and shall coordinate their supervision efforts with law enforcement and prosecution personnel. The coordination shall include informing law enforcement and prosecution personnel of the conditions set for probationers and of the strict enforcement procedures to be implemented.

(6) Deputy probation officers in the intensive supervision unit shall coordinate with the district attorney in ensuring that court-ordered conditions of probation are consistently enforced.

(7) Intensive supervision unit deputy probation officers shall coordinate, whenever feasible, with community-based organizations in seeking to ensure that probationers adhere to their court-ordered conditions.

(b) County probation departments may implement the California TEAM (Together Each Achieves More) Sports Camp Program, as described in Article 23.5 (commencing with Section 875) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code.

(Added Stats 1982; most recently amended Stats 1989 ch 1360)

CRIMINAL JUSTICE PLANNING COMMITTEE FOR STATE JUDICIAL SYSTEM

13830. Creation and legislative intent. There is hereby created in state government a Judicial Criminal Justice Planning Committee of seven members. The Judicial Council shall appoint the members of the committee who shall hold office at its pleasure. In this respect the Legislature finds as follows:

(a) The California court system has a constitutionally established independence under the judicial and separation of power clauses of the State Constitution.

(b) The California court system has a statewide structure created under the Constitution, state statutes and state court rules, and the Judicial Council of California is the constitutionally established state agency having responsibility for the operation of that structure.

(c) The California court system will be directly affected by the criminal justice planning that will be done under this title and by the federal grants that will be made to implement that planning.

(d) For effective planning and implementation of court projects it is essential that the executive Office of Criminal Justice Planning have the advice and assistance of a state judicial system planning committee.

(Added Stats 1973 ch 1047)

13831. Advice to C.C.C.J. The California Council on Criminal Justice may request the advice and assistance of the Judicial Criminal Justice Planning Committee in carrying out its functions under Chapter 2 of this title.

(Added Stats 1973 ch 1047)

13832. Consultation with O.C.J.P. The Office of Criminal Justice Planning shall consult with, and shall seek the advice of, the Judicial Criminal Justice Planning Committee in carrying out its functions under Chapter 3 of this title insofar as they affect the California court system.

In addition, any grant of federal funds made or approved by the office which is to be implemented in the California court system shall be submitted to the Judicial Criminal Justice Planning Committee for its review and recommendations before being presented to the California Council on Criminal Justice for its action.

(Added Stats 1973 ch 1047)

13833. Reimbursement of expenses. The expenses necessarily incurred by the members of the Judicial Criminal Justice Planning Committee in the performance of their duties under this title shall be paid by the Judicial Council, but it shall be reimbursed by the Office of Criminal Justice Planning to the extent that federal funds can be made available for that purpose. Staff support for the committee's activities shall be provided by the Judicial Council, but the cost of that staff support shall be reimbursed by the Office of Criminal Justice Planning to the extent that federal funds can be made available for that purpose.

(Added Stats 1973 ch 1047)

13834. Report of improvements. The committee shall report annually, on or before December 31 of each year, to the Governor and to the Legislature on items affecting judicial system improvements.

(Added Stats 1973 ch 1047)

13835.2. Victim-Witness Assistance Fund. (a) Funds appropriated from the Victim-Witness Assistance Fund shall be made available through the Office of Criminal Justice Planning to any public or private nonprofit agency for the assistance of victims and witnesses which meets all of the following requirements:

(1) It provides comprehensive services to victims and witnesses of all types of crime. It is the intent of the Legislature to make funds available only to programs which do not restrict services to victims and witnesses of a particular type of crime, and which do not restrict services to victims of crime where there is a suspect in the case.

(2) It is recognized by the board of supervisors as the major provider of comprehensive services to victims and witnesses in the county.

(3) It is selected by the board of supervisors as the agency to receive funds pursuant to this article.

(4) It assists victims of crime in the preparation, verification, and presentation of their claims to the State Board of Control for indemnification pursuant to Article 1 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code.

(5) It cooperates with the State Board of Control in verifying the data required by the provisions of Article 1 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code.

(b) The Office of Criminal Justice Planning shall consider the following factors together with any other circumstances it deems appropriate in awarding funds to public or private nonprofit agencies designated as victim and witness assistance centers:

(1) The capability of the agency to provide comprehensive services as defined in this article.

(2) The stated goals and objectives of the center.

(3) The number of people to be served and the needs of the community.

(4) Evidence of community support.

(5) The organizational structure of the agency which will operate the center.

(c) The Office of Criminal Justice Planning shall conduct an evaluation of the activities and performance of the centers established pursuant to Chapter 1256 of the Statutes of 1977 to determine their ability to comply with the intent of this article, and shall report the findings thereon to the Legislature by January 1, 1985.

(Added Stats 1977 ch 1256; amended Stats 1983 ch 1312)

13835.7. Appropriation of funds. There is in the State Treasury the Victim-Witness Assistance Fund. Funds appropriated thereto shall be dispensed to the Office of Criminal Justice Planning exclusively for the purposes specified in this article and for the support of the centers specified in Section 13837.

(Added Stats 1983 ch 1312; amended Stats 1987 ch 1232, effective 9/27/87)

LOCAL CRIMINAL JUSTICE PLANNING

13900. Findings. The Legislature finds and declares:

(a) That crime is a local problem that must be dealt with by state and local governments if it is to be controlled effectively.

(b) That criminal justice needs and problems vary greatly among the different local jurisdictions of this state.

(c) That effective planning and coordination can be accomplished only through the direct, immediate and continuing cooperation of local officials charged with general governmental and criminal justice agency responsibilities.

(d) That planning for the efficient use of criminal justice resources requires a permanent coordinating effort on the part of local governments and local criminal justice and delinquency prevention agencies.

(Added Stats 1973 ch 1047; most recently amended Stats 1975 ch 1230)

13901. Establishment of planning districts. (a) For the purposes of coordinating local criminal justice activities and planning for the use of state and federal action funds made available through any grant programs, criminal justice and delinquency prevention planning districts shall be established.

(b) On January 1, 1976, all planning district boundaries shall remain as they were immediately prior to that date. Thereafter, the number and boundaries of such planning districts may be altered from time to time by a two-thirds vote of the California Council on Criminal Justice pursuant to this section; provided that no county shall be divided into two or more districts, nor shall two or more counties which do not comprise a contiguous area form a single such district.

(c) Prior to taking any action to alter the boundaries of any planning district, the council shall adopt a resolution indicating its intention to take the action and, at least 90 days prior to the taking of the action, shall forward a copy of the resolution to all units of government directly affected by the proposed action together with notice of the time and place at which the action will be considered by the council.

(d) If any county or a majority of the cities directly affected by the proposed action objects thereto, and a copy of the resolution of each board of supervisors or city council stating its objection is delivered to the executive office of the Office of Criminal justice Planning within 30 days following the giving of the notice of the proposed action, the council, or a duly constituted committee thereof, shall conduct a public meeting within the boundaries of the district as they are proposed to be determined. Notice of the time and place of the meeting shall be given to the public and to all units of local government directly affected by the proposed action, and reasonable opportunity shall be given to members of the public and representatives of such units to present their views on the proposed action.

(Repealed and added Stats 1975 ch 1230)

13902. Joint powers agreement. Each county placed within a single county planning district may constitute a planning district upon execution of a joint powers agreement or arrangement acceptable to the county and to at least that one-half of the cities in the district which contain at least one-half of the population of the district. Counties placed within a multicounty planning district may constitute a planning district upon execution of a joint powers agreement or other arrangement acceptable to the participating counties and to at least that one-half of the cities in such district which contain at least one-half of the population of such district. If no combination of one-half of the cities of a district contains at least one-half of the population of the district, then agreement of any half of the cities in such district is sufficient to enable execution of joint powers agreements or other acceptable arrangements for constituting planning districts.

(Repealed and added Stats 1975 ch 1230)

13903. Receipt of funds. Planning districts may be the recipients of criminal justice and delinquency prevention planning or coordinating funds made available to units of general local government or combinations of units of general local government by federal or state law. Such planning districts shall establish local criminal justice and delinquency prevention planning hoards, but shall not be obligated to finance their activities in the event that federal or state support of such activities is lacking.

(Added Stats 1973 ch 1047; most recently amended Stats 1975 ch 1230)

13904. Membership of boards. (a) The membership of each local board shall be consistent with state and federal statutes and guidelines; shall be representative of a broad range of community interests and viewpoints; and shall be balanced in terms of racial, sexual, age, economic, and geographic factors. Each local board shall consist of not less than 21 and not more than 30 members, a majority of whom shall be locally elected officials.

(b) The California Council on Criminal Justice shall promulgate standards to ensure that the composition of each board complies with subdivision (a). The council shall annually review the composition of each board, and if it finds that the composition of a local board complies with the standards, it shall so certify. Certification shall be effective for one year; provided that if the membership of a board changes by more than 25 percent during a period of certification, the council may withdraw the certificate prior to its expiration.

(c) If the council determines that the composition of a local board does not comply with the standards, it shall direct the appropriate appointing authority to reappoint the local board and shall again review the composition pursuant to this section after such reappointments are made. The council may void decisions made by such board after such finding and due notice. The council may approve the allocation of planning or action funds only to those districts which have been certified pursuant to this section.

(Repealed and added Stats 1975 ch 1230)

13905. Public members. Except as otherwise provided in Section 13904, representatives of the public shall be appointed to local criminal justice and delinquency prevention planning boards, of a number not to exceed the number of representatives of government on that board. At least one-fifth of the membership of such boards shall be representatives of citizens, professional and community organizations, including organizations directly related to delinquency prevention.

(Added Stats 1973 ch 1047; most recently amended Stats 1975 ch 1230)

13906. Contracts, employees and funds. Planning boards may contract with other public or private entities for the performance of services, may appoint an executive officer and other employees, and may receive and expend funds in order to carry out planning and coordinating responsibility.

(Added Stats 1973 ch 1047)

BLUE RIBBON COMMISSION ON INMATE POPULATION MANAGEMENT

FINDINGS

14090. Description of problem. The Legislature finds and declares all of the following:

(a) In recent years, the number of convicted criminals serving time in California state prisons has dramatically increased. Since 1982, the state prison population has nearly doubled. This is the direct result of tougher determinant sentencing laws, and it reflects the will of the public that criminals should serve time in prison.

In 1983, the State of California embarked on its first major prison construction and expansion program in nearly 20 years. As a result of these efforts, new prisons have been opened and a variety of temporary overcrowding measures have been taken. Still, the growth in prison population continues to outpace the prison expansion program. This is placing a growing burden on California's prison system and on the financial resources of the state.

Given these factors, it is necessary to reexamine traditional correctional housing approaches and to study other possible methods of housing the state's prison population. Those methods must be consistent with the need to protect the public, control crime, and facilitate the punishment, deterrence, incapacitation, and reintegration of criminals into society.

(b) The California Department of Corrections forecasts that the inmate population in state prisons will increase from its present level of 63,000 to almost 100,000 in the next three to five years. The current prison construction program

will increase California's prison population to approximately 55,000 beds, but this will not be sufficient to meet the state's growing prison needs.

(c) In the past 10 years, the Department of Corrections' operating budget has doubled and by 1991, the state will spend about one-tenth of its General Fund budget to maintain its correctional system if current correctional policies continue. Current General Fund appropriations for operating the state's correctional system, now at one billion dollars, are projected to exceed two billion dollars by 1991.

(d) The problem of correctional facility overcrowding is equally critical in the Department of Youth Authority, where almost 8,500 wards are in a system that is designed for 5,840 wards. The Youth Authority population is projected to increase to 9,500 wards within the next five years. The current eighty-five million dollar Youth Authority building program will increase the system's capacity to 6,950. However, this is not enough to deal with the state's growing institution population of youthful offenders. Projections indicated that another three hundred million dollars is needed to build 2,400 more Youth Authority bed spaces by 1991.

(e) The high cost of building, maintaining, and operating prisons and youth correctional facilities, the high rates of parolees returning to custody, and the increased inmate violence require the examination of new methods, approaches, and considerations commensurate with the public's desire to be safe from criminal activity.

(Added Stats 1987 ch 1255, effective 9/27/87; operative until 9/27/89; repealed as of 1/1/90)

14091. Charge of the commission. (a) It is necessary to review California's adult and youth correctional facilities systems to examine whether there are viable alternatives and solutions to the problems of overcrowding and rising costs which exist. This title establishes a Commission on Inmate Population Management for the comprehensive review of this state's system for dealing with state prisoner and parolee populations.

(b) It is the intent of the Legislature that public safety shall be the overriding concern in examining methods of improving the prison system, reducing costs, heading off runaway inmate population levels, and exploring punishment options. These options, alternatives, and proposals should be recommended by the commission only if it is convinced that each such proposal will not result in significant lessening of public safety, increase in crime rates, or added violence within the prison system or on the outside.

(c) The people of the State of California have shown by their repeated approval of bond measures to build new jails and prisons, through opinion polls, and other indicators that they wish offenders punished and violent offenders confined in prison for lengthy periods. The commission and its study must take this into account in its deliberations, findings, study, and recommendations.

However, new methods must be explored and new options examined commensurate with this goal if the costs and impacts of California's prison system are to remain under control.

(d) As in other areas of public policy, advancements are being made in corrections systems throughout the country and in other nations, and it is imperative that California examine that achievements and consider implementing them where they seem feasible.

(Added Stats 1987 ch 1255, effective 9/27/87; operative until 9/27/89; repealed as of 1/1/90)

DUTIES AND FUNCTIONS

14100. Establishment. There is established the Blue Ribbon Commission on Inmate Population Management.

(Added Stats 1987 ch 1255, effective 9/27/87; operative until 9/27/89; repealed as of 1/1/90)

14101. Membership. The commission shall have 25 voting members as follows:

(a) The Governor shall appoint nine members, one of whom shall be designated by the Governor as chairperson.

(1) One of the Governor's appointees shall be a correctional officer with a rank not above lieutenant.

(2) One of the Governor's appointees shall be a district attorney.

(3) One of the Governor's appointees shall be a sheriff.

(b) The Senate Rules Committee shall appoint four members, one of whom shall have research credentials in the field of corrections, law enforcement, sociology, and related areas.

(c) The Speaker of the Assembly shall appoint four members, one of whom shall be an expert in mental health.

(d) The Attorney General shall serve as a member of the commission.

(e) The Secretary of the Youth and Adult Correctional Agency, the Director of the California Department of Corrections, the Director of the California Youth Authority, the Chairpersons of the Board of Prison Terms, and the Youthful Offender Parole Board, shall be members of the commission.

(f) The California Judges Association shall select one superior court judge to serve as a member of the commission.

(g) The Chairperson of the Board of the Presley Correctional Research and Training Institute shall serve as a member of the commission.

(Added Stats 1987 ch 1255 effective 9/27/87; operative until 9/27/89; repealed as of 1/1/90)

14102. Vacancies. Vacancies that may occur shall be filled by the original respective appointing authority.

(Added Stats 1987 ch 1255, effective 9/27/87; operative until 9/27/89; repealed as of 1/1/90)

14103. Compensation. Members shall serve without added compensation from the commission. Members who are current state employees, whether civil service or exempt appointees, shall be reimbursed for per diem and travel expenses by their department or agency of employment. All other members shall be reimbursed for per diem and travel expenses by the Department of Corrections. Reimbursement of expenses for all commission members shall be

made for expenses incurred in performance of their functions, including time spent conducting commission affairs at the direction and approval of the chairperson.

(Added Stats 1987 ch 1255 effective 9/27/87; operative until 9/27/89; repealed as of 1/1/90)

14104. Meetings. The commission shall meet regularly at the call of the chairperson, with meetings in various parts of the state.

(Added Stats 1987 ch 1255, effective 9/27/87; operative until 9/27/89; repealed as of 1/1/90)

14105. Executive director. The executive director shall be appointed by the commission chairperson from employees of one of the departments of the Youth and Adult Correctional Agency. Each department shall provide professional or clerical staff necessary to carry out the work of the commission. The directors of the respective agencies in consultation with the chairperson of the commission may designate temporary staff until the executive director and permanent staff have been selected. Both the executive director and staff shall be compensated by their employer agency at their normal rate of compensation.

(Added Stats 1987 ch 1255, effective 9/27/87; operative until 9/27/89; repealed as of 1/1/90)

14105.5. Role of state agencies. All agencies of state government are directed to cooperate and assist the commission and its staff, including reasonable assignment of temporary staff support where needed.

(Added Stats 1987 ch 1255, effective 9/27/87; operative until 9/27/89; repealed as of 1/1/90)

14106. Goals. The purposes, aims, goals and operating procedures of the commission shall include, but not be limited to, the following:

(a) Determination of the best available state prison and youth correctional facilities population projections for the next five years and longer, if feasible, and the impact of the populations in terms of construction and operational costs, and their impacts on the state budget.

(b) Determination of desirable alternatives or punishment options, if any, commensurate with public safety that could improve this system while reducing recidivism and prison violence.

(c) The commission shall study the present utilization of community correctional facilities and, if appropriate, make recommendations regarding utilization of those facilities. The commission shall study options for community-based treatment programs and community correctional facilities, for persons under the jurisdiction of the Department of Youth Authority or the Department of Corrections who violate the terms and conditions of parole. Public safety shall be the primary consideration in all conclusions and recommendations.

(d) The commission shall study relevant methods utilized in other jurisdictions toward reducing the problems which are within its mandate.

(e) The commission shall perform other duties as may be requested by the Governor in accord with the commission's mandates.

(Added Stats 1987 ch 1255, effective 9/27/87; operative until 9/27/89; repealed as of 1/1/90)

14107. Report. (a) The commission shall make an initial written report to the Governor, the Senate Judiciary Committee, the Assembly Committee on Public Safety, the Joint Legislative Committee on Prison Construction and Operation, the Senate Appropriations Committee, the Assembly Ways and Means Committee, and the Legislature of its activities, findings, and recommendations no later than one year after its first meeting. The commission shall make additional presentations or reports that it deems warranted.

(b) The commission shall also prepare a final written report of its findings to the Governor and to the Legislature including recommended legislation or action by the Governor's office which will promote the purpose of the commission.

(Added Stats 1987 ch 1255, effective 9/27/87; operative until 9/27/89; repealed as of 1/1/90)

14107.5. Effective date. This title shall become inoperative two years after it becomes effective, and as of January 1, 1990, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1990, deletes or extends the dates on which it becomes inoperative and is repealed.

(Added Stats 1987 ch 1255, effective 9/27/87; operative until 9/27/89; repealed as of 1/1/90)

Extracts From Business and Professions Code

2873.7. Study on medical personnel. The Department of Corrections and the Department of the Youth Authority shall jointly study, in consultation with the Board of Registered Nurses, the Board of Vocational Nurses and Psychiatric Technician Examiners, the State Department of Health Services, the Emergency Medical Services Authority, and the professional associations representing registered nurses, medical technical assistants, licensed vocational nurses, and emergency medical technicians, the difficulties in recruitment and retention of medical technical assistants and registered nurses.

The study shall be completed on or before January 1, 1989.

(Added Stats 1987 ch 1282)

Extracts From Civil Code

25.9. Consent for treatment. (a) Notwithstanding any other provision of law, a minor who has attained the age of 12 years who, in the opinion of the attending professional person, is mature enough to participate intelligently in mental health treatment or counseling on an outpatient basis, and (1) would present a danger of serious physical or mental harm to himself or herself or to others without such mental health treatment or counseling, or (2) has been the alleged victim of incest or child abuse, may give consent to the furnishing of such outpatient services. Such consent shall not be subject to disaffirmance because of minority. The consent of the parent, parents, or the legal guardian of the minor shall not be necessary to authorize the provision of such services. Mental health treatment or counseling of a minor as authorized by this section shall include the involvement of the minor's parent, parents, or legal guardian, unless in the opinion of the professional person who is treating or counseling the minor, such involvement would be inappropriate. Such person shall state in the client record whether and when he or she attempted to contact the parent, parents, or legal guardian of the minor, and whether such attempt to contact was successful or unsuccessful, or the reason why, in his or her opinion, it would be inappropriate to contact the parent, parents, or legal guardian of the minor.

(b) The parent, parents, or legal guardian of a minor shall not be liable for payment for any such mental health treatment or counseling services, as provided in subdivision (a), unless such parent, parents, or legal guardian participates in the mental health treatment or counseling and then only for the services rendered with such participation.

(c) As used in this section "mental health treatment or counseling services" means the provision of mental health treatment or counseling on an outpatient basis by any governmental agency, by a person or agency having a contract with a governmental agency to provide such services, by any agency which receives funding from community united funds, by runaway houses and crisis resolution centers, or by any private mental health professional, as defined in subdivision (d).

(d) As used in this section "professional person" means a person designated as a mental health professional in Sections 622 to 626, inclusive, of Article 8 of Subchapter 3 of Chapter 1 of Title 9 of the California Administrative Code; marriage, family and child counselors as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code; licensed educational psychologists as defined in Article 5 (commencing with Section 4986) of Chapter 13 of Division 2 of the Business and Professions Code; credentialed school psychologists as defined in Section 49424 of the Education Code; clinical psychologists, as defined in Section 1316.5 of the Health and Safety Code; and the chief administrators of any agency referred to in subdivision (c).

(e) The provisions of this section shall not be construed to authorize a minor to receive convulsive therapy or psychosurgery as defined in subdivisions (f) and (g) of Section 5325 of the Welfare and Institutions Code, or psychotropic drugs without the consent of his or her parent or guardian.

(Added Stats 1979 ch 832; amended Stats 1983 ch 928)

EMANCIPATION OF MINORS

60. Title. This part shall be known and may be cited as the "Emancipation of Minors Act."

(Added Stats 1978 ch 1059)

61. Legislative finding and declaration. The Legislature finds and declares that the case law of this state is unclear as to the definition and consequences of emancipation of minors; that a legislative statement is required; and that a process should be provided so that emancipated minors can obtain an official declaration of their status. It is the purpose of this part to provide a clear statement defining emancipation and its consequences and to permit an emancipated minor to obtain a court declaration of his status. This part is not intended to affect the status of minors who are now or may become emancipated under present decisional case law.

(Added Stats 1978 ch 1059)

62. Description of emancipated minor. Any person under the age of 18 years who comes within the following description is an emancipated minor:

(a) Who has entered into a valid marriage, whether or not such marriage was terminated by dissolution; or

(b) Who is on active duty with any of the armed forces of the United States of America; or

(c) Who has received a declaration of emancipation pursuant to Section 64.

(Added Stats 1978 ch 1059; amended Stats 1979 ch 523, effective 9/7/79)

63. Purposes of emancipation. An emancipated minor shall be considered as being over the age of majority for the following purposes:

(a) For the purpose of consenting to medical, dental, or psychiatric care, without parental consent, knowledge, or liability.

(b) For the purpose of the minor's capacity to do any of the following:

(1) Enter into a binding contract.

(2) Buy, sell, lease, encumber, exchange, or transfer any interest in real or personal property, including, but not limited to, shares of stock in a domestic or foreign corporation or a membership in a nonprofit corporation.

(3) Sue or be sued in his or her own name.

(4) Compromise, settle, arbitrate, or otherwise adjust a claim, action, or proceeding by or against the minor.

(5) Make or revoke a will.

(6) Make a gift, outright or in trust.

(7) Convey or release contingent or expectant interests in property, including marital property rights and any right of survivorship incident to joint tenancy, and consent to a transfer, encumbrance, or gift of marital property.

(8) Exercise or release his or her powers as donee of a power of appointment unless the creating instrument otherwise provides.

(9) Create for his or her own benefit or for the benefit of others a revocable or irrevocable trust.

(10) Revoke a revocable trust.

(11) Elect to take under or against a will.

(12) Renounce or disclaim any interest acquired by testate or intestate succession or by inter vivos transfer, including exercising the right to surrender the right to revoke a revocable trust.

(13) Make an election referred to in Section 13502 of, or an election and agreement referred to in Section 13503 of, the Probate Code.

(c) For the purpose of the minor's right to support by his or her parents.

(d) For purposes of the rights of the minor's parents or guardian to the minor's earnings, and to control the minor.

(e) For the purpose of establishing his or her own residence.

(f) For purposes of the application of Sections 300 and 601 of the Welfare and Institutions Code.

(g) For purposes of applying for a work permit pursuant to Section 49110 of the Education Code without the request of his or her parents or guardian.

(h) For the purpose of ending all vicarious liability of the minor's parents or guardian for the minor's torts; provided, that nothing in this section shall affect any liability of a parent, guardian, spouse, or employer imposed by the Vehicle Code, or any vicarious liability which arises from an agency relationship.

(i) For the purpose of enrolling in any school or college.

(Added Stats 1978 ch 1059; most recently amended Stats 1988 ch 113, eff. 5/25/88)

64. Declaration of emancipation. (a) A minor may petition the superior court of the county in which he or she resides or is temporarily domiciled, for a declaration of emancipation. The petition shall be verified and shall set forth with specificity all of the following facts:

(1) That he or she is at least 14 years of age.

(2) That he or she willingly lives separate and apart from his or her parents or legal guardian with the consent or acquiescence of his or her parents or legal guardian.

(3) That he or she is managing his or her own financial affairs.

(4) That the source of his or her income is not derived from any activity declared to be a crime by the laws of the State of California or the laws of the United States.

(b) Before the petition is heard, such notice as the court deems reasonable shall be given to the minor's parents, guardian, or other person entitled to the custody of the minor, or proof made to the court that their addresses are unknown, or that for other reasons the notice cannot be given. The clerk of the court shall also notify the district attorney of the county where the matter is to be heard of the proceeding. When a minor is a ward or dependent child of the court, notice shall be given to the probation department.

(c) The court shall sustain the petition if it finds that the minor is a person described by subdivision (a) and that emancipation would not be contrary to his or her best interests.

(d) If the petition is sustained, the court shall forthwith issue a declaration of emancipation, which shall be filed by the county clerk. Upon application of the emancipated minor, the Department of Motor Vehicles shall enter identifying information in its law enforcement computer network, and the fact of emancipation shall be stated on the department's identification cards issued to emancipated minors.

(e) If the petition is denied, the minor shall have a right to file a petition for a writ of mandate.

(f) If the petition is sustained, the parents or guardian shall have a right to file a petition for a writ of mandate if they have appeared in the proceeding and opposed the granting of the petition.

(g) A declaration shall be conclusive evidence that the minor is emancipated.

(Added Stats 1978 ch 1059; most recently amended Stats 1986 ch 946)

65. Rescinding the declaration. (a) A minor declared emancipated under Section 64 or his conservator may petition the superior court of the county in which he resides, to rescind the declaration issued under Section 64.

(b) Before the petition is heard, such notice as the court deems reasonable must be given to the minor's parents or guardian or proof made to the court that their addresses are unknown, or that for other reasons such notice cannot be given, however, no liability shall accrue to any parent or guardian not given actual notice, as a result of rescission of the declaration of emancipation, until such parent or guardian is given actual notice.

(c) The court shall sustain the petition and rescind the declaration of emancipation if it finds that the minor is indigent and has no means of support.

(d) If the petition is sustained, the court shall forthwith issue a court order rescinding the declaration of emancipation granted under Section 64, which shall be filed by the county clerk. Notice shall be sent immediately to the Department of Motor Vehicles which shall remove the information relating to emancipation in its law enforcement computer network entered pursuant to subdivision (d) of Section 64. Any identification card issued stating emancipation shall be invalidated.

(e) Rescission of the declaration of emancipation shall not alter any contractual obligations or rights or any property rights or interests which arose during the period that the declaration was in effect.

(Added Stats 1979 ch 1059; amended Stats 1979 ch 523, effective 9/7/79)

66. Rights and obligations. A person who, in good faith, has examined a minor's identification card and relies upon a minor's representation that he is emancipated, shall have the same rights and obligations as if the minor were in fact emancipated at the time of the representation.

(Added Stats 1978 ch 1059)

67. Entitlement to welfare. The issuance of a declaration of emancipation shall not entitle the minor to any benefits under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code which would not otherwise accrue to an emancipated minor.

(Added Stats 1978 ch 1059)

68. Liability for inaccurate information. No public entity or employee shall be liable for any loss or injury resulting directly or indirectly from false or inaccurate information contained in the Department of Motor Vehicles records system or identification cards as provided in this part.

(Added Stats 1978 ch 1059

69. Void for fraud. A declaration of emancipation obtained by fraud or by the withholding of material information shall be voidable. The voiding of any such

declaration pursuant to this section shall not alter any contractual obligations or rights or any property rights or interests which arose during the period that the declaration was in effect.

A proceeding under this section may be commenced by any person or by any public or private agency. Notice of the commencement of such a proceeding and of any order declaring the declaration of emancipation to be void shall be consistent with the requirements of subdivisions (b) and (d) of Section 65.

(Added Stats 1979 ch 523, effective 9/7/79)

70. Forms for proceedings. It is the intent of the Legislature that proceedings under Sections 64 and 65 shall be as simple and inexpensive as possible, and to that end, the Judicial Council is requested to prepare and distribute to the clerks of the superior courts appropriate forms for such proceedings which are suitable for use by minors acting as their own counsel.

(Added Stats 1979 ch 523, effective 9/7/79)

226.9. Adoptions. Notwithstanding any other provisions of this chapter, in case of an adoption of a child by a stepparent where one natural or adoptive parent retains his or her custody and control of the child, the consent of either or both parents must be signed in the presence of a county clerk, probation officer, or county welfare department staff member of any county of this state and the county clerk, probation officer, or county welfare department staff member before whom the consent is signed shall immediately file the consent with the clerk of the superior court of the county where the petition is filed and the clerk shall immediately notify the probation officer or, at the option of the board of supervisors, the county welfare department of the same county.

If the father or mother of a child to be adopted is outside the State of California at the time of signing consent, his or her consent may be signed before a notary, or other person authorized to perform notarial acts.

The consent, when reciting that the person giving it is entitled to sole custody of the minor child, shall, when duly acknowledged before the county clerk, probation officer, or county welfare department staff member be prima facie evidence of the right of the person making it to the sole custody of the child and that person's sole right to consent.

A parent who is a minor shall have the right to sign a consent for the adoption of his or her child and the consent shall not be subject to revocation by reason of the minority.

(Added by Stats 1963 ch 1806; most recently amended Stats 1983 ch 477)

227a. Investigation. Notwithstanding any other provisions of this chapter, the probation officer or, at option of the board of supervisors, the county welfare department in the county in which the action for adoption is pending shall make an investigation of each case of adoption by a stepparent where one natural parent retains custody and control of the child. No order of adoption shall be made by the court until after the probation officer has filed his or her or the welfare department has filed its report and recommendation and it has been considered by the court.

No home study shall be required of the petitioner's home in such a case unless ordered by the court. The agency conducting the investigation or any interested person may request the court to order a home study or the court may order such a study on its own motion.

As used in this section, "home study" means a physical investigation of the premises where the child is residing.

(Added Stats 1933 ch 541; most recently amended Stats 1985 ch 588)

227b. Setting aside decree of adoption. If any child heretofore or hereafter adopted under the foregoing provisions of this code shows evidence of a developmental disability or mental illness as a result of conditions prior to the adoption to such an extent that the child cannot be relinquished to an adoption agency on the grounds that the child is considered unadoptable, and of which conditions the adopting parents or parent had no knowledge or notice prior to the entry of the decree of adoption, a petition setting forth such facts may be filed by the adopting parents or parent with the court which granted the petition for adoption. If such facts are proved to the satisfaction of the court, it may make an order setting aside the decree of adoption.

The petition must be filed within whichever is the later of the following time limits: (a) within five years after the entering of the decree or adoption, or (b) within one year after the effective date hereof, if such a condition were manifest in the child within five years after the entering of the decree of adoption.

In every action brought under this section it shall be the duty of the clerk of the superior court of the county wherein the action is brought to immediately notify the State Department of Social Services of such action. Within 60 days after such notice the State Department of Social Services shall file a full report with the court and shall appear before the court for the purpose of representing the adopted child.

(Added Stats 1937 ch 366; most recently amended Stats 1978 ch 429, effective 7/17/78, operative 7/1/78)

227c. Setting aside decree of adoption. Whenever the decree of adoption of any child shall have been set aside as provided in Section 227b, the court making the order shall direct the district attorney or the county counsel or the county department of social welfare, to take appropriate proceedings under the Welfare and Institutions Code. The court may also make such order relative to the care, custody, or confinement of the child pending the proceedings as it sees fit.

The county in which the proceedings for adoption were had shall be and remain liable for the support of the child until he is able to support himself.

(Added Stats 1939 ch 1102; most recently amended Stats 1972 ch 380)

227.5. Investigation costs. A stepparent adopting a child pursuant to this chapter shall be liable for all reasonable costs incurred in connection with the investigation required by Section 227a, up to a maximum of one hundred dollars ($100). The probation officer or county welfare department may defer, waive, or reduce the fee for costs when such a payment would cause economic hardship to the adoptive parent which would be detrimental to the welfare of the adoptive child.

(Added Stats 1983 ch 477)

FREEDOM FROM PARENTAL CUSTODY AND CONTROL

232. Initiation of action. (a) An action may be brought for the purpose of having any child under the age of 18 years declared free from the custody and control of either or both of his or her parents when the child comes within any of the following descriptions:

(1) The child has been left without provision for the child's identification by his or her parent or parents or by others or has been left by both of his or her parents or his or her sole parent in the care and custody of another for a period of six months or by one parent in the care and custody of the other parent for a period of one year without any provision for the child's support, or without communication from the parent or parents, with the intent on the part of the parent or parents to abandon the child. The failure to provide identification, failure to provide support, or failure to communicate shall be presumptive evidence of the intent to abandon. If the parent or parents have made only token efforts to support or communicate with the child, the court may declare the child abandoned by the parent or parents. In those cases in which the child has been left without provision for the child's identification and the whereabouts of the parents are unknown, a petition may be filed after the 120th day following the discovery of the child and citation by publication may be commenced. The petition may not be heard until after the 180th day following the discovery of the child.

(2) Who has been neglected or cruelly treated by either or both parents, if the child has been a dependent child of the juvenile court under any subdivision of Section 300 of the Welfare and Institutions Code and the parent or parents have been deprived of the child's custody for one year prior to the filing of a petition pursuant to this section. Physical custody by the parent or parents for insubstantial periods of time shall not serve to interrupt the running of the one-year period.

(3) Whose parent or parents suffer a disability because of the habitual use of alcohol, or any of the controlled substances specified in Schedules I to V, inclusive, of Division 10 (commencing with Section 11000) of the Health and Safety Code, except when these controlled substances are used as part of a medically prescribed plan, or are morally depraved, if the child has been a dependent child of the juvenile court, and the parent or parents have been deprived of the child's custody continuously for one year immediately prior to the filing of a petition pursuant to this section. As used in this subdivision, "disability" means any physical or mental incapacity which renders the parent or parents unable to adequately care for and control the child. Physical custody by the parent or parents for insubstantial periods of time shall not interrupt the running of the one-year period.

(4) Whose parent or parents are convicted of a felony, if the facts of the crime of which the parent or parents were convicted are of a nature so as to prove the unfitness of the parent or parents to have the future custody and control of the child.

(5) Whose parent or parents have been declared by a court of competent jurisdiction, wherever situated, to be developmentally disabled or mentally ill, if, in the state or country in which the parent or parents reside or are hospitalized, the Director of Mental Health or the Director of Developmental Services, or their

equivalent, if any, and the superintendent of the hospital of which, if any, the parent or parents are inmates or patients, certify that the parent or parents so declared to be developmentally disabled or mentally ill will not be capable of supporting or controlling the child in a proper manner.

(6) Whose parent or parents are mentally disabled and are likely to remain so in the foreseeable future. As used in this subdivision, "mentally disabled" means that a parent or parents suffer any mental incapacity or disorder which renders the parent or parents unable to adequately care for and control the child. The evidence of any two experts, each of whom shall be either a physician and surgeon, certified either by the American Board of Psychiatry and Neurology or under Section 6750 of the Welfare and Institutions Code, or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders, shall be required to support a finding under this subdivision. If, however, the parent or parents reside in another state or in a foreign country, the evidence required by this subdivision may be supplied by the affidavits of two experts, each of whom shall be either a physician and surgeon who is a resident of that state or foreign country, and who has been certified by a medical organization or society of that state or foreign country to practice psychiatric or neurological medicine, or by a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders and who is licensed in that state or authorized to practice in that country. If the rights of any parent are sought to be terminated pursuant to this subdivision, and the parent has no attorney, the court shall appoint an attorney for the parent pursuant to Section 237.5, whether or not a request for the appointment is made by the parent.

(7) Who has been in out-of-home placement under the supervision of the juvenile court, the county welfare department, or other public or private licensed child-placing agency for a one-year period, if the court finds that return of the child to the child's parent or parents would be detrimental to the child and that the parent or parents have failed during that period, and are likely to fail in the future, to maintain an adequate parental relationship with the child, which includes providing both a home and care and control for the child.

If the minor has been adjudged a dependent child of the juvenile court and placed in out-of-home placement pursuant to Section 361 of the Welfare and Institutions Code, the one-year period shall be calculated from the date of the dispositional hearing at which the child was placed in out-of-home placement pursuant to that section. If the minor is in placement under the supervision of a county welfare department or other public or private licensed child-placing agency, pursuant to a voluntary placement, as described in Section 16507.4 of the Welfare and Institutions Code, the one-year period shall be calculated from the date the minor entered out-of-home placement.

The court shall make a determination that reasonable services have been provided or offered to the parents which were designed to aid the parents to overcome the problems which led to the deprivation or continued loss of custody and that despite the availability of these services, return of the child to the

parents would be detrimental to the child. The probation officer or social worker currently assigned to the case of the child shall appear at the termination proceedings.

If the minor has been adjudged to be a dependent child of the court pursuant to Section 300 of the Welfare and Institutions Code, the court shall review and consider the contents of the juvenile court file in determining if the services offered were reasonable under the circumstances.

Trial placement of the child in the physical custody of the parent or visitation of the child with the parent during the one-year period, when the trial placement or visitation does not result in permanent placement of the child with the parent, shall not serve to interrupt the running of the one-year period.

(8) A minor who has been found to be a dependent child of the juvenile court and the juvenile court has determined, pursuant to paragraph (3), (4), or (5) of subdivision (b) of Section 361.5 of the Welfare and Institutions Code, that reunification services shall not be provided to the minor's parent or guardian.

(b) At all termination proceedings, the court shall consider the wishes of the child and shall act in the best interests of the child.

The testimony of the minor may be taken in chambers and outside the presence of the minor's parent or parents if the minor's parent or parents are represented by counsel, the counsel is present, and any of the following circumstances exist:

(1) The court determines that testimony in chambers is necessary to ensure truthful testimony.

(2) The minor is likely to be intimidated by a formal courtroom setting.

(3) The minor is afraid to testify in front of his or her parent or parents.

After testimony in chambers, the parent or parents of the minor may elect to have the court reporter read back the testimony or have the testimony summarized by counsel for the parent or parents.

The testimony of a minor also may be taken in chambers and outside the presence of the guardian or guardians of a minor under the circumstances specified in this subdivision.

(c) A finding pursuant to this section shall be supported by clear and convincing evidence.

(d) Sections 4600 and 5158 shall not apply to proceedings pursuant to this section.

(e) This section does not apply to minors adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360 of the Welfare and Institutions Code on and after January 1, 1989, during the period in which the minor is a dependent child of the court. For those minors, Section 366.26 of the Welfare and Institutions Code and Sections 224, 224m, and 7017 of this code provide the exclusive means for the termination of parental rights.

(Added Stats 1961 ch 1616; most recently amended Stats 1988 ch 701)

232.1. Demonstration county. (a) An action may be brought in a demonstration county for the purpose of having any person under the age of 18 years declared free from the custody and control of either or both of his or her parents when he or she comes within any of the following descriptions:

(1) Who has been left without provision for his or her identification by his or her parent or parents or by others or has been left by both of his or her parents or his or her sole parent in the care and custody of another for a period of six months or by one parent in the care and custody of the other parent for a period of one year without any provision for his or her support, or without communication from the parent or parents, with the intent on the part of the parent or parents to abandon the person. A failure to provide identification, failure to provide, or failure to communicate shall be presumptive evidence of the intent to abandon. If the parent or parents have made only token efforts to support or communicate with the child, the court may declare the child abandoned by the parent or parents. In those cases in which the child has been left without provision for his or her identification and the whereabouts of the parents are unknown, a petition may be filed after the 120th day following the discovery of the child and citation by publication may be commenced. The petition may not be heard until after the 180th day following the discovery of the child.

The fact that a child is in a foster care home subject to the requirements of Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, shall not prevent a licensed adoption agency which is planning adoption placement for the child, from instituting, under this subdivision, an action to declare the child free from the custody and control of his or her parents. When the requesting agency is a licensed county adoption agency, the county counsel and if there is no county counsel, the district attorney shall institute the action.

(2) Who has been cruelly treated or neglected by either or both of his or her parents, if the person has been a dependent child of the juvenile court, and the parent or parents have been deprived of his or her custody for the period of one year prior to the filing of a petition praying that he or she be declared free from the custody and control of the cruel or neglectful parent or parents.

(3) Whose parent or parents suffer a disability because of the habitual use of alcohol, or any of the controlled substances specified in Schedules I to V, inclusive, of Division 10 (commencing with Section 11000) of the Health and Safety Code, except when the controlled substances are used as part of a medically prescribed plan, or are morally depraved, if the person has been a dependent child of the juvenile court, and the parent or parents have been deprived of his or her custody because of the disability, or moral depravity, for the period of one year continuously immediately prior to the filing of the petition praying that he or she be declared free from the custody and control of the parent or parents. As used in this subdivision, "disability" means any physical or mental incapacity which renders the parent or parents unable to adequately care for and control the child.

(4) Whose parent or parents are convicted of a felony, if the facts of the crime of which the parent or parents were convicted are of such nature as to prove the unfitness of the parent or parents to have the future custody and control of the child.

(5) Whose parent or parents have been declared by a court of competent jurisdiction wherever situated to be developmentally disabled or mentally ill, if, in the state or country in which the parent or parents are hospitalized or resident, the Director of Mental Health or the Director of Developmental Services, or his or her equivalent, if any, and the superintendent of the hospital of which, if any, the parent or parents are inmates or patients certify that the parent or parents so

declared to be developmentally disabled or mentally ill will not be capable of supporting or controlling the child in a proper manner.

(6) Whose parent or parents are, and will remain incapable of supporting or controlling the child in a proper manner because of mental deficiency or mental illness, if there is testimony to this effect from two physicians and surgeons, each of whom must have been certified either by the American Board of Psychiatry and Neurology or under Section 6750 of the Welfare and Institutions Code, or two licensed psychologists, each of whom shall have a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. If, however, the parent or parents reside in another state or in a foreign country, the testimony herein may be supplied by two physicians and surgeons who are residents of the state or foreign country, if the physicians and surgeons have been certified by a medical organization or society of that state or foreign country to practice psychiatric or neurological medicine and if the court determines that the certification requirements of the organization or society are comparable to those of the American Board of Psychiatry and Neurology.

The parent or parents shall be cited to be present at the hearing, and if he, she, or they have no attorney, the court shall appoint an attorney or attorneys to represent the parent or parents and fix the compensation to be paid by the county for the services, if the court determines the parent or parents are not financially able to employ counsel.

(7) Who has been cared for in one or more foster homes under the supervision of the juvenile court, the county welfare department, or other public or private licensed child-placing agency for two or more consecutive years, providing that the court finds by clear and convincing evidence that the return of the child to his or her parent or parents would be detrimental to the child and that the parent or parents have failed during that period, and are likely to fail in the future, to:

(i) Provide a home for the child;

(ii) Provide care and control for the child;

(iii) Maintain an adequate parental relationship with the child; and

(iv) Maintain continuous contact with the child, unless unable to do so.

Physical custody of the child by the parent or parents for insubstantial periods of time during the required two-year period shall not serve to interrupt the running of the period.

(8) Who has been found to be a dependent child of the juvenile court, has been removed from the physical custody of his or her parent or parents pursuant to Section 361.5 or voluntarily placed pursuant to Chapter 5.5 (commencing with Section 16550) of Part 4 of Division 9 of the Welfare and Institutions Code, and where an action to terminate parental rights was initiated due to a court order pursuant to Section 366.5 of the Welfare and Institutions Code.

At the termination proceeding, the person bringing the action shall show that on a continuous basis reasonable services have been provided to the parents, or were offered and refused by them, which were designed to aid the parents to overcome the problems which originally led to the deprivation of physical custody, the effectiveness, if any, of the services, and that despite the use of the services return of the child to the parent or parents would be detrimental to the

child. Social workers or probation officers who provided the services shall appear, if available, at the termination proceedings.

At the termination proceeding, the court may consider the wishes of the child. When the child is 12 years of age or older, the consent of the child shall be obtained in order that there be a termination of parental rights.

If the court sustains the petition and there is an order pursuant to this subdivision, the court shall specify the factual grounds established to support its findings and enter them in the permanent records of the court.

An action may be brought under this subdivision if the child was declared a dependent child of the juvenile court on or after July 1, 1977, or was voluntarily placed by his or her parents pursuant to Chapter 5.5 (commencing with Section 16550) of Part 4 of Division 9 of the Welfare and Institutions Code on or after that date.

(9) A minor under two years of age who has been found to be a dependent child of the court pursuant to subdivision (d) of Section 300 of the Welfare and Institutions Code, as a result of physical or sexual abuse and who has been removed from the physical custody of his or her parent or parents pursuant to Section 361.5 of the Welfare and Institutions Code.

(b) A licensed adoption agency of a demonstration county may institute under this section, an action to declare a child, as described in this section, free from the custody and control of his or her parents. When the requesting agency is a licensed county adoption agency, the county counsel, or if there is no county counsel, the district attorney shall institute the action.

(c) As used in this section, a "demonstration county" is a county selected pursuant to Section 2 of Chapter 977 of the Statutes of 1976.

(d) This section shall remain in effect only until the date specified in Section 30 of Chapter 977 of the Statutes of 1976, and as of that date is repealed, unless a later enacted statute, which is chaptered before that date, deletes or extends that date.

(Added Stats 1977 ch 21; most recently amended Stats 1981 ch 104)

232.9. Initiation of action. The State Department of Social Services, a county welfare department, a licensed private or public adoption agency, a county adoption department, or a county probation department which is planning adoptive placement of a child with a licensed adoption agency, or the State Department of Social Services acting as an adoption agency in counties which are not served by a county adoption agency, may initiate an action under Section 232 to declare a child free from the custody and control of his parents. The fact that a child is in a foster care home subject to the requirements of Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code shall not prevent the institution of such an action by any such agency or by a licensed adoption agency pursuant to Section 232.

The county counsel or, if there is no county counsel, the district attorney of the county specified in Section 233 shall, in a proper case, institute the action upon the request of any of the state or county agencies mentioned herein. The action shall be instituted pursuant to Section 232 within 30 days of the request.

If, at the time of the filing of a verified petition by any department or agency specified in this section, the child is in the custody of the petitioner, the petitioner may continue to have custody of the child pending the hearing on the petition

unless the court, in its discretion, makes other orders regarding custody pending the hearing which it finds will best serve and protect the interests and welfare of the child.

(Added Stats 1970 ch 583; most recently amended Stats 1982 ch 978, effective 9/13/82, operative 7/1/82)

233. Any interested party may petition. Any interested person may petition the superior court of the county in which a minor person described in Section 232 resides or in which the minor person is found or in which any of the acts which are set forth in Section 252 are alleged to have occurred, for an order or judgment declaring the minor person free from the custody and control of either or both of his or her parents. There shall be no filing fee charged for any action instituted in accordance with this section. Upon the filing of the petition, the clerk of the court shall, in accordance with the direction of the court, immediately notify the juvenile probation officer, or the county department designated by the board of supervisors to administer the public social services program, who shall immediately investigate the circumstances of the minor person and the circumstances which are alleged to bring the minor person within any of the provisions of Section 232. The juvenile probation officer or the county department shall render to the court a written report of the investigation with a recommendation to the court of the proper disposition to be made in the action in the best interests of the minor person.

The report shall include all of the following:

(a) A statement that the person making the report explained the nature of the legal action to end parental custody and control to the minor.

(b) A statement of the minor's feelings and thoughts concerning the pending action.

(c) A statement of the minor's attitude towards his or her parent or parents and particularly whether or not the minor would prefer living with his or her parent or parents.

(d) A statement that the minor was informed of his or her right to attend the hearing on the petition and the minor's feelings concerning attending the hearing. The court shall receive the report in evidence and shall read and consider the contents thereof in rendering its judgment.

(e) If the age, or the physical, emotional, or other condition of the minor precludes his or her meaningful response to the explanations, inquiries, and information required by the provisions of subdivisions (a), (b), (c), and (d), a description of the condition shall satisfy the requirements of those subdivisions.

(Added Stats 1961 ch 1616; most recently amended Stats 1981 ch 810)

233.5. Who may inspect reports. A petition filed in any superior court proceeding under this chapter and any reports of the probation officer or county department designated by the board of supervisors to administer the public social services program filed in any such case may be inspected only by court personnel, the minor who is the subject of the proceeding, his parents or guardian, and the attorneys for such parties, and such other persons as may be designated by the judge of the superior court.

In any proceeding before the court of appeal or Supreme court to review a judgment or order entered in a superior court proceeding under this chapter, the

superior court record and briefs filed by the parties may be inspected only by court personnel, by any party to the proceeding, by the attorneys for such parties, and such other persons as may be designated by the presiding judge of the court before which the matter is pending.

(Added Stats 1965 ch 1530; most recently amended Stats 1980 ch 503)

236. Failure to appear. If any person personally served with a citation within the state as provided in this chapter fails without reasonable cause to appear and abide by the order of the court, or to bring such minor person before the court if so required in the citation, such failure constitutes a contempt of court.

(Added Stats 1961 ch 1616)

237. Appointment of interested party. In any proceeding to declare a minor person free from the custody and control of his parents, the court may appoint some suitable party to act in behalf of such minor person and may order such further notice of the proceedings to be given as the court deems proper.

(Added Stats 1961 ch 1616)

237.5. Rights of parents and minors. At the beginning of the proceeding on a petition filed pursuant to this chapter counsel shall be appointed as follows:

(a) The court shall consider whether the interests of the minor require the appointment of counsel. If the court finds that the interests of the minor do require such protection, the court shall appoint counsel to represent the minor. If the court finds that the interests of the minor require the representation of counsel, counsel shall be appointed whether or not the minor is able to afford counsel. The minor shall not be present in court unless the minor so requests or the court so orders.

(b) If a parent appears without counsel and is unable to afford counsel, the court shall appoint counsel for the parent, unless such representation is knowingly and intelligently waived. The same counsel shall not be appointed to represent both the minor and his or her parent.

(c) The public defender or private counsel may be appointed as counsel pursuant to this section. Private counsel appointed under the provisions of this section shall receive a reasonable sum for compensation and expenses, the amount of which shall be determined by the court. Such amount shall be paid by the real parties in interest, other than the minor, in such proportions as the court deems just. However, if the court finds that any of the real parties in interest are unable to afford counsel, the amount shall be paid out of the general fund of the county.

(d) The court may continue the proceeding for not to exceed 30 days as necessary to appoint counsel, and to enable counsel to become acquainted with the case.

(Added Stats 1965 ch 1530; most recently amended Stats 1981 ch 810)

238. Order or judgment binding. Any order and judgment of the court declaring a minor person free from the custody and control of any parent or parents under the provisions of this chapter shall be conclusive and binding upon such minor person, upon such parent or parents and upon all other persons who have been served with citation by publication or otherwise as provided in this

chapter. After making such order and judgment, the court shall have no power to set aside, change, or modify it, but nothing in this section shall be construed to limit the right to appeal from such order and judgment.

(Added Stats 1961 ch 1616)

Foster Care of Children

396. Legislative intent. It is the policy of the Legislature that foster care should be a temporary method of care for the children of this state, that children have a right to a normal home life, that reunification with the natural parent or parents or another alternate permanent living situation such as adoption or guardianship are more suitable to a child's well-being than is foster care, and that this state has a responsibility to attempt to ensure that children are given the chance to have a happy and healthy life, and that, to the extent possible, the current practice of moving children receiving foster care services from one foster home to another until they reach the age of majority should be discontinued.

397. Information system. In order to carry out the policy stated in Section 396, each county welfare department or probation department shall report to the State Department of Social Services, in the frequency and format determined by the department, foster care characteristic data and care information deemed essential by the department to establish a foster care information system. The report shall include, but not be limited to, elements that identify the factors necessitating foster care placement, the appropriateness of the placement, and the case goal or objective such as reunification, adoption, guardianship, or long-term foster care placement.

398. Report to Legislature. The department shall report to the Speaker of the Assembly and the Senate Rules Committee on the current status of children placed in foster care. The report shall be submitted on October 1, 1981, and shall include, in addition to the current status of children in foster care, an analysis of foster care service plans in relation to the policy set forth in Section 396.

1714.1. Liability for torts of minors. (a) Any act of willful misconduct of a minor which results in injury or death to another person or in any injury to the property of another shall be imputed to the parent or guardian having custody and control of the minor for all purposes of civil-damages, and the parent or guardian having custody and control shall be jointly and severally liable with the minor for any damages resulting from the willful misconduct.

The joint and several liability of the parent or guardian having custody and control of a minor under this subdivision shall not exceed ten thousand dollars ($10,000) for each tort of the minor, and in the case of injury to a person, imputed liability shall be further limited to medical, dental and hospital expenses incurred by the injured person, not to exceed ten thousand dollars ($10,000). The liability imposed by this section is in addition to any liability now imposed by law.

(b) Any act of willful misconduct of a minor which results in the defacement of property of another with paint or a similar substance shall be imputed to the parent or guardian having custody and control of the minor for all purposes of civil damages, including court costs, and attorney's fees, to the prevailing party, and the parent or guardian having custody and control shall be jointly and

severally liable with the minor for any damages resulting from the willful misconduct, not to exceed ten thousand dollars ($10,000) for each tort of the minor.

(Enacted 1872; most recently amended Stats 1978 ch 929)

1714.3. Liability for minor's use of firearms. Civil liability for any injury to the person or property of another proximately caused by the discharge of a firearm by a minor under the age of 18 years shall be imputed to a parent or guardian having custody and control of the minor for all purposes of civil damages, and such parent or guardian shall be jointly and severally liable with such minor for any damages resulting from such act, if such parent or guardian either permitted the minor to have the firearm or left the firearm in a place accessible to the minor.

The liability imposed by this section is in addition to any liability otherwise imposed by law. However, no person, or group of persons collectively, shall incur liability under this section in any amount exceeding thirty thousand dollars ($30,000) for injury to or death of one person as a result of any one occurrence or, subject to the limit as to one person, exceeding sixty thousand dollars ($60,000) for injury to or death of all persons as a result of any one such occurrence.

(Added Stats 1970 ch 843; most recently amended Stats 1986 ch 1099)

3294. Liability for damages. (a) In an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice, the plaintiff, in addition to the actual damages, may recover damages for the sake of example and by way of punishing the defendant.

(b) An employer shall not be liable for damages pursuant to subdivision (a), based upon acts of an employee of the employer, unless the employer had advance knowledge of the unfitness of the employee and employed him or her with a conscious disregard of the rights or safety of others or authorized or ratified the wrongful conduct for which the damages are awarded or was personally guilty of oppression, fraud, or malice. With respect to a corporate employer, the advance knowledge and conscious disregard, authorization, ratification or act of oppression, fraud, or malice must be on the part of an officer, director, or managing agent of the corporation.

(c) As used in this section, the following definitions shall apply:

(1) "Malice" means conduct which is intended by the defendant to cause injury to the plaintiff or despicable conduct which is carried on by the defendant with a willful and conscious disregard of the rights or safety of others.

(2) "Oppression" means despicable conduct that subjects a person to cruel and unjust hardship in conscious disregard of that person's rights.

(3) "Fraud" means an intentional misrepresentation, deceit, or concealment of a material fact known to the defendant with the intention on the part of the defendant of thereby depriving a person of property or legal rights or otherwise causing injury.

(d) Damages may be recovered pursuant to this section in an action pursuant to Section 377 of the Code of Civil Procedure or Section 573 of the Probate Code based upon a death which resulted from a homicide for which the defendant has been convicted of a felony, whether or not the decedent died instantly or

survived the fatal injury for some period of time. The procedures for joinder and consolidation contained in Section 377 of the Code of Civil Procedure shall apply to prevent multiple recoveries of punitive or exemplary damages based upon the same wrongful act.

(e) The amendments to this section made by Chapter 1498 of the Statutes of 1987 apply to all actions in which the initial trial has not commenced prior to January 1, 1988.

(Enacted 1872; most recently amended Stats 1988 ch 160)

4101. Marriage consent. (a) Any unmarried male of the age of 18 years or upwards, and any unmarried female of the age of 18 years or upwards, and not otherwise disqualified, are capable of consenting to and consummating marriage.

(b) Any unmarried male or female under the age of 18 years is capable of consenting to and consummating marriage if each of the following documents is filed with the clerk issuing the marriage license as provided in Section 4201:

(1) The consent in writing of the parents of each person who is underage, or of one of such parents or the guardian of each such person.

(2) After such showing as the superior court may require, an order of such court granting permission to such underage person to marry.

(c) As part of the order under subdivision (b), the court shall require the parties to such prospective marriage of a person under the age of 18 years to participate in premarital counseling concerning social, economic, and personal responsibilities incident to marriage, if it deems such counseling necessary. Such parties shall not be required, without their consent, to confer with counselors provided by religious organizations of any denomination. In determining whether to order the parties to participate in such premarital counseling, the court shall consider, among other factors, the ability of the parties to pay for such counseling. The court may impose a reasonable fee to cover the cost of any such counseling provided by the county. Any such fees shall be used exclusively to cover the cost of the counseling services authorized by this section and may not be imposed if the counseling services are provided by a conciliation court.

(Added Stats 1969 ch 1608; most recently amended Stats 1979 ch 621)

4102. Court order consenting to marriage. Whenever it appears to the satisfaction of the superior court by verified application of a minor that such person requires a written consent to marry and that such minor has no parent or has no parent capable of consenting, the superior court may make an order consenting to the issuance of a marriage license and granting permission to such minor to marry. Such order shall be filed with the county clerk at the time the license is issued.

(Added Stats 1969 ch 1608, operative 1/1/70)

Extracts From Code of Civil Procedure

37. Civil actions. (a) A civil action shall be entitled to preference, if the action is one in which the plaintiff is seeking damages which were alleged to have been caused by the defendant during the commission of a felony offense for which the defendant has been criminally convicted.

(b) The court shall endeavor to try the action within 120 days of the grant of preference.

(Enacted 1872; most recently amended Stats 1983 ch 938, effective 9/20/83)

117.4. Small claims court. No attorney at law or other person than the plaintiff and the defendant shall take any part in the filing or the prosecution or defense of such litigation in small claims court, unless the attorney is appearing to prosecute or defend an action by or against himself or herself, or by or against a partnership in which he or she is a general partner and in which all the partners are attorneys, or by or against a professional corporation of which he or she is an officer or director and of which all other officers and directors are attorneys at law. Nothing herein shall prevent an attorney from rendering advice to a party to such litigation, either before or after the commencement of such an action; nor shall anything herein prevent an attorney from testifying to facts of which he or she has personal knowledge and about which he or she is competent to testify. However, if the court determines that a party does not speak or understand the English language sufficiently to comprehend the proceedings or give testimony, or cannot properly present his or her own case and needs assistance in so doing, the court may permit another person (other than an attorney at law) to assist such party. A plaintiff incarcerated in a county jail, a Department of Corrections facility, or a Youth Authority facility shall be entitled to waive personal appearance and submit written declarations to serve as evidence supporting the party's claim, or allow another person (other than an attorney at law) to appear on the plaintiff's behalf.

The presence of the plaintiff or defendant, whether individual or corporate, at the hearing shall not be required to permit the proof of the items of an account but such proof shall be in accordance with the provisions of Sections 1270 and 1271 of the Evidence Code.

(Added Stats. 1976 ch 1289; most recently amended Stats 1982 ch 1350)

131.3. Required referral to probation officer. Either at the time of the arrest for crime of any person over 16 years of age, or at the time of the plea or verdict of guilty, the probation officer of the county of the jurisdiction of said crime shall, when so directed by the court, inquire into the antecedents, character, history, family environment and offense of such person, and must report the same to the court and file his report in writing in the records of said court. His report shall contain his recommendation for or against the release of such person on probation. If any such person shall be released on probation and committed to the care of the probation officer, such officer must keep a complete and accurate record in suitable books of the history of the case in court and of the name of the probation officer, and his acts in connection with said case; also, the age, sex, nativity, residence, education, habits of temperance, whether married or single, and the conduct, employment and occupation and the parents' occupation

and the condition of such person so committed to his care during the term of such probation, and the result of such probation, which record shall be and constitute a part of the records of the court and shall at all times be open to the inspection of the court or any person appointed by the court for that purpose, as well as of all magistrates and the chief of police or other head of the police, unless otherwise ordered by the court. The said books of record shall be furnished by the county clerk of said county, and shall be paid for out of the county treasury.

Five years after termination of probation in any case subject to this section, the probation officer may destroy any records and papers in his possession relating to such case.

The probation officer shall furnish to each person released on probation and committed to his care, a written statement of the terms and conditions of his probation, and shall report to the court or judge appointing him, any violation or breach of the terms and conditions imposed by such court on the person placed in his care.

(Added Stats 1939 p. 3023; most recently amended Stats 1961 ch 2043)

131.5. Availability of report. No court shall pronounce judgment upon any defendant, as to whom the court has requested a probation report pursuant to Section 131.3, unless a copy of the probation report has been made available to the court, the prosecuting attorney, and the defendant or his attorney, at least two days or, upon the request of the defendant, five days prior to the time fixed by the court for consideration of the report with respect to pronouncement of judgment. Such report shall be filed with the clerk of the court as a record in the case at the time the court considers the report.

If the defendant is not represented by an attorney, the court, upon ordering the probation report, shall also order the probation officer who prepares the report to discuss its contents with the defendant.

(Added Stats 1969 ch 522)

340.1. Civil action for victim of child molest. (a) In any civil action for injury or illness based upon lewd or lascivious acts with a child under the age of 14 years, fornication, sodomy, oral copulation, or penetration of genital or anal openings of another with a foreign object, in which this conduct is alleged to have occurred between a household or family member and a child where the act upon which the action is based occurred before the plaintiff attained the age of 18 years, the time for commencement of the action shall be three years.

(b) "Injury or illness" as used in this section includes psychological injury or illness, whether or not accompanied by physical injury or illness.

(c) "Household or family member" as used in this section includes a parent, stepparent, former stepparent, sibling, stepsibling, any other person related by consanguinity or affinity within the second degree, or any other person who regularly resided in the household at the time of the act, or who six months prior to the act regularly resided in the household.

(d) Nothing in this bill is intended to preclude the courts from applying delayed discovery exceptions to the accrual of a cause of action for sexual molestation of a minor.

(e) This section shall apply to both of the following:

(1) Any action commenced on or after January 1, 1987, including any action which would be barred by application of the period of limitation applicable prior to January 1, 1987.

(2) Any action commenced prior to January 1, 1987, and pending on January 1, 1987.

(Added Stats 1986 ch 914)

340.3. Commencement of action. Unless a longer period is prescribed for a specific action, in any action for damages against a defendant based upon such person's commission of a felony offense for which the defendant has been convicted, the time for commencement of the action shall be within one year after judgment is pronounced. If the sentence or judgment is stayed, the time for the commencement of the action shall be tolled until the stay is lifted. For purposes of this section, a judgment is not stayed if the judgment is appealed or the defendant is placed on probation.

(Added Stats 1983 ch 938 effective 9/20/83)

704.090. Judgments—exemption. The funds of a judgment debtor confined in a prison or facility under the jurisdiction of the Department of Corrections or the Department of the Youth Authority or confined in any county or city jail, road camp, industrial farm, or other local correctional facility, held in trust for or to the credit of the judgment debtor, in an inmate's trust account or similar account by the state, county, or city, or any agency thereof, are exempt without making a claim in the amount of one thousand dollars ($1,000). If the judgment debtor is married, each spouse is entitled to a separate exemption under this section or the spouses may combine their exemptions.

(Added Stats 1982 ch 1364)

124216

Extracts From Education Code

48263. Habitual truancy. If any minor pupil in any district of a county is an habitual truant, or is irregular in attendance at school, as defined in this article, or is habitually insubordinate or disorderly during attendance at school, the pupil may be referred to a school attendance review board. The supervisor of attendance, or such other persons as the governing board of the school district or county may designate, making such referral shall notify the minor and parents or guardians of the minor, in writing, of the name and address of the board to which the matter has been referred and of the reason for such referral. The notice shall indicate that the pupil and parents or guardians of the pupil will be required, along with the referring person, to meet with the school attendance review board to consider a proper disposition of the referral.

If the school attendance review board determines that available community services can resolve the problem of the truant or insubordinate pupil, then the board shall direct the pupil or the pupil's parents or guardians, or both, to make use of such community services. The school attendance review board may require, at such time as it determines proper, the pupil or parents or guardians of the pupil, or both, to furnish satisfactory evidence of participation in the available community services.

If the school attendance review board determines that available community services cannot resolve the problem of the truant or insubordinate pupil or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or to services provided, the school attendance review board may direct the county superintendent of schools to, and, thereupon, the county superintendent of schools shall, request a petition on behalf of the pupil in the juvenile court of the county. Upon presentation of a request for a petition on behalf of a pupil, the juvenile court of the county shall hear all evidence relating to the request for petition. The school attendance review board shall submit to the juvenile court documentation of efforts to secure attendance as well as its recommendations on what action the juvenile court shall take in order to bring about a proper disposition of the case.

(Enacted Stats 1976 ch 1010; most recently amended Stats 1984 ch 754)

School Attendance Review Boards

48320. Legislative intent. (a) In enacting this article it is the intent of the Legislature that intensive guidance and coordinated community services may be provided to meet the special needs of pupils with school attendance problems or school behavior problems.

(b) Any school attendance review board, established pursuant to this article, which determines that available public and private services are insufficient or inappropriate to correct school attendance or school behavior problems of minors may:

(1) Propose and promote the use of alternatives to the juvenile court system.

(2) Provide, in any proposed alternative, for maximum utilization of community and regional resources appropriately employed in behalf of minors prior to any involvement with the judicial system.

(3) Encourage an understanding that any alternative based on the utilization of community resources carries an inherent agency and citizen commitment directed toward the continuing improvement of such resources and the creation of resources where none exist.

(Enacted Stats 1976 ch 1010; most recently amended Stats 1982 ch 327, effective 6/30/82)

48321. Creation. (a) A county school attendance review board may be established in each county. The county school attendance review board, if established, shall include, but need not be limited to, a parent and representatives of (1) school districts, (2) the county probation department, (3) the county welfare department, (4) the county superintendent of schools, (5) law enforcement agencies, (6) community-based youth service centers, (7) school guidance personnel, and (8) child welfare and attendance personnel. The school district representatives on the county school attendance review board shall be nominated by the governing boards of school districts and shall be appointed by the county superintendent of schools. All other persons and group representatives shall be appointed by the county board of education.

Where a county school attendance review board exists, the county superintendent of schools shall, at the beginning of each school year, convene a meeting of the county school attendance review board for the purpose of adopting plans to promote interagency and community cooperation and to reduce the duplication of services provided to youth who have serious school attendance and behavior problems.

(b) Local school attendance review boards may include, but need not be limited to, a parent and representatives of (1) school districts, (2) the county probation department, (3) the county welfare department, and (4) the county superintendent of schools, (5) law enforcement agencies, (6) community-based youth service centers, (7) school guidance personnel, and (8) child welfare and attendance personnel. Other persons or group representatives shall be appointed by the county board of education.

(c) The county school attendance review board may elect pursuant to regulations adopted pursuant to Section 48324, one member as chairman with responsibility for coordinating services of the county school attendance review board.

(d) The county school attendance review board may provide for the establishment of local school attendance review boards in any number as shall be necessary to carry out the intent of this article.

(e) In any county in which there is no county school attendance review board, a school district governing board may elect to establish a local school attendance review board, which shall operate in the same manner and have the same authority as a county school attendance review board.

(f) The county school attendance review board may provide consultant services to, and coordinate activities of, local school attendance review boards in meeting the special needs of pupils with school attendance or school behavior problems.

(g) When the county school attendance review board determines that the needs of pupils as defined in this article can best be served by a single board, the county school attendance review board may then serve as the school attendance

review board for all pupils in the county, or, upon the request of any school district in the county, the county school attendance review board may serve as the school attendance review board for pupils of that district.

(h) Nothing in this article is intended to prohibit any agreement on the part of counties to provide such services on a regional basis.

(Enacted Stats 1976 ch 1010; most recently amended Stats 1986 ch 107)

48321.5. Subpoenas. In every case in which a minor pupil has been referred to it under Section 48263, each county school attendance review board may, for the purpose of making a proper disposition of the referral, request the juvenile court having jurisdiction to issue subpoenas requiring the attendance of all of the following:

(1) The minor.

(2) The minor's parents, guardians, or other person having control of the minor.

(3) The school authority referring the minor.

(4) Any other person the county school attendance review board may require as a witness in the matter.

The juvenile court may issue subpoenas requiring the attendance of witnesses or the production of pertinent or material written materials, subject to Section 1985 of the Code of Civil Procedure.

The juvenile court shall not have jurisdiction to order detention in any secure facility or other confinement for failure to comply with a subpoena issued pursuant to this section.

(Added Stats 1985 ch 997)

48322. Inventory of community resources. The county school attendance review board may encourage local school attendance review boards to maintain a continuing inventory of community resources, including alternative educational programs, and to make recommendations for the improvement of such resources and programs or for the creation of new resources and programs where none exist.

(Enacted Stats 1976 ch 1010; most recently amended Stats 1982 ch 327, effective 6/30/82)

48323. Membership of board. Each of the departments or agencies authorized to participate in school attendance review boards may assign personnel to represent the department or agency on a continuing basis in accordance with the intent of this article. The duties, obligations, or responsibilities which may be imposed on local governmental entities by this act are such that the related costs are incurred as a part of their normal operating procedures. The minor costs of such services may be borne by each agency or department and each or all of the participants may apply for and utilize state or federal funds as may be available.

(Enacted Stats 1976 ch 1010; most recently amended Stats 1982 ch 327, effective 6/30/82)

48324. Rules and regulations. The county school attendance review board may adopt such rules and regulations not inconsistent with law, as are necessary for its own government and to enable it to carry out the provisions of

this article. The rules and regulations may be binding upon the local school attendance review boards which are established pursuant to subdivision (d) of Section 48321.

(Added Stats 1974 ch 1215; amended Stats 1982 ch 327, effective 6/30/82)

48630. Legislative intent. In enacting this article, it is the intent of the Legislature to provide an opportunity for pupils who are, or are in danger of becoming, habitually truant from instruction upon which they are lawfully required to attend, or who are, or are in danger of becoming, irregular in attendance, or who are, or are in danger of becoming, insubordinate or disorderly during their attendance upon instruction to resolve their problems so that they may maintain themselves in regular classes or reestablish themselves for return to regular classes or regular schools as soon as practicable.

(Enacted Stats 1976 ch 1010; amended Stats 1974 ch 1215)

48638. Juvenile court petition. If any pupil assigned to an established opportunity school, class, or program is a habitual truant, or is irregular in attendance at such opportunity school, class, or program, or is insubordinate or disorderly during attendance at such opportunity school, class, or program, the supervisor of attendance or such other persons as the governing board of the school district or county may designate shall refer the pupil to a school attendance review board in the county. If the school attendance review board determines that available community services cannot resolve the problem of the truant or insubordinate pupil, it shall direct the county superintendent of schools to, and, thereupon, the county superintendent of schools shall, request a petition on behalf of the pupil in the juvenile court of the county. If the court upon hearing the case finds that the allegations are sustained by the evidence, the court, in addition to any other judgment it may make regarding the pupil, may render judgment that the parent, guardian, or person having the control or charge of the child shall deliver him at the beginning of each schoolday, for the remainder of the school term, to the opportunity school, class, or program designated by school authorities.

(Enacted Stats 1976 ch 1010; amended Stats 1974 ch 1215)

51213. (Repealed Stats 1987 ch 1452)

51227. (Repealed Stats 1987 ch 1452)

Extracts From Government Code

1020.5. Youth Services Bureau. (a) Notwithstanding Section 1020 or any other provision of law, no person shall be incapable of holding any office in a youth services bureau solely by reason of being under 18 years of age.

(b) For purpose of this section, the term "youth services bureau" means a state or local public agency, including a joint powers agency, which has as its primary purpose the establishment of a program of prevention of juvenile delinquency and to provide opportunities for young people to function as responsible members of the community.

(Added Stats 1975 ch 1115 to take effect immediately)

1029. Conviction of felony as disqualification of peace officer. (a) Except as provided in subdivision (b), (c), or (d), each of the following persons is disqualified from holding office as a peace officer or being employed as a peace officer of the state, county, city, city and county or other political subdivision, whether with or without compensation, and is disqualified from any office or employment by the state, county, city, city and county or other political subdivision, whether with or without compensation, which confers upon the holder or employee the powers and duties of a peace officer:

(1) Any person who has been convicted of a felony in this state or any other state.

(2) Any person who has been convicted of any offense in any other state which would have been a felony if committed in this state.

(3) Any person who has been charged with a felony and adjudged by a superior court to be mentally incompetent under Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code.

(4) Any person who has been found not guilty by reason of insanity of any felony.

(5) Any person who has been determined to be a mentally disordered sex offender pursuant to Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(6) Any person adjudged addicted or in danger of becoming addicted to narcotics, convicted, and committed to a state institution as provided in Section 3051 of the Welfare and Institutions Code.

(b) Any person who has been convicted of a felony, other than a felony punishable by death, in this state or any other state, or who has been convicted of any offense in any other state which would have been a felony, other than a felony punishable by death, if committed in this state, and who demonstrates the ability to assist persons in programs of rehabilitation may hold office and be employed as a parole officer of the Department of Corrections or the Department of the Youth Authority, or as a probation officer in a county probation department, if he or she has been granted a full and unconditional pardon for the felony or offense of which he or she was convicted. Notwithstanding any other provision of law, the Department of Corrections or the Department of the Youth Authority, or a county probation department, may refuse to employ any such person regardless of his or her qualifications.

(c) Nothing in this section shall be construed to limit or curtail the power or authority of any board of police commissioners, chief of police, sheriff, mayor, or other appointing authority to appoint, employ, or deputize any person as a peace officer in time of disaster caused by flood, fire, pestilence or similar public calamity, or to exercise any power conferred by law to summon assistance in making arrests or preventing the commission of any criminal offense.

(d) Nothing in this section shall be construed to prohibit any person from holding office or being employed as a superintendent, supervisor, or employee having custodial responsibilities in an institution operated by a probation department, if at the time of the person's hire a prior conviction of a felony was known to the person's employer, and the class of office for which the person was hired was not declared by law to be a class prohibited to persons convicted of a felony, but as a result of a change in classification, as provided by law, the new classification would prohibit employment of a person convicted of a felony.

(Added Stats 1949 ch 761; most recently amended Stats 1985 ch 468)

1029.1. Background investigation. The Department of Corrections and the Department of the Youth Authority shall complete a background investigation, Using as guidelines standards defined by the Commssion on Peace Officer Standards and Training, of any applicant for employment as a peace officer before the applicant may be employed or begin training as a peace officer. In order to reduce potential duplication of effort by individual institutions, investigations shall be accomplished by each department on a centralized or regional basis to the extent administratively feasible.

(Added Stats 1984 ch 424, effective 7/12/84, operative 1/1/85)

1031. Minimum standards for peace officers. Each class of public officers or employees declared by law to be peace officers shall meet all of the following minimum standards:

(a) Be a citizen of the United States or a permanent resident alien who is eligible for and has applied for citizenship.

(b) Be at least 18 years of age.

(c) Be fingerprinted for purposes of search of local, state, and national fingerprint files to disclose any criminal record.

(d) Be of good moral character, as determined by a thorough background investigation.

(e) Be a high school graduate, pass the General Education Development Test indicating high school graduation level, or have attained a two-year or four-year degree from a college or university accredited by the Western Association of Colleges and Universities; provided that this subdivision shall not apply to any public officer or employee who was employed, prior to the effective date of the amendment of this section made at the 1971 Regular Session of the Legislature, in any position declared by law prior to the effective date of such amendment to be peace officer positions.

(f) Be found to be free from any physical, emotional, or mental condition which might adversely affect the exercise of the powers of a peace officer. Physical condition shall be evaluated by a licensed physician and surgeon. Emotional and mental condition shall be evaluated by a licensed physician and

surgeon or by a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders.

This section shall not be construed to preclude the adoption of additional or higher standards, including age.

(Added Stats 1961 ch 2092; most recently amended Stats 1988 ch 610)

1031.5. Citizenship exception. (a) Any person employed by a governmental agency on the effective date of this section as a peace officer or a peace officer trainee, or who, prior to the effective date of this section, had applied to fill a position as a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, is not subject to the requirement of subdivision (a) of Section 1031 prior to its amendment at the 1981–82 Regular Session of the Legislature, provided that any person qualifying for this exemption shall, as soon as legally possible, apply for and meet all of the requirements for United States citizenship specified in existing law, and shall be subject to subdivisions (c) and (d).

(b) Any permanent resident alien who applies for employment as a peace officer shall have applied for citizenship at least one year prior to his or her application for employment, except that the one-year requirement shall not be applicable to any person who applies for employment prior to his or her 19th birthday.

(c) Any permanent resident alien who is employed as a peace officer shall diligently cooperate with the Immigration and Naturalization Service in the processing of his or her application for citizenship and shall be disqualified from holding that position if, three years after the filing of his or her application for employment, the person has not obtained citizenship due to his or her failure to cooperate in the processing of the application for citizenship.

(d) Any permanent resident alien who is employed as a peace officer shall be disqualified from holding that position if his or her application for citizenship is denied.

(Added Stats 1982 ch 943, effective 9/13/82)

3300. Public Safety Officers Procedural Bill of Rights. This chapter is known and may be cited as the Public Safety Officers Procedural Bill of Rights Act.

(Added Stats 1976 ch 465)

3301. Definition; Legislative finding and declaration. For purposes of this chapter, the term public safety officer means all peace officers specified in Sections 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except subdivision (e), 830.34, 830.35, except subdivision (c), 830.36, 830.37, 830.4, and 830.5 of the Penal Code.

The Legislature hereby finds and declares that the rights and protections provided to peace officers under this chapter constitute a matter of statewide concern. The Legislature further finds and declares that effective law enforcement depends upon the maintenance of stable employer-employee relations, between public safety employees and their employers. In order to assure that such stable relations are continued throughout the state and to further assure that effective services are provided to all people of the state, it is necessary that this

chapter be applicable to all public safety officers, as defined in this section, wherever situated within the State of California.

(Added Stats 1976 ch 465; most recently amended Stats 1989 ch 1165)

3302. Political activity. (a) Except as otherwise provided by law, or whenever on duty or in uniform, no public safety officer shall be prohibited from engaging, or be coerced or required to engage, in political activity.

(b) No public safety officer shall be prohibited from seeking election to, or serving as a member of, the governing board of a school district.

(Added Stats 1976 ch 465; amended Stats 1978 ch 1173)

3303. Subjection to interrogation; Temporary reassignment. When any public safety officer is under investigation and subjected to interrogation by his commanding officer, or any other member of the employing public safety department, which could lead to punitive action, such interrogation shall be conducted under the following conditions. For the purpose of this chapter, punitive action is defined as any action which may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment.

(a) The interrogation shall be conducted at a reasonable hour, preferably at a time when the public safety officer is on duty, or during the normal waking hours for the public safety officer, unless the seriousness of the investigation requires otherwise. If such interrogation does occur during off-duty time of the public safety officer being interrogated, the public safety officer shall be compensated for such off-duty time in accordance with regular department procedures, and the public safety officer shall not be released from employment for any work missed.

(b) The public safety officer under investigation shall be informed prior to such interrogation of the rank, name and command of the officer in charge of the interrogation, the interrogating officers, and all other persons to be present during the interrogation. All questions directed to the public safety officer under interrogation shall be asked by and through no more than two interrogators at one time.

(c) The public safety officer under investigation shall be informed of the nature of the investigation prior to any interrogation.

(d) The interrogating session shall be for a reasonable period taking into consideration gravity and complexity of the issue being investigated. The person under interrogation shall be allowed to attend to his own personal physical necessities.

(e) The public safety officer under interrogation shall not be subjected to offensive language or threatened with punitive action, except that an officer refusing to respond to questions or submit to interrogations shall be informed that failure to answer questions directly related to the investigation or interrogation may result in punitive action. No promise of reward shall be made as an inducement to answering any question. The employer shall not cause the public safety officer under interrogation to be subjected to visits by the press or news media without his express consent nor shall his home address or photograph be given to the press or news media without his express consent.

(f) The complete interrogation of a public safety officer may be recorded. If a tape recording is made of the interrogation, the public safety officer shall have access to the tape if any further proceedings are contemplated or prior to any further interrogation at a subsequent time. The public safety officer shall be entitled to a transcribed copy of any notes made by a stenographer or to any reports or complaints made by investigators or other persons, except those which are deemed by the investigating agency to be confidential.

No notes or reports which are deemed to be confidential may be entered in the officer's personnel file. The public safety officer being interrogated shall have the right to bring his own recording device and record any and all aspects of the interrogation.

(g) If prior to or during the interrogation of a public safety officer it is deemed that he may be charged with a criminal offense, he shall be immediately informed of his constitutional rights.

(h) Upon the filing of a formal written statement of charges, or whenever an interrogation focuses on matters which are likely to result in punitive action against any public safety officer, that officer, at his request, shall have the right to be represented by a representative of his choice who may be present at all times during such interrogation. The representative shall not be a person subject to the same investigation. The representative shall not be required to disclose, nor be subject to any punitive action for refusing to disclose, any information received from the officer under investigation for noncriminal matters.

This section shall not apply to any interrogation of a public safety officer in the normal course of duty, counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other public safety officer, nor shall this section apply to an investigation concerned solely and directly with alleged criminal activities.

(i) No public safety officer shall be loaned or temporarily reassigned to a location or duty assignment if a sworn member of his department would not normally be sent to that location or would not normally be given that duty assignment under similar circumstances.

(Added Stats 1976 ch 465; amended Stats 1978 ch 775)

3304. Protection of procedural rights. (a) No public safety officer shall be subjected to punitive action, or denied promotion, or be threatened with any such treatment, because of the lawful exercise of the rights granted under this chapter, or the exercise of any rights under any existing administrative grievance procedure.

Nothing in this section shall preclude a head of an agency from ordering a public safety officer to cooperate with other agencies involved in criminal investigations. If an officer fails to comply with such an order, the agency may officially charge him with insubordination.

(b) No punitive action, nor denial of promotion on grounds other than merit, shall be undertaken by any public agency without providing the public safety officer with an opportunity for administrative appeal.

(Added Stats 1976 ch 465)

3305. Filing of adverse comments in personnel file. No public safety officer shall have any comment adverse to his interest entered in his personnel

file, or any other file used for any personnel purposes by his employer, without the public safety officer having first read and signed the instrument containing the adverse comment indicating he is aware of such comment, except that such entry may be made if after reading such instrument the public safety officer refuses to sign it. Should a public safety officer refuse to sign, that fact shall be noted on that document, and signed or initialed by such officer.

(Added Stats 1976 ch 465)

3306. Time for filing response to adverse comment. A public safety officer shall have 30 days within which to file a written response to any adverse comment entered in his personnel file. Such written response shall be attached to, and shall accompany, the adverse comment.

(Added Stats 1976 ch 465)

3307. Polygraph examination. No public safety officer shall be compelled to submit to a polygraph examination against his will. No disciplinary action or other recrimination shall be taken against a public safety officer refusing to submit to a polygraph examination, nor shall any comment be entered anywhere in the investigator's notes or anywhere else that the public safety officer refused to take a polygraph examination, nor shall any testimony or evidence be admissible at a subsequent hearing, trial, or proceeding, judicial or administrative, to the effect that the public safety officer refused to take a polygraph examination.

(Added Stats 1976 ch 465)

3308. Disclosure of financial status. No public safety officer shall be required or requested for purposes of job assignment or other personnel action to disclose any item of his property, income, assets, source of income, debts or personal or domestic expenditures (including those of any member of his family or household) unless such information is obtained or required under state law or proper legal procedure, tends to indicate a conflict of interest with respect to the performance of his official duties, or is necessary for the employing agency to ascertain the desirability of assigning the public safety officer to a specialized unit in which there is a strong possibility that bribes or other improper inducements may be offered.

(Added Stats 1976 ch 465)

3309. Search of locker. No public safety officer shall have his locker, or other space for storage that may be assigned to him searched except in his presence, or with his consent, or unless a valid search warrant has been obtained or where he has been notified that a search will be conducted. This section shall apply only to lockers or other space for storage that are owned or leased by the employing agency.

(Added Stats 1976 ch 465)

3309.5. Proceeding for violations of rights and protections. (a) It shall be unlawful for any public safety department to deny or refuse to any public safety officer the rights and protections guaranteed to them by this chapter.

(b) The superior court shall have initial jurisdiction over any proceeding brought by any public safety officer against any public safety department for alleged violations of this section.

(c) In any case where the superior court finds that a public safety department has violated any of the provisions of this chapter, the court shall render appropriate injunctive or other extraordinary relief to remedy the violation and to prevent future violations of a like or similar nature, including, but not limited to, the granting of a temporary restraining order, preliminary, or permanent injunction prohibiting the public safety department from taking any punitive action against the public safety officer.

(Added Stats 1979 ch 405; amended Stats 1980 ch 1367)

3310. Exception as to public agencies providing protections of rights. Any public agency which has adopted, through action of its governing body or its official designee, any procedure which at a minimum provides to peace officers the same rights or protections as provided pursuant to this chapter shall not be subject to this chapter with regard to such a procedure.

(Added Stats 1976 ch 465)

3311. Mutual aid agreements. Nothing in this chapter shall in any way be construed to limit the use of any public safety agency or any public safety officer in the fulfilling of mutual aid agreements with other jurisdictions or agencies, nor shall this chapter be construed in any way to limit any jurisdictional or interagency cooperation under any circumstances where such activity is deemed necessary or desirable by the jurisdictions or the agencies involved.

(Added Stats 1976 Ch 465; amended Stats 1977 ch 579)

AGENCIES

ADMINISTRATION

12800. Agencies in state government. There are in the state government the following agencies: State and Consumer Services; Business, Transportation and Housing; Health and Welfare; Resources; and Youth and Adult Correctional.

Whenever the term "Agriculture and Services Agency" appears in any law, it means the "State and Consumer Services Agency," and whenever the term "Secretary of Agriculture and Services Agency" appears in any law, it means the "Secretary of State and Consumer Services Agency."

Whenever the term "Business and Transportation Agency" appears in any law, it means the "Business, Transportation and Housing Agency," and whenever the term "Secretary of the Business and Transportation Agency" appears in any law, it means the "Secretary of the Business, Transportation and Housing Agency."

(Added Stats 1961 ch 2037; most recently amended Stats 1982 ch 624)

12801. Appointment. Each agency is under the supervision of an executive officer known as the secretary. Each secretary shall be appointed by, and hold office at the pleasure of, the Governor. The appointment of each secretary is subject to confirmation by the Senate. The annual salary of each secretary is provided for by Chapter 6 (commencing with Section 11550) of Part 1.

(Added Stats 1961 ch 2037; most recently amended Stats 1982 ch 624)

12803. Composition of Health and Welfare Agency. The Health and Welfare Agency consists of the following departments: Health Services; Mental

Health; Developmental Services; Social Services; Alcohol and Drug Abuse; Aging; Employment Development; and Rehabilitation.

The agency also includes the Office of Statewide Health Planning and Development and the State Council on Developmental Disabilities.

(Added Stats 1972 ch 333; most recently amended Stats 1982 ch 624)

12803.5. Appointment of Deputies. The Governor upon recommendation of the Secretary of the Health and Welfare Agency, may appoint not to exceed two deputies for the secretary.

(Added Stats 1977 ch 1252; amended Stats 1978 ch 432)

12803.8. Assistance to counties. The secretary shall provide all possible assistance to any county desiring to integrate or otherwise unify services administered by one or more departments in the Health and Welfare Agency. This assistance shall include, but not be limited to, the provision of technical assistance, modification or waiving of administrative regulations, and supporting legislation to modify statutory requirements impeding the integration of services.

The directors of departments within the Health and Welfare Agency shall cooperate with the secretary in assisting the counties to achieve the integration of health, social service, and other programs. At the request of the secretary, the directors of departments shall make available all reasonable resources necessary to meet the legislative intent of integrating these services at the local level.

(Added stats 1977 ch 1252, operative July 1, 1978)

POWERS

12806. Powers of Health and Welfare Agency. (a) The Health and Welfare Agency succeeds to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the Human Relations Agency in respect to the various agencies in the Human Relations Agency listed in Section 12803 on the effective date of the 1972 amendment of this section, with the exception of the Office of Atomic Energy Development and Radiation Protection, which, by Section 12803, is renamed the Office of Nuclear Energy and transferred to the Resources Agency and the California Commission on Aging (formerly the Citizens' Advisory Commission on Aging).

The Secretary of the Health and Welfare Agency succeeds to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the Administrator of the Human Relations Agency in respect to the various agencies in the Human Relations Agency listed in Section 12803 on the effective date of the 1972 amendment of this section, with the exceptions of the Office of Atomic Energy Development and Radiation Protection and the California Commission on Aging.

(b) Any reference in any law to the Human Relations Agency or the administrator of that agency with respect to any agency listed in Section 12803 on the effective date of the 1972 amendment of this section, except the Office of the Atomic Energy Development and Radiation Protection or the California Commission on Aging, shall be considered a reference to the Health and Welfare Agency or to the Secretary of the Health and Welfare Agency, as the case may be, unless the context otherwise requires.

(Added Stats 1969 ch 138; most recently amended Stats 1982 ch 624)

12808. Unexpended funds. The Health and Welfare Agency and the Resources Agency may use the unexpended balances of funds available for use by the Human Relations Agency in connection with the functions of the Human Relations Agency that are transferred to or vested in the Health and Welfare Agency or the Resources Agency by Section 12803, 12806, or 12807, as the case may be. Such funds shall be used by the Health and Welfare Agency and the Resources Agency only for the purposes for which they were originally appropriated or otherwise made available to the Human Relations Agency.

(Added Stats 1969 ch 138; most recently amended Stats 1982 ch 624)

12809. Transfer of employees. All officers and employees of the Human Relations Agency who on the effective date of the 1972 amendment of this section, are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function transferred to or vested in the Health and Welfare Agency or the Resources Agency by Section 12803, 12806, or 12807 shall be transferred to the Health and Welfare Agency or the Resources Agency, as the case may be. The status, positions, and rights of such persons shall not be affected by the transfer, and shall be retained by them as officers and employees of the Health and Welfare Agency or the Resources Agency pursuant to the State Civil Service Act, except as to positions exempt from civil service in the Human Relations Agency.

(Added Stats 1969 Ch 138; most recently amended Stats 1982 ch 624)

12810. Records, equipment, supplies, etc. The Health and Welfare Agency and the Resources Agency shall have the possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, land and other property, real or personal, held for the benefit or use of the Human Relations Agency in the performance of the duties, powers, purposes, responsibilities, and jurisdiction of the Human Relations Agency that are transferred to or vested in the Health and Welfare Agency or the Resources Agency by Section 12803, 12806, or 12807.

(Added Stats 1969 ch 138; most recently amended Stats 1982 Ch 624)

12811. Composition of Youth and Adult Correctional Agency. The Youth and Adult Correctional Agency consists of the Department of Corrections, the Department of the Youth Authority, the Board of Prison Terms, the Youthful Offender Parole Board, the Board of Corrections, the Correctional Industries Commission, the Institutional Review Board, and the Narcotic Addict Evaluation Authority.

(Added Stats 1982 ch 624)

12811.1. Appointment of deputies. The Governor, upon recommendation of the Secretary of the Youth and Adult Correctional Agency, may appoint not to exceed two deputies for the secretary.

(Added Stats 1982 ch 624)

12811.2. Reference to Health and Welfare Agency. Any reference in any law in effect on June 30, 1979, to the Health and Welfare Agency or to the secretary of that agency, with respect to the Department of Corrections or the Department of the Youth Authority shall be considered a reference to the Youth

and Adult Correctional Agency or to the Secretary of the Youth and Adult Correctional Agency, as the case may be, unless the context otherwise requires.
(Added Stats 1982 ch 624)

12850. Power and responsibility. The secretary of each agency has the power of general supervision over, and is directly responsible to the Governor for, the operations of each department, office, and unit within the agency.
(Added Stats 1961 ch 2037; amended Stats 1969 ch 138)

12851. Required report to Governor. Each secretary shall develop and report to the Governor on legislative, budgetary, and administrative programs to accomplish comprehensive, long-range, coordinated planning and policy formulation in the matters of public interest related to his agency. To accomplish this end, the secretary may hold public hearings, consult with and use the services and cooperation of other state agencies, employ staff and consultants, and appoint advisory and technical committees to assist in the work.
(Added Stats 1961 ch 2037; amended Stats 1969 ch 138)

12852. Administrative responsibility. For the purpose of administration, the secretary of each agency shall review the organization of the agency and report to the Governor on such changes as he deems necessary properly to segregate and conduct the work of the agency.
(Added Stats 1961 ch 2037; amended Stats 1969 ch 138)

12853. Legal authority. The secretary of each agency and any other officer or employee within the agency designated in writing by the secretary shall have the power of a head of a department pursuant to Article 2 (commencing with Section 11180) of Chapter 2 of Part 1.
(Amended Stats 1969 ch 138; amended Stats 1983 ch 739)

12854. Delegation of authority. Whenever a power is granted to the secretary of an agency, the power may be exercised by such officer or employee within the agency as designated in writing by the secretary.
(Added Stats 1961 ch 2037; amended Stats 1969 ch 138)

12855. Definitions. For the purpose of this chapter, "agency" means the State and Consumer Services Agency, the Health and Welfare Agency, or the Resources Agency, or the Youth and Adult Correctional Agency, and "secretary" means the secretary of any such agency. The general powers of the Business, Transportation and Housing Agency and its secretary are those specified in Part 4.5 (commencing with Section 13975).
(Added Stats 1969 ch 138; most recently amended Stats 1983 ch 101)

VICTIMS OF CRIME

13960. Victim, injury, pecuniary loss: defined. As used in this article:
(a) "Victim" means any of the following residents of the State of California, or military personnel and their families stationed in California:
(1) A person who sustains injury or death as a direct result of a crime.
(2) Anyone legally dependent for support upon a person who sustains injury or death as a direct result of a crime.

(3) Any member of the family of a victim specified by paragraph (1) or any person in close relationship to such a victim, if that member or person was present during the actual commission of the crime, or any member or person herein described whose treatment or presence during treatment of the victim is medically required for the successful treatment of the victim.

(4) Any member of the family of a person who sustains injury or death as a direct result of a crime when the family member has incurred emotional injury as a result of the crime. Pecuniary loss to these victims shall be limited to only medical expenses, mental health counseling expenses, or both, of which the maximum award shall not exceed ten thousand dollars ($10,000).

(5) In the event of a death caused by a crime, any individual who legally assumes the obligation, or who voluntarily pays the medical or burial expenses incurred as a direct result thereof.

(b) "Injury" includes physical or emotional injury, or both. However, this article does not apply to emotional injury unless such an injury is incurred by a person who also sustains physical injury or threat of physical injury or by a member or person as defined in paragraph (3) or (4) of subdivision (a). For purposes of this article, a victim of a crime committed in violation of Section 261, 270, 270a, 270c, 271, 272, 273a, 273b, 273d, 285, 286, 288, 288.1, 288a, or 289 of the Penal Code, who sustains emotional injury is presumed to have sustained physical injury.

(c) "Crime" means a crime or public offense as defined in Section 15 of the Penal Code which results in injury to a resident of this state, including such a crime or public offense, wherever it may take place, when the resident is temporarily absent from the state. No act involving the operation of a motor vehicle, aircraft, or water vehicle which results in injury or death constitutes a crime for the purposes of this article, except that a crime shall include any of the following:

(1) Injury or death intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle.

(2) Injury or death caused by a driver in violation of Section 20001, 23152, or 23153 of the Vehicle Code.

(3) Injury or death caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which he or she knowingly and willingly participated.

(d) "Pecuniary loss" means any expenses for which the victim has not and will not be reimbursed from any other source. Losses include all of the following:

(1) The amount of medical or medical-related expense, including psychological or psychiatric expenses, and including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.

(2) The amount of mental health counseling related expenses which became necessary as a direct result of the crime. These counseling services may be provided by a person licensed as a clinical social worker or a person licensed as a marriage, family, and child counselor practicing within the scope of licensure, or within the scope of his or her respective practice acts.

(3) The loss of income or support that the victim has incurred or will incur as a direct result of an injury or death in an amount of more than one hundred dollars ($100) or equal to 20 percent or more of the victims' net monthly income, whichever is less, except that in the case of persons on fixed incomes from retirement or disability who apply for assistance under this article, there shall be no minimum loss requirement.

(4) Pecuniary loss also includes nonmedical remedial care and treatment rendered in accordance with a religious method of healing recognized by state law.

(e) "Board" means the State Board of Control.

(f) "Victim centers" means those centers as specified in Section 13835.2 of the Penal Code.

(g) "Peer counselor" means a provider of mental health counseling services who has completed a specialized course in rape crisis counseling skills development, participates in continuing education in rape crisis counseling skills development, and provides rape crisis counseling in consultation with a mental health practitioner licensed within the State of California.

This section shall become operative on January 1, 1990.

(Added Stats 1985 ch 1527; most recently amended Stats 1989 ch 515)

13960.1. Restitution Fund. The Indemnity Fund is hereby renamed the Restitution Fund. All existing statutory references to the Indemnity Fund shall hereafter be considered references to the Restitution Fund.

(Added Stats 1983 ch 1092—operative 1/1/84)

13960.2. Exclusion of convicted felons. (a) Notwithstanding Section 13960, for purposes of this article, "victim" does not include any person who is convicted of a felony until that person has been discharged from probation or has been released from a correctional institution and has been discharged from parole, if any. In no case shall assistance be granted to an applicant for assistance pursuant to this article during any period of time the applicant is held in a correctional institution.

(b) A victim who has been convicted of a felony may apply for assistance pursuant to this article at any time, but the award of that assistance shall not be considered until the applicant meets the requirements of subdivision (a).

(c) Assistance may be granted to a victim who is also a felon only after the application of victims who are not felons has been acted upon by the board and all awards granted by the board for assistance to the nonfelon applicants have been made.

(Added Stats 1988 ch 254)

13960.5. Victim; non-resident. (a) Notwithstanding Section 13960, "victim" shall also include nonresidents of this state who suffer pecuniary losses as a direct result of criminal acts occurring within this state.

(b) This section shall be operative only during those time periods during which the board determines that federal funds are available to the state for the compensation of victims of crime.

(Added Stats 1985 ch 713)

13961. Application. (a) A victim of a crime may file an application for assistance with the board.

(b) The board shall supply and make available an application form for this purpose. The form shall be in one part, in laymen's terms, and shall be accompanied by information including, but not limited to, the following:

(1) The eligibility of applicants, the types of claims covered and the maximum amount payable for such claims.

(2) Information explaining the procedure to be used to evaluate an applicant's claims.

(3) Other information pertinent to the applicant as deemed necessary by the board.

(4) Information about the existence and location of local victim centers.

(c) The period prescribed for the filing of an application for assistance shall be one year after the date of the crime, unless an extension is granted by the board, except that such period may be extended by the board for good cause shown by the victim.

(d) The application for assistance shall be verified and shall contain the following:

(1) A description of the date, nature, and circumstances of the crime or public offense.

(2) A complete financial statement including but not limited to the cost of medical care or burial expense and the loss of wages or support the victim has incurred or will incur and the extent to which the victim has been or will be indemnified for these expenses from any source.

(3) When appropriate, a statement indicating the extent of any disability resulting from the injury incurred.

(4) An authorization permitting the board or a local victim center, or both, to verify the contents of the application.

(5) Such other information as the board may require.

(Added Stats 1973 ch 1144; most recently amended Stats 1983 ch 1310)

13961.1. Emergency Award. (a) An emergency award shall be available for a victim of a crime if either of the following occur as a result of the crime:

(1) The victim incurs loss of income or support.

(2) The victim requires emergency medical treatment.

(b) Emergency award application forms shall be provided by the board upon request of the applicant. The board shall make available the application forms through all means at its disposal.

(c) The board may grant an emergency award based solely on the application of the victim. Disbursements of emergency awards funds shall be made within 30 business days of application. The board may refuse to grant an emergency award where it has reason to believe that the applicant will not qualify for an award for assistance under this article. The board may delegate authority to designated staff persons, who will use guidelines established by the board, to grant emergency awards. By mutual agreement between the staff of the board and the applicant or the applicant's representative, the staff of the board or the victim's representative may take additional 10-day periods to verify the emergency award claim and make payment.

(d) If the applicant does not complete the application for a grant or, if, upon final disposition of the victim's claim under this article, it is found that the victim is not eligible for assistance from the board, the victim shall reimburse the board for the emergency award pursuant to an agreed upon repayment schedule. If upon final disposition of the victim's application, the board grants assistance to the claimant, the amount of the emergency award shall be deducted from the final award of compensation granted to the victim; and, if the amount of the grant is less than the amount of the emergency award, the excess amount shall be repaid according to an agreed upon repayment schedule. Final disposition for the purposes of this section shall mean the final decision of the board with respect to the victim's application for assistance, before any appellate action is instituted. If an application for an emergency award is denied, the board shall notify the applicant in writing of the reasons for the denial.

(e) The amount of the emergency award shall be dependent upon the immediate needs of the victim, as evidenced by the victim's loss of income or support and losses incurred as a direct result of the crime before filing or reasonably anticipated during the first 90 days after the initial filing of an application. In no event shall the amount of the emergency award exceed one thousand dollars ($1,000).

(f) The emergency award application shall require only the following:

(1) The name, address, and telephone number of the victim.

(2) A brief description of the nature and circumstances of the crime, including the date and location.

(3) The date the crime was reported to a law enforcement agency and the name and address of the agency.

(4) The name, address, and telephone number of the employer or selfemploying entity, the loss of income or support to date and estimate of future loss.

(5) The nature of the injury and the name, address, and telephone number of medical providers and the cost of medical care incurred to date.

(6) A statement that in the event the victim is denied assistance under this article or the final award is less than the emergency award, the applicant will be required to repay the excess amount.

(7) The applicant's signature and a statement that the information is supplied under penalty of perjury, violation of which is punishable by six months in the county jail.

(g) The board shall report to the Legislature annually on the advances which became uncollectible in prior years.

(Added Stats 1980 ch 1370; most recently amended Stats 1985 ch 29, effective 4/26/85, ch 713)

13961.2. Revolving fund. A sum not to exceed 15 percent of the amount appropriated annually to pay victims of crimes may be withdrawn from the Restitution Fund, to be used as a revolving fund by the board for the payment of emergency awards made pursuant to Section 13961.1.

(Added Stats. 1980 ch 1370, effective 10/1/80)

13961.3. Victim Compensation Form Committee. A Victim Compensation Form Committee shall be established by the board to develop or revise, or both, the application form described in this article. The committee shall consist of

one representative from and appointed by the board and two representatives from local victim centers appointed by the executive director of the Office of Criminal Justice Planning.

(Added Stats 1980 ch 1375, amended Stats 1983 ch 1310)

13962. Application verification. (a) The staff of the board shall appoint a clerk to review all applications for assistance in order to ensure that they are complete. If the application is not complete, it shall be returned to the victim with a brief statement of the additional information required. The victim, within 30 days of receipt thereof, may either supply the additional information or appeal the action to the board which shall review the application to determine whether or not it is complete.

(b) If the application is accepted in accordance with subdivision (a), the board shall process claims within an average of 90 days. The 90-day period shall operate from the date the claim is accepted by the board or local contract agencies, to the date of payment or denial of the claim. Any verification of the claim which is deemed necessary shall be performed during this 90-day period. The verification process shall include sending supplemental forms to all hospitals, physicians, law enforcement officials, and other interested parties involved, verifying the treatment of the victim, circumstances of the crime, amounts paid or received by or for the victim, and other pertinent information as may be deemed necessary by the board. Verification forms shall be provided by the board and shall be returned to the board within 10 business days. All information shall be provided at no cost to the applicant, the board, or local victim centers. Verification forms shall require sufficient information to clearly identify the victim. The board shall include on the verification forms a statement certifying that a signed authorization by the victim is retained in the victim's file and that this certification constitutes actual authorization for the release of information, notwithstanding any other provision of law. Each request from the board to a physician for a copy or summary of medical records shall include a copy of the signed authorization for the release of information. The board shall include on the verification forms reference to this section with respect to the prompt return of the verification forms. The board, thereupon, shall consider the application at a hearing at a time and place of its choosing. The board shall notify all interested persons not less than five days prior to the date of the hearing.

(c) The victim shall cooperate with the staff of the board or the local victim center in the verification of the information contained in the application. Failure to cooperate shall be reported to the board, which, in its discretion, may reject the application on this ground alone.

(d) Hearings shall be held in various locations with the frequency necessary to provide for the speedy adjudication of the applications. If the applicant's presence is required at the hearing, the board shall consider convenience to the applicant in scheduling the locations. If necessary, the board shall delegate the hearing of applications to hearing examiners.

(e) The board may contract with local victim centers to provide verification of claims processed by the centers pursuant to conditions stated in subdivision (b).

(Added Stats 1973 ch 1144; most recently amended Stats 1989 ch 442)

13962.5. Verification procedures. (a) The board and its staff shall cooperate with the Office of Criminal justice Planning and such local victim centers as specified in Section 13835.2 of the Penal Code, in conducting training sessions for local center personnel and shall cooperate in the development of standardized verification procedures to be used by the local victim centers in the state.

(b) The board and its staff shall cooperate with local victim centers in disseminating standardized board policies and findings as they relate to the local centers.

(Added Stats 1980 ch 735; amended Stats 1983 ch 1310)

13963. Hearing procedures. (a) At the hearing, the board shall:

(1) Instruct its staff, prior to the start of the proceedings, to brief those claimants present on the rules, regulations and any other procedures and guidelines used by the board at such hearings.

(2) Review the application for assistance and the report prepared thereon and any other evidence obtained as a result of the verification.

(3) Receive such other evidence as the board finds necessary or desirable properly to evaluate the application.

(b) If the victim or the victim's representative chooses not to appear at the hearing, the board may act solely upon the application for assistance, the staffs report, and such other evidence as appears in the record.

(Added Stats 1973 ch 1144; most recently amended 1983 ch 1310)

13965. State assistance. (a) If the application for assistance is approved, the board shall determine what type of state assistance will best aid the victim. The board may take any or all of the following actions:

(1) Authorize a direct cash payment to a provider of psychological or psychiatric treatment or mental health counseling services, including peer counseling services provided by a rape crisis center as defined by Section 13837 of the Penal Code or to the victim, equal to the pecuniary loss attributable to medical or medical-related expenses, including counseling, directly resulting from the injury. However, the board may not authorize without good cause a direct cash payment to a licensed health care provider or rape crisis center over the objection of the victim.

When a public agency, including a court or district attorney or a police, county child protective services, or other state or local governmental agency, refers a victim of crime to a private nonprofit agency for treatment for that victim, the private nonprofit agency shall be reimbursed for those services at the level of the normal and customary fee charged by the private nonprofit agency to clients with adequate means of payment for its services, except that this reimbursement shall not exceed the maximum reimbursement rates set by the board and may be made only to the extent that the victim otherwise qualifies for services under the victims of crime program and that other reimbursement or direct subsidies are not available to serve the victim.

Payments authorized pursuant to this paragraph for peer counseling services provided by a rape counseling center shall not exceed fifteen dollars ($15) for each hour of services provided. Those services shall be limited to individual, in-person counseling on a face-to-face basis for a period not to exceed 10 weeks plus one series of facilitated support group counseling sessions.

(2) Authorize a cash payment to the victim equal to the pecuniary loss resulting from loss of wages or support directly resulting from the injury.

(3) Authorize cash payments to or on behalf of the victim for job retraining or similar employment-oriented rehabilitative services.

(4) Obtain an independent examination and report from any provider of psychological or psychiatric treatment or mental health counseling services, if it believes there is a reasonable basis for requesting an additional evaluation. In cases where the crime involves sexual assault, the provider shall have expertise in the needs of sexual assault victims.

(5) The total award to or on behalf of the victim shall not exceed twenty-three thousand dollars ($23,000), and may be increased only in accordance with this section.

(b) Assistance granted pursuant to this article shall not disqualify an otherwise eligible victim from participation in any other public assistance program.

(c) Cash payments made pursuant to this article may be on a one-time or periodic basis. If periodic, the board may increase, reduce, or terminate the amount of assistance according to need, subject to the maximum limits provided in this section.

(d) The board may also authorize payment of attorney's fees representing the reasonable value of legal services rendered to the applicant, but not to exceed 10 percent of the amount of the award, or five hundred dollars ($500), whichever is less.

(e) No attorney shall charge, demand, receive, or collect any amount for services rendered in connection with any proceedings under this article except as awarded under this section.

(f) The maximum cash payments authorized in subdivision (a) shall be increased to forty-six thousand dollars ($46,000) if federal funds for those increases are available, and may be further increased pursuant to subdivision (i).

(g) Notwithstanding subdivision (a) and (f), a victim injured between January 1, 1985, and December 31, 1985, shall be entitled to receive a maximum cash payment of forty-six thousand dollars ($46,000) if federal funds for these increases are available, but only for costs in excess of limitations provided for in subdivision (a) which are attributable to medical or medical-related expenses, except for psychological or psychiatric treatment, or mental health counseling services.

(h) Notwithstanding any conflicting provision of this chapter, the board may make additional payments for purposes described in paragraph (1) subdivision (a) to any victim who filed an application with the board on or after December 1, 1982, who was a victim of a crime involving sexual assault, and who is a minor at the time the additional payments pursuant to this subdivision are made. The payments authorized by this subdivision shall not in the aggregate of all payments made by the board to the victim of the crime exceed twenty-three thousand dollars ($23,000), unless federal funds are available, in which case the aggregate maximum award may be increased to forty-six thousand dollars ($46,000).

(i) Notwithstanding any conflicting provision of this chapter, the board may, at its discretion, make additional cash payments not to exceed ten thousand dollars ($10,000) over any maximum payment amount specified in this section, for pecuniary losses as defined in subdivision (d) of Section 13960 or for services provided pursuant to this section, subject to any restrictions that apply under

subdivision (a), to or on behalf of a victim of a crime involving sexual assault which occurred after January 1, 1980, who has made more than two appearances in open court, or hearings, in criminal actions involving the defendant, over an extended period of time.

(j) The board may establish maximum rates and service limitations for reimbursement of medical and medical-related expenses, including counseling expenses, incurred by a victim for which restitution is requested pursuant to this section. For mental health and counseling services provided to victims of crime, rates shall not exceed the statewide average.

To assure service limitations which are uniform and appropriate to the levels of mental health treatment required by the victim, the board may review all claims for these services as necessary to ensure their medical necessity. The board may further require additional documentation, information, or medical review of cases of continuing treatment which are projected to exceed five thousand dollars ($5,000) to determine the need to continue treatment in excess of that amount. The board may accept or reject claims for the amount in excess of five thousand dollars ($500) by applying the same standards applicable to processing the initial claim or may approve a continuing treatment regimen for a specific interval or subject to periodic review as appropriate. All information requested of the treating therapist shall be provided at no cost to the applicant, the board, or to local victim centers, pursuant to subdivision (b) of Section 13962. Requests for additional information shall be made in a timely manner so as not to interfere with necessary treatment.

(k) The authority provided by this section shall not be construed to in any way diminish, enhance, or otherwise affect any authority which the board may have under current law except as explicitly provided in this section.

(Added Stats 1973 ch 1144; most recently amended Stats 1989 ch 1374)

13965.1. (Repealed Stats 1989 ch 1360)

13967. Restitution fines. (a) Upon a person being convicted of any crime in the State of California, the court shall, in addition to any other penalty provided or imposed under the law, order the defendant to pay restitution in the form of a penalty assessment in accordance with Section 1464 of the Penal Code. In addition, if the person is convicted of one or more felony offenses, the court shall impose a separate and additional restitution fine of not less than one hundred dollars ($100) and not more than ten thousand dollars ($10,000). In setting the amount of the fine for felony convictions, the court shall consider any relevant factors including, but not limited to, the seriousness and gravity of the offense and the circumstances of its commission, any economic gain derived by the defendant as a result of the crime, and the extent to which others suffered losses as a result of the crime. Those 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 crime. Except as provided in Section 1202.4 of the Penal Code and subdivision (c) of this section, under no circumstances shall the court fail to impose the separate and additional restitution fine required by this section. This fine shall not be subject to penalty assessments as provided in Section 1464 of the Penal Code.

(b) Except as provided in subdivision (c), the fine imposed pursuant to this section shall be deposited in the Restitution Fund in the State Treasury. Notwithstanding Section 13340, the proceeds in the Restitution Fund are hereby continuously appropriated to the board for the purpose of indemnifying persons filing claims pursuant to this article. However, the funds appropriated pursuant to this section for administrative costs of the State Board of Control shall be subject to annual review through the State Budget process.

(c) In cases in which a victim has suffered economic loss as a result of the defendant's criminal conduct, and the defendant is denied probation, in lieu of imposing all or a portion of the restitution fine, the court shall order restitution to be paid to the victim. Notwithstanding subdivision (a), restitution shall be imposed in the amount of the losses, as determined. A restitution order imposed pursuant to this subdivision shall identify the losses to which it pertains, and shall be enforceable as a civil judgment. 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 by the victim against the defendant arising out of the crime for which the defendant was convicted.

Restitution ordered pursuant to this subdivision shall, to the extent possible, be of a dollar amount that is sufficient to fully reimburse the victim, or victims, for all determined economic losses incurred as the result of the defendant's criminal conduct.

For any order of restitution made pursuant to this subdivision, the defendant shall have the right to a hearing before the judge to dispute the determination made regarding the amount of restitution.

(d) 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.

(Added Stats 1973 ch 1144; most recently amended Stats 1989 ch 712)

13967.5. Restitution fine; payment. (a) The restitution fine imposed pursuant to subdivision (a) of Section 13967 shall be payable to the clerk of the court, the probation officer, or any other person responsible for the collection of criminal fines. If the defendant is unable or otherwise fails to pay such fine in a felony case and there is an amount unpaid of one thousand dollars ($1,000) or more within 60 days after the imposition of sentence, or in a case in which probation is granted, within the period of probation, the clerk of the court, probation officer, or other person to whom the fine is to be paid shall forward to the Controller the abstract of judgment along with such information which may be relevant to the present and future location of the defendant and his or her assets, if any, and any verifiable amount which the defendant may have paid to the victim as a result of the crime.

(b) A restitution fine shall be deemed a debt of the defendant owing to the state for the purposes of Sections 12418 and 12419.5 of the Government Code,

excepting any amounts the defendant has paid to the victim as a result of the crime. Upon request by the Controller, the district attorney of a county or the Attorney General may take any necessary action to recover amounts owing on a restitution fine. The amount of the recovery shall be increased by a sum sufficient to cover any costs incurred by any state or local agency in the administration of this section. The remedies provided by this subdivision are in addition to any other remedies provided by law for the enforcement of a judgment.

(Added Stats 1983 ch 954; amended Stats 1989 ch 1417)

13968. Rules and regulations. (a) The board is hereby authorized to make all needful rules and regulations consistent with the law for the purposes of carrying into effect the provisions of this article.

(b) It shall be the duty of every hospital licensed under the laws of this state to display prominently in its emergency room posters giving notification of the existence and general provisions of this chapter, and the existence and locations of local victim centers. The board, in cooperation with local victim centers, shall set standards for the location of such a display and shall provide posters, application forms, and general information regarding the provisions of this chapter to each hospital and physician licensed to practice in the State of California.

(c) It shall be the duty of every local law enforcement agency to inform victims of crimes of the provisions of this chapter, of the existence of local victim centers, and in counties where no local victim center exists, to provide application forms to victims who desire to seek assistance pursuant to this article. The board shall provide application forms and all other documents which local law enforcement agencies and victim centers may require to comply with this section. The board, in cooperation with local victim centers shall set standards to be followed by local law enforcement agencies for this purpose and may require them to file with the board a description of the procedures adopted by each agency to comply.

(d) Notwithstanding any other provision of law, every law enforcement agency in the state shall provide to the board or to the designated local victim centers, upon request, a complete copy of the report regarding the incident and any supplemental reports involving the crime, public offense, or incident giving rise to a claim, for the specific purpose of the submission of a claim or the determination of eligibility to submit a claim filed pursuant to this article.

(e) The law enforcement agency supplying the information may, at its discretion, withhold the names of witnesses or informants from the board, if the release of such names would be detrimental to the parties or to an investigation currently in progress.

(f) Notwithstanding any other provision of law, every state agency, department, division, board, or commission, upon receipt of a copy of a release signed in accordance with the Information Practices Act of 1977 by the applicant or other authorized representative, shall provide to the board or local victim center the information necessary to complete the verification of an application filed pursuant to this article.

(Added Stats 1973 ch 1144; most recently amended Stats 1983 ch 1310)

13968.1. (Repealed by Stats. 1986, Ch. 84.)

13969. Claims. Claims under this article shall be paid from the Restitution Fund.

(Added Stats 1973 ch 1144; most recently amended Stats 1983 ch 1092, effective 9/27/83, operative 1/1/84)

13969.1. Board decisions. (a) The decisions of the board shall be in writing. Copies of the decisions shall be delivered to the applicant or to his representative personally or sent to them by mail.

(b) The board itself may order a reconsideration of all or part of the application for assistance on its own motion or on written request of the applicant or his representative. The board may not grant more than one such request on any application for assistance. The board shall not consider any such request filed with the board more than 30 days after the personal delivery or 60 days after the mailing of the original decision.

(c) Judicial review of a final decision made pursuant to this article may be had by filing a petition for a writ of mandate in accordance with the provisions of the Code of Civil Procedure. The right to petition shall not be affected by the failure to seek reconsideration before the board. Such petition shall be filed as follows:

(1) Where no request for reconsideration is made, within 30 days of personal delivery or within 60 days of the mailing of the board's decision on the application for assistance.

(2) Where a timely request for reconsideration is filed and rejected by the board, within 30 days of personal delivery or within 60 days of the mailing of the notice of rejection.

(3) Where a timely request for reconsideration is filed and granted by the board, or reconsideration is ordered by the board, within 30 days of personal delivery or within 60 days of the mailing of the final decision on the reconsidered application.

(Added Stats 1977 ch 1122; most recently amended Stats 1983 ch 1310)

STATE PUBLIC DEFENDER

General Provisions

15400. Appointment. The Governor shall appoint a State Public Defender, subject to confirmation by the Senate. The State Public Defender shall be a member of the State Bar, shall have been a member of the State Bar during the five years preceding appointment, and shall have had substantial experience in the representation of accused or convicted persons in criminal or juvenile proceedings during that time.

(Added Stats 1975 ch 1125, operative 1/1/76)

15401. Duration of term. (a) The State Public Defender shall be appointed for a term of four years commencing on January 1, 1976, and shall serve until the appointment and qualification of his successor. Any vacancy shall be filled for the balance of the unexpired term.

(b) The State Public Defender shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2.

(Added Stats 1975 ch 1125; amended Stats 1983 ch 803)

15402. Employees. The State Public Defender may employ such deputies and other employees, and establish and operate such offices, as he may need for the proper performance of his duties. All civil service examinations for attorney positions shall be on an open basis without career civil service credits given to any person. The State Public Defender may contract with county public defenders, private attorneys, and nonprofit corporations organized to furnish legal services to persons who are not financially able to employ counsel and pay a reasonable sum for those services pursuant to such contracts. He may provide for participation by such attorneys and organizations in his representation of eligible persons. Such attorneys and organizations shall serve under the supervision and control of the State Public Defender and shall be compensated for their services either under such contracts or in the manner provided in Penal Code Section 1241.

The State Public Defender may also enter into reciprocal or mutual assistance agreements with the board of supervisors of one or more counties to provide for exchange of personnel for the purposes set forth in Section 27707.1.

(Repealed and amended Stats 1977 ch 1102, effective January 1, 1980)

15403. Plans. The State Public Defender shall formulate plans for the representation of indigents in the Supreme Court and in each appellate district as provided in this article. Each plan shall be adopted upon the approval of the court to which the plan is applicable. Any such plan may be modified or replaced by the State Public Defender with the approval of the court to which the plan is applicable.

(Added Stats 1975 ch 1125, operative 1/1/76)

15404. Regulations. The State Public Defender may issue any regulations and take any actions as may be necessary for proper implementation of this part.

(Added Stats 1975 ch 1125, operative 1/1/76)

Duties and Powers

15420. Duties. The primary responsibility of the State Public Defender is to represent those persons who are entitled to representation at public expense in the proceedings listed in subdivisions (a), (b), (c) and (d) of Section 15421. This responsibility shall take precedence over all other duties and powers set forth in this chapter.

(Amended Stats 1975; amended Stats 1976 ch 1269)

15421. Representation. Upon appointment by the court or upon the request of the person involved the State Public Defender is authorized to represent any person who is not financially able to employ counsel in the following matters:

(a) An appeal, petition for hearing, or petition for rehearing to any appellate court, a petition for certiorari to the United States Supreme Court, or a petition for executive clemency from a judgment relating to criminal or juvenile court proceedings;

(b) A petition for an extraordinary writ or an action for injunctive or declaratory relief relating to a final judgment of conviction or wardship, or to the punishment or treatment imposed thereunder.

(c) A proceeding of any nature after a judgment of death has been rendered;

(d) A proceeding in which an inmate of a state prison is charged with an offense where the county public defender has refused to represent the inmate because of a conflict of interest or other legal reason;

(e) A proceeding of any nature where a person is entitled to representation at public expense.

(Added Stats 1975 ch 1125; amended Stats 1976 ch 1269)

15422. Contract with counties. Where a county public defender has refused, or is otherwise reasonably unable to represent a person because of conflict of interest or other reason, the State Public Defender is authorized to represent such person, pursuant to a contract with the county which provides for reimbursement of costs, where the person is not financially able to employ counsel and is charged with the commission of any contempt or offense triable in the superior, municipal or justice courts at all stages of any proceedings relating to such charge, including restrictions on liberty resulting from such charge. Except in cases of representation under subdivision (d) of Section 15421, the State Public Defender may decline to represent such person by filing a letter with the appropriate court citing Section 15420 of this chapter.

(Added Stats 1975 ch 1125; amended Stats 1976 ch 1269)

15423. Friend of court and other appearances. The State Public Defender is authorized to appear as a friend of the court and may appear in a legislative, administrative or other similar proceeding.

(Added Stats 1975 ch 1125, operative 7/1/76)

15424. Financial statement. A person requesting the appointment of counsel shall make a financial statement under oath in the manner provided in rules adopted by the Judicial Council.

(Added Stats 1975 ch 1125, operative 7/1/76)

15425. Additional duties. The duties prescribed for the State Public Defender by this chapter are not exclusive and he may perform any acts consistent with them in carrying out the functions of the office.

(Added Stats 1975 ch 1125)

19583.5. Charges against employees. (a) Any person, except for a current or former ward or inmate of the California Youth Authority or the Department of Corrections, with the consent of the board or the appointing power may file charges against an employee requesting that adverse action be taken for one or more causes for discipline specified in this article. Upon exhaustion of formal administrative appeal through the appointing power, a current or former ward or inmate of the California Youth Authority or the Department of Corrections dissatisfied with the appeal action may with the consent of the board, file charges against an employee requesting that adverse action be taken for one or more causes for discipline specified in this article. With the exception of wards and inmates, any request of the board to file charges pursuant to this section shall be filed within one year of the event or events that led to the filing. The employee against whom the charges are filed shall have a right to answer as provided in this article. In all such cases a hearing shall be

conducted in accord with this article and if the board finds that the charges are true it shall have the power to take such adverse action as in its judgment is just and proper.

(b) This section shall not be construed to supersede Section 19682.

(Added Stats 1949 ch 1416; most recently amended Stats 1987 ch 370)

20013. Member categories—P.E.R.S. (a) "Member" means an employee who has qualified for membership in the Public Employees' Retirement System and on whose behalf an employer has become obligated to pay contributions.

(b) "State member" includes:

(1) State miscellaneous members.

(2) University members.

(3) Patrol members.

(4) State safety members.

(5) State industrial members.

(c) "Local member" includes:

(1) Local miscellaneous members.

(2) Local safety members.

(d) "School member" includes all employees within the jurisdiction of a school employer, other than local policemen.

(Added Stats 1945 ch 123; most recently amended Stats 1984 ch 280, effective 7/3/84)

20016. Definition. "State industrial member" includes all state employees appointed by the Governor or by the Director of Corrections or the Board of Prison Terms or the Department of the Youth Authority or the Youthful Offender Board and employed in the state prisons or facilities of the Department of Corrections or the Department of the Youth Authority, or employed in the Division of Adult Paroles as chief, deputy chief, agents, or officers, and all parole agents or officers appointed by the Board of Prison Terms under the State Civil Service Act, any parole agents or officers appointed by the Board of Trustees of the California Institution for Women, the members of the Board of Prison Terms, and the members of the Board of Trustees of the California Institution for Women except such employees who are state safety members or state peace officer/firefighter members.

Except as expressly otherwise provided, the provisions of this part applicable to state miscellaneous members apply to state industrial members.

The provisions of this part providing industrial death and disability benefits to state industrial members shall also apply to any other state employee whose death or disability results from an injury which is a direct consequence of a violent act perpetrated on his person by an inmate of a state prison, correctional school or facility of the Department of Corrections or the Youth Authority or a parolee therefrom subject to the same conditions prescribed by Section 20038.6.

(Added Stats 1945 ch 123; most recently amended Stats 1984 ch 280, effective 7/3/84)

20017.77. State safety members. "State safety member" shall also include officers and employees in (a) the Department of Corrections employed to perform the duties now performed in positions with the following class titles: Director of Corrections, unless upon the appointment of a person to the office of the Director of Corrections the person elects to be an industrial member; Deputy

Director, Department of Corrections; Deputy Director, Institutions, Camps and Program Services Division; Deputy Director, Parole and Community Services; warden; Warden—San Quentin; superintendent II and III, Department of Corrections; deputy superintendent; correctional administrator; program administrator, correctional institution; all classes of correctional program supervisor; correctional captain; correctional lieutenant; correctional sergeant; correctional officer; all classes of women's correctional supervisor; Assistant Deputy Director, Parole and Community Services; all classes of parole administrator, adult parole; all classes of parole agent, adult parole; Assistant Director, Investigations and Law Enforcement Liaison; senior special agent; special agent; all classes of women's parole agent; medical facility superintendent; Superintendent, California Institution for Women; all classes of correctional counselor; Chief and Assistant Chief Transportation Officer, (b) the Department of the Youth Authority employed to perform the duties now performed in positions with the following class titles: Director, Department of the Youth Authority; Chief, Division of Parole and Community Services; Deputy Chief, Division of Parole and Community Services; program administrator, correctional school; assistant superintendent, correctional school; all classes of superintendent, correctional school; Youth Authority camp superintendent; assistant superintendent, Youth Authority camp; Chief, Division of Institutions; treatment team supervisor; all classes of transportation officers, Youth Authority; security officer; all classes of group supervisors; all classes of parole agent, Youth Authority; all classes of youth counselor; supervisor community treatment programs; correctional casework training supervisor; correctional casework trainee; all classes of correctional counselor, (c) the Board of Prison Terms employed to perform duties now performed in positions with the following class titles: all classes of parole officer; all classes of correctional counselor and the Chief of Investigation, (d) the Youthful Offender Parole Board employed to perform duties now performed in positions with the following class titles: all classes of parole agent, and (e) the prison industry authority employed to perform duties now performed in positions with the following class titles: General Manager; Assistant General Manager, Administration and Marketing Branch; Chief, Industry Implementation Division; Activation Manager.

Any officer or employee of the Prison Industry Authority in employment on the operative date of the amendment of this section made in 1988 in the 1987–88 Regular Session of the Legislature and who becomes a state safety member as a result of that amendment may elect within 90 days of notification by the board, to remain subject to the industrial service retirement benefit by filing an irrevocable notice of election with the board.

(Added Stats 1970 ch 1600; most recently amended Stats 1988 ch 1214)

20017.79. State Safety Member. "State safety member" shall also include officers and employees of the Board of Prison Terms, Department of Corrections, the Department of the Youth Authority, or the Prison Industry Authority in the following classifications:

Classification Code	Classification
0617	Farm Manager
0648	Crops Farmer
0679	Dairy Manager
0682	Dairy Supervisor
0683	Assistant Dairy Operator
2303	Supervisor of Correctional Education Programs
2370	Supervisor of Vocational Instruction
2384	Supervisor of Commercial Diver Training
2311	Youth Authority Teacher
2429	Vocational Instructor (fire science) (correctional facility)
2433	Vocational Instructor (heavy equipment repair) (correctional facility)
1575	Prison Canteen Manager I
1576	Prison Canteen Manager II
7158	Production Manager III, Correctional Industries
7157	Production Manager II, Correctional Industries
7156	Production Manager I, Correctional Industries
7154	Industrial Maintenance Superintendent
7162	Product Engineering Technician, Prison Industries
7163	Production Manager II, Prison Industries (wood products)
7164	Production Manager II, Prison Industries (metal products)
7165	Production Manager II, Prison Industries (textile products)
7170	Detergent Plant Superintendent
7172	Wood Products Factory Superintendent
7175	Assistant Wood Products Factory Superintendent
7178	Wood Products Factory Supervisor
7179	Upholstery Supervisor
7190	Metal Products Factory Superintendent
7189	Assistant Metal Products Factory Superintendent
7191	Metal Products Factory Supervisor
7192	Tool and Die Making Supervisor
7195	Textile Products Factory Superintendent
7196	Bedding Factory Superintendent
7198	Textile Products Factory Supervisor
7201	Tobacco Factory Superintendent
7205	Shoe Factory Superintendent
7206	Shoe Factory Supervisor (lasting through packing)
7207	Shoe Factory Supervisor (cutting and fitting)
7209	Knitting Mill Superintendent
7210	Knitting Mill Supervisor
7211	Knit Goods Finishing Supervisor
7214	Printing Superintendent, Correctional Industries

Classification Code	Classification
7215	Industrial Maintenance Supervisor
7216	Printing Supervisor, Correctional Industries
7218	Book Repair and Bindery Supervisor, Correctional Industries
2108	Laundry Superintendent, Correctional Industries
2109	Laundry Supervisor, Correctional Industries
8215	Senior Medical Technical Assistant
9908	Supervising Social Worker II, Youth Authority
9910	Supervising Social Worker I, Youth Authority
9911	Social Worker, Youth Authority
0716	Supervising Groundskeeper II (correctional facility)
0718	Supervising Groundskeeper I (correctional facility)
0720	Lead Groundskeeper (correctional facility)
0743	Groundskeeper (correctional facility)
2004	Janitor Supervisor II (correctional facility)
2005	Janitor Supervisor I (correctional facility)
2006	Janitor (correctional facility)
2044	Supervising Housekeeper I (correctional facility)
2046	Housekeeper (correctional facility)
2068	Shoemaker (correctional facility)
2077	Seamer (correctional facility)
2080	Assistant Seamer (correctional facility)
2084	Barbershop Manager (correctional facility)
2086	Barber (correctional facility)
2111	Laundry Supervisor II (correctional facility)
2114	Laundry Supervisor I (correctional facility)
2117	Laundry Worker (correctional facility)
2120	Laundry Finisher (correctional facility)
2150	Food Manager (correctional facility)
2147	Food Administrator II (correctional facility)
2153	Food Administrator I (correctional facility)
2182	Supervising Cook II (correctional facility)
2183	Supervising Cook I (correctional facility)
2186	Cook II (correctional facility)
2187	Cook I (correctional facility)
2221	Baker II (correctional facility)
2224	Baker I (correctional facility)
2245	Butcher—Meat Cutter II (correctional facility)
2195	Food Service Assistant II (correctional facility)
2196	Food Service Assistant I (correctional facility)
2305	Supervisor of Academic Instruction (correctional facility)
2284	Teacher (arts and crafts) (correctional facility)
2285	Teacher (business education) (correctional facility)
2287	Teacher (elementary education) (correctional facility)
2290	Teacher (high school education) (correctional facility)

Classification Code	Classification
2297	Teacher (ethnic studies) (correctional facility)
2291	Teacher (home economics) (correctional facility)
2298	Teacher (librarian) (correctional facility)
2286	Teacher (cerebral palsied children) (correctional facility)
2295	Teacher (recreation and physical education) (correctional facility)
2294	Teacher (music) (correctional facility)
2371	Teacher (speech development and correction) (correctional facility)
2373	Teacher (mentally retarded deaf children) (correctional facility)
2292	Teacher (mentally retarded children) (correctional facility)
2288	Teacher (emotionally/learning handicapped) (correctional facility)
2289	Teacher (family life education) (correctional facility)
2423	Vocational Instructor (dog grooming and handling) (correctional facility)
2665	Vocational Instructor (powerplant mechanics) (correctional facility)
2387	Vocational Instructor (airframe mechanics) (correctional facility)
2396	Vocational Instructor (auto body and fender repair) (correctional facility)
2398	Vocational Instructor (auto mechanics) (correctional facility)
2399	Vocational Instructor (baking) (correctional facility)
2400	Vocational Instructor (bookbinding) (correctional facility)
2417	Vocational Instructor (carpentry) (correctional facility)
2420	Vocational Instructor (cosmetology) (correctional facility)
2422	Vocational Instructor (culinary arts) (correctional facility)
2628	Vocational Instructor (merchandising) (correctional facility)
2425	Vocational Instructor (drycleaning works) (correctional facility)
2426	Vocational Instructor (electrical work) (correctional facility)
2428	Vocational Instructor (electronics) (correctional facility)
2431	Vocational Instructor (furniture refinishing and repair) (correctional facility)
2432	Vocational Instructor (garment making) (correctional facility)

Classification Code	Classification
2597	Vocational Instructor (household appliance repair) (correctional facility)
2598	Vocational Instructor (industrial arts) (correctional facility)
2599	Vocational Instructor (instrument repair) (correctional facility)
2600	Vocational Instructor (janitorial service) (correctional facility)
2601	Vocational Instructor (landscape gardening) (correctional facility)
2611	Vocational Instructor (laundry work) (correctional facility)
2614	Vocational Instructor (machine shop practice) (correctional facility)
2615	Vocational Instructor (masonry) (correctional facility)
2619	Vocational Instructor (meat cutting) (correctional facility)
2627	Vocational Instructor (mechanical drawing) (correctional facility)
2630	Vocational Instructor (mill and cabinet work) (correctional facility)
2640	Vocational Instructor (offset printing) (correctional facility)
2644	Vocational Instructor (painting) (correctional facility)
2661	Vocational Instructor (plumbing) (correctional facility)
2666	Vocational Instructor (printing) (correctional facility)
2667	Vocational Instructor (radiologic technology) (correctional facility)
2668	Vocational Instructor (refrigeration and air-conditioning repair) (correctional facility)
2669	Vocational Instructor (sewing machine repair) (correctional facility)
2670	Vocational Instructor (sheet metal work) (correctional facility)
2671	Vocational Instructor (shoemaking) (correctional facility)
2672	Vocational Instructor (silk screening process) (correctional facility)
2673	Vocational Instructor (storekeeping and warehousing) (correctional facility)
2674	Vocational Instructor (typewriter repair) (correctional facility)
2675	Vocational Instructor (upholstering) (correctional facility)
2419	Vocational Instructor (commercial diver training) (correctional facility)

Classification Code	Classification
2677	Vocational Instructor (welding) (correctional facility)
2676	Vocational Instructor (vocational nursing) (correctional facility)
2853	Vocational Instructor (animal husbandry) (correctional facility)
2854	Vocational Instructor (building maintenance) (correctional facility)
2855	Vocational Instructor (computer and related technologies) (correctional facility)
2856	Vocational Instructor (diesel mechanics) (correctional facility)
2857	Vocational Instructor (drywall installer/taper) (correctional facility)
2858	Vocational Instructor (floor cover layer) (correctional facility)
2847	Vocational Instructor (glazier) (correctional facility)
2848	Vocational Instructor (insulation installer, building and pipes) (correctional facility)
2849	Vocational Instructor (office services and related technologies) (correctional facility)
2850	Vocational Instructor (roofer) (correctional facility)
2851	Vocational Instructor (small engine repair) (correctional facility)
2945	Senior Librarian (correctional facility)
2952	Librarian (correctional facility)
6216	Building Maintenance Worker (correctional facility)
6221	Warehouse Worker (correctional facility)
1502	Warehouse Manager II (correctional facility)
1504	Warehouse Manager I (correctional facility)
1505	Materials and Stores Supervisor II (correctional facility)
1508	Materials and Stores Supervisor I (correctional facility)
6379	Heavy Truck Driver (correctional facility)
6382	Truck Driver (correctional facility)
6392	Automotive Equipment Operator II (correctional facility)
6394	Automotive Equipment Operator I (correctional facility)
6471	Carpenter Supervisor (correctional facility)
6483	Carpenter I (correctional facility)
6521	Painter Supervisor (correctional facility)
6524	Painter II (correctional facility)
6474	Carpenter II (correctional facility)
6528	Painter I (correctional facility)
6534	Electrician Supervisor (correctional facility)
6538	Electrician II (correctional facility)
6544	Electrician I (correctional facility)

Classification Code	Classification
6545	Plumber Supervisor (correctional facility)
6550	Plumber I (correctional facility)
6557	Steamfitter Supervisor (correctional facility)
6559	Steamfitter (correctional facility)
6617	Mason (correctional facility)
6941	Maintenance Mechanic (correctional facility)
6643	Locksmith (correctional facility)
6699	Chief Engineer I (correctional facility)
6705	Stationary Engineer Supervisor (correctional facility)
6708	Stationary Engineer II (correctional facility)
6697	Stationary Engineer I (correctional facility)
6709	Boilerroom Tender (correctional facility)
6715	Refrigeration Engineer (correctional facility)
6724	Water and Sewage Plant Supervisor (correctional facility)
6748	Chief of Plant Operation III (correctional facility)
6751	Chief of Plant Operation II (correctional facility)
6754	Chief of Plant Operation I (correctional facility)
6763	Supervisor of Building Trades (correctional facility)
6865	Equipment Maintenance Supervisor (correctional facility)
6867	Lead Automobile Mechanic (correctional facility)
6868	Automobile Mechanic (correctional facility)
6893	Automotive Pool Manager I (correctional facility)
6916	Electronics Technician (correctional facility)
8217	Medical Technical Assistant (correctional facilities)
2645	Vocational Instructor (Plastering) (correctional facility)
7200	Dry Cleaning Plant Supervisor
6772	Utility Shops Supervisor (correctional facility)
6801	Machinist (correctional facility)
6826	Heavy Equipment Mechanic (correctional facility)
2688	Vocational Instructor (Eyewear Manufacturing) (correctional facility)
2940	Supervising Librarian (correctional facility)
6594	Plumber II (correctional facility)
7194	Assistant Textile Products Factory Superintendent
7197	Bedding Factory Supervisor
7217	Book Repair and Bindery Superintendent, Correctional Industries
6696	Chief Engineer II (correctional facility)
2000	Janitor Supervisor III (correctional facility)
6222	Laborer (correctional facility)
6955	Fusion Welder (correctional facility)
6211	Skilled Laborer (correctional facility)
2156	Assistant Food Manager (correctional facility)
4132	Construction Supervisor (correctional facility)

Classification Code	Classification
6639	Glazier (correctional facility)
7146	Quality Assurance Manager
7145	Chief, Quality Assurance
4110	Chief, Day Labor Program (correctional facility)
4109	Construction Supervisor III (correctional facility)
4108	Construction Supervisor II (correctional facility)
4107	Construction Supervisor I (correctional facility)

In addition, "state safety member" shall also include officers and employees of the Department of Corrections, the Department of the Youth Authority, or the Prison Industry Authority in any classification of vocational instructor, industrial supervisor, industrial superintendent, assistant industrial superintendent, or production manager II (prison industries) which is established on or after January 1, 1984, if the Department of Personnel Administration and the State Personnel Board approve the inclusion of the classification.

"State safety member" shall also include officers and employees in parenthetical specialty classes when the core class has already been expressly included in the state safety membership category if the Department of Personnel Administration and the State Personnel Board approve the inclusion of the classifications. The inclusion shall not be effective until notice thereof has been received by the Board of Administration.

Any such officer or employee in employment on the operative date of an amendment to this section and who becomes a state safety member as a result of that amendment, may elect by a writing filed with the board prior to 90 days after notification by the board, to be restored to his or her previous status as a state industrial member. Upon the filing of such election the member shall cease to be a state safety member, and his or her rights and obligations shall be restored prospectively and retroactively to the operative date of that amendment.

(Added Stats 1976 ch 24; most recently amended Stats 1989 ch 1143)

20021.8. Definition. "County peace officer" shall also include probation officers, deputy and assistant probation officers, and persons employed in a juvenile hall or home and having as their primary duty and responsibility the counseling, supervision and custody of a group of youths assigned or committed to the hall or home. It shall also include persons employed as peace officers pursuant to Section 830.5 of the Penal Code, regardless of the administrative title of the position. It shall not include persons employed as teachers, instructors, psychologists, or to provide food, maintenance, health or other supporting services even though responsibility for custody and control of youths may be incident to or imposed in connection with such service.

The provisions of this section shall not apply to the employees of any contracting agency nor to any such agency unless and until the contracting agency elects to be subject to the provisions of this section by amendment to its contract with the board, made as provided in Section 20461.5 or by express provision in its contract with the board.

(Added Stats 1971 ch 107; amended Stats 1981 ch 1142)

20038.6. Definition. "Industrial" with respect to state industrial members means death or disability resulting from an injury which is a direct consequence of a violent act perpetrated on his person by an inmate of a state prison, correctional school or facility of the Department of Corrections or the Youth Authority, or a parolee therefrom, if:

(a) The member was performing his duties within the prison, correctional school or facility of the Department of Corrections or the Youth Authority, or

(b) The member was not within the prison, correctional school or facility of the Department of Corrections or the Youth Authority, but was acting within the scope of his employment and is regularly and substantially as part of his duties in contact with such inmates or parolees.

(Added Stats 1974 ch 1439)

20750.42. Rate of Contribution. The state's contribution to the retirement fund with respect to state industrial members is a sum equal to the following percentages of the compensation paid state industrial members:

(a) 17.35 percent during October 1977 through June 1978.

(b) 18.35 percent during the 1978–79 fiscal year.

(c) 19.91 percent during the 1979–80 fiscal year.

(Added Stats 1974 ch 1439; most recently amended Stats 1980 ch 1264, effective 9/30/80)

21022. Disability retirement. Any patrol, state safety member, state industrial, state peace officer/firefighter, or local safety member incapacitated for the performance of duty as the result of an industrial disability shall be retired for disability, pursuant to this chapter, regardless of age or amount of service.

(Added Stats 1945 ch 123; most recently amended Stats 1984 ch 280, effective 7/3/84)

21290.1. Disability retirement. Upon retirement for nonindustrial disability, a state industrial member who has attained age 60 shall receive his service retirement allowance.

(Added Stats 1974 ch 1439)

21292.9. Amount of allowance. Upon retirement of a state industrial member for industrial disability he shall receive a disability retirement allowance of 50 percent of his final compensation plus an annuity purchased with his accumulated additional contributions, if any, or, if qualified for service retirement, he shall receive his service retirement allowance if such allowance, after deducting such annuity, is greater.

(Added Stats 1974 ch 1439)

21293. Amount of allowance. The disability retirement allowance for a patrol, state safety, state peace officer/firefighter, state industrial, or local safety member retired because of industrial disability shall be derived from his or her accumulated normal contributions and the contributions of his or her employer.

(Added Stats 1945 ch 123; most recently amended Stats 1984 ch 280, effective 7/3/84)

21363. Entitlement to death benefit. The special death benefit is payable if the deceased was a patrol, state peace officer/firefighter, state safety, state industrial or local safety member, if his death was industrial and if there is a survivor who qualifies under subdivision (b) of Section 21364. The Workers'

Compensation Appeals Board, using the same procedures as in workers' compensation hearings, shall in disputed cases determine whether the death of a member was industrial.

The jurisdiction of the Workers' Compensation Appeals Board shall be limited solely to the issue of industrial causation, and this section shall not be construed to authorize the Workers' Compensation Appeals Board to award costs against the system pursuant to Section 4600, 5811, or any other provision of the Labor Code.

(Added Stats 1945 ch 123; most recently amended Stats 1984 ch 280, effective 7/3/84)

21363.3. Entitlement by governor's appointees. The special death benefit is also payable if the deceased was a state member appointed by the Governor, the Director of Corrections, or the Board of Prison Terms, if his death occurred as a result of injury or disease arising out of and in the course of his official duties within a state prison or facility of the Department of Corrections, and if there is a survivor who qualifies under subdivision (b) of Section 21364. The Workers' Compensation Appeals Board, using the same procedure as in workers' compensation hearings, shall in disputed cases determine whether the death of the member occurred as a result of the injury or disease.

The jurisdiction of the Workers' Compensation Appeals Board shall be limited solely to the issue of industrial causation, and this section shall not be construed to authorize the Workers' Compensation Appeals Board to award costs against the system pursuant to Section 4600 or 5811 or any other provision of the Labor Code.

(Added Stats 1959 ch 1535, most recently amended Stats 1981 ch 609)

21363.6. Others entitled to death benefit. The special death benefit is also payable if the deceased was the Secretary of the Youth and Adult Corrections Agency, or was a state member appointed by the Secretary of the Youth and Adult Corrections Agency, the Department of the Youth Authority, the Superintendent of the California Institution for Women or the Women's Board of Terms and Paroles, the Board of Corrections, or was a member of the Board of Corrections or the Department of the Youth Authority not already classified as a prison member, provided that his death occurred as a result of misconduct of an inmate of a state prison, correctional school, or facility of the Department of Corrections or the Youth Authority, or a parolee therefrom.

The special death benefit provided by this section is not payable unless the death of the member arose out of and was in the course of his official duties and unless there is a survivor who qualifies under subdivision (b) of Section 21364. The Workers' Compensation Appeals Board, using the same procedure as in workers' compensation hearings, shall in disputed cases determine whether the member's death arose out of and in the course of his official duties.

A natural parent of surviving children eligible to receive an allowance payable under this section shall not be required to become the guardian of surviving unmarried children under 18 years of age in order to be paid the benefits prescribed for such children.

The jurisdiction of the Workers' Compensation Appeals Board shall be limited solely to the issue of industrial causation, and this section shall not be construed to authorize the Workers' Compensation Appeals Board to award costs against the system pursuant to Section 4600 or 5811 or any other provision of the Labor Code.

(Added Stats 1963 ch 1440; most recently amended Stats 1981 ch 609)

27706. Responsibilities of public defender. The public defender shall perform the following duties:

(a) Upon request of the defendant or upon order of the court, the public defender shall defend, without expense to the defendant, except as provided by Section 987.8 of the Penal Code, any person who is not financially able to employ counsel and who is charged with the commission of any contempt or offense triable in the superior, municipal or justice courts at all stages of the proceedings, including the preliminary examination. The public defender shall, upon request, give counsel and advice to such person about any charge against the person upon which the public defender is conducting the defense, and shall prosecute all appeals to a higher court or courts of any person who has been convicted, where, in the opinion of the public defender, the appeal will or might reasonably be expected to result in the reversal or modification of the judgment of conviction.

(b) Upon request, the public defender shall prosecute actions for the collection of wages and other demands of any person who is not financially able to employ counsel, where the sum involved does not exceed one hundred dollars ($100), and where, in the judgment of the public defender, the claim urged is valid and enforceable in the courts.

(c) Upon request, the public defender shall defend any person who is not financially able to employ counsel in any civil litigation in which, in the judgment of the public defender, the person is being persecuted or unjustly harassed.

(d) Upon request, or upon order of the court, the public defender shall represent any person who is not financially able to employ counsel in proceedings under Divisions 4 (commencing with Section 1400) of the Probate Code and Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code.

(e) Upon order of the court, the public defender shall represent any person who is entitled to be represented by counsel but is not financially able to employ counsel in proceedings under Chapter 2 (commencing with Section 500) of Part 1 of Division 2 of the Welfare and Institutions Code.

(f) Upon order of the court the public defender shall represent any person who is required to have counsel pursuant to Section 686.1 of the Penal Code.

(g) Upon the order of the court or upon the request of the person involved, the public defender may represent any person who is not financially able to employ counsel in a proceeding of any nature relating to the nature or conditions of detention, of other restrictions prior to adjudication, of treatment, or of punishment resulting from criminal or juvenile proceedings.

(Added Stats 1947 ch 424; most recently amended Stats 1979 ch 730, operative 1/1/81)

27707. Financial determination. The court in which the proceeding is pending may make the final determination in each case as to whether a defendant or person described in Section 27706 is financially able to employ counsel and qualifies for the services of the public defender. The public defender shall, however, render legal services as provided in subdivisions (a), (b) and (c) of Section 27706 for any person the public defender determines is not financially able to employ counsel until such time as a contrary determination is made by the court. If a contrary determination is made, the public defender thereafter may not render services for such person except in a proceeding to review the

determination of that issue or in an unrelated proceeding. In order to assist the court or public defender in making the determination, the court or the public defender may require a defendant or person requesting services of the public defender to file a financial statement under penalty of perjury. The financial statement shall be confidential and privileged and shall not be admissible as evidence in any criminal proceeding except the prosecution of an alleged offense of perjury based upon false material contained in the financial statement. The financial statement shall be made available to the prosecution only for purposes of investigation of an alleged offense of perjury based upon false material contained in the financial statement at the conclusion of the proceedings for which such financial statement was required to be submitted. The financial statement shall not be confidential and privileged in a proceeding under Section 987.8 of the Penal Code.

(Added Stats 1969 ch 957; amended Stats 1980 ch 1021)

27707.1. Intercounty agreements. The boards of supervisors of two or more counties may authorize their respective public defenders to enter into reciprocal or mutual assistance agreements whereby a deputy public defender of one county may be assigned on a temporary basis to perform public defender duties in the county to which he has been assigned in actions or proceedings in which the public defender of the county to which the deputy has been assigned has properly refused to represent a party because of a conflict of interest or because of some other present inability.

For purposes of this section, the term "present inability" shall include a lack of personnel, lack of expertise, or lack of other resources by the local office.

Whenever a deputy public defender is assigned to perform public defender duties in another county pursuant to such an agreement, the county to which he is assigned shall reimburse the county in which he is regularly employed in an amount equal to the portion of his regular salary for the time he performs public defender duties in the county to which he has been assigned. The deputy public defender shall also receive from the county to which he has been assigned the amount of actual and necessary traveling and other expenses incurred by him in traveling between his regular place of employment and the place of employment in the county to which he has been assigned.

A board of supervisors may also authorize the reciprocal or mutual assistance agreements provided for in this section with the State Public Defender.

(Added Stats 1971 ch 879; most recently amended Stats 1983 ch 323, effective 7/21/83)

27712. Cost of counsel. In any case in which a party is provided legal assistance, either through the public defender or private counsel appointed by the court, upon conclusion of the proceedings, or upon the withdrawal of the public defender or private counsel, after a hearing on the matter, the court may make a determination of the ability of the party to pay all or a portion of the cost of such legal assistance. Such determination of ability to pay shall only be made after a hearing conducted according to the provisions of Section 987.8 of the Penal Code; except that, in any court where a county financial evaluation officer is available, the court shall order the party to appear before the county financial evaluation officer, who shall make an inquiry into the party's ability to pay this cost as well as other court-related costs. The party shall have the right to dispute

the county financial evaluation officer's evaluation, in which case he or she shall be entitled to a hearing pursuant to Section 27752. If the party agrees with the county financial evaluation officer's evaluation, the county financial evaluation officer shall petition the court for an order to that effect. The court may, in its discretion, hold one such additional hearing, or the county financial evaluation officer may hold one such additional evaluation, within six months of the conclusion of the criminal proceedings. If the court determines, or upon petition by the county financial evaluation officer is satisfied, that the party has the ability to pay all or part of the cost, it shall order the party to pay the sum to the county in any installments and manner which it believes reasonable and compatible with the party's ability to pay. Execution may be issued on the order in the same manner as on a judgment in a civil action. The order shall not be enforced by contempt.

The court, or in a county which has a county financial evaluation officer, the board of supervisors, shall adjudge a standard by which to measure the cost of legal assistance provided, which standard shall reflect the actual cost of legal services provided. Appointed counsel shall provide evidence of the services performed pursuant to such standard.

(Added Stats 1972 ch 661; most recently amended Stats 1985 ch 1485)

31469.4. Local safety members—P.E.R.S. "Safety member" means persons employed as probation officers, juvenile hall or juvenile home group counselors, and group supervisors who are primarily engaged in the control and custody of delinquent youths who must be detained under physical security in order not to be harmful to themselves or others.

The provisions of this section shall not be applicable in any county until the board of supervisors by resolution make the provisions applicable.

(Added Stats 1969 ch 1463; most recently amended Stats 1981 ch 1142)

124218

Extracts From Health and Safety Code

199.99. AIDS—disclosure. (a) Any medical personnel employed by, under contract to, or receiving payment from the State of California, any agency thereof, or any county, city, or city and county to provide service at any state prison, the Medical Facility, any Youth Authority institution, any county jail, city jail, hospital jail ward, juvenile hall, juvenile detention facility, or any other facility in which adults are held in custody or minors are detained, or any medical personnel employed, under contract, or receiving payment to provide services to persons in custody or detained at any of the foregoing facilities, who receives information as specified herein that an inmate or minor at such a facility has been exposed to or infected by the AIDS virus or has an AIDS-related condition or any communicable disease, shall communicate such information to the officer in charge of the facility in which such inmate or minor is in custody or detained.

(b) Information subject to disclosure under subsection (a) shall include the following: any laboratory test which indicates exposure to or infection by the AIDS virus, AIDS-related condition, or other communicable diseases; any statement by the inmate or minor to medical personnel that he or she has AIDS or an AIDS-related condition, has been exposed to the AIDS virus, or has any communicable disease; the results of any medical examination or test which indicates that the inmate or minor has tested postitive for antibodies to the AIDS virus, has been exposed to the AIDS virus, has an AIDS-related condition, or is infected with AIDS or any communicable disease; provided, that information subject to disclosure shall not include information communicated to or obtained by a scientific research study pursuant to prior written approval expressly waiving disclosure under this section by the officer in charge of the facility.

(c) The officer in charge of the facility shall notify all employees, medical personnel, contract personnel, and volunteers providing services at such facility who have or may have direct contact with the inmate or minor in question, or with bodily fluids from such inmate or minor, of the substance of the information received under subsections (a) and (b) so that such persons can take appropraite action to provide for the care of such inmate or minor, the safety of other inmates or minors, and their own safety.

(d) The officer in charge and all persons to whom information is disclosed pursuant to this section shall maintain the confidentiality of personal identifying data regarding such information, except for diclosure authorized hereunder or as may be necessary to obtain medical or psychological care or advice.

(e) Any person who wilfully discloses personal identifying data regarding information obtained under this section to any person who is not a peace officer or an employee of a federal, state, or local public health agency, except as authorized hereunder, by court order, with the written consent of the patient or as otherwise authorized by law, is guilty of a misdemeanor.

(Added Prop 96-1988, eff 11/9/88)

1250. Correctional treatment center. As used in this chapter, "health facility" means any facility, place, or building which is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care

during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, and includes the following types:

(a) "General acute care hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. A general acute care hospital may include more than one physical plant maintained and operated on separate premises as provided in Section 1250.8. A general acute care hospital which exclusively provides acute medical rehabilitation center services, including at least physical therapy, occupational therapy, and speech therapy, may provide for the required surgical and anesthesia services through a contract with another acute care hospital. In addition, a general acute care hospital which, on July 1, 1983, provided required surgical and anesthesia services through a contract or agreement with another acute care hospital may continue to provide these surgical and anesthesia services through a contract or agreement with an acute care hospital.

(b) "Acute psychiatric hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(c) "Skilled nursing facility" means a health facility which provides skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

(d) "Intermediate care facility" means a health facility which provides inpatient care to ambulatory or nonambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

(e) "Intermediate care facility/developmentally disabled habilitative" means a facility with a capacity of four to 15 beds which provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer developmentally disabled persons who have intermittent recurring needs for nursing services, but have been certified by a physician as not requiring availability of continuous skilled nursing care.

(f) "Special hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient care in dentistry or maternity.

(g) "Intermediate care facility/developmentally disabled" means a facility which provides 24-hour personal care, habilitation, developmental, and supportive health services to developmentally disabled clients whose primary need is for developmental services and who have a recurring but intermittent need for skilled nursing services.

(h) "Intermediate care facility/developmentally disabled—nursing" means a facility with a capacity of four to 15 beds which provides 24-hour personal care, developmental services, and nursing supervision for developmentally disabled persons who have intermittent recurring needs for skilled nursing care but have been certified by a physician as not requiring continuous skilled nursing care. The facility shall serve medically fragile persons who have developmental disabilities or demonstrate significant developmental delay that may lead to a developmental disability if not treated.

(i) "Congregate living health facility-A" means a residential home with a capacity of no more than six beds, which provides inpatient care to mentally alert, physically disabled residents, who may be ventilator dependent, and which provides the following basic services: medical supervision, 24-hour skilled nursing and supportive care to residents, including ventilator assisted or dependent residents, all of whom would otherwise require long-term institutional care without this licensure classification and who no longer require care in an acute care facility, as determined by their physicians.

(j) "Congregate living health facility-B" means a health facility with a capacity of one to 15 beds which provides 24-hour inpatient care to persons whose primary need is for availability of skilled nursing care on a recurring, intermittent, extended, or continuous basis. However, a congregate living health facility-B which is located in a county with a population of 500,000 or more persons may have a capacity of 25 beds.

(1) A congregate living health facility-B shall have a noninstitutional, homelike environment.

(2) No person shall be admitted, or accepted for care, or discharged, by a congregate care health facility-B except upon the order of a physician. Admission criteria will be subject to review and approval by the department. All persons admitted or accepted for care by the congregate living health facility-B shall remain under the care of a physician who shall visit the resident at least every 30 calendar days or more frequently if required by the resident's medical condition.

(k) (1) "Correctional treatment center" means a health facility operated by the Department of Corrections, the Department of the Youth Authority, or a county, city, or city and county law enforcement agency which, as determined by the state department, provides outpatient health services, in addition to inpatient health services, to that portion of the inmate population who do not require a general acute care level of basic services. This definition shall not apply to those areas of a city, county, or city and county law enforcement facility which houses inmates or wards that may be receiving outpatient services and are housed separately for reasons of security and protection. The health services provided by a correctional treatment center shall include, but are not limited to, all of the following basic services: physician, psychiatrist, psychologist, nursing, pharmacy, dental, and dietary. A correctional treatment center may provide the following services: laboratory, radiology, perinatal, and any other services approved by the state department.

(2) Outpatient surgical care with anesthesia may be provided, if the correctional treatment center meets the same requirements as a surgical clinic licensed pursuant to Section 1204, with the exception of the requirement that patients remain less than 24 hours.

(3) Correctional treatment centers shall maintain written service agreements with general acute care hospitals to provide for those inmate physical health needs that cannot be met by the correctional treatment center.

(4) Physician and surgeon services shall be readily available in a correctional treatment center on a 24-hour basis.

(5) It is not the intent of the Legislature to have a correctional treatment center supplant the facilities at the California Medical Facility, the California Men's Colony, and the California Institution for Men which were in the process of licensure in 1987.

(6) This subdivision shall remain operative only until January 1, 1993.

(Added Stats 1973 ch 1202; most recently amended Stats 1988 ch 1608, operative until 1/1/93)

1250.1. Correctional treatment center: Regulations. The state department shall adopt regulations which define all of the following bed classifications for health facilities.

(a) General acute care.
(b) Skilled nursing.
(c) Intermediate care-developmental disabilities.
(d) Intermediate care-other.
(e) Acute psychiatric.
(f) Specialized care, with respect to special hospitals only.
(g) Chemical dependency recovery.
(h) Intermediate care facility/developmentally disabled habilitative.
(i) Intermediate care facility/developmentally disabled nursing.
(j) Congregate living health facility-A.
(k) Congregate living health facility-B.
(*l*) Correctional treatment center. For correctional treatment centers that provide psychiatric and psychological services provided by county mental health agencies in local detention facilities, the State Department of Mental Health shall adopt regulations specifying acute and nonacute levels of 24-hour care. This subdivision shall remain operative only until January 1, 1993.

Except as provided in Section 1253.1, beds classified as intermediate care beds, on September 27, 1978, shall be reclassified by the state department as intermediate care—other. This reclassification shall not constitute a "project" within the meaning of Section 437.10 and shall not be subject to any requirement for a certificate of need under Part 1.5 (commencing with Section 437) of Division 1, and regulations of the state department governing intermediate care prior to such effective date shall continue to be applicable to the intermediate care —other classification unless and until amended or repealed by the state department.

Licensed inpatient beds in a correctional treatment center shall be used only for the purpose of providing health services. This paragraph shall remain operative only until January 1, 1993.

(Added Stats 1976 ch. 854; most recently amended Stats 1988 ch 1608)

1254. Correctional treatment center: License. (a) The state department shall inspect and license health facilities. The state department shall license health facilities to provide their respective basic services specified in Section 1250.

Except as provided in Section 1253, the state department shall inspect and approve a general acute care hospital to provide special services as specified in Section 1255. The state department shall develop and adopt regulations to implement the provisions contained in this section.

(b) Upon approval, the state department shall issue a separate license for the provision of the basic services enumerated in subdivision (c) or (d) of Section 1250 whenever these basic services are to be provided by an acute care hospital, as defined in subdivision (a), (b), or (f) of that section, where the services enumerated in subdivision (c) or (d) of Section 1250 are to be provided in any separate freestanding facility, whether or not the location of the separate freestanding facility is contiguous to the acute care hospital. The same requirement shall apply to any new freestanding facility constructed for the purpose of providing basic services, as defined in subdivision (c) or (d) of Section 1250, by any acute care hospital on or after January 1, 1984.

(c) (1) Those beds licensed to an acute care hospital which, prior to January 1, 1984, were separate freestanding beds and were not part of the physical structure licensed to provide acute care, and which beds were licensed to provide those services enumerated in subdivision (c) or (d) of Section 1250, are exempt from the requirements of subdivision (b).

(2) All beds licensed to an acute care hospital and located within the physical structure in which acute care is provided are exempt from the requirements of subdivision (b) irrespective of the date of original licensure of the beds, or the licensed category of the beds.

(3) All beds licensed to an acute care hospital owned and operated by the State of California or any other public agency are exempt from the requirements of subdivision (b).

(4) All beds licensed to an acute care hospital in a rural area as defined by Chapter 1010, of the Statutes of 1982, are exempt from the requirements of subdivision (b), except where there is a freestanding skilled nursing facility or intermediate care facility which has experienced an occupancy rate of 95 percent or less during the past 12 months within a 25-mile radius or which may be reached within 30 minutes using a motor vehicle.

(5) All beds licensed to an acute care hospital which meet the criteria for designation within peer group six or eight, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982, and published by the California Health Facilities Commission, and all beds in hospitals which have fewer than 76 licensed acute care beds and which are located in a Census Designation Place of 15,000 or less population, are exempt from the requirements of subdivision (b), except where there is a free-standing skilled nursing facility or intermediate care facility which has experienced an occupancy rate of 95 percent or less during the past 12 months within a 25-mile radius or which may be reached within 30 minutes using a motor vehicle.

(6) All beds licensed to an acute care hospital which has had a certificate of need approved by a health systems agency on or before July 1, 1983, are exempt from the requirements of subdivision (b).

(7) All beds licensed to an acute care hospital are exempt from the requirements of subdivision (b), if reimbursement from the Medi-Cal program for beds licensed for the provision of services enumerated in subdivision (c) or (d) of

Section 1250 and not otherwise exempt does not exceed the reimbursement which would be received if the beds were in a separately licensed facility.

(d) Except as provided in Section 1253, the state department shall inspect and approve a general acute care hospital to provide special services as specified in Section 1255. The state department shall develop and adopt regulations to implement the provisions contained in this section.

(Added Stats 1973 ch 1202; most recently amended Stats 1987 ch 1282)

1267.10. Correctional treatment center: Regulations. (a) The state department, in conjunction with the Office of Statewide Health Planning and Development and in consultation with the Department of Corrections, the Department of the Youth Authority, and the State Department of Mental Health, shall develop and adopt licensure regulations for correctional treatment centers, as defined in subdivision (j) of Section 1250. The regulations shall be submitted for review by the Assembly Health Committee, the Senate Health and Human Services Committee, the Joint Legislative Committee on Prison Construction and Operation and the Joint Legislative Budget Committee 60 days prior to adoption. These regulations shall prescribe standards, based on the need of the inmate population, of adequacy, safety, and sanitation of the physical plant, staffing with duly licensed personnel, and services. The regulations shall prescribe a standard of care commensurate with community standards of practice applicable to the private sector health care delivery system in California. The department shall include with the regulations submitted for review during the public hearing required before adoption of regulations and for review by the legislative committees a list of differences between the requirements for license of a correctional treatment center and the requirements for license as an acute care general hospital, including any special services or supplemental services, as appropriate. The list shall also include a rationale for the differences and the effect on services.

Correctional treatment center regulations shall be developed with assistance from the California Conference of Local Health Officers, the Conference of Local Mental Health Directors, the California Conference of Directors of Environmental Health, the Board of Corrections, and the California State Sheriffs' Association. In developing the regulations, the state department and the State Department of Mental Health shall be guided by the need to provide safe and adequate medical care in a prison health facility where there is also a need to maintain integrity of the security of the correctional institution as determined by the Director of Corrections.

(b) The Maternal and Child Health Branch of the state department shall monitor and evaluate the standards and protocols of perinatal care utilized by the state department for the treatment of pregnant prisoners or inmates.

The state department shall report on these standards and protocols of perinatal care to the Legislature including submission of reports to the Chairpersons of the Senate Health and Human Services and Assembly Health Committees, as well as the Chairperson of the Joint Legislative Committee on Prison Construction and Operation, on or before June 1, 1988, and annually thereafter.

(c) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute which is chaptered prior to January 1, 1993, deletes or extends that date.

(Added Stats 1987 ch 1282, operative until 1/1/93)

1374.11. Medical costs—detention facilities. No health care service plan shall deny a claim for hospital, medical, surgical, dental, or optometric services for the sole reason that the individual served was confined in a city or county jail or was a juvenile detained in any facility, if such individual is otherwise entitled to reimburse for such services under such contract and incurs expense for the services so provided during confinement. This provision shall apply to any health care service plan contract entered into or renewed on or after July 1, 1980, whether or not such contract contains any provision terminating benefits under such plan upon an individual's confinement in a city or county jail or juvenile detention facility.

(Added Stats 1980, ch 90, effective 5/8/80)

Community Care Facilities for Wards of the Juvenile Court

(Added Stats 1978 ch 889; effective 9/19/78)

1564. Prohibition against sex offenders residing in facility near school. (a) No individual who has ever been convicted of a sex offense against a minor shall reside in a community care facility that is within one mile of an elementary school.

(b) Any community care facility which is located within one mile of an elementary school shall obtain from each individual who is a resident of the facility on the effective date of this section a signed statement that the resident or applicant for residence has never been convicted of a sex offense against a minor.

(c) If on January 1, 1983, a person who has been convicted of a sex offense against a minor is residing in a community care facility that is within one mile of a school, the operator shall notify the appropriate placement agency. Continued residence in the facility shall extend no longer than six months.

(d) Prior to placement in a community care facility which is located within one mile of an elementary school, the placement agency shall obtain, from the client to be placed, a signed statement that he or she has never been convicted of a sex offense against a minor. Any placement agent who knowingly places a person who has been convicted of a sex offence against a minor in a facility which is located within one mile of an elementary school shall be guilty of a misdemeanor.

Where there is no placement agency involved, the community care facility shall obtain from any applicant a signed statement that he or she has never been convicted of a sex offense against a minor.

(e) Any resident or applicant for residence who makes a false statement as to a conviction for a prior sex offense against a minor is guilty of a misdemeanor.

(f) For purposes of this section, "sex offense" means any one or more of the following offenses:

(1) Any offense defined in Section 220, 261, 261.5, 266, 266e, 266f, 266i, 266j, 267, 273f as it pertains to houses of prostitution, 273g, 285, 286, 288, 288a, 289, 290, 311,

311.2, 311.4, 313.1, 318, subdivision (a) or (d) of Section 647, 647a, 650½ as it relates to lewd or lascivious behavior, 653f, or 653m of the Penal Code.

(2) Any offense defined in subdivision (5) of former Section 647 of the Penal Code repealed by Chapter 560 of the Statutes of 1961, or any offense defined in subdivision (2) of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961, if the offense defined in such sections was committed prior to September 15, 1961.

(3) Any offense defined in Section 314 of the Penal Code committed on or after September 15, 1961.

(4) Any offense defined in subdivision (1) of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961 committed on or after September 7, 1955, and prior to September 15, 1961.

(5) Any offense involving lewd and lascivious conduct under Section 272 of the Penal Code committed on or after September 15, 1961.

(6) Any offense involving lewd and lascivious conduct under former Section 702 of the Welfare and Institutions Code repealed by Chapter 1616 of the Statutes of 1961, if such offense was committed prior to September 15, 1961.

(7) Any offense defined in Section 286 or 288a of the Penal Code prior to the effective date of the amendment of either section enacted at the 1975–76 Regular Session of the Legislature committed prior to the effective date of the amendment.

(8) Any attempt or conspiracy to commit any of the above-mentioned offenses.

(9) Any federal sex offense or any sex offense committed or attempted in any other state which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses.

(g) This section shall not apply to residential care facilities for the elderly or to any person receiving community supervision and treatment pursuant to Title 15 (commencing with Section 1600) of Part 2 of the Penal Code.

(Added Stats 1982 ch 1554; amended Stats 1985 ch 1232, eff. 9/30/85)

1567. Legislative intent. It is the intent of the Legislature that each county be encouraged to provide, in the county, a number and variety of licensed community care facilities, as defined in Sections 1502 and 1503 of the Health and Safety Code, commensurate to the needs of minors adjudged wards of the juvenile court pursuant to Section 601 or 602 of the Welfare and Institutions Code, hereinafter in this article referred to as wards of the juvenile court, who are residents of the county.

(Added Stats 1978 ch 889, effective 9/19/78)

1567.1. Legislative intent. It is further the intent of the Legislature that, where city or county zoning restrictions unreasonably impair the ability of a county to serve the needs of its residents who are wards of the juvenile court, the removal of these restrictions is hereby encouraged and is a matter of high state interest.

(Added Stats 1978 ch 889, effective 9/19/78)

1567.2. Legislative intent. As used in this article, the term "wards of the juvenile court" shall include minors who have been found by the juvenile court to be described by Section 601 or 602 of the Welfare and Institutions Code, as well as minors who are described by Section 601 or 602 of the Welfare and Institutions

Code who have been diverted from formal juvenile court proceedings. It is further the intent of the Legislature to encourage that wards of the juvenile court be placed in licensed community care facilities within their county of residence, unless an individual ward has identifiable needs requiring specialized care which cannot be provided in a local facility, or unless the needs of the individual ward dictate physical separation from his family.

(Added Stats 1978 ch 889, effective 9/19/78)

1567.4. Roster. The State Department of Social Services shall provide, at cost, quarterly to each county and to each city, upon the request of the county or city, and to the chief probation officer of each county and city and county, a roster of all community care facilities licensed as small family homes or group homes located in the county, which provide services to wards of the juvenile court, including information as to whether each facility is licensed by the state or the county, the type of facility, and the licensed bed capacity of each such facility. Information concerning the facility shall be limited to that available through the computer system of the State Department of Social Services.

(Added Stats 1978 ch 889; amended Stats 1984 ch 821)

1567.7. Existing facilities. This article shall not apply to existing community care facilities for wards of the juvenile court which have received city or county zoning approval prior to the effective date of this article.

(Added Stats 1978 ch 889, effective 9/19/78)

1567.8. Exemptions. A community care facility for wards of the juvenile court, which serves six or fewer persons shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other single family dwellings are not likewise subject. Nothing in this section shall be construed to forbid the imposition of local property taxes, fees for water service and garbage collection, fees for inspections not prohibited by Section 1567.9, local bond assessments, and other fees, charges, and assessments to which other single family dwellings are likewise subject. Neither the State Fire Marshal nor any local public entity shall charge any fee for enforcing fire inspection regulations pursuant to state law or regulation or local ordinance, with respect to community care facilities for wards of the juvenile court which serve six or fewer persons.

(Added Stats 1978 ch 889, effective 9/19/78)

11562. Substance abuse treatment. When the Youth Authority concludes that there are reasonable grounds for believing that a person committed to its custody, and on parole, is addicted to, or is in imminent danger of addiction to, controlled substances, it may issue an order to detain or place such person in a controlled substance treatment control unit for not to exceed 90 days. Such order shall be a sufficient warrant for any peace officer or employee of the Department of the Youth Authority to return to physical custody any such person. Detention pursuant to such order shall not be deemed a suspension, cancellation, or revocation of parole unless the Youth Authority so orders pursuant to Section 1767.3 of the Welfare and Institutions Code.

With the consent of the Director of Corrections, the Director of the Youth Authority may, pursuant to this section, confine the addicted or potentially

addicted person, over 18 years of age, in a controlled substance treatment control unit established by the Department of Corrections.

(Added Stats 1972 ch 1407)

13131. Definition. "Nonambulatory persons" means persons unable to leave a building unassisted under emergency conditions. It includes any person who is unable, or likely to be unable, to physically and mentally respond to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire danger, and persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. The determination of ambulatory or nonambulatory status of persons with developmental disabilities shall be made by the Director of Social Services or his or her designated representative, in consultation with the Director of Developmental Services or his or her designated representative. The determination of ambulatory or nonambulatory status of all other disabled persons placed after January 1, 1984, who are not developmentally disabled shall be made by the Director of Social Services, or his or her designated representative.

(Added Stats 1947 ch 1549; most recently amended Stats 1983 ch 1132)

13143. Fire safety. (a) Except as provided in Section 18930, the State Fire Marshal, with the advice of the State Board of Fire Services, shall prepare, adopt, and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 and shall prepare and adopt other regulations establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any building or structure used or intended for use as an asylum, jail, mental hospital, hospital, sanitarium, home for the aged, children's nursery, children's home or institution not otherwise excluded from the coverage of this subdivision, school, or any similar occupancy of any capacity, and in any theater, dancehall, skating rink, auditorium, assembly hall, meeting hall, nightclub, fair building, or similar place of assemblage where 50 or more persons may gather together in a building, room, or structure for the purpose of amusement, entertainment, instruction, deliberation, worship, drinking or dining, awaiting transportation, or education, and in any building or structure which is open to the public and is used or intended to be used for the showing of motion pictures when an admission fee is charged and when the building or structure has a capacity of 10 or more persons. The State Fire Marshal shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 for the purposes described in this section. Regulations adopted pursuant to this subdivision and building standards relating to fire and panic safety published in the State Building Standards Code shall establish minimum requirements relating to the means of egress and the adequacy of exits from, the installation and maintenance of fire extinguishing and fire alarm systems in, the storage and handling of combustible or explosive materials or substances, and the installation and maintenance of appliances, equipment, decorations, security bars, grills, grates, and furnishings that present a fire, explosion or panic hazard, and the minimum requirements shall be predicated on the height and fire-resistive qualities of the building or structure and the type of occupancy for which it is to be used. The building standards and other regulations shall apply to auxiliary or accessory

buildings used or intended for use with any of the occupancies mentioned in this subdivision. Violation of any building standard or other regulation shall be a violation of the provisions of this chapter.

In preparing and adopting building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13, and in preparing and adopting other regulations affecting public schools, the State Fire Marshal shall also secure the advice of the State Department of Education. No regulation adopted by the State Fire Marshal shall conflict with any rule, regulation, or building standard lawfully adopted or enforced by the Department of General Services pursuant to Article 3 (commencing with Section 39140) of Chapter 2 of Part 23 or Article 7 (commencing with Section 81130) of Chapter 1 of Part 49 of the Education Code.

In addition to any other requirements for location of exit signs or devices, the State Fire Marshal shall adopt building standards pursuant to this section establishing minimum requirements for the placement of distinctive devices, signs, or other means that identify exits and can be felt or seen near the floor. These building standards shall apply to all newly constructed buildings or structures subject to this subdivision for which a building permit is issued, (or construction commenced, where no building permit is issued) on or after January 1, 1989.

(b) Notwithstanding the provisions of subdivision (a) and Section 13143.6, facilities licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 which provide nonmedical board, room, and care for six or fewer ambulatory children placed with the licensee for care or foster family homes and family day care homes for children, licensed pursuant to Chapter 3.6 (commencing with Section 1597.50) of Division 2, with a capacity of six or fewer and providing care and supervision for ambulatory children or children two years of age or younger, or both, shall not be subject to the provisions of Article 1 (commencing with Section 13100) or Article 2 (commencing with Section 13140) of this chapter or regulations adopted pursuant thereto. No city, county, or public district shall adopt or enforce any requirement for the prevention of fire or for the protection of life and property against fire and panic with respect to structures used as facilities specified in this subdivision, unless the requirement would be applicable to a structure regardless of the special occupancy. Nothing in this subdivision shall restrict the application of state or local housing standards to those facilities, if the standards are applicable to residential occupancies and are not based upon the use of the structure as a facility specified in this subdivision.

"Ambulatory children," as used in this subdivision, does not include nonambulatory persons, as defined in Section 13131, and relatives of the licensee or the licensee's spouse.

(c) The State Fire Marshal shall adopt building standards establishing regulations providing that all school classrooms constructed after January 1, 1990, not equipped with automatic sprinkler systems, which have metal grills or bars on all their windows and do not have at least two exit doors within three feet of each end of the classroom opening to the exterior of the building or to a common hallway used for evacuation purposes, shall have an inside release for the grills or bars on at least one window farthest from the exit doors. The window or windows

with the inside release shall be clearly marked as an emergency exit, in accordance with regulations adopted by the State Fire Marshal.

(Added Stats 1945 ch 1173; most recently amended Stats 1988 ch 1276)

13143.6. Fire prevention regulations. (a) Except as provided in Section 18930, the State Fire Marshal, with the advice of the State Board of Fire Services, shall prepare and adopt regulations establishing minimum standards for the prevention of fire and for the protection of life and property against fire in any building or structure used or intended for use as a home or institution for the housing of any person of any age when such person is referred to or placed within such home or institution for protective social care and supervision services by any governmental agency. The State Fire Marshal shall adopt and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 for the purposes described in this section. Occupancies within the meaning of this subdivision shall be those not otherwise specified in Sections 13113 and 13143 and shall include, but are not limited to, those commonly referred to as "certified family care homes," "out-of-home placement facilities," and "halfway houses." Building standards relating to fire and panic safety published in the State Building Standards Code and other regulations adopted pursuant to this subdivision shall establish minimum requirements relating to the means of egress and the adequacy of exits, the installation and maintenance of fire extinguishing and fire alarm systems, the storage, handling, or use of combustible or flammable materials or substances, and the installation and maintenance of appliances, equipment, decorations, and furnishings that may present a fire, explosion, or panic hazard. Such minimum requirements shall be predicated on the height, area, and fire-resistive qualities of the building or structure used or intended to be used.

Any building or structure within the scope of this subdivision used or intended to be used for the housing of more than six nonambulatory persons shall have installed and maintained in proper operating condition an automatic sprinkler system approved by the State Fire Marshal. "Nonambulatory person," as used in this section, means nonambulatory person as defined in Section 13131.

The ambulatory or nonambulatory status of any developmentally disabled person within the scope of this subdivision shall be determined by the Director of Social Services, or his or her designated representative, in consultation with the Director of Developmental Services, or his or her designated representative.

Any building or structure within the scope of this subdivision used or intended to be used for the housing of more than six ambulatory persons shall have installed or maintained in proper operating condition an automatic fire alarm system approved and listed by the State Fire Marshal which will respond to products of combustion other than heat.

In preparing and adopting regulations pursuant to this subdivision, the State Fire Marshal shall give reasonable consideration to the continued use of existing buildings' housing occupancies established prior to March 4, 1972.

In preparing and adopting regulations pursuant to this subdivision, the State Fire Marshal shall also secure the advice of the appropriate governmental agencies involved in the affected protective social care programs in order to provide compatibility and maintenance of operating programs in this state.

Any governmental agency that refers any person to, or causes his or her placement in, any home or institution subject to this section shall, within seven days after the referral or placement, request verification of conformance to the fire safety standards adopted by the State Fire Marshal pursuant to this section from the fire authority having jurisdiction pursuant to Sections 13145 and 13146. Any referral or placement in homes or institutions subject to this section shall be subject to rescission if the fire authority having jurisdiction subsequently informs the governmental agency that it is unable to give the requested verification.

When a building or structure within the scope of this subdivision is used to house either ambulatory or nonambulatory persons, or both, and an automatic sprinkler system, approved by the State Fire Marshal, is installed, this subdivision shall not be construed to also require the installation of an automatic fire alarm system.

(b) Notwithstanding any other provision of law, facilities which are subject to the provisions of subdivision (a) and which are used for the housing of persons, none of whom are physically or mentally handicapped or nonambulatory persons within the meaning of Section 13131, shall not be required to have installed an automatic sprinkler system or an automatic fire alarm system. In adopting regulations, or when adopting building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13, affecting facilities specified in this subdivision, the State Fire Marshal shall take into consideration the ambulatory and nonhandicapped status of persons housed in such facilities.

(c) It is the intent of the Legislature that any building or structure within the scope of subdivision (a) in which there is housed any totally deaf person, shall be required by the State Fire Marshal to be equipped with fire warning devices to which such person is able to respond.

(Added Stats 1971 ch 1428; most recently amended Stats 1980 ch 118)

15026. Hospital buildings. (a) (1) "Hospital building" includes any building not specified in subdivision (b) which is used, or designed to be used, for a health facility of a type required to be licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.

(2) Hospital building includes a correctional treatment center, as defined in subdivision (j) of Section 1250, the construction of which was completed on or after March 7, 1973. This paragraph shall remain operative only until January 1, 1993.

(b) "Hospital building" does not include any of the following:

(1) Any building in which outpatient clinic services are provided and which is separated from a building in which hospital services are provided. If any one or more outpatient clinic service in the building provides services to inpatients, the building shall not be included as a "hospital building" if those services provided to inpatients represent no more than 25 percent of the total outpatient services provided at the building. Hospitals shall maintain on an ongoing basis, data on the patients receiving services in these buildings, including the number of patients seen, categorized by their inpatient or outpatient status. Hospitals shall submit this data annually to the State Department of Health Services.

(2) Any building used, or designed to be used, for a skilled nursing facility or intermediate care facility if the building is of single-story, wood-frame or light steel frame construction.

(3) Any building of single-story, wood-frame or light steel frame construction in which only skilled nursing or intermediate care services are provided if the building is separated from a building housing other patients of the health facility receiving higher levels of care.

(4) Any freestanding structures of a chemical dependency recovery hospital exempted under the provisions of subdivision (c) of Section 1275.2.

(5) Any building licensed to be used as an intermediate care facility/developmentally disabled habilitative with six beds or less and any intermediate care facility/developmentally disabled habilitative of 7 to 15 beds which is a single-story, wood-frame or light steel frame building.

(6) Any building which has been used as a community care facility licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 and which was originally licensed to provide that level of care prior to March 7, 1973, if (A) the building complied with applicable building and safety standards at the time of that licensure, (B) the Director of Health Services, upon application, determines that in order to continue to properly serve the facility's existing client population, relicensure as an intermediate care facility/developmentally disabled will be required, and (C) a notice of intent to obtain a certificate of need was filed with the area health planning agency and the Office of Statewide Health Planning and Development on or before March 1, 1983. The exemption provided in this paragraph extends only to use of the building as an intermediate care facility/developmentally disabled.

(7) Any building which has been used as a community care facility pursuant to paragraph (1) or (2) of subdivision (a) of Section 1502 and which was originally licensed to provide that level of care if all of the following conditions are satisfied:

(A) The building complied with applicable building and safety standards for a community care facility at the time of that licensure.

(B) The facility conforms to the 1973 Edition of the Uniform Building Code of the International Conference of Building Officials as a community care facility.

(C) The facility is other than single story, but no more than two stories, and the upper story is licensed for ambulatory patients only.

(D) A certificate of need was granted prior to July 1, 1983, for conversion of a community care facility to an intermediate care facility.

(E) The facility otherwise meets all nonstructural construction standards for intermediate care facilities in existence on the effective date of this act or obtains waivers from the appropriate agency.

The exemption provided in this paragraph extends only to use of the building as an intermediate care facility as defined in subdivision (d) of Section 1250 and the facility is in Health Facilities Planning Area 1420.

(8) Any building licensed as a correctional treatment center, as defined in subdivision (j) of Section 1250, the construction of which was completed prior to March 7, 1973. This paragraph shall remain operative only until January 1, 1993.

(Added Stats 1982 ch 303; most recently amended Stats 1989 ch 1050)

Extracts From Labor Code

3214. Early intervention. The Department of Corrections and the Department of the Youth Authority shall, in conjunction with all recognized employee representative associations, develop policy and implement the workers' compensation early intervention program by December 31, 1989, for all department employees who sustain an injury. The program shall include, but not be limited to, counseling by an authorized independent early intervention counselor and the services of an agreed medical panel to assist in timely decisions regarding compensability. Costs of services through early intervention shall be borne by the departments.

(Added Stats 1988 ch 1233)

Extracts From Public Contract Code

20141. Construction by wards allowed. The provisions of this article shall not apply to the construction of any public building used for facilities of juvenile forestry camps or juvenile homes, ranches or camps established under Article 15 (commencing with Section 880) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, if a major portion of the construction work is to be performed by wards of the juvenile court assigned to such camps, ranches, or homes.

(Added Stats 1982 ch 465)

124219

Extracts From Vehicle Code

40302.5. Traffic infractions—Minors. Whenever any person under the age of 18 years is taken into custody in connection with any traffic infraction case, and he is not taken directly before a magistrate, he shall be delivered to the custody of the probation officer. Unless sooner released, the probation officer shall keep the minor in the juvenile hall pending his appearance before a magistrate. When a minor is cited for an offense not involving the driving of a motor vehicle, the minor shall not be taken into custody pursuant to subdivision (a) of Section 40302 solely for failure to present a driver's license.

(Added Stats 1980 ch 1299)

40502. Place of appearance. The place specified in the notice to appear shall be any of the following:

(a) Before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where the arrest is made.

(b) Upon demand of the person arrested, before a municipal court judge or other magistrate having jurisdiction of the offense at the county seat of the county in which the offense is alleged to have been committed. This subdivision applies only if the person arrested resides, or the person's principal place of employment is located, closer to the county seat than to the municipal court or other magistrate nearest or most accessible to the place where the arrest is made.

(c) Before a person authorized to receive a deposit of bail.

The clerk and deputy clerks of the municipal and justice courts are persons authorized to receive bail in accordance with a schedule of bail approved by the judges of those courts.

(d) Before the juvenile court, a juvenile court referee, or a juvenile traffic hearing officer within the county in which the offense charged is alleged to have been committed, if the person arrested appears to be under the age of 18 years. The juvenile court shall by order designate the proper person before whom the appearance is to be made.

In a county which has implemented the provisions of Section 603.5 of the Welfare and Institutions Code, if the offense alleged to have been committed by a minor is classified as an infraction under this code, or is a violation of a local ordinance involving the driving, parking, or operation of a motor vehicle, the citation shall be issued as provided in subdivision (a), (b), or (c); provided, however, that if the citation combines an infraction and a misdemeanor, the place specified shall be as provided in subdivision (d).

If the place specified in the notice to appear is within a district or city and county where a department of the municipal court is to hold a night session within a period of not more than 10 days after the arrest, the notice to appear shall contain, in addition to the above, a statement notifying the person arrested that the person may appear before such a night session of the court.

(Enacted Stats 1959 ch 3; most recently amended Stats 1984 ch 400)

41500. Offenses prior to commitment to Y.A. (a) No person shall be subject to prosecution for any nonfelony offense arising out of the operation of a motor vehicle or violation of this code as a pedestrian which is pending against

him at the time of his commitment to the custody of the Director of Corrections or the Department of the Youth Authority.

(b) Notwithstanding any other provisions of law to the contrary, no driver's license shall be suspended or revoked, nor shall the issuance or renewal of such license be refused as a result of a pending nonfelony offense occurring prior to the time a person was committed to the custody of the Director of Corrections or the Department of the Youth Authority or as a result of a notice received by the department pursuant to subdivision (a) of Section 40509 when the offense which gave rise to the notice occurred prior to the time a person was committed to the custody of the Director of Corrections or the Department of the Youth Authority.

(c) The department shall remove from its records any notice received by it pursuant to subdivision (a) of Section 40509 upon receipt of satisfactory evidence that a person was committed to the custody of the Director of Corrections or the Department of the Youth Authority after the offense which gave rise to the notice occurred.

(d) The provisions of this section shall not apply to any nonfelony offense wherein the department is required by this code to immediately revoke or suspend the privilege of any person to drive a motor vehicle upon receipt of a duly certified abstract of the record of any court showing that the person has been convicted of such nonfelony offense.

(e) The provisions of subdivisions (a), (b), and (c) shall not apply to any offense committed by a person while he is temporarily released from custody pursuant to law or while he is on parole.

(Added Stats 1970 ch 1163; most recently amended Stats 1975 ch 545)

Index to California Laws Relating to Youthful Offenders

(Index numbers refer to sections and not pages.
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JUVENILE COURT RULES

Judicial Council of California

JUVENILE COURT RULES
INTRODUCTION

The California Judicial Council adopted comprehensive rules designed to improve procedures, practice and administration in the juvenile courts. The juvenile court rules, which were the product of an intensive two-year study, took effect July 1, 1977.

Prior to their adoption, the rules were disseminated for comment to each juvenile court, the State Bar, district attorneys, public defenders, probation and social service departments and other groups interested in the juvenile court system. The rules as finally adopted reflected the comments and suggestions made by many of these groups and individuals, and also included changes made necessary by 1976 legislation.

The present juvenile court law (Welf. & Inst. Code §§ 200–945) was adopted in 1961 following a two-year study by the Governor's Special Study Commission on Juvenile Justice. That commission made specific statutory recommendations designed to increase the legal rights of minors and to promote increased uniformity in practice and procedures in California's juvenile courts. The Special Study Commission expressly recognized, however, that:

> . . . there will remain a need to develop further details of practice and procedure. In our opinion, this can best be accomplished by the courts themselves utilizing the rulemaking powers conferred upon the Judicial Council by the Constitution.[1]

Due to other commitments and priorities within the judicial system, the Judicial Council was unable to undertake the major effort involved in promulgating comprehensive rules relating to juvenile courts. The availability of federal funds in 1975, however, made the necessary staffing for the Juvenile Court Rules project possible on a full-time basis. In January 1975, Chief Justice Donald R. Wright, Chairman of the Judicial Council, appointed a project advisory committee to assist the Council in developing proposed juvenile court rules.[2]

The advisory committee identified two major objectives of the Juvenile Court Rules project: 1) to encourage greater uniformity in applying the juvenile court law in the several counties, and 2) to provide guidance to juvenile court judges and referees and to attorneys, probation officers and social workers appearing in the juvenile court. To accomplish those goals, the committee developed the court rules within the basic framework of the juvenile court law.

The juvenile court rules restate basic statutory procedures as interpreted by case law, and establish procedures in those areas where the statutes provide incomplete guidance. For each rule, the advisory committee identified the primary sources and secondary references relied upon and commented upon the intent underlying the rule.[3] The Judicial Council believed the proposed rules

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[1] Report of the Governor's Special Study Commission on Juvenile Justice (1960) Part I, p. 49.; Art. VI, § 6 of the California Constitution authorizes the Judicial Council to "adopt rules for court administration, practice and procedure, not inconsistent with statute, and perform other functions prescribed by statute." See also Welf. & Inst. Code § 265.

[2] Members of the advisory committee were: Hon. Homer B. Thompson, Chairman; Hon. Jerome H. Berenson; Hon. Ross A. Carkeet; Hon. Leonard M. Ginsburg; Hon. William P. Hogoboom; Hon. Jean Morohy; Mr. Yale D. Coggan and Mr. Robert W. Sutton.

[3] The text of the advisory committee comments to the juvenile court rules is found in California Laws Relating to Youthful Offenders—1977 and in the 1977 Annual Report of the Judicial Council. These comments relate to the rules as originally adopted and do not reflect the origin of subsequent amendments.

would clarify juvenile court proceedings and promote a more uniform application of the juvenile court law throughout the state. Among the significant features of the rules were the following:

- Procedures used for predelinquent and delinquent minors were stated separately from those relating to dependent children.
- The rules identified the purposes of an effective intake program during which the probation department decides what course of action it may take regarding a minor. Further, guidelines were developed for settlement at intake (diversion), use of informal supervision, and the responsibilities of probation officers relating to the filing of petitions.
- Statutory provisions relating to proceedings before a referee were clarified.
- The requirements for detention hearings were expanded and the procedures clarified:

— A hearing is required whenever a minor is to be removed from the person legally entitled to physical custody or, in conformity with 1976 legislation, whenever the minor is released on home supervision;

— A minor can not be ordered detained unless (1) a prima facie showing is made that the minor is described by either section 300, 601 or 602 of the juvenile court law, and (2) one or more statutory grounds for detention exists;

— An initial order for detention may be based solely on reports and documents, subject to a right to confront the preparer of these reports or documents at a rehearing held within five judicial days;

— Factors to be considered before releasing or detaining a minor are identified.

- Discovery procedures were established.
- Procedures for granting immunity to witnesses were established, including a provision for the granting of transactional immunity to witnesses in section 602 proceedings.
- Unless otherwise provided by written local rules, prehearing motions were to be heard and decided at the commencement of the jurisdiction hearing before jeopardy attached.
- Before acceptance of an admission, the court must be satisfied that a factual basis for the admission exists.
- In dependency proceedings, the probation officer or social worker must recommend a plan for reuniting the family if removal from the home is proposed.
- Procedures were established for hearings on annual review of the placement of a dependent child.
- Procedures were established for intercounty transfers, designed in part to give the court increased ability to monitor these cases during transfer so as to reduce unnecessary periods of detention.
- The functions of a supplemental petition and an application for modification were more clearly defined and procedures were established.

The juvenile court rules are amended as necessary to incorporate new developments in the law.

TITLE FOUR

SPECIAL RULES FOR TRIAL COURTS

DIVISION Ia. JUVENILE COURT RULES

Rules 1301–1396. [Repealed effective July 1, 1989.]

CHAPTER 1. PRELIMINARY PROVISIONS—DEFINITIONS; CONSTRUCTION

CHAPTER 2. COMMENCEMENT OF JUVENILE COURT PROCEEDINGS

CHAPTER 3. GENERAL CONDUCT OF JUVENILE COURT PROCEEDINGS

CHAPTER 4. NONSTATUTORY PROCEDURES

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CHAPTER 6. SUBSEQUENT PETITIONS; MODIFICATIONS; APPEALS

CHAPTER 7. CASES PETITIONED UNDER SECTION 300

PART I. DETENTION

PART II. JURISDICTION

PART III. DISPOSITION

PART IV. REVIEWS, PERMANENT PLANNING

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124220

DIVISION Ia

JUVENILE COURT RULES

Adopted by the Judicial Council of the State of California
*Effective January 1, 1990**

CHAPTER 1. PRELIMINARY PROVISIONS—DEFINITIONS; CONSTRUCTION

Rule 1400. Preliminary provisions

(a) [Applicability of rules (§§ 200–945)]** The rules in this division apply to every action and proceeding to which the juvenile court law (Welf. & Inst. Code, div. 2, pt. 1, ch. 2, § 200 et seq.) applies and, unless they are elsewhere explicitly made applicable, do not apply to any other action or proceeding. The rules in this division do not apply to an action or proceeding heard by a traffic hearing officer, nor to a rehearing or appeal from a denial of a rehearing following an order by a traffic hearing officer.

(b) [Authority for and purpose of rules (Cal. Const., art. Vi, § 6; § 265)] The rules in this division are adopted by the Judicial Council pursuant to its constitutional and statutory authority to adopt rules for court administration, practice, and procedure, not inconsistent with statute. These rules are designed to implement the purposes of the juvenile court law by promoting uniformity in practice and procedure and by providing guidance to judges, referees, attorneys, probation officers, and others participating in the juvenile court.

(c) [Rules of construction] Unless the context otherwise requires, these preliminary provisions and the following rules of construction shall govern the construction of these rules:

(1) Insofar as these rules are substantially the same as existing statutory provisions relating to the same subject matter, these rules shall be construed as restatements of those statutes;

(2) Insofar as these rules may add to existing statutory provisions relating to the same subject matter, these rules shall be construed so as to implement the purposes of the juvenile court law.

(d) [Severability clause] If a rule or a subdivision of a rule in this division is invalid, all valid parts that are severable from the invalid part remain in effect. If a rule or a subdivision of a rule in this division is invalid in one or more of its applications, the rule or subdivision remains in effect in all valid applications that are severable from the invalid applications.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1401. Definitions; construction of terms

(a) [Definitions] As used in these rules, unless the context or subject matter otherwise requires:

(1) "Child" means a person under the age of 18 years;

(2) "Clerk" means the clerk of the juvenile court;

* Adopted pursuant to the authority contained in Section 6, Article VI, California Constitution; and Welfare and Institutions Code Section 265.

** Unless otherwise indicated, all section references are to the Welfare and Institutions Code.

(3) "Court" means the juvenile court, and includes the judge or referee of the juvenile court;

(4) "De facto parent" means a person who has been found by the court to have assumed, on a day-to-day basis, the role of parent, fulfilling both the child's physical and psychological needs for care and affection, and who has assumed that role for a substantial period;

(5) "Detained" means any removal of the child from the person or persons legally entitled to the child's physical custody, or any release of the child on home supervision under section 628.1 or 636;

(6) "Foster parent" includes a relative with whom the child is placed;

(7) "Guardian" means legal guardian of the child;

(8) "Member of the household," for purposes of section 300 proceedings, means any person continually or frequently found in the same household as the child;

(9) "Notice" means a paper to be filed with the court accompanied by proof of service upon each party required to be served in the manner prescribed by these rules. If a notice or other paper is required to be given to or served on a party, the notice or service shall be given to or made on the party's attorney of record, if any;

(10) "Notify" means to inform, either orally or in writing;

(11) "Petitioner," in section 300 proceedings, means the probation officer or county welfare department; "petitioner," in section 601 and 602 proceedings, means the probation officer or prosecuting attorney;

(12) "Probation officer," in section 300 proceedings, includes a social worker in the county agency responsible for the administration of child welfare;

(13) "Section" means a section of the Welfare and Institutions Code;

(14) "Social worker," in section 300 proceedings, includes a probation officer performing the child welfare duties;

(15) "Subdivision" means a subdivision of the rule in which the term appears.

(b) [Construction of terms] (1) "Shall" is mandatory and "may" is permissive.

(2) The past, present, and future tense include the others.

(3) The singular and plural number each includes the other.

[Repealed and adopted effective Jan. 1, 1990.]

CHAPTER 2. COMMENCEMENT OF JUVENILE COURT PROCEEDINGS

Rule 1403. Proper court; determination of child's residence

(a) [Proper court (§§ 327, 651)] The proper court in which to commence proceedings to declare a child a ward of dependent of the court is the juvenile court:

(1) In the county in which the child resides; or

(2) In the county in which the child is found; or

(3) In the county in which the acts take place or the circumstances exist which are alleged to bring the child within the provisions of section 300 or 601 or 602.

(b) [Determination of residence—general rule (§ 17.1)] Unless otherwise specifically provided in the juvenile court law or in these rules, the residence of a child for purposes of these rules shall be determined under section 17.1.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1404. Intake; guidelines

(a) [Role of juvenile court] The presiding judge of the juvenile court shall initiate meetings and cooperate with the probation department, welfare department, prosecuting attorney, law enforcement, and other persons and agencies performing an intake function to establish and maintain a fair and efficient intake program designed to promote swift and objective evaluation of the circumstances of any referral and to initiate whatever course of action appears necessary and desirable.

(b) [Purpose of intake program] A juvenile court intake program shall be designed to do all of the following:

(1) Provide for settlement at intake by excluding or diverting from the juvenile process at its inception:

(A) Matters over which the juvenile court has no jurisdiction;

(B) Matters in which there would be insufficient evidence to support the petition;

(C) Matters in which sufficient evidence may exist to bring the child within the jurisdiction of the juvenile court but which are not serious enough to require official action under the juvenile court law or which may be suitably referred to a nonjudicial agency available in the community;

(2) Provide for a program of informal supervision of the child under sections 330 and 654 in those cases where the child is or probably will soon be within the jurisdiction of the juvenile court and official intervention short of formal adjudication seems desirable;

(3) Provide for the commencement of proceedings in the juvenile court by the filing of a petition only when necessary for the welfare of the child and protection of the public.

(c) [Settlement at intake—factors for probation officer to consider] In determining whether a matter should be settled at intake (thereby excluding or diverting the matter from the juvenile court system) the probation officer shall consider:

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

(2) If the alleged condition or conduct is not considered serious, whether the child has previously presented no significant problems in the home, school, or community;

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

(4) Whether any agency or other resource within the community is better suited to serve the needs of the child, the parents, or both;

(5) The attitude of the child and the parent or guardian;

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

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

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

(9) The attitude of affected persons;

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

(d) [Informal supervision (§§ 330, 654)] (1) If after investigation the probation officer concludes that a child is or probably will soon be within the jurisdiction of the juvenile court, the probation officer may file a petition under section 300 or 601, or request that a petition be filed under section 602, or undertake a program of informal supervision of the child for not more than six months. The probation officer may file a petition or request that a petition be filed at any time within the six-month period.

(2) If the probation officer determines that the child on informal supervision under section 654 has not involved himself or herself in the specific programs within 60 days, the probation officer shall immediately file a petition or request that a petition be filed by the prosecuting attorney. If, however, in the judgment of the probation officer the interest of the child and the community can be protected, the probation officer shall make a diligent effort to proceed under section 654 or section 330.

(3) If the objectives of a service plan initiated under section 330 have not been achieved within six months, the probation officer may extend the period of the plan up to an additional six months if it appears the objectives of the plan can be achieved within that time, and if the parent or guardian consents.

(e) [Informal supervision—factors for probation officer to consider] In determining whether a program of informal supervision of the child should be undertaken, the probation officer shall consider:

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

(2) Whether the child and the parents seem able to resolve the matter with the assistance of the probation officer and without formal juvenile court action;

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

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

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

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

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

(8) The attitude of affected persons;

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

(f) [Filing of petition; role of probation officer and prosecuting attorney (§§ 325, 650)] Except as provided in sections 331, 364, 604, 653.5, 654, and 655, the probation officer or county welfare department shall have sole discretion whether to file a petition in section 300 and 601 proceedings, and in section 602 proceedings the prosecuting attorney shall have sole discretion.

(g) [Filing of petition—factors for probation officer to consider] In determining whether to file a petition under section 300 or 601 or to request the prosecuting attorney to file a petition under section 602, the probation officer shall consider:

(1) Whether any of the statutory criteria listed in rule 1482 relating to the fitness of the child are present;

(2) Whether the alleged conduct would be a felony if committed by an adult;

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

(4) Whether the alleged condition or conduct is not itself serious, but the child has had serious problems in the home, school, or community which indicate that formal juvenile court action would be desirable;

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

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

(7) Whether a chronic serious family problem continues to exist after other efforts to improve the problem have failed;

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

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

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

(11) The status of the child as a probationer or parolee;

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

(13) The attitude of affected persons;

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

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

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1405. Filing the petition; application for petition

(a) **[Filing the petition (§§ 325, 650)]** A proceeding in a juvenile court to declare a child a dependent of the court or a ward of the court is commenced by filing with the court a petition in conformity with the requirements of the juvenile court law.

(1) In proceedings to declare a child a dependent under section 300, the petition shall be filed by a social worker;

(2) In proceedings to declare a child a ward under section 601, the petition shall be filed by the probation officer;

(3) In proceedings to declare a child a ward under section 602, the petition shall be filed by the prosecuting attorney.

(b) **[Investigation by probation officer (§§ 328, 329, 652, 653)]** If the probation officer has cause to believe that there was or is within the county, or residing therein, a child within the provisions of section 300 or 601 or 602, or if any person applies to the probation officer under section 329 or 653 to commence proceedings in the juvenile court, the probation officer shall immediately make whatever investigation is deemed necessary to determine whether proceedings in the juvenile court are to be commenced. If the probation officer determines that proceedings to declare a child a ward of the court under section 602 should be commenced, the matter shall be referred to the prosecuting attorney.

(c) [Mandatory referrals (§ 653.5)] Notwithstanding subdivision (b), the probation officer shall take to the prosecuting attorney, within 48 hours, any affidavits requesting prosecution of a child if it appears to the probation officer that:

(1) The child has been referred for violation of an offense listed in subdivision (b) of section 707; or

(2) The child is under the age of 16 on the date of the alleged offense and the referral is the second referral on account of a felony; or

(3) The child is 16 years of age or older on the date of the offense and the referral is for a felony.

The provisions of this subdivision do not apply to narcotics and drug offenses listed in Penal Code section 1000.

(d) [Prosecutorial discretion] The prosecuting attorney may institute proceedings on a referred matter or may refer the matter back to the probation officer for appropriate action, which may include informal supervision.

(e) [Application for petition (§§ 329, 331, 653, 655)] Any person may apply to the probation officer to commence proceedings in the juvenile court. The application shall be in the form of an affidavit alleging facts showing that the child is a person described in section 300 or 601 or 602. The probation officer shall thereafter act on the application in accordance with section 329 or 653 or 653.5. If the probation officer does not file a petition in a section 300 or 601 proceeding, or does not request the prosecuting attorney to file a petition in a section 602 proceeding, the applicant may seek review of the probation officer's decision under section 331 or 655, whichever is appropriate.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1406. Form of petition; notice of hearing

(a) [Form of petition (§§ 332, 333, 656, 656.1, 656.5)] The petition shall be verified and shall contain all of the following:

(1) The name of the court to which the petition is addressed;

(2) The title of the proceeding;

(3) Each code section and subdivision under which the petition is filed;

(4) The name, age, and address, if any, of the child;

(5) The names and residence addresses, if known, of all parents and guardians of the child (if no parent or guardian resides within the state, or if the residence address is not known, the petition shall state the name and residence address, if known, of all adult relatives residing within the county or, if none, the adult relative residing nearest the court);

(6) A concise statement of facts, separately stated, supporting the conclusion that the child comes within the meaning of each section and subdivision under which the petition is filed;

(7) Whether the child is detained in custody and, if so, the date and the precise time the child was taken into custody;

(8) A notice to the father, mother, spouse, or other person liable for support of the child of the financial liabilities established by sections 903, 903.1, and 903.2;

(9) If the petition alleges that the child is a person described by section 602, whether the violation alleged is defined by statute as a felony or misdemeanor if committed by an adult.

A petition that is not verified maybe dismissed without prejudice by the court.

(b) [Amending the petition (§§ 348, 678)] The provisions of chapter 8 (beginning with § 469) of title 6 of part 2 of the Code of Civil Procedure relating to variance and amendment of pleadings in civil actions shall apply to petitions and proceedings in the juvenile court to the same extent and with the same effect as if proceedings under these rules were civil actions.

(c) [Notice of hearing; contents (§§ 335, 336, 658, 659)] When the petition is filed, the clerk shall issue a notice of hearing with a copy of the petition attached. The notice shall contain all of the following:

(1) The name and address of the person to whom the notice is directed;

(2) The date, time, and place of the hearing on the petition;

(3) The name of the child;

(4) Each code section and subdivision under which the petition has been filed;

(5) A statement that the child and the parent, guardian, or noticed adult relative are entitled to have an attorney present at the hearing on the petition, and that if the parent, guardian, or adult relative is indigent and if the child or parent, guardian, or adult relative desires to be represented by an attorney, that person shall promptly notify the clerk of the juvenile court, and that if counsel or legal assistance is furnished by the court, that person shall be liable to the county to the extent of ability to pay for all or part of the costs;

(6) A statement that the parent or guardian or responsible relative may be liable for the costs of support of the child in out-of-home placement.

(d) [Persons entitled to notice—§§ 601–602 cases (§ 658)] In section 601 or 602 proceedings, the clerk shall cause the notice and a copy of the petition to be served on each of the following:

(1) The child, if the child is eight or more years of age;

(2) Each person described in subdivision (a) (5) whose residence address is in the petition or becomes known to the clerk before the hearing;

(3) The attorney for the child and parent or guardian;

(4) The district attorney, if the district attorney has requested a copy of the petition.

(e) [Persons entitled to notice—§ 300 cases (§ 335)] In section 300 proceedings, the clerk shall cause the notice and a copy of the petition to be served on each of the following:

(1) The child, if the child is 10 or more years of age;

(2) Each parent, guardian, or adult relative whose residence address is in the petition or becomes known to the clerk before the hearing;

(3) The attorney for the child and parent or guardian;

(4) The district attorney, if the district attorney has requested a copy of the petition.

(f) [Persons entitled to notice—service; detention cases (§§ 337, 660)] If the child is detained in custody, the notice and a copy of the petition shall be served on the persons designated in subdivision (d) or (e) personally or by certified mail, return receipt requested, as soon as possible after the petition is filed and at least five calendar days before the time set for hearing, unless the hearing is set less than five calendar days after the petition is filed, in which case the notice and a copy of the petition shall be served at least 24 hours before the time set for hearing.

(g) [Persons entitled to notice—service; nondetention cases (§§ 337, 660)] If the child is not detained in custody, the notice and a copy of the petition shall be served on the persons designated in subdivision (d) or (e) personally or by certified mail, return receipt requested, or by first-class mail at least 10 calendar days before the time set for hearing. If the person resides outside the county, the mailing shall be made as soon as possible after the petition is filed and at least 10 calendar days before the date of the hearing. If a person fails to appear after service by mail, the court shall direct that personal service be made. In any case, personal service is deemed equivalent to service by certified or first-class mail.

(h) [Persons entitled to notice—waiver of service (§§ 337, 660)] Any person may waive service by voluntary appearance entered in the minutes of the court or by written waiver of service filed with the clerk.

(i) [Service on child's attorney (§ 660)] For purposes of time requirements under subdivisions (f) and (g) in proceedings brought under either section 601 or 602, service on the child's attorney is deemed equivalent to service on the child's parent or guardian.

(j) [Oral notice (§ 311)] The notice required by subdivision (e) may be given orally and shall be given orally if it appears that the parent, guardian, or adult relative does not read.

[Repealed and adopted effected Jan. 1, 1990.]

Rule 1407. Citation to appear; warrants of arrest; subpoenas

(a) [Citation to appear (§§ 338, 661)] In addition to the notice provided for in rule 1406(c), the court may issue a citation directing a parent or guardian of the child to appear at the time and place set for a hearing or financial evaluation, directing a person having custody or control of the child to bring the child to court, and stating that a parent or guardian and the child may be required to participate in a counseling program. Personal service of the citation shall be made at least 24 hours before the time stated for the appearance in court.

(b) [Warrant of arrest—parent, guardian, or person with custody (§§ 339, 662)] If the citation cannot be served, or if it is disobeyed, or if it appears to the court that the citation will probably be ineffective, the court may order a warrant of arrest to issue against the parent, guardian, or present custodian of the child.

(c) [Protective custody or warrant of arrest—child (§§ 340, 663)] If it appears to the court that the conduct and behavior of the child may endanger the health, person, welfare, or property of the child or others, or that the circumstances of the home environment may endanger the health, person, welfare, or property of the child, a warrant of arrest or protective custody warrant may be issued immediately.

(d) [Subpoenas (§§ 341, 664)] On the court's own motion or on request of the petitioner, the child, or the parent, guardian, or present custodian, the clerk shall issue subpoenas requiring attendance and testimony of witnesses and the production of papers at a hearing. No fee shall be charged for service of the

subpoena. If a witness appears pursuant to a subpoena, the court may order the payment of witness fees as a county charge in the amount and manner prescribed by statute.

[Repealed and adopted effective Jan. 1, 1990.]

CHAPTER 3. GENERAL CONDUCT OF JUVENILE COURT PROCEEDINGS

Rule 1410. Persons present

(a) **[Separate session; restriction on persons present (§§ 345, 675)]** All juvenile court proceedings shall be heard at a special or separate session of the court, and no other matter shall be heard at that session. No person on trial, awaiting trial, or accused of a crime, other than a parent, de facto parent, guardian, or relative of the child, shall be permitted to be present at the hearing, except while testifying as a witness.

(b) **[Persons present (§§ 280, 332, 335, 347, 349, 353, 656, 658, 677, 679, 681, 700)]** The following persons are entitled to be present:

(1) The child;

(2) All parents, de facto parents, and guardians of the child or, if no parent or guardian resides within the state or, if their places of residence are not known,

(A) any adult relatives residing within the county or, if none,

(B) any adult relatives residing nearest the court;

(3) Counsel representing the child or the parent, de facto parent, guardian, or adult relative;

(4) The probation officer or social worker;

(5) The prosecuting attorney, as provided in subdivisions (c) and (d);

(6) The court clerk;

(7) The official court reporter, as provided in rule 1411;

(8) At the court's discretion, a bailiff.

(c) **[Presence of prosecuting attorney—§§ 601–602 proceedings (§ 681)]** In proceedings brought under section 602, the prosecuting attorney shall appear on behalf of the people of the State of California. In proceedings brought under section 601, the prosecuting attorney may appear to assist in ascertaining and presenting the evidence if:

(1) The child is represented by counsel; and

(2) The court consents to or requests the prosecuting attorney's presence, or the probation officer requests and the court consents to the prosecuting attorney's presence.

(d) **[Presence of petitioner's attorney—§ 300 proceedings. (§ 317)]** In proceedings brought under section 300, the county counsel or district attorney shall appear and represent the petitioner if the parent or guardian is represented by counsel, and the juvenile court requests the attorney's presence.

(e) **[General public not admitted (§§ 346, 676)]** Except as provided in section 346 and 676, the public shall not be admitted to a juvenile court hearing.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1411. Court reporter; transcripts

(a) **[Hearing before judge (§§ 347, 677)]** If the hearing is before a judge or a referee acting as a temporary judge by stipulation, an official court reporter or other authorized reporting procedure shall record all proceedings.

(b) [Hearing before referee (§§ 347, 677)] If the hearing is before a referee not acting as a temporary judge, the judge may direct an official court reporter or other authorized reporting procedure to record all proceedings.

(c) [Preparation of transcript (§§ 347, 677)] If directed by the judge or if requested by a party or the attorney for a party, the official court reporter or other authorized transcriber shall prepare a transcript of the proceedings within such reasonable time after the hearing as the judge shall designate and shall certify that the proceedings have been correctly reported and transcribed. If directed by the judge, the official court reporter or authorized transcriber shall file the transcript with the clerk of the court.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1412. General provisions—proceedings

(a) [Control of proceedings (§§ 350, 680)] The court shall control all proceedings with a view to the expeditious and effective ascertainment of the jurisdictional facts and of all information relevant to the present condition and welfare of the child.

(b) [Conduct of proceedings (§§ 350, 680)] Unless there is a contested issue of fact or law, the proceedings shall be conducted in a nonadversarial atmosphere.

(c) [Testimony of child in chambers (§ 350)] In a hearing pursuant to section 300 et seq., a child may testify in chambers and outside the presence of the child's parent or guardian if the parent or guardian is represented by counsel who is present, and the court determines that any of the following circumstances exist:

(1) Testimony in chambers is necessary to ensure truthful testimony; or

(2) The child is likely to be intimidated by a formal courtroom setting; or

(3) The child is afraid to testify in front of the parent or guardian. In determining whether there is a basis for the child's in-chambers testimony, the court may consider the petitioner's report or other offers of proof. The parent or guardian may elect to have the court reporter read back the child's testimony.

(d) [Motion re burden of proof (§§ 350, 707.1)] In any hearing in which the petitioner has the burden of proof, after completion of the petitioner's case, any party or the court on its own may move that the court order whatever action the law requires if the burden of proof is not met. If the motion is denied, the child in a section 300 or section 601 or section 602 hearing, or the parent or guardian in a section 300 hearing, may offer evidence.

(e) [De facto parents] Upon a sufficient showing the court may recognize the child's present or previous custodians as de facto parents and grant standing to participate as parties in disposition hearings and any hearing thereafter at which the status of the dependent child is at issue. The de facto parent may:

(1) Be present at the hearing;

(2) Be represented by retained counsel or, at the discretion of the court, by appointed counsel;

(3) Present evidence.

(f) [Relatives] Upon a sufficient showing the court may permit relatives of the child to:

(1) Be present at the hearing;

(2) Address the court.

(g) [Right to counsel (§§ 317, 634)] At each hearing the court shall advise an unrepresented child, parent, or guardian of the right to be represented by counsel, and, if applicable, of the right to have counsel appointed, subject to a claim by the county for reimbursement as provided by law.

(h) [Appointment of counsel (§§ 317, 634)]

(1) In cases petitioned under section 300:

(A) The court shall appoint counsel for the child if it appears that the child would benefit from the appointment;

(B) The court shall appoint counsel for any parent or guardian unable to afford counsel if the child is placed in out-of-home care, or the recommendation of the petitioner is for out-of-home care, unless the court finds the parent or guardian has knowingly and intelligently waived the right to counsel. The court may also appoint counsel for the petitioner to represent the child unless the court determines that representation constitutes a conflict of interest. If the court finds a conflict exists, separate counsel shall be appointed for the child.

(2) In cases petitioned under section 601 or 602:

(A) The court shall appoint counsel for any child who appears without counsel, unless the child knowingly and intelligently waives the right to counsel. If the court determines that the parent or guardian can afford counsel but has not retained counsel for the child, the court shall appoint counsel for the child and order the parent or guardian to reimburse the county;

(B) The court may appoint counsel for a parent or guardian who desires but cannot afford counsel;

(C) If the parent has retained counsel for the child and a conflict arises, the court shall take steps to ensure that the child's interests are protected.

(i) [Advice of hearing rights (§§ 301, 311, 341, 630, 702.5)] The court shall advise the child, parent, and guardian in section 300 cases, and the child in section 601 or 602 cases, of the following rights:

(1) Any right to assert the privilege against self-incrimination;

(2) The right to confront and cross-examine the persons who prepared reports or documents submitted to the court by the petitioner, and the witnesses called to testify at the hearing;

(3) The right to use the process of the court to bring in witnesses;

(4) The right to present to the court relevant evidence the child or the parent or guardian desires to present.

The child, parent or guardian, and their attorneys have the right (i) to receive probation officer or social worker reports, and (ii) to inspect the documents used by the petitioner in preparing petitioner's report. Unless prohibited by court order, the child, parent or guardian, and their attorneys also have the right to receive all documents filed with the court.

(j) [Continuances—cases petitioned under section 300 (§ 352)]

(1) The court shall not continue a hearing beyond the time set by statute unless the court determines the continuance is not contrary to the interests of the child. In considering the child's interests, the court shall give substantial weight to a child's needs for stability and prompt resolution of custody status, and the damage of prolonged temporary placements.

(2) Continuances shall be granted only on a showing of good cause, and only for the time shown to be necessary. Stipulation between counsel, convenience of parties, and pending criminal or family law matters are not in and of themselves good cause.

(3) If a child has been removed from the custody of the parent or guardian, the court shall not grant a continuance that would cause the disposition hearing in section 361 to be completed more than 60 days after the detention hearing unless the court finds exceptional circumstances. In no event shall the disposition hearing be continued more than six months after the detention hearing.

(k) [Notice] At each hearing under section 300 et seq. the court shall determine whether notice has been given as required by law, and shall make an appropriate finding noted in the minutes.

(l) [Periodic reports] The court may require the petitioner or any other agency to submit reports concerning a child subject to the jurisdiction of the court.

(m) [Paternity] At a noticed hearing the court may make a finding of paternity of a child regarding whom a petition has been filed under sections 300 or 601 or 602, upon presentation of evidence by testimony, declaration, or tests performed under Evidence Code section 890 et seq.

(n) [Restraining orders] During the pendency of a proceeding to declare a child a dependent, the court may issue restraining orders as provided in section 213.5. The restraining orders may be prepared on Judicial Council form Restraining Order—Juvenile (JV-250).

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1415. General provisions—proceedings held before referees

(a) [Referees—appointment; powers (§ 247; Cal. Const., art. VI, § 22)] One or more referees may be appointed pursuant to section 247 to perform subordinate judicial duties assigned to the referee by the presiding judge of the juvenile court.

(b) [Referee as temporary judge (Cal. Const., art. VI, § 21)] If the referee is an attorney admitted to practice in this state, the parties litigant may stipulate pursuant to rule 244 that the referee shall act as a temporary judge with the same powers as a judge of the juvenile court. An official court report or other authorized reporting procedure shall record all proceedings.

(c) [Challenge of referee (§ 247.5; Code Civ. Proc., §§ 170, 170.6)] Sections 170 and 170.6 of the Code of Civil Procedure are applicable to referees. If a motion under those sections is granted, the presiding judge of the juvenile court may reassign the matter to another referee or judge.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1416. Conduct of proceedings held before a referee not acting as a temporary judge.

(a) [General conduct (§§ 248, 347, 677)] Proceedings heard by a referee not acting as a temporary judge shall be conducted in the same manner as proceedings heard by a judge, except:

(1) An official court reporter or other authorized reporting procedure shall record the proceedings if directed by the court; and

(2) The referee shall inform the child and parent or guardian of the right to seek review by a juvenile court judge.

(b) [Furnishing and serving findings and order; explanation of right to review (§ 248)] After each hearing before a referee, the referee shall make findings and enter an order as provided elsewhere in these rules. In each case the referee shall cause all of the following to be done promptly:

(1) Furnish a copy of the findings and order to the presiding judge of the juvenile court.

(2) Furnish to the child (if the child is 14 or more years of age or, if younger, as requested) a copy of the findings and order, with a written explanation of the right to seek review of the order by a juvenile court judge.

(3) Serve the parent and guardian, and counsel for the child, parent, and guardian, a copy of the findings and order, with a written explanation of the right to seek review of the order by a juvenile court judge. Service shall be by mail to the last known address and is deemed complete at the time of mailing.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1417. Orders of referees not acting as temporary judges

(a) [Effective date of order (§ 250)] Except as provided in subdivision (b) and subject to the right of review provided for in rule 1418, all orders of a referee shall become effective immediately and shall continue in effect unless vacated or modified upon rehearing by order of a juvenile court judge.

(b) [Orders requiring express approval of judge (§§ 249, 251)] The following orders made by a referee shall not become effective unless expressly approved by a juvenile court judge within two court days:

(1) Any order removing a child from the physical custody of the person legally entitled to custody; or

(2) Any order the presiding judge of the juvenile court requires to be expressly approved.

(c) [Finality date of order] An order of a referee shall become final 10 calendar days after service of a copy of the order and findings under rule 1416, if an application for rehearing has not been made within that time or if the judge of the juvenile court has not within the 10 days ordered a rehearing on the judge's own motion under rule 1418.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1418. Rehearing

(a) [Application for rehearing (§ 252)] An application for a rehearing of a proceeding before a referee not acting as a temporary judge may be made by the child, parent, or guardian at any time before the expiration of 10 calendar days after service of a copy of the order and findings. The application may be directed to all, or any specified part of, the order or findings and shall contain a brief statement of the factual or legal reasons for requesting the rehearing.

(b) [If no formal record (§ 252)] If the proceedings before the referee were not recorded by an official court reporter or other authorized reporting procedure, a rehearing shall be granted.

(c) [Hearing with court reporter (§ 252)] If the proceedings before the referee have been recorded by an official court reporter or other authorized reporting procedure, the judge of the juvenile court may, after reading the

transcript of the proceedings, grant or deny the application for rehearing. If the application is not denied within 20 calendar days following the date of receipt of the application, or within 45 calendar days if the court for good cause extends the time, the application shall be deemed granted.

(d) [Rehearing on motion of judge (§ 253)] Notwithstanding subdivision (a), at any time within 20 court days after a hearing before a referee, the judge may on the judge's own motion order a rehearing.

(e) [Hearing de novo (§ 254)] Rehearings of matters heard before a referee shall be conducted de novo before a judge of the juvenile court. A rehearing of a detention hearing shall be held within two court days after the rehearing is granted. A rehearing of other matters heard before a referee shall be held within 10 court days after the rehearing is granted.

(f) [Advice of appeal rights] If the judge of the juvenile court denies an application for rehearing directed in whole or in part to issues arising during a contested jurisdiction hearing, the judge shall advise, either orally or in writing, the child and the parent or guardian of all of the following:

(1) The right of the child, parent, or guardian to appeal from the court's judgment;

(2) The necessary steps and time for taking an appeal;

(3) The right of an indigent appellant to have counsel appointed by the reviewing court;

(4) The right of an indigent appellant to be provided a free copy of the transcript.

[Repealed and adopted effective Jan. 1, 1990.]

CHAPTER 4. NONSTATUTORY PROCEDURES

Rule 1420. Prehearing discovery

(a) [General purpose] This rule shall be liberally construed in favor of informal disclosures, subject to the right of a party to show privilege or other good cause not to disclose specific material or information.

(b) [Duty to disclose police reports] Upon filing the petition, petitioner shall promptly deliver to or make accessible for inspection and copying by the child and the parent or guardian, or their counsel, copies of the police, arrest, and crime reports relating to the pending matter. Privileged information may be omitted if notice of the omission is given simultaneously.

(c) [Affirmative duty to disclose] Petitioner shall disclose any evidence or information within petitioner's possession or control favorable to the child, parent, or guardian.

(d) [Material and information to be disclosed on request] Except as provided in subdivisions (g) and (h), petitioner shall, upon timely request, disclose to the child and parent or guardian, or their counsel, the following material and information within the petitioner's possession or control:

(1) Probation reports prepared in connection with the pending matter relating to the child, parent, or guardian;

(2) Records of statements, admissions, or conversations by the child, parent, or guardian;

(3) Records of statements, admissions, or conversations by any alleged coparticipant;

(4) Names and addresses of witnesses interviewed by an investigating authority in connection with the pending matter;

(5) Records of statements or conversations of witnesses or other persons interviewed by an investigating authority in connection with the pending matter;

(6) Reports or statements of experts made regarding the pending matter, including results of physical or mental examinations and results of scientific tests, experiments, or comparisons;

(7) Photographs or physical evidence relating to the pending matter;

(8) Records of prior felony convictions of the witnesses each party intends to call.

(e) [Disclosure in section 300 proceedings] Except as provided in subdivisions (g) and (h), the parent or guardian shall, upon timely request, disclose to petitioner material and information within the parent's or guardian's possession or control that is relevant. If the parent or guardian is represented by counsel, a disclosure request shall be made through counsel.

(f) [Motion for prehearing discovery] On refusal of a party to permit disclosure of information or inspection of materials, the requesting party or counsel may move the court for an order requiring timely disclosure of the information or materials. The motion shall specifically and clearly designate the items sought, state the relevancy of the items, and state that a timely request has been made for the items and that the other party has refused to provide them. Each court may by local rule establish the manner and time within which a motion under this subdivision shall be made.

(g) [Limits on duty to disclose—protective orders] On a showing of privilege or other good cause, the court may make orders restricting disclosures. All material and information to which a party is entitled must be disclosed in time to permit counsel to make beneficial use of them.

(h) [Limits on duty to disclose—excision] When some parts of the materials are discoverable under subdivisions (d) and (e) and other parts are not discoverable, the nondiscoverable material may be excised and need not be disclosed if the requesting party or counsel has been notified that the privileged material has been excised. Material ordered excised shall be sealed and preserved in the records of the court for review on appeal.

(i) [Conditions of discovery] An order of the court granting discovery under this rule may specify the time, place, and manner of making the discovery and inspection and may prescribe terms and conditions. Discovery shall be completed in a timely manner to avoid the delay or continuance of a scheduled hearing.

(j) [Failure to comply; sanctions] If at any time during the course of the proceedings it is brought to the attention of the court that a person has failed to comply with this rule or with an order issued under this rule, the court may order the person to permit the discovery or inspection of materials not previously disclosed, grant a continuance, prohibit a party from introducing in evidence the material not disclosed, dismiss the proceedings, or enter any other order the court deems just under the circumstances.

(k) [Continuing duty to disclose] If subsequent to compliance with these rules or with court orders a party discovers additional material or information

subject to disclosure, the party shall promptly notify the child and parent or guardian, or their counsel, of the existence of the additional matter.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1421 Granting immunity to witnesses

(a) [Privilege against self-incrimination] If a person is called as a witness and it appears to the court that the testimony or other evidence being sought may tend to incriminate the witness, the court shall advise the witness of the privilege against self-incrimination and of the possible consequences of testifying. The court shall also inform the witness of the right to representation by counsel and, if indigent, of the right to have counsel appointed.

(b) [Authority of judge to grant immunity] If a witness refuses to answer a question or to produce evidence based upon a claim of the privilege against self-incrimination, a judge may grant immunity to the witness under subdivision (c) or (d) and order the question answered or the evidence produced.

(c) [Request for immunity—§ 602 proceedings] In proceedings under section 602, the prosecuting attorney may make a written request or an oral request on the record that a judge order a witness to answer a question or produce evidence. The judge shall then proceed under Penal Code section 1324 or 1324.1. After complying with an order to answer a question or produce evidence and if, but for those Penal Code sections or this rule, the witness would have been privileged to withhold the answer given or the evidence produced, the witness shall not be subject to proceedings under the juvenile court law, to criminal prosecution, or to a penalty or forfeiture for, or on account of, any fact or act concerning which, in accordance with the order, the witness was required to answer or produce evidence.

(d) [Request for immunity—§§ 300, 601 proceedings] In proceedings under section 300 or 601, the prosecuting attorney or petitioner may make a written request or an oral request on the record that the judge order a witness to answer a question or produce evidence. They may also make the request jointly. If the request is not made jointly, the other party shall be given the opportunity to show why immunity is not to be granted and the judge may grant or deny the request as deemed appropriate. If jointly made, the judge shall grant the request unless the judge finds that to do so would be clearly contrary to the public interest. The terms of a grant of immunity shall be stated in the record. After complying with the order and if, but for this rule, the witness would have been privileged to withhold the answer given or the evidence produced, any answer given, evidence produced, or any information derived therefrom shall not be used against the witness in a juvenile court or criminal proceeding.

(e) [No immunity from perjury or contempt] Notwithstanding subdivision (c) or (d), a witness may be subject to proceedings under the juvenile court law or to criminal prosecution for perjury, false swearing, or contempt committed in answering or failing to answer or in producing or failing to produce evidence in accordance with the order.

[Repealed and adopted effective Jan. 1, 1990.]

CHAPTER 5. INTERCOUNTY TRANSFERS

Rule 1452. Transfer-out hearing

(a) [Determination of residence—special rule on intercounty transfers (§§ 375, 750)] For purposes of rules 1425 and 1426, the residence of the child shall be the residence of the person who has the legal right to custody of the child according to prior court order, including (1) a juvenile court order under § 361.2 and (2) an order appointing a guardian of the person of the child.

If there is no order determining custody, custody shall be with both parents.

The juvenile court may make a finding of paternity under rule 1412. If there is no finding of paternity, custody shall be with the mother.

Residence of a ward may be with the person with whom the child resides with approval of the court.

(b) [Verification of residence] The residence of the person entitled to custody may be verified by the person in court or by declaration by a probation officer in the transferring or receiving county.

(c) [Transfer to county of child's residence (§§ 375, 750)] After making its jurisdictional finding, the court may order the case transferred to the juvenile court of the county of the residence of the child if:

(1) The petition was filed in a county other than that of the residence of the child, or

(2) The residence of the child was changed to another county after the petition was filed.

If the court decides to transfer the case, the court shall order the transfer before beginning the 602 disposition hearing without adjudging the child to be a ward. The court may transfer before or after the 300 disposition hearing.

(d) [Transfer on subsequent change in child's residence (§§ 375, 750)] If after the child has been placed under a program of supervision the residence is changed to another county, the court may upon an application for modification under rule 1432 transfer the case to the juvenile court of the other county.

(e) [Conduct of hearing] After the court determines the identity and residence of the child's custodian, the court shall consider whether transfer of the case would be in the child's best interest.

(f) [Order of transfer (§§ 377, 752)] The order of transfer shall:

(1) Recite, or incorporate by reference to the papers transmitted under subdivision (g), each of the findings, orders, and modifications of orders made in the case;

(2) Include the name and residence address of the parent or guardian;

(3) Order the case transferred. If the child is ordered transported in custody, the court shall order the probation officer, sheriff, or other peace officer of the transferring court to transport the child to the receiving county within seven court days.

(g) [Transmittal of papers (§§ 377, 752)] The clerk of the transferring court shall immediately transmit to the receiving court all papers contained in the files. Certified copies shall be deemed originals.

(h) [Appeal of transfer order (§§ 379, 754)] The order of transfer may be appealed by the transferring or receiving county and notice of appeal shall be filed in the transferring county.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1426. Transfer-in hearing

(a) [Procedure on transfer (§§ 378, 753)] Upon receipt and filing of an order of transfer, the receiving court shall take jurisdiction of the case. The clerk shall immediately place the transfer order on the court calendar for hearing by the court (1) within two court days after the order is filed if the child is detained in custody or (2) within 10 court days if the child is not detained in custody or is in placement. The clerk shall immediately cause notice to be given to the child and the parent or guardian, orally or in writing, of the time and place of the transfer-in hearing.

(b) [Conduct of hearing] At the transfer-in hearing, the court shall:

(1) Advise the child and the parent or guardian of the purpose and scope of the hearing;

(2) Provide for the appointment of counsel if appropriate; and

(3) If the child was transferred to the county in custody, determine whether the child shall be further detained pursuant to rule 1440 or 1470.

(c) [Subsequent proceedings] The proceedings in the receiving court shall commence at the same phase as when the case was transferred. The court may continue the hearing for an investigation and report to a date not to exceed 10 court days if the child is in custody or 30 calendar days if the child is not detained in custody.

(d) [Limitation on more restrictive custody (§§ 387, 777)] If a disposition order has already been made in the transferring county, a more restrictive level of physical custody shall not be ordered in the receiving county except after a hearing upon a supplemental petition under rule 1431.

(e) [Setting six-month review (§ 366)] When an order of transfer is received and filed relating to a child who has been declared a dependent, the court shall set a date for a six-month review within six months of the disposition or the most recent review hearing.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1427. Courtesy supervision

[Courtesy supervision (§§ 380, 755)] The court may authorize a child placed on probation, a ward, or a dependent child to live in another county and to be placed under the supervision of the other county's probation officer with the probation officer's consent. The court in the county ordering placement shall retain jurisdiction over the child.

[Repealed and adopted effective Jan. 1, 1990.]

CHAPTER 6. SUBSEQUENT PETITIONS; MODIFICATIONS; APPEALS

Rule 1430. General provisions

(a) [General authority of the court (§§ 385, 775)] Subject to the procedural requirements prescribed by this chapter, an order made by the court may at any time be changed, modified, or set aside.

(b) [Subsequent petitions (§§ 342, 360(b), 364)] Petitioner shall file a subsequent petition if:

(1) A child has previously been found to be a person described by section 300 and the petitioner alleges new facts or circumstances, other than those sustained

in the original petition, sufficient to again describe the child as a person under section 300 based on these new facts or circumstances; or

(2) At or after the disposition hearing the court has ordered that a parent or guardian retain custody of the dependent child and the petitioner receives information providing reasonable cause to believe the child is now, or once again, described by section 300(a), (d), or (e); or

(3) The family is unwilling or unable to cooperate with services previously ordered pursuant to § 330.

All procedures and hearings required for an original petition shall be required for a subsequent petition.

(c) [Supplemental petition (§§ 387, 777)] A supplemental petition shall be used if:

(1) Petitioner concludes that a previous disposition has not been effective in the rehabilitation or protection of a child adjudged to be a ward or probationer under section 601 or 602 or declared a dependent under section 300 and seeks a more restrictive level of physical custody. For purposes of this chapter, a more restrictive level of custody shall be, in ascending order:

(A) Placement in the home of the person entitled to legal custody;

(B) Placement in the home of a noncustodial parent;

(C) Placement in the home of a relative or friend;

(D) Placement in a foster home;

(E) Commitment to a private institution;

(F) Commitment to a county institution;

(G) Commitment to the California Youth Authority.

(2) The petition alleges a violation of a condition of probation and seeks commitment of a ward to a county juvenile institution for a period of 30 days or less or seeks a less restrictive level of physical custody.

Before any period of commitment in excess of 15 days is ordered, the court shall consider the effect of an extended commitment on the child's schooling, including possible loss of credits, and on the child's employment.

(d) [Application for modification hearing (§§ 388, 778)] An application for modification hearing shall be used if there is a change of circumstances or new evidence that may require the court to:

(1) Change, modify, or set aside an order previously made; or

(2) Terminate the jurisdiction of the court over the child.

An application for modification hearing may be filed by the probation officer or social worker, a parent or guardian, the child, the attorney for the child, or any other person having an interest in a child who is a ward or dependent.

(e) [Clerical errors] Clerical errors in judgments, orders, or other parts of the record may be corrected by the court at any time on the court's own motion or on motion of any party and may be entered nunc pro tunc.

(f) [Stayed commitment order (§ 777(e))] Notwithstanding subdivision (c), if a previous order imposing 30 days or less in custody in a county institution has been stayed as a condition of probation, the court may conduct a hearing under rule 1433.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1431. Hearing on subsequent and supplemental petitions (§§ 342, 364, 386, 387, 776, 777)

(a) [Contents of subsequent and supplemental petitions (§§ 342, 364, 387, 777)] A subsequent petition and a supplemental petition shall be verified and contain the information required in an original petition as described in rule 1406. A supplemental petition shall also contain a concise statement of facts sufficient to support:

(1) The conclusion that the previous disposition has not been effective in the rehabilitation or protection of the child; or

(2) The conclusion that the ward or probationer has violated a condition of probation and commitment to a county juvenile institution for 30 days or less or a less restrictive disposition is in the best interest of the child.

(b) [Filing a supplemental petition (§ 777)] If a supplemental petition alleges commission of a crime by a 602 ward, the district attorney may file the supplemental petition at the request of the probation officer. If a petition alleges that the 602 ward has violated a condition of probation not amounting to a crime or the child is a 601 ward or probationer, the probation officer may file the supplemental petition.

(c) [Setting the hearing; notice of hearing (§§ 342, 364, 386, 387, 777)] When a subsequent or supplemental petition is filed, the clerk shall immediately set it to be heard. The hearing shall be begun within the time limits prescribed for jurisdiction hearings on original petitions under rule 1447 or 1485, as appropriate. Petitioner shall cause notice of the hearing to be served upon the persons and in the same manner prescribed by rule 1406. The present custodian of a dependent child shall be similarly notified.

(d) [Detention hearing (§§ 387, 777)] Chapter 7 part 1 or Chapter 8 part 1 of these rules shall apply to a child detained on a supplemental or subsequent petition.

(e) [Requirement for bifurcated hearing] The hearing on a subsequent or supplemental petition shall be conducted as follows:

(1) The procedures relating to jurisdiction hearings prescribed in chapter 7 for dependent children and chapter 8 for delinquent children shall apply to the determination of the allegations of a subsequent or supplemental petition. At the conclusion of the hearing on a subsequent petition the court shall make a finding that the allegations of the petition are or are not true. At the conclusion of the hearing on a supplemental petition the court shall make findings that:

(A) The factual allegations are or are not true; and

(B) The allegation that the previous disposition has not been effective is or is not true; or that commitment to a county juvenile institution for a period of 30 days or less or a less restrictive disposition is or is not in the best interest of the child.

(2) The procedures relating to disposition hearings prescribed in chapter 7 for dependent children and chapter 8 for delinquent children shall apply to the determination of disposition on a subsequent or supplemental petition. If the court finds under a subsequent petition the child is described by section 300(a), (d), or (e), the court shall remove the child from the physical custody of the parent or guardian.

(f) [Supplemental petition (§ 387)—permanency planning] If a dependent child was returned to the custody of a parent or guardian at the 12-month review or the 18-month review or at an interim review between 12 and 18 months and a 387 petition is sustained and the child removed once again, the court shall:

(1) Set a hearing under section 366.25 if dependency was declared before January 1, 1989, unless the court finds there is a substantial probability of return within the next six months or, if more than 12 months had expired at the time of the prior return, within whatever time remains before the expiration of the maximum 18-month period; or

(2) Set a hearing under section 366.26 if dependency was declared after January 1, 1989, unless the court finds there is a substantial probability of return within the next six months or, if more than 12 months had expired at the time of the prior return, within whatever time remains before the expiration of the maximum 18-month period.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1432. Application for modification

(a) [Contents of application (§§ 388, 778)] An application for modificationshall be liberally construed in favor of its sufficiency. The application shall be verified and shall contain the following:

(1) The name of the court to which the application is addressed;

(2) The title and action number of the original proceeding;

(3) The name, age, and address of the child;

(4) The name and residence address, if known, of the parent or guardian or an adult relative of the child, if appropriate under circumstances described in rule 1406;

(5) The date and general nature of the order sought to be modified;

(6) A concise statement of any change of circumstance or new evidence that requires changing the order;

(7) A concise statement of the proposed change of the order;

(8) A statement of the applicant's relationship or interest in the child, if the application is made by a person other than the child;

(9) A statement whether or not all parties agree to the proposed change.

(b) [Denial of hearing] If the application fails to state a change of circumstance or new evidence that might require a change of order or termination of jurisdiction, the court may deny the application ex parte.

(c) [Grounds for grant of application (§§ 388, 778)] If the application states a change of circumstance or new evidence and it appears that the best interest of the child may be promoted by the proposed change of order or termination of jurisdiction, the court may grant the application after following the procedures in subdivisions (d) and (e).

(d) [Hearing on application] If all parties agree to the requested modification, the court may order modification without a hearing. If the parties do not agree to the requested modification, the modification will be contested or if the court desires to receive further evidence on the issue, the court shall order that a hearing on the application for modification be held within 30 calendar days after the application is filed.

(e) [Notice of application and hearing (§§ 386, 776)] The clerk shall cause notice of the application hearing to be given to the child, parent or guardian, prosecuting attorney, probation officer or social worker, counsel of record, and present custodian of a dependent child, as prescribed by rule 1406.

[Repealed and adopted effected Jan. 1, 1990.]

Rule 1433. Hearing on imposition of commitment order (§ 777(e))

(a) [Notice of hearing] Notice of a hearing to be held under section 777(e) shall be served as provided in rule 1406. The notice shall contain the following:

(1) The name of the child;

(2) The date, time, and place of the hearing;

(3) The purpose and scope of the hearing;

(4) A statement of the right of the child to be represented by counsel at the hearing and, if applicable, of the right to appointed counsel.

(b) [Report of probation officer] Before every hearing the probation officer shall prepare a report on those matters relevant to a determination of whether the child has violated a condition of probation. The report shall be furnished to all parties at least 48 hours before the beginning of the hearing unless the child is represented by counsel and waives the right to service of the report.

(c) [Evidence considered] The court shall consider the report prepared by the probation officer and other relevant and material evidence offered by the parties to the proceeding.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1435. Review by appeal

(a) [Right to appeal—§§ 601–602 proceedings] In proceedings under section 601 or 602, the child may appeal from any judgment, order, or decree specified in section 800. The parent or guardian may appeal from any judgment, order, or decree specified in section 800 in which the child is removed from the physical custody of the parent or guardian. The child and parent or guardian are entitled to representation by counsel on appeal and, if indigent, may have counsel appointed by the reviewing court. In the absence of an actual conflict of interest, it is presumed that one attorney may represent the interests of both the child and the parent or guardian.

(b) [Right to appeal—§ 300 proceedings] In proceedings under section 300, the petitioner, child, and the parent or guardian may appeal from any judgment, order, or decree specified in section 395. An order under section 366.25 authorizing the filing of a petition under Civil Code section 232, or the initiation of a guardianship proceeding, is not an appealable order. All appellants are entitled to representation by counsel and, if indigent, the child and parent or guardian may have counsel appointed by the reviewing court.

(c) [Stay of execution of order or judgment (§§ 395, 800)] The court shall not stay an order or judgment pending an appeal unless suitable provision is made for the maintenance, care, and custody of the child.

(d) [Advice of appeal rights—rule 251] If at a contested hearing on an issue of fact or law the court finds that the child is described by section 300, 601, or 602 or sustains a supplemental or subsequent petition, the court after making its disposition order shall advise, orally or in writing, the child, if of sufficient age, and, if present, the parent or guardian of:

(1) The right of the child and parent or guardian to appeal from the court order;

(2) The necessary steps and time for taking an appeal;

(3) The right of an indigent appellant to have counsel appointed by the reviewing court;

(4) The right of an indigent appellant to be provided with a free copy of the transcript.

(e) [Procedure] Procedures for appeals from juvenile court are in rules 39 and 39.1.

[Repealed and adopted effective Jan. 1, 1990.]

CHAPTER 7. CASES PETITIONED UNDER SECTION 300

PART I. DETENTION

Rule 1439. Transition rule for section 300 petitions

(a) [Conforming petition to new jurisdictional subdivisions] If a petition filed before January 1, 1989, alleges the child is described in section 300 under the subdivision lettering then in effect and petitioner did not make separate allegations under newly revised section 300, and if the jurisdiction hearing is not held or completed until after January 1, 1989, the petitioner shall either:

(1) Amend the petition in writing to indicate each subdivision under section 300 as revised effective January 1, 1989, or

(2) Make an oral motion to amend the petition at the first hearing held after January 1, 1989, indicating that the facts alleged in the petition, if found to be true, are sufficient to sustain jurisdiction under the revised section 300 and stating on the record each subdivision alleged under revised section 300.

(A) [Findings by court—amending petition] If the court determines that the petition contains a statement of facts which, if found to be true, are sufficient to support a conclusion that the child is a person within the definition of any subdivision of revised section 300, the court shall make findings, noted in the minutes, that the factual allegations of the petition, if found to be true, are sufficiently stated to support a finding under one or more of subdivisions (a), (b), (c), (d), (e), (f), (g), (h), (i), and (j) of section 300 as revised effective January 1, 1989.

(B) [Notice to parties—orally amended petition] All parties entitled to receive notice who were not present at the hearing at which the petition was orally amended shall be given notice in accordance with section 337.

(C) [Recitation of subdivision language—jurisdiction hearing] If the court sustains a petition amended orally to conform to revised section 300, the court shall specify in its findings and orders the subdivisions under which it is taking jurisdiction and shall read to those present the relevant language of each sustained subdivision.

(b) [Findings of court—disposition hearing] If a jurisdiction hearing occurred on or before December 31, 1988, sustaining a petition under the subdivision lettering of section 300 then in effect and if the disposition hearing does not occur until after January 1, 1989, the court shall determine if the facts in the sustained petition are sufficient to declare the child a dependent under section 300 as revised effective January 1, 1989.

If the court determines that the petition contains a statement of facts sufficient to declare the child a dependent within the definition of any subdivision of revised section 300, the court shall make findings, noted in the minutes, that the factual allegations of the petition are sufficient to declare the child a dependent under one or more of subdivisions (a), (b), (c), (d), (e), (f), (g), (h), (i), or (j) of section 300 as revised effective January 1, 1989.

If the court orders and adjudges the child to be a dependent child of the court, the court shall specify in its findings and orders the revised subdivisions and shall read to those present the relevant language of each sustained subdivision.

(c) [Allegations not sufficient] If the court determines that the petition does not contain a statement of facts sufficient to support a conclusion that the child is a person within the definition of any subdivision of revised section 300, the petitioner may file an amended petition alleging the subdivisions of section 300 as revised effective January 1, 1989. If the child is detained at the time an amended petition is filed, a new detention hearing shall be held. Nothing in this rule requires that the child be released prior to the next detention hearing.

(d) [Expiration date] This rule expires December 31, 1990.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1440. Time limit on custody; detention hearing

(a) [Time limit on custody, filing petition, setting hearing (§§ 311, 313)] If the social worker determines that the child should be detained, the social worker shall immediately file a petition with the clerk of the juvenile court, and the clerk shall immediately set the matter for hearing on the detention hearing calendar. A child taken into custody shall be released within 48 hours, excluding noncourt days, unless a petition has been filed.

(b) [Detention—child in medical facility (§ 309)] For purposes of these rules, a child shall be deemed to have been taken into custody and delivered to the social worker if the child is under medical care and cannot be immediately moved and there is reasonable cause to believe that the child is described in section 300.

(c) [Service and notice (§§ 311, 312)]

(1) Immediately upon filing the petition for a child detained in custody, the social worker shall serve each parent and guardian and the child, if the child is 10 or more years of age, with a copy of the petition and with written or oral notice of the time and place of the detention hearing, if the whereabouts of each parent or guardian can be ascertained by due diligence. If there is no parent or guardian residing within the state, or if their residence is unknown, the social worker shall serve and notify any adult relative residing within the country or, if none, the adult relative residing nearest the court.

(2) If it appears that the parent or guardian does not read English, notice shall be given in the language believed to be spoken by the parent or guardian.

(3) Notice shall also be given to all counsel of record.

(d) [Detention hearing—time of (§ 315)] Unless sooner released, a child taken into custody shall be brought before the juvenile court for a detention hearing as soon as possible, but in any event before the end of the next court day after a petition has been filed. At the detention hearing, the court shall determine

whether the child is to be further detained. If the detention hearing is not begun within that time, the child shall be immediately released from custody.

(e) **[Detention hearing—warrant cases, transfers in, change in placement]** Notwithstanding subdivision (e), the child, unless sooner released, shall be brought before the juvenile court for a detention hearing as soon as possible, but in any event within 48 hours, excluding noncourt days, after arriving at a facility within the county if:

(1) The child was taken into custody in another county and transported in custody to the requesting county under a warrant issued by the juvenile court; or

(2) The child was taken into custody in the county in which a protective custody warrant was issued by the juvenile court; or

(3) The child was ordered transferred in custody by the juvenile court of another county under rule 1425.

At the hearing, the court shall determine whether the child is to be further detained. If the hearing is not begun within that time, the child shall be immediately released from custody.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1441. Continuances

(a) **[Right to one-day continuance (§ 322)]** On motion of the child, parent, or guardian, the court shall continue the detention hearing for one court day.

(b) **[Custody pending continued hearing]** Unless otherwise ordered by the court, the child shall remain in custody pending completion of the detention hearing or rehearing.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1442. Commencement of hearing—explanation of proceedings (§ 316)

At the beginning of the detention hearing, the court shall inform each parent or guardian and the child, if present, of the following:

(1) The contents and meaning of the petition;

(2) The reasons the child was taken into custody;

(3) The nature of, and possible consequences of, juvenile court proceedings;

(4) The purpose and scope of the detention hearing.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1443. Conduct of detention hearing; admission, no contest, submission

(a) **[Examination by court (§ 319)]** Subject to subdivision (b), the court shall examine the child's parents, guardian, or other person having knowledge relevant to the ground for detention and shall hear any relevant evidence petitioner, the child, the parents or guardian, or their counsel desire to present.

(b) **[Rights of child, parent, or guardian (§§ 311, 319)]** At any detention proceeding, the child, the parent, and the guardian have a privilege against self-incrimination and a right to confront and cross-examine the following:

(1) The preparer of a police report, probation or social work report, or other document submitted to the court under rule 1446; and

(2) Any person examined by the court under subdivision (a).

(c) [Admission, no contest, submission] At the detention hearing, the parent or guardian may admit the allegations of the petition, plead no contest, or submit the jurisdictional determination to the court based upon the information provided to the court and waive further jurisdictional hearing.

When accepting an admission, plea of no contest, or submission, the court shall proceed according to rules 1449 and 1451.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1444. Prerequisites for detention

(a) [Prerequisites for detention (§ 319)] No child shall be ordered detained by the court unless the court finds:

(1) A prima facie showing has been made that the child is described by section 300; and

(2) One or more of the grounds for detention in rule 1445 is found.

(b) [Evidence required at detention hearing] In making the findings prerequisite to an order of detention, the court may rely solely upon written police reports, probation or social worker reports, or other documents.

The reports shall include:

(1) A statement of the reasons the child was removed from the parent's custody.

(2) A description of the services that have been provided and whether there are available services that would prevent the need for further detention,

(3) The need, if any, for continued detention, and

(4) If continued detention is recommended,

(A) Whether there is a parent of the child with whom the child was not residing at the time of detention, or a relative who is able and willing to take temporary custody of the child, and

(B) A description of the available services and referral methods to be used to facilitate the return of the child.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1445. Grounds for detention; factors to consider and findings

(a) [Grounds for detention (§ 319)] The court shall not order a child to be detained unless the court finds that one of the following grounds exists, in which event the court may order that the child be detained in custody in a suitable place or home designated by the court:

(1) There is substantial danger to the physical health of the child or the child is suffering severe emotional damage and there are no reasonable means to protect the child's physical or emotional health without removing the child from the parent's or guardian's physical custody;

(2) The child is a dependent of the juvenile court who has left a placement;

(3) The parent, guardian, or responsible relative to likely to flee the jurisdiction of the court;

(4) The child is unwilling to return home and the petitioner alleges that the child has been physically or sexually abused by a person residing in the home.

(b) [Factors to consider] In determining whether to release or detain the child under subdivision (a), the court shall consider whether the child can be returned home if the court orders services to be provided.

(c) [Reasonable efforts to prevent removal] Whether the child is released or detained at the hearing, the court shall determine whether reasonable efforts to prevent or eliminate the need for removal were made and shall make one of the following findings:

(1) Reasonable efforts have been made; or

(2) Reasonable efforts have not been made; or

(3) The lack of effort was reasonable because of the emergency nature of the removal.

(d) [Visitation] If the child is detained, the court shall consider the issue of visitation with the parent or guardian and with any others with whom contact would benefit the child and make appropriate orders.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1446. Rehearings

(a) [No detention rehearing if preparers available] If the preparers of all reports or documents relied upon by the court in making its detention decision are present in court or are otherwise made available for purposes of confrontation and cross-examination at the detention hearing, there shall be no right to a detention rehearing under section 321.

(b) [Rehearing for further evidence (§ 321)] After a decision of detention has been made, the child, the parent or guardian, or the child's attorney or guardian ad litem may request further evidence of the prima facie case or the ground for detention by invoking the right to confront and to cross-examine the preparers of reports or documents relied upon by the court in its initial decision. If that request is made, a detention rehearing shall be held within three court days and as prescribed in section 321.

If the preparer of any report or document is not made available for purposes of confrontation and cross-examination, the report or document shall not be considered by the court in making its detention decision.

(c) [Alternate hearing date (§ 321)] Instead of the detention rehearing provided in subdivision (a), the court may set the jurisdiction hearing to commence within 10 court days of the detention hearing.

(d) [Rehearings—lack of notice (§ 321)] When a detention hearing has been held and no parent or guardian was present because they did not receive actual notice of the hearing, the parent or guardian may file an affidavit stating that fact. The clerk shall immediately set the matter for rehearing within 24 hours after the affidavit is filed, excluding noncourt days. At the rehearing, the court shall proceed in the same manner as the original hearing.

(Repealed and adopted effective Jan. 1, 1990.]

Rule 1447. Setting petition for hearing—detained and nondetained cases; waiver of hearing

(a) [Nondetention cases (§ 334)] If the child is not detained, the clerk shall, upon the filing of the petition, set the petition to be heard, and the hearing shall be begun within 30 calendar days from the date the petition is filed.

(b) [Detention cases (§ 334)] If the child is detained at the time the petition is filed, the clerk shall set the petition to be heard, and the hearing shall be begun within 15 court days from the date of the order of the court directing

detention. If the child is released from detention before the jurisdiction hearing, the court may reset the petition for hearing within the time prescribed by subdivision (a).

(c) [Calendar preference (§ 345)] If the child is detained in custody the case shall be granted precedence on the calendar of the court for the day on which the case is set for hearing.

(d) [Dismissal] Absent a continuance granted under section 352 or a time waiver by the parties, when a jurisdiction hearing is not begun within the time prescribed in subdivision (a) or (b), the court shall order the petition dismissed. An order dismissing the petition before the jurisdiction hearing shall not bar the filing of another petition for new proceedings based upon the same allegations as in the original petition. If the child is detained at the time this petition is filed, a new detention hearing shall be held.

[Repealed and adopted effective Jan. 1, 1990.]

PART II. JURISDICTION

Rule 1449. Commencement of jurisdiction hearing—advice of trial rights; admission; no contest; submission

(a) [Petition read and explained (§ 353)] At the beginning of the jurisdiction hearing, the petition shall be read to those present. On request of the child or the parent, guardian, or adult relative, the court shall explain the meaning and contents of the petition and the nature of the hearing, its procedures, and possible consequences.

(b) [Trial rights explained (§§ 341, 353)] The court shall then advise the parent or guardian of the following rights:

(1) The right to a trial by the court on the issues raised by the petition;

(2) The right to assert the privilege against self-incrimination;

(3) The right to confront and to cross-examine all witnesses called to testify against the parent or guardian;

(4) The right to use the process of the court to compel attendance of witnesses on behalf of the parent or guardian.

(c) [Admission of allegations; prerequisites to acceptance] The court shall then inquire whether the parent or guardian intends to admit or deny the truth of the allegations of the petition. If the parent or guardian neither admits nor denies the truth of the allegations, the court shall indicate for the record that the parent or guardian does not admit the truth of the allegations. Before accepting an admission that the allegations of the petition are true, the court should satisfy itself that the parent or guardian understands the trial rights in subdivision (a) and that the parent or guardian is admitting the petition because that person did in fact commit the acts alleged.

(d) [Parent or guardian must admit] An admission by the parent or guardian shall be made personally by the parent or guardian.

(e) [Admission, no contest, submission] The parents or guardian may elect to admit the allegations of the petition, plead no contest, or submit the jurisdictional determination to the court based on the information provided to the court, and waive further jurisdictional hearing.

(f) [Findings by court (§ 356)] Upon admission, plea of no contest, or submission, the court shall make the following findings noted in the minutes of the court:

(1) Notice has been given as required by law;

(2) The birthdate and county of residence of the child;

(3) The parent or guardian has knowingly and intelligently waived the right to a trial on the issues by the court, the right to assert the privilege against self-incrimination, and the right to confront and to cross-examine adverse witnesses and to use the process of the court to compel the attendance of witnesses on the parent or guardian's behalf;

(4) The parent or guardian understands the nature of the conduct alleged in the petition and the possible consequences of an admission;

(5) The admission by the parent or guardian is freely and voluntarily made;

(6) There is a factual basis for the parent or guardian's admission;

(7) Those allegations of the petition as admitted are true as alleged;

(8) The child is described under one or more specific subdivisions of section 300.

(g) [Disposition] After accepting an admission, plea of no contest, or submission, the court shall proceed to disposition hearing under rule 1451.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1450. Contested hearing on petition.

(a) [Contested jurisdiction hearing (§ 355)] If the parent or guardian denies the allegations of the petition, the court shall hold a contested hearing and determine whether the allegations in the petition are true.

(b) [Admissibility of evidence—general (§ 355.1)] Except as provided in section 355.1 and subdivision (d), the admission and exclusion of evidence shall be in accordance with the Evidence Code as it applies to civil cases.

(c) [Reports] A social worker's report that contains information relevant to the jurisdiction hearing shall be admissible if, on request of the parent or guardian, the probation officer or social worker is made available to be cross-examined on the contents of the report.

(d) [Inapplicable privileges (Evid. Code, §§ 972, 986)] The privilege not to testify nor to be called as a witness against a spouse and the confidential marital communication privilege shall not be available to the parent or guardian.

(e) [Unrepresented parent or guardian (§ 355)] If the parent or guardian is not represented by counsel, objections that could have been made to the evidence shall be deemed made.

(f) [Findings of court—allegations true (§ 356)] If the court determines by a preponderance of the evidence that the allegations of the petition are true, the court shall make findings on each of the following, noted in the minutes:

(1) Notice has been given as required by law;

(2) The birthdate and county of residence of the child;

(3) The allegations of the petition are true;

(4) The child is described under one or more specific subdivisions of section 300.

(g) [Disposition] After making the findings in subdivision (f), the court shall proceed to disposition hearing.

(h) [Findings of court—allegations not true (§ 356)] If the court determines that the allegations of the petition are not true, the court shall make findings on each of the following, noted in the minutes:

(1) Notice has been given as required by law;

(2) The birthdate and county of residence of the child; and

(3) The allegations of the petition are not true.

The court shall dismiss the petition and terminate detention orders relating to this petition.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1451. Continuance pending disposition hearing

(a) [Continuance pending disposition hearing (§ 358)] Except as provided in subdivision (b), the court may continue the disposition hearing to a date not to exceed 10 court days if the child is detained or, if the child is not detained, to a date not to exceed 30 calendar days from the date of the finding under section 356. The court may for good cause continue the hearing for an additional 15 calendar days if the child is not detained.

(b) [Continuance if nonreunification is requested] If petitioner alleges that section 361.5(b) is applicable, the court shall continue the proceedings not more than 30 calendar days. The court shall order the petitioner to notify each parent of the contents of section 361.5(b) and shall inform each parent that if reunification is not ordered at the disposition hearing a section 366.26 implementation hearing will be held and parental rights may be terminated.

(c) [Detention pending continued hearing (§ 358)] The court in its discretion may order release or detention of the child during the continuance.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1452. Failure to cooperate with services (§ 360(b))

(a) [Petition] If the court has ordered services under section 360(a), and within the time period consistent with section 330 the family is unable or unwilling to cooperate with the services provided, a petition may be filed as provided in section 360(b).

(b) [Order] At the hearing on the petition the court shall dismiss the petition or order a new disposition hearing to be conducted under rule 1455.

[Repealed and adopted effective Jan. 1, 1990.]

PART III. DISPOSITION

Rule 1455. General conduct of disposition hearing

(a) [Nature of disposition hearing (§ 358)] If the child is found to be described in section 300, a disposition hearing shall be held.

(b) [Social study (§§ 280, 362.1)] Before the disposition hearing, petitioner shall prepare a social study of the child, which shall contain matters relevant to disposition and a recommendation for disposition. If petitioner recommends removing the child from the home, the report shall include a discussion of the reasonable efforts made to prevent or eliminate removal and a recommended plan for reuniting the child with the family, including a plan for visitation. If petitioner alleges that section 361.5(b) applies, the report shall state why reunification services should not be provided.

Petitioner shall lodge copies of the social study with the clerk at least 48 hours before the disposition hearing begins, and the clerk shall make the copies available to the parties. A continuance of 48 hours shall be granted upon request of a child, parent, or guardian who has not been furnished the social study in accordance with this rule.

(c) [**Evidence considered** (§ 358)] The court shall receive in evidence the social study prepared by petitioner, a study or evaluation prepared by a child advocate appointed by the court, and other relevant evidence offered by petitioner, the child, or the parent or guardian. The court may require production of other relevant evidence on its own motion. In the order of disposition, the court shall state that the social study and the study or evaluation by the child advocate, if any, have been read and considered by the court.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1456. Orders of the court

(a) [**Orders of the court** (§§ 360, 361.2, 390)] Following receipt and consideration of the evidence concerning the proper disposition, the court may:

(1) Dismiss the petition with specific reasons stated in the minutes; or

(2) Place the child under a program of supervision as provided in section 330 and order services be provided; or

(3) Declare dependency, permit the child to remain at home, and order services be provided; or

(4) Declare dependency, remove physical custody from the parent or guardian, and

(A) Order custody to the noncustodial parent, terminate jurisdiction, and direct that Judicial Council form Custody Order—Juvenile (JV-200) be prepared and filed under rule 1457; or

(B) Order custody to the noncustodial parent with services to one or both parents; or

(C) Make a general placement order and consider granting specific visitation rights to the child's grandparents.

(b) [**Limitations on parental control** (§§ 361, 362)] If the child is declared a dependent, the court may clearly and specifically limit the control over the child by a parent or guardian. If the court oders that a parent or guardian retain physical custody of the child subject to court-ordered supervision, the parent or guardian shall be ordered to participate in child welfare services or services provided by an appropriate agency designated by the court. The court may direct any other reasonable orders to the parent or guardian.

(c) [**Required findings** (§ 361)] The court shall not order a dependent removed from the physical custody of a parent or guardian with whom the child resided at the time the petition was filed, unless the court finds by clear and convincing evidence any of the following:

(1) There is a substantial danger to the physical health of the child or will be if the child is returned home and there is no reasonable alternative means to protect that health; or

(2) The parent or guardian is unwilling to have physical custody of the child and has been notified that if the child remains out of the parent's or guardian's

physical custody for the period specified in section 366.25 or 366.26, the child may be declared permanently free of their custody and control; or

(3) The child is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others and no reasonable alternative means to protect the child's emotional health exists; or

(4) The child has been sexually abused by a parent or guardian or member of the household or other person known to his or her parent and there is no reasonable alternative means to protect the child or the child does not wish to return to the parent or guardian; or

(5) The child has been left without any provisions for his or her support and there is no parent or guardian available to maintain or provide for the care, custody, and control of the child.

(d) [Reasonable efforts finding] The court shall consider whether reasonable efforts to prevent or eliminate the need for removal have been made and make one of the following findings:

(1) Reasonable efforts have been made;

(2) Reasonable efforts have not been made; or

(3) The failure to make efforts was reasonable.

(e) [Provisions of reunification services (§ 361.5)] (1) Except as provided in subdivision (2), if a child is removed from a parent's or guardian's custody, the court shall order petitioner to provide child welfare services to the child and the child's parents or guardians to facilitate reunification of the family within 12 months.

(2) Reunification services need not be provided to a parent if the court finds, by clear and convincing evidence, any of the following:

(A) The whereabouts of the parents is unknown. This finding shall be supported by a declaration or by proof that a reasonably diligent search has failed to locate the parent. Posting or publishing notice shall not be required.

(B) The parent is suffering from a mental disability described in Civil Code section 232 (a) (5) or (a) (6) that renders the parent incapable of utilizing those services.

(C) The child had been previously declared a dependent under any subdivision of section 300 as a result of physical or sexual abuse; following that adjudication the child had been removed from the custody of the parent or guardian under section 361; the child has been returned to the custody of the parent or guardian from whom the child has been taken originally; the jurisdiction of the court has not been terminated; and the child is being removed under section 361 because of additional physical or sexual abuse.

(D) The parent of the child has been convicted of causing the death of another child through abuse or neglect.

(E) The child was brought within the jurisdiction of the court under subdivision (e) of section 300 because of the conduct of that parent.

(3) In deciding whether to order reunification in any case in which petitioner alleges that section 361.5(b) applies, the court shall consider the report prepared by petitioner which shall discuss the factors contained in section 361.5(c).

(4) If the petitioner alleges that section 361.5(c) applies, the report prepared for disposition shall address the issue of reunification services. At the disposition hearing the court shall consider the factors set forth in section 361.5.

(5) When it is alleged that reunification services should not be ordered because the parent is described by section 361.5(b)(2), the court shall order reunification services unless competent evidence from mental health professionals establishes by clear and convincing evidence that the parent is unlikely to be able to care for the child within the next 12 months.

(6) When it is alleged that reunification services should not be ordered under sections 361.5(b)(3), (4) or (5), the court shall not order reunification services unless it finds by a preponderance of the evidence that the services are likely to prevent reabuse or neglect or that failure to attempt reunification will be detrimental to the child.

(7) If the parent or guardian is institutionalized or incarcerated the court shall order reunification services unless it finds by clear and convincing evidence that the services would be detrimental to the child, with consideration of the factors set forth in section 361.5(e)

(8) If the court orders no reunification services under section 361.5(b)(2), (3), (4) or (5), it shall conduct a hearing under section 366.26 within 120 days.

(f) **[Information regarding termination of parent-child relationship (§§ 361, 361.5)]** If a child is removed from the physical custody of the parent or guardian under either section 361 or 361.5, the court shall:

(1) State the facts on which the decision is based;

(2) Notify the parents their parental rights may be terminated if they do not regain custody within 12 months.

(g) **[Continuance for six-month review (§ 366)]** The status of every dependent child shall be reviewed no more than six months after the date of the original disposition order and shall be scheduled on the appearance calendar.

(h) **[15-day reviews (§ 367)]** If a child is detained pending the execution of the disposition order, the court shall review the case at least every 15 calendar days to determine whether the delay is reasonable. During each review the court shall inquire about the action taken by the probation or welfare department to carry out the court's order, the reasons for the delay, and the effect of the delay upon the child.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1457. Order determining custody (§§ 304, 361.2, 362.4)

(a) **[Order determining custody—termination of jurisdiction]** If the juvenile court orders custody to a parent and terminates jurisdiction, the court may make orders for visitation with the other parent. The court may also issue orders to either parent enjoining any action specified in Civil Code section 4359(a)(2) or (a)(3).

(1) **[Modification of existing custody orders—new case filings]** The order of the juvenile court shall be filed in an existing nullity, dissolution, legal guardianship, or paternity proceeding. If no custody proceeding is filed or pending, the order may be used as the sole basis to open a file.

(2) [Preparations and transmission of order] The order shall be prepared on Judicial Council form Custody Order—Juvenile (JV-200). The court may direct the parent, parent's attorney, county counsel, or the clerk to:

(A) Prepare the order for the court's signature; and

(B) Transmit the order within 10 calendar days after the order is signed to the superior court of the county where a custody proceeding has already been commenced or, if none, to the superior court of the county in which the parent who has been given custody resides.

(3) [Procedures for filing order—receiving court] Upon receipt of the juvenile court custody order, the superior court clerk of the receiving county shall immediately file the juvenile court order in the existing proceeding or shall immediately open a file, without a filing fee, and assign a case number.

(4) [Endorsed filed copy—clerk's certificate of mailing] Within 15 court days after receiving the order, the clerk of the receiving court shall send by first-class mail an endorsed filed copy of the order showing the case number of the receiving court to (i) the persons whose names and addresses are listed on the order, and (ii) the originating juvenile court, with a completed clerk's certificate of mailing, for inclusion in the child's file.

(b) [Order determining custody—continuation of jurisdiction] If the court orders custody to a parent subject to the jurisdiction of the court with services to one or both parents, the court may direct the order be prepared and filed in the same manner as described in subdivision (a).

[Adopted effective Jan. 1, 1990.]

Rule 1458. Restraining orders

(a) [Orders before declaration of dependency] During the pendency of a proceeding to declare a child a dependent, the court may issue restraining orders as provided in section 213.5. The restraining orders may be prepared on Judicial Council form Restraining Order—Juvenile (JV-250).

(b) [Orders after declaration of dependency] If a child has been declared a dependent, the court on its own motion may issue orders to either parent enjoining any action specified in Civil Code section 4359(a)(2) or (a)(3). The court shall direct that Judicial Council form Restraining Order—Juvenile (JV-250) be prepared. The orders shall be enforceable in the same manner as any other order issued under section 4359 of the Civil Code.

[Adopted effective Jan. 1, 1990.]

PART IV. REVIEWS, PERMANENT PLANNING

Rule 1460. Six-month review hearing

(a) [Requirement for six-month review (§§ 364, 366)] The case of a dependent child of the court shall be set for review hearing within six months after the date of the declaration of dependency.

(b) [Notice of hearing; service; contents (§§ 366.2, 366.21)] Not earlier than 30 nor less than 15 calendar days before the hearing date, petitioner shall serve written notice of the hearing on all persons required to receive notice of the original proceeding under rule 1406, to the child's present custodian, and to counsel of record. The notice of hearing shall be served by personal service or certified mail addressed to the last known address of the person to be notified.

(1) The notice shall contain the information required by rule 1406, the nature of the hearing, and any recommended change in custody or status, and include a statement that the child and the parent or guardian have a right:

(A) To be present at the hearing;

(B) To be represented by counsel at the hearing, and where applicable, of the right to and the procedure for obtaining appointed counsel; and

(C) To present evidence regarding the proper disposition of the case.

(2) The notice to the present custodian of the child shall indicate that the custodian may:

(A) Be present at the hearing;

(B) Submit written material the custodian considers relevant.

(c) [Report] Before the hearing, petitioner shall make an investigation and file a report describing the services offered the family and progress made, and if relevant, the prognosis for return of the child to the parent or guardian. The report shall contain recommendations for court orders, and the reasons for those recommendations.

At least 10 calendar days before the hearing the petitioner shall file the report, provide copies to the parent or guardian and their counsel and to counsel for the child, and provide a summary of the recommendations to the present custodians of the child and to any court-appointed child advocate.

(d) [Determinations—burden of proof (§§ 366.2, 366.21, 364)]

(1) If the child has not been removed from the custody of the parents or guardians, the court shall terminate its jurisdiction over the child unless the court finds that petitioner has established by a preponderance of the evidence that conditions exist that would justify initial assumption of jurisdiction under section 300 or are likely to exist if supervision is withdrawn.

(2) If the child has been removed from the custody of the parents or guardians, the court shall order the child returned unless the court finds that petitioner has established by a preponderance of the evidence that return would create a substantial risk of detriment to the child. In addition, the court shall consider whether reasonable services have been provided and shall find that:

(A) Reasonable services have been provided; or

(B) Reasonable services have not been provided.

(3) Failure of the parent or guardian to participate in any court-ordered treatment program is prima facie evidence that continued supervision is necessary or that return would be detrimental.

(e) [Conduct of hearing (§§ 366.2, 366.21)]

(1) If the child was declared a dependent before January 1, 1989, and the court does not terminate jurisdiction over the child, the court shall order continued services and set the matter for review not more than six months after the date of the order.

(2) If the child was declared a dependent child after January 1, 1989, and the court does not terminate jurisdiction over the child,

(A) The court may set a hearing under section 366.26 within 120 days if:

(i) The child was removed under section 300(g) and the court finds by clear and convincing evidence that the parent's whereabouts are still unknown; or

(ii) The court finds by clear and convincing evidence that the parent has not had contact with the child for six months; or

(iii) The court finds by clear and convincing evidence that the parent has been convicted of a felony indicating parental unfitness.

(B) If the court does not set a hearing under section 366.26, the court shall order continued services and set the matter for review not more than six months after the date of the order.

(f) [Noncustodial parents] If the court has previously placed or at this hearing places the child with a noncustodial parent, the court may:

(1) Continue supervision and reunification services;

(2) Order custody to the noncustodial parent, continue supervision, and order family maintenance services; or

(3) Order custody to the noncustodial parent, terminate jurisdiction, and direct that Judicial Council form Custody Order—Juvenile (JV-200) be prepared and filed under rule 1457.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1461. Twelve-month review hearing

(a) [Requirement for 12-month review] The case of any dependent child shall be set for review hearing within 12 months after the date of the order declaring dependency.

(b) [Children declared dependents before January 1, 1989] The following provisions apply to children declared dependents before January 1, 1989.

(1) [Setting for hearing; notice (§§ 366.2, 366.25)] If a child was not returned at the six-month review, a permanency planning hearing shall be held within 12 months after the original disposition order removing custody from the parents or guardians or placement under section 16507.4, but no later than 18 months from the date of the original detention order. Notice of the hearing shall be given as provided in rule 1460.

(2) [Conduct of hearing] At the hearing, the court shall proceed as follows:

(A) If the child has not been removed from the custody of the parent or guardian, the court shall terminate its jurisdiction over the child unless the court finds that petitioner has established, by a preponderance of the evidence, that conditions exist which would justify initial assumption of jurisdiction under section 300, or are likely to exist if supervision is withdrawn. Failure of the parent or guardian to participate in a court ordered treatment program shall be prima facie evidence that continued supervision is necessary or that return would be detrimental.

(B) If the child has been removed from the custody of the parent or guardian, the court shall order the child returned to the parent or guardian unless the court finds the petitioner has established, by a preponderance of the evidence, that return would create a substantial risk of detriment to the child. Failure of the parent or guardian to participate in a court ordered treatment program shall be prima facie evidence that continued supervision is necessary or that return would be detrimental.

(C) If the court has previously placed or at this hearing places the child with a noncustodial parent, the court may:

(i) Continue supervision and reunification services; or

(ii) Order custody to that parent, continue supervision, and order family maintenance services; or

(iii) Order custody to the noncustodial parent, terminate jurisdiction, and direct that Judicial Council form Custody Order—Juvenile (JV-200) be prepared and filed under rule 1457.

(D) If the court does not order return home, the court shall specify the factual basis for its finding of risk of detriment. The court shall order a permanent plan unless the court determines that there is a substantial probability of return within 18 months of the original detention order.

(E) The court shall consider whether reasonable services have been provided and shall find that:

(i) Reasonable services have been provided; or

(ii) Reasonable services have not been provided.

(3) [Permanent plan—determinations and orders (§ 366.25)] If the court determines that there is no substantial probability of return within 18 months of the original detention order or if 18 months have elapsed, the court shall develop a plan to provide the child with a stable, permanent home. In developing the plan, the court shall determine whether it is likely that the child can or will be adopted and, if it so finds, the court shall determine whether one or more of the following conditions exist:

(A) The parent or guardian has maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.

(B) The child is 10 years of age or older and objects to termination of parental rights.

(C) The child's foster parent or relatives are unable to adopt the child under circumstances described in section 366.25(d)(1)(C).

If the court finds that none of the conditions exists, the court shall authorize the initiation of proceedings under Civil Code section 232.

(4) [If adoption not appropriate—permanency plan] If no action under Civil Code section 232 is authorized:

(A) The court shall determine if one or more adults are available and eligible to become legal guardian of the child, and if so, the court shall authorize the initiation of guardianship proceedings or proceed under rule 1464.

(B) If no adult is available to serve as legal guardian, the court shall order placement in a stable and permanent home environment. The child shall remain with a foster parent with whom the child has substantial psychological ties, if removal would be seriously detrimental to the child.

(C) If no adult is available to serve as legal guardian and there is no suitable foster home, the court may order the care, custody, and control of the child transferred to a licensed foster family agency which shall proceed pursuant to sections 366.25(d)(3)(B) and (C).

(c) [Children declared dependents after January 1, 1989] The following provisions apply to children declared dependents after January 1, 1989.

(1) [Setting for hearing; notice (§ 366.21)] If a child was not returned at the six-month review, a review shall be held 12 months after the original disposition order removing custody from the parent or guardian or placement under section 16507.4, but no later than 18 months from the date of the original detention order. Notice of the hearing shall be given as provided in rule 1460.

(2) [Conduct of hearing] At the hearing the court shall proceed as follows:

(A) If the child has not been removed from the custody of the parent or guardian, the court shall terminate its jurisdiction over the child unless the court finds that petitioner has established, by a preponderance of the evidence, that conditions exist which would justify initial assumption of jurisdiction under section 300, or are likely to exist if supervision is withdrawn. Failure of the parent or guardian to participate in a court ordered treatment program shall be prima facie evidence that continued supervision is necessary or that return would be detrimental.

(B) If the child has been removed from the custody of the parent or guardian, the court shall order the child returned to the parent or guardian unless the court finds the petitioner has established, by a preponderance of the evidence, that return would create a substantial risk of detriment to the child. Failure of the parent or guardian to participate in a court ordered treatment program shall be prima facie evidence that continued supervision is necessary or that return would be detrimental.

(C) If the court has previously placed or at this hearing places the child with a noncustodial parent, the court may:

(i) Continue supervision and reunification services; or

(ii) Order custody to that parent, continue supervision, and order family maintenance services; or

(iii) Order custody to the noncustodial parent, terminate jurisdiction, and direct that Judicial Council form Custody Order—Juvenile (JV-200) be prepared and filed under rule 1457.

(D) If the court does not order return, the court shall specify the factual basis for its finding of risk of detriment.

(E) The court shall consider whether reasonable services have been provided and shall find that:

(i) Reasonable services have been provided; or

(ii) Reasonable services have not been provided.

(3) **[Determinations and orders]** The court shall proceed as follows:

(A) Continue the case for review hearing to a date not later than 18 months from the original detention order, if the court finds a substantial probability of return within that time or that reasonable services have not been provided; or

(B) Order that the child remain in long-term foster care, if it finds by clear and convincing evidence already presented that the child is not adoptable and there is no one to serve as guardian; or

(C) Order a hearing under section 366.26 within 120 days, if the court finds there is no substantial probability of return within 18 months of the original detention order, and finds by clear and convincing evidence that reasonable services have been provided to the parent or guardian.

(D) If the court orders a hearing under section 366.26, termination of reunification services shall also be ordered. Visitation shall continue unless the court finds it would be detrimental to the child.

(E) If the court orders a hearing under section 366.26, the court shall direct that an assessment be prepared as stated in section 366.21(i).

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1462. Eighteen-month review hearing

(a) **[Children declared dependents before January 1, 1989]** The following provisions apply to children declared dependents before January 1, 1989.

(1) **[Setting for hearing; notice (§§ 366.2, 366.25)]** If a child was not returned at the 12-month review, a permanency planning hearing shall be held within 12 months after the original disposition order removing custody from the parents or guardians or placement under section 16507.4, but no later than 18 months from the date of the original detention order. Notice of the hearing shall be given as provided in rule 1460.

(2) **[Conduct of hearing]** At the hearing, the court shall proceed as follows:

(A) If the child has not been removed from the custody of the parent or guardian, the court shall terminate its jurisdiction over the child unless the court finds that petitioner has established, by a preponderance of the evidence, that conditions exist which would justify initial assumption of jurisdiction under section 300, or are likely to exist if supervision is withdrawn. Failure of the parent or guardian to participate in a court ordered treatment program shall be prima facie evidence that continued supervision is necessary or that return would be detrimental.

(B) If the child has been removed from the custody of the parent or guardian, the court shall order the child returned to the parent or guardian unless the court finds the petitioner has established, by a preponderance of the evidence, that return would create a substantial risk of detriment to the child. Failure of the parent or guardian to participate in a court ordered treatment program shall be prima facie evidence that continued supervision is necessary or that return would be detrimental.

(C) If the court has previously placed or at this hearing places the child with a noncustodial parent, the court may:

(i) Continue supervision and reunification services; or

(ii) Order custody to that parent, continue supervision, and order family maintenance services; or

(iii) Order custody to the noncustodial parent, terminate jurisdiction, and direct that Judicial Council form Custody Order—Juvenile (JV-200) be prepared and filed under rule 1457.

(D) If the court does not order return home, the court shall specify the factual basis for its finding of risk of detriment. The court shall order a permanent plan to provide the child with a stable, permanent home.

(E) The court shall consider whether reasonable services have been provided and shall find that:

(i) Reasonable services have been provided; or

(ii) Reasonable services have not been provided.

(3) **[Permanent plan—determinations and orders (§ 366.25)]** If the court determines that there is no substantial probability of return within 18 months of the original detention order or if 18 months have elapsed, the court shall develop a plan to provide the child with a stable, permanent home. In developing the plan, the court shall determine whether it is likely that the child can or will be adopted and, if it so finds, the court shall determine whether one or more of the following conditions exist:

(A) The parent or guardian has maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.

(B) The child is 10 years of age or older and objects to termination of parental rights.

(C) The child's foster parent or relatives are unable to adopt the child under circumstances described in section 366.25(d)(1)(C).

If the court finds that none of the conditions exists, the court shall authorize the initiation of proceedings under Civil Code section 232.

(4) [If adoption not appropriate—permanency plan] If no action under Civil Code section 232 is authorized:

(A) The court shall determine if one or more adults are available and eligible to become legal guardian of the child, and if so, the court shall authorize the initiation of guardianship proceedings or proceed under rule 1464.

(B) If no adult is available to serve as legal guardian, the court shall order placement in a stable and permanent home environment. The child shall remain with a foster parent with whom the child has substantial psychological ties, if removal would be seriously detrimental to the child.

(C) If no adult is available to serve as legal guardian and there is no suitable foster home, the court may order the care, custody, and control of the child transferred to a licensed foster family agency which shall proceed pursuant to sections 366.25(d)(3)(B) and (C).

(b) [Children declared dependents after January 1, 1989] The following provisions apply to children declared dependents after January 1, 1989.

(1) [Setting for hearing; notice (§ 366.21)] If a child was not returned at the six-month review, a review shall be held 12 months after the original disposition order removing custody from the parent or guardian or placement under section 16507.4, but no later than 18 months from the date of the original detention order. Notice of the hearing shall be given as provided in rule 1460.

(2) [Conduct of hearing] At the hearing the court shall proceed as follows:

(A) If the child has not been removed from the custody of the parent or guardian, the court shall terminate its jurisdiction over the child unless the court finds that petitioner has established, by a preponderance of the evidence, that conditions exist which would justify initial assumption of jurisdiction under section 300, or are likely to exist if supervision is withdrawn. Failure of the parent or guardian to participate in a court ordered treatment program shall be prima facie evidence that continued supervision is necessary or that return would be detrimental.

(B) If the child has been removed from the custody of the parent or guardian, the court shall order the child returned to the parent or guardian unless the court finds the petitioner has established, by a preponderance of the evidence, that return would create a substantial risk of detriment to the child. Failure of the parent or guardian to participate in a court ordered treatment program shall be prima facie evidence that continued supervision is necessary or that return would be detrimental.

(C) If the court has previously placed or at this hearing places the child with a noncustodial parent, the court may:

(i) Continue supervision and reunification services; or

(ii) Order custody to that parent, continue supervision, and order family maintenance services; or

(iii) Order custody to the noncustodial parent, terminate jurisdiction, and direct that Judicial Council form Custody Order—Juvenile (JV-200) be prepared and filed under rule 1457.

(D) If the court does not order return, the court shall specify the factual basis for its finding of risk of detriment and

(i) Order that the child remain in long-term foster care, if it finds by clear and convincing evidence already presented that the child is not adoptable and there is no one to serve as guardian; or

(ii) Order a hearing under section 366.26 within 120 days.

(E) If the court orders a hearing under section 366.26, termination of reunification services shall also be ordered. Visitation shall continue unless the court finds it would be detrimental to the child.

(F) If the court orders a hearing under section 366.26, the court shall direct that an assessment be prepared as stated in section 366.21(i).

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1463. Selection of permanent plan (§ 366.26)

(a) [Application of rule] This rule applies to children who have been declared dependents after January 1, 1989. For those dependents, only section 366.26 and Civil Code sections 224, 224m, and 7017 shall apply for terminating parental rights. Civil Code section 232 shall not apply. Only section 366.26 shall apply for establishing legal guardianship.

(b) [Notice of hearing (§ 366.23)] Notice shall be given as described in section 366.23.

(c) [Conduct of hearing] At the hearing, the court shall state on the record that the court has read and considered the report of petitioner and other evidence and shall proceed as follows:

(1) Order parental rights terminated and the child placed for adoption, if the court determines, by clear and convincing evidence, that it is likely that the child will be adopted, unless the court finds that termination would be detrimental to the child for one of the following reasons:

(A) The parents or guardians have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship; or,

(B) A child 10 years of age or older objects to termination of parental rights; or,

(C) The child is placed in a residential treatment facility and adoption is unlikely or undesirable, and continuation of parental rights will not prevent the finding of a permanent family placement if the parents cannot resume custody when residential care is no longer needed; or

(D) The child is living with a relative or foster parent who is unable or unwilling to adopt the child because of exceptional circumstances, but who is willing and capable of providing the child with a stable and permanent home, and removal from the home of the relative or foster parent would be detrimental to the well-being of the child.

(2) If termination of parental rights would not be detrimental to the child, but the child is difficult to place for adoption because the child (i) is a member of a sibling group that should stay together; or (ii) has a diagnosed medical, physical,

or mental handicap; or (iii) is seven years of age or older and no prospective adoptive parent is identified or available, the court may, without terminating parental rights, identify adoption as a permanent placement goal and order the public agency responsible for seeking adoptive parents to make efforts to locate an appropriate adoptive family for a period not to exceed 60 days. After that period the court shall hold another hearing and proceed according to paragraph (1), (3), or (4) of this subdivision.

(3) If the court determines that adoption of the child is not in the interest of the child, the court shall appoint the present custodian or other appropriate person to become the child's legal guardian, or shall order the child to remain in long-term foster care. Legal guardianship shall be given preference over long-term foster care when it is in the interest of the child and a suitable guardian can be found. The child shall not be removed from the home of a foster parent or relative who is not willing to become a legal guardian, but who is willing and capable of providing a stable and permanent home for the child, and with whom the child has substantial psychological ties, if the court finds the removal would be seriously detrimental to the emotional well-being of the child.

The court shall make an order for visitation with the parent or guardian unless the court finds by a preponderance of the evidence that the visitation would be detrimental to the child.

(4) If no adult is available to become legal guardian, and no suitable foster home is available, the court may order the care, custody, and control of the child transferred to a licensed foster family agency, subject to further orders of the court.

(d) [Procedures—termination of parental rights] (1) An order of the court terminating parental rights under section 366.26 shall be conclusive and binding upon the child, the parent, and all other persons who have been served under the provisions of section 366.23. The order may not be set aside or modified by the court, except as provided in rules 1416, 1417, and 1418 with regard to orders by a referee.

(2) If the court declares the child free from custody and control of the parents, the court shall at the same time order the child referred to a licensed county adoption agency for adoptive placement. A petition for adoption of the child shall not be heard until the appellate rights of the natural parents have been exhausted.

(e) [Procedures—legal guardianship] The proceedings for appointment of a guardian for a dependent child of the juvenile court shall be in the juvenile court as provided in rule 1464.

(f) [Advice of appeal rights] The court shall advise all parties of their appeal rights as provided in rule 1435.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1464. Legal guardianship

(a) [Proceedings in juvenile court (§§ 366.25, 366.26)] The proceedings for the appointment of a legal guardian for a dependent child shall be in the juvenile court. The request for appointment of a guardian may be included in the social study report prepared by the county welfare department. A separate petition shall not be required.

(b) [Notice; hearing] (1) For children declared dependents before January 1, 1989, notice for the guardianship hearing shall be given under section 366.25, and the hearing shall proceed under that section.

(2) For children declared dependents after January 1, 1989, notice for the guardianship hearing shall be given under section 366.23, and the hearing shall proceed under section 366.26.

(c) [Conduct of hearing] (1) Before appointing a guardian, the court shall read and consider the social study report specified in section 366.25 or 366.26 and note its consideration in the minutes of the court.

(2) The preparer of the social study report may be called in and examined by any party to the proceedings.

(d) [Findings and orders] (1) If the court finds that legal guardianship is the appropriate permanent plan, the court shall appoint the guardian and order the clerk to issue letters of guardianship.

(2) The court may issue orders regarding visitation to the child by a parent or other relative.

(3) On appointment of a guardian, the court may terminate jurisdiction.

(e) [Advice of rights] The court shall advise all parties of their appeal rights as provided in rule 1435.

[Repealed and adopted effective Jan. 1, 1990.]

Rule 1465. Hearing subsequent to a permanent plan (§§ 366.25, 366.26, 366.3)

(a) [Review hearings—adoption and guardianship] Following the establishment of a plan for termination of parental rights or legal guardianship under section 366.25, or the order for termination of parental rights under section 366.26, the court shall retain jurisdiction and conduct review hearings every six months to ensure the expeditious completion of the adoption or guardianship. When adoption is granted, the court shall terminate its jurisdiction. When legal guardianship is granted, the court may terminate its jurisdiction, or may continue jurisdiction if it is in the best interests of the child.

(b) [Review hearings—foster care] Following the establishment of a plan for long-term foster care, or when a child has been freed for adoption but is not placed in an adoptive home, review hearings shall be conducted every six months by the court or by a local review board, and subsequent permanency planning hearings to review the continuing appropriateness of the plan shall be conducted by the court no less frequently than once every 18 months, throughout the continuation of foster care. The permanency planning hearing may be combined with the six-month review. If circumstances have changed since the last permanency planning hearing, the court may order a new permanent plan under section 366.25 or 366.26 at any subsequent hearing, or any party may seek a new permanent plan by a motion filed under rule 1432. Parents are to be given notice of all hearings unless their parental rights have been terminated. The court shall continue the child in foster care unless the parents prove, by a preponderance of the evidence, that further efforts at reunification are the best alternative for the child. In those cases, the court may order reunification services for a period not to exceed six months.

(c) [Hearing on petition to terminate guardianship] If the court has terminated jurisdiction following establishment of a legal guardianship and a petition is later filed to terminate the guardianship, the matter shall be heard in the juvenile court. The court may do one of the following:

(1) Deny the petition to terminate guardianship; or

(2) Deny the petition and order the county welfare department to provide services to the guardian and the ward for the purpose of maintaining the guardianship, consistent with section 330; or

(3) Deny the petition and resume juvenile court jurisdiction over the child; or

(4) Grant the petition to terminate guardianship.

If the petition is granted, the court may resume jurisdiction over the child for the purpose of holding a new permanency planning hearing, and order the county welfare department to develop a new permanent plan within 60 days. Parents whose parental rights have not been terminated shall be notified of the new permanency planning hearing. The court may consider further efforts at reunification only if the parent proves, by a preponderance of the evidence, that the efforts would be the best alternative for the child.

[Repealed and adopted effective Jan. 1, 1990.]

CHAPTER 8. CASES PETITIONED UNDER SECTIONS 601 AND 602

PART I. DETENTION

Rule 1470. Time limit on custody; detention hearing

(a) [Time limit on custody (§ 631)] Except as provided in this subdivision a child taken into custody shall be released from custody within 48 hours, excluding nonjudicial days, after first being taken into custody by a peace officer or probation officer, unless within that time either:

(1) A petition is filed with the clerk of the juvenile court; or

(2) A criminal complaint is filed against the child in a court of competent jurisdiction.

A child taken into custody without a warrant on the belief the child has committed a misdemeanor that does not involve violence, the threat of violence, or possession or use of a weapon, and if the child is not currently on probation or parole, shall be released within 48 hours after first being taken into custody or on the next judicial day, whichever is later, unless within that time the child has been ordered detained.

(b) [Filing of petition (§ 630)] If the probation officer determines that the child be detained, the probation officer or prosecuting attorney shall immediately file a petition with the clerk of the juvenile court. The clerk shall immediately set the matter for hearing on the detention hearing calendar.

(c) [Service and notice (§§ 630, 630.1, 658)] Immediately upon the filing of the petition, the child shall be served with a copy of the petition and be notified of the time and place of the detention hearing. Each parent or guardian of the child shall be notified, either orally or in writing, of the time and place of the detention hearing, if the whereabouts of each parent or guardian can be ascertained by due diligence. Upon request by the prosecuting attorney or by

counsel representing the child or the parent or guardian, the clerk shall notify counsel, either orally or in writing, of the time and place of the detention hearing.

(d) [Time limit—wilful misrepresentation of age (§ 631.1)] Notwithstanding subdivision (a), if the child taken into custody wilfully misrepresents his age to be 18 years or more, and this misrepresentation effects a material delay in investigation which prevents the filing of a petition or of a criminal complaint within 48 hours after having been taken into custody, a petition or complaint shall be filed within 48 hours, excluding nonjudicial days, from the time the true age is determined. Whenever a petition or complaint is not filed within that time, the child shall be immediately released from custody.

(e) [Time limit—certification of child detained in custody (§ 604)] When a criminal complaint has been filed against a child under the age of 18 years and the child is thereafter certified to juvenile court while the child is detained in custody, a petition shall be filed within 48 hours, excluding nonjudicial days, after the conclusion of the hearing at which the child is certified. Whenever a petition is not filed within that time, the child shall be immediately released from custody.

(f) [Detention hearing—time of (§ 632)] Unless sooner released, a child taken into custody, or who is in custody and is certified to the juvenile court after the filing of a criminal complaint, shall be brought before the juvenile court for a detention hearing as soon as possible, but in any event before the expiration of the next judicial day after a petition has been filed.

A child taken into custody without a warrant on the belief the child has committed a misdemeanor not involving violence, a threat of violence, or possession or use of weapons, and if the child is not currently on probation or parole, shall be brought before the court for a detention hearing as soon as possible but in no event beyond 48 hours after first being taken into custody or the expiration of the next judicial day, whichever is later. At the detention hearing the court shall determine whether the child is to be further detained. If the detention hearing is not commenced within that time, the child shall be immediately released from custody.

(g) [Detention hearing—warrant, cases, transfers in, change in placement] Notwithstanding subdivision (f), the child, unless sooner released, shall be brought before the juvenile court for a detention hearing as soon as possible, but in any event within 48 hours, excluding nonjudicial days, after arriving at a facility within the county, if any of the following conditions exists:

(1) The child was taken into custody in another county and transported in custody to the requesting county pursuant to a warrant issued by the juvenile court;

(2) The child was taken into custody in the county wherein a warrant was issued by the juvenile court;

(3) The child was ordered transferred in custody by the juvenile court of another county under rule 1425; or

(4) The child is a ward temporarily placed in a secure facility pending a change in placement.

(5) The child is a ward taken into custody on a probation hold.

At the hearing, the court shall determine whether the child is to be further detained. If the hearing is not commenced within that time, the child shall be

immediately released from custody or, if a ward under section 602 awaiting a change of placement, shall be placed in a suitable nonsecure facility.

(h) [Detention hearing—violation of home supervision (§§ 628.1, 636)] If the child has been released on home supervision by the probation officer under section 628.1 or by the court under section 636 and thereafter the child violates a specific condition of home supervision release which he has promised in writing to obey and is placed in secure detention, the child shall be entitled to a detention hearing.

[Adopted effective July 1, 1989.]

Rule 1471. Grounds for continuance

(a) [Right to one-day continuance (§ 638)] On motion of the child, parent, or guardian, the court shall continue the detention hearing for one judicial day.

(b) [Continuance to obtain witnesses (§ 635)] On motion of the child, parent, or guardian, the court may grant a reasonable continuance to prepare any relevant evidence the moving party desires to present on the issue of detention.

(c) [Custody pending continued hearing] Unless otherwise ordered by the court, the child shall remain in custody pending completion of the detention hearing or any rehearing.

[Adopted effective July 1, 1989.]

Rule 1472. Conduct of detention hearing

(a) [Examination by court (§ 635)] Subject to the child's privilege against self-incrimination under subdivision (b), the court shall examine the child, parents, guardian, or other person having knowledge relevant to the grounds for detention and shall hear any relevant evidence the child, the parents or guardian, or their counsel desires to present.

(b) [Rights of child (§§ 630, 827)] At any detention proceeding, the child has a privilege against self-incrimination. The child, the parent or guardian, and the attorney for those persons shall be permitted to inspect any police reports, probation reports, and all other documents which are filed with the court or which were made available to the probation officer in preparing the probation report.

(c) [Evidence required at detention hearing] In making the findings prerequisite to an order of detention at the detention hearing, the court may rely solely upon written police reports, probation reports, or other documents.

(d) [No detention rehearing if preparers available] Notwithstanding rule 1475 and except as provided in rule 1418, if the preparers of all reports or documents relied upon by the court in making its detention decision are present in court or are otherwise made available to the child for purposes of confrontation and cross-examination at the detention hearing, there shall be no right to a detention rehearing.

[Adopted effective July 1, 1989.]

Rule 1473. Commencement of hearing—explanation of proceedings

(a) [Explanation of petition and proceedings (§ 633)] At the beginning of the detention hearing, the court shall inform the child and the parent or guardian, if present, of each of the following:

(1) The contents and meaning of the petition.
(2) The reasons why the child was taken into custody.
(3) The nature and possible consequences of juvenile court proceedings.
(4) The purpose and scope of the detention hearing.

(b) [Right to counsel explained (§ 634)] If either is unrepresented by counsel, the court shall advise the child and the parent or guardian of the right of the child and those persons to be represented by counsel at the detention hearing and at every other stage of the proceedings and, where applicable, of the right to appointed counsel, subject to a claim by the county for reimbursement as provided by law.

(c) [Appointment of counsel (§§ 634, 903.1; Pen. Code, §§ 987.4, 987.8)] If the child appears at the detention hearing without counsel, the court shall appoint counsel to represent the child whether or not the child is able to afford counsel, unless there is an intelligent waiver of the child's right to counsel by the child, concurred in by the parent or guardian, if present, and entered in the minutes of the court. If the parent or guardian does not furnish counsel, the court shall appoint counsel, subject to a claim by the county for reimbursement by the parent or guardian as provided by law.

(d) [Conflict of interest (§ 634)] In any case in which it appears to the court that there is such a conflict of interest between a parent or guardian and the child that one attorney could not properly represent both, the court shall take appropriate action to eliminate the conflict of interest.

[Adopted effective July 1, 1989.]

Rule 1474. Commencement of hearing—advice of hearing rights; admission of allegations

(a) [Advice of hearing rights (§§ 630, 635)] After giving the advice required by rule 1473, the court shall next inform those present of each of the following rights of the child:

(1) The right to remain silent, and that anything the child says may be used against the child in the pending or any other proceeding.

(2) The right to confront and to cross-examine the persons who prepared any police reports, probation reports, or other documents submitted by the petitioner, as well as any witness examined by the court during the detention proceedings.

(3) The right to confront, and to cross-examine at any subsequent hearings, any witness that may be called to testify against the child at those hearings.

(4) The right to use the process of the court to compel the attendance of witnesses on the child's behalf.

(5) The right to present to the court whatever relevant evidence the child or the parent or guardian, or their counsel, desires to present.

(b) [Admission of allegation (§§ 657, 707)] If the child, with the consent of counsel, indicates a desire to admit the allegations of the petition at the detention hearing, the court may accept the admission pursuant to rule 1485. In any section 602 proceeding, however, the court shall inquire whether a motion for a fitness hearing is to be made by the petitioner; if so, no admission shall be accepted until the fitness hearing is concluded. When accepting an admission to

the allegations of the petition by the child, the court shall follow the procedures under rule 1488 and proceed thereafter according to the rules applicable in jurisdiction hearings.

[Adopted effective July 1, 1989.]

Rule 1475. Prerequisites for detention; evidence of prima facie case

(a) [Prerequisites for detention (§§ 507, 635, 636, 881)] No child shall be ordered detained by the court unless:

(1) A prima facie showing has been made that the child is a person described by section 601 or 602; and

(2) One or more of the grounds for detention set forth in rule 1476 is found to exist. Except as provided in sections 636.2 and 207, however, no child taken into custody solely on the basis of being a person described in section 601 may be ordered detained in the juvenile hall or any other secure facility.

(b) [Rehearing for further evidence (§ 637)] After a decision of detention has been made, the child or the child's counsel may request further evidence regarding the prima facie case or the grounds of detention by invoking the right to confront and to cross-examine the preparers of reports or documents relied upon by the court in support of its initial decision. If that request is made, a detention rehearing shall be held within three judicial days to consider testimony by those persons. If the detention rehearing cannot be held within three judicial days due to the unavailability of a witness, the court may continue the rehearing for a period not to exceed five judicial days from commencement of the detention hearing. If the preparer of any report or document is not made available for purposes of confrontation and cross-examination by the child, the report or document shall not be considered by the court in making its detention decision.

At a detention rehearing the child has the right to confront and to cross-examine:

(1) The preparer of any police report, probation report, or other document submitted to the court under rule 1472; and

(2) Any person examined in the proceeding.

[Adopted effective July 1, 1989.]

Rule 1476. Grounds for detention; factors to consider

(a) [Grounds for detention (§§ 635, 636)] No child shall be ordered detained by the court unless one of the following grounds is found to exist, in which event the court may order that the child be detained in custody in a suitable place designated by the court, not limited to the juvenile hall, or be placed on home supervision release under section 636:

(1) That the child has violated an order of the court.

(2) That the child has escaped from a commitment of the court.

(3) That the child is likely to flee to avoid the jurisdiction of the court.

(4) That it is a matter of immediate and urgent necessity for the protection of the child.

(5) That it is reasonably necessary for the protection of the person or property of another.

(b) [Factors—violation of court order] In determining whether to release or detain the child under subdivision (a)(1), the court shall consider the following factors:

(1) The specificity of the court order allegedly violated;
(2) The nature and circumstances of the alleged violation of the court order;
(3) The severity and gravity of the alleged violation of the court order;
(4) Whether the violation endangers the child or others;
(5) The prior history of the child insofar as it relates to the failure to obey orders or directives of the court or probation officer;
(6) Whether the child's parents or guardians are willing and able to assure the child's presence at any scheduled court appearance;
(7) The nature of the underlying conduct or offense being alleged which brings the child before the juvenile court; and
(8) The likelihood, based upon the prior record of the child and the seriousness of the offense alleged, that if the petition is sustained the child will be ordered removed from the physical custody of the parent or guardian upon completion of the proceedings.

(c) [Factors—escape from commitment] No child shall be detained under subdivision (a) (2) unless the court first finds that:
(1) The child has been ordered committed by the juvenile court to the Youth Authority or to a county juvenile home, ranch, camp, forestry camp, or juvenile hall; and
(2) The child escaped from commitment, including any escape from the custody of any officer or person in whose lawful custody the child was placed during the commitment.

(d) [Factors—likely to flee] In determining whether to release or detain the child under subdivision (a) (3), the court shall consider the following factors:
(1) Whether the child has previously fled the jurisdiction or failed to appear in court;
(2) Whether the child's parent or guardian is willing and able to assure the child's presence at any scheduled court appearance;
(3) Whether the child promises to appear at any scheduled court appearance;
(4) Whether the child has a prior history relating to the failure to obey orders or directives of the court or probation officer;
(5) Whether the child is a resident within the county;
(6) Whether the nature and circumstances of the conduct or offense alleged make it appear likely that the child would flee to avoid the jurisdiction of the court;
(7) Whether there exists an unstable home or school situation which makes it appear likely that the child would flee to avoid the jurisdiction of the court; and
(8) Whether the child, absent a danger to the child, would probably be released in an adult court on modest bail.

(e) [Factors—protection of child] In determining whether to release or detain the child under subdivision (a) (4), the court shall consider the following factors:
(1) Whether the child's parent or guardian is willing and able to assure the child's care pending, and presence at, any scheduled court appearance;
(2) The geographical location of the residence of the child;
(3) Whether the child is addicted to or is in imminent danger from the use of a controlled substance or intoxicant;

(4) Whether the child has a mental or physical condition, deficiency, disorder, or abnormality which makes it a matter of immediate and urgent necessity for the protection of the child that the child be detained;

(5) The circumstances and gravity of any alleged offense; and

(6) Whether there exist any other compelling circumstances which make it appear an immediate and urgent necessity for the protection of the child that the child be detained.

(f) [Factors—protection of person or property of another] In determining whether to release or detain the child under subdivision (a) (5), the court shall consider the following factors:

(1) Whether the circumstances and gravity of the offense alleged involved physical harm to the person or property of another.

(2) Whether the child's prior history involved physical harm or the substantial threat of physical harm to the person or property of another;

(3) Whether the child has a physical or mental deficiency, disorder, or abnormality which makes it appear that the child creates a substantial threat of physical harm to the person or property of another; and

(4) Whether there exist any other compelling circumstances which make it reasonably necessary that the child be detained to protect the person or property of another.

(g) [Order of detention (§ 636)] If the court orders the child detained, it shall enter the order together with the ground or grounds for detention in support thereof in the records of the court.

[Adopted effective July 1, 1989.]

Rule 1477. Order to reappear; detention rehearings

(a) [Order to reappear (§ 639)] At the end of the detention hearing, in addition to ordering their appearance at the jurisdiction hearing, the court may order the child or any parent or guardian present in court to appear before the court or the probation officer or the county financial evaluation officer at any other time and place specified in the order. The court shall also direct the probation officer that, in the event of any change in circumstances pending the jurisdiction hearing which might materially affect the court's detention decision, the matter shall be immediately returned to court for further consideration.

(b) [Rehearings (§ 637)] When a detention hearing has been held and no parent or guardian was present due to a failure to receive actual notice of the hearing, the parent or guardian may file with the clerk an affidavit setting forth that fact. The clerk shall immediately set the matter for rehearing within 24 hours of the filing of the affidavit, excluding nonjudicial days. At the rehearing, the court shall proceed in the same manner as upon the original hearing.

[Adopted effective July 1, 1989.]

PART II. FITNESS HEARINGS

Rule 1480. General provisions

(a) [Fitness hearing—when applicable (§ 707)] If a child (1) is alleged to be a person described in section 602 by reason of the violation of any criminal law; and (2) was, at the time of the alleged violation, 16 years of age or older, the prosecuting attorney may, prior to the attachment of jeopardy, request a hearing

to determine whether the child is a fit and proper subject to be dealt with under the juvenile court law. If the child is detained in custody, the fitness hearing shall commence within 13 judicial days from the date of the order directing detention. If the child is not detained in custody, the fitness hearing shall commence within 25 calendar days from the date of filing of the petition.

(b) [Notice; time of hearing (§ 707)] The child, the child's counsel, and the parent or guardian shall be given written notice of the fitness hearing not less than five judicial days prior to the hearing. Except as provided in subdivision (a), each court may by local rule establish the exact manner and time for requesting and commencing these hearings. Unless the court finds the child has intelligently waived counsel, the child shall be represented by counsel at the fitness hearing.

[Adopted effective July 1, 1989.]

Rule 1481. Report of probation officer

(a) [Contents of report (§ 707)] The court shall cause the probation officer to investigate and submit to it a report on the behavioral patterns and social history of the child being considered for unfitness. This report shall include information relevant to the determination whether or not the child would be amenable to the care, treatment, and training program available through the facilities of the juvenile court, including information regarding all of the criteria listed under rule 1482. The report may also include information concerning:

(1) The social, family, and legal history of the child;

(2) Any statement the child chooses to make regarding the alleged offense;

(3) Any statement by the parent or guardian;

(4) If the child is or has been under the jurisdiction of the juvenile court, a statement by the probation officer, social worker, or Youth Authority parole agent who has supervised the child respecting the relative success or failure of any program of rehabilitation; and

(5) Any other information relevant to the determination of fitness.

(b) [Recommendation by probation officer (§§ 281, 707)] The probation officer shall make a recommendation to the court as to whether the child is a fit and proper subject to be dealt with under the juvenile court law.

(c) [Copies furnished] The probation officer's report on the behavioral patterns and social history of the child shall be furnished to the child, the parent or guardian, and all counsel at least 24 hours prior to commencement of the fitness hearing. A continuance of 24 hours shall be granted upon request of any party who has not been furnished the probation officer's report in accordance with this rule.

[Adopted effective July 1, 1989.]

Rule 1482. Conduct of fitness hearing

(a) [Report and relevant evidence admissible (§ 707)] At the fitness hearing, the court shall admit into evidence and consider the probation officer's report on the behavioral patterns and social history of the child and any other relevant evidence which the prosecuting attorney or child may submit as to whether or not the child is a fit and proper subject to be dealt with under the juvenile court law.

(b) [Criteria to consider—general (§ 707(a))] In a fitness hearing held under section 707(a), the court may find that the child is not a fit and proper subject to be dealt with under the juvenile court law if:

(1) The child was 16 years of age or older at the time of the alleged offense; and

(2) The child would not be amenable to the care, treatment, and training program available through the facilities of the juvenile court, based upon an evaluation of the following criteria:

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

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

(C) The child's previous delinquent history.

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

(E) The circumstances and gravity of the offense alleged to have been committed by the child.

(F) Any other relevant factors found by the court and specifically recited in its order.

A determination that the child is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above.

(c) [Findings and orders of court—unfitness (§ 707(a))] If at the conclusion of a fitness hearing held under section 707(a) the court determines that the child is unfit, it shall make findings, recited in the order, that:

(1) The child was 16 years of age or older at the time of the alleged offense;

(2) The child would not be amenable to the care, treatment, and training program available through the facilities of the juvenile court, based upon any one or a combination of the criteria set forth in subdivision (b) (2), which criteria shall be specifically recited in the order; and

(3) The child is not a fit and proper subject to be dealt with under the juvenile court law.

(d) [Finding of fitness (§ 707(a))] If at the conclusion of a fitness hearing held under section 707(a) the court determines that the child is a fit and proper subject to be dealt with under the juvenile court law, the court shall make a finding to that effect, noted in the minutes of the court, and proceed to the jurisdiction hearing in the usual manner.

(e) [Criteria to consider—designated offenses (§ 707(b))] In a fitness hearing held under section 707(b), the court shall find that the child is not a fit and proper subject to be dealt with under the juvenile court law unless it concludes that the child would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon consideration and an evaluation of each of the following criteria:

(1) The degree of criminal sophistication exhibited by the child; and

(2) Whether the child can be rehabilitated prior to the expiration of the juvenile court's jurisdiction; and

(3) The child's previous delinquent history; and

(4) Success of previous attempts by the juvenile court to rehabilitate the child; and

(5) The circumstances and gravity of the offenses alleged to have been committed by the child.

(f) [**Findings and orders of court—unfitness (§ 707(b))**] If at the conclusion of a fitness hearing held under section 707(b) the court determines that the child is unfit, it shall make findings, recited in the order, that:

(1) The child was 16 years of age or older at the time of the alleged offense; and

(2) The child is alleged to be a person described in section 602 by reason of the violation of any of the offenses designated in section 707(b), which offense shall be specifically recited in the order; and

(3) The child is not a fit and proper subject to be dealt with under the juvenile court law.

(g) [**Findings and orders of court—fitness (§ 707(b))**] If at the conclusion of a fitness hearing held under section 707(b) the court determines that the child is fit under each and every of the criteria in subdivision (e) of this rule, it shall state the bases for the findings and make additional findings that:

(1) The child would be amenable to the care, treatment, and training program available through the facilities of the juvenile court for reasons which shall be recited in the record; and

(2) The child is a fit and proper subject to be dealt with under the juvenile court law.

The court shall thereafter proceed to the jurisdiction hearing in the usual manner.

(h) [**Procedure following unfitness determination**] If the child is found unfit, the prosecuting attorney may thereafter file an accusatory pleading in a court of criminal jurisdiction. The court shall make an appropriate order under section 707.1 relating to the custody of the child pending prosecution. The juvenile court petition shall then be dismissed without prejudice.

(i) [**Continuance to seek review**] If the prosecuting attorney indicates an intention to seek review of a finding of fitness, the court on request of the petitioner shall grant a continuance of the jurisdiction hearing for not less than two judicial days to allow time within which to obtain a stay of further proceedings from the reviewing judge or appellate court.

(j) [**Subsequent role of judge or referee**] Unless the child objects, a judge or referee who has conducted a fitness hearing may participate in any subsequent contested jurisdiction hearing relating to the same offense.

(k) [**Review of fitness determination**] An order that a child is or is not a fit and proper subject to be dealt with under the juvenile court law is not an appealable order. Appellate review of the order is by extraordinary writ. Any petition for review of a judge's order determining the child unfit, or denying an application for rehearing of the referee's determination of unfitness, shall be filed no later than 20 days after the child's first arraignment on an accusatory pleading based on the allegations that led to the unfitness determination.

[Adopted effective July 1, 1989.]

Rule 1485. Time of jurisdiction hearing; waiver of hearing

(a) [**Nondetention cases (§ 657)**] If the child is not detained, the clerk shall, upon the filing of the petition, set the petition to be heard, and the hearing shall be commenced, within 30 calendar days from the date of the filing of the petition.

(b) [Detention cases (§ 657)] If the child is detained at the time the petition is filed, the clerk shall set the petition to be heard, and the hearing shall be commenced, within 15 judicial days from the date of the order of the court directing detention. If the child is released from detention prior to the jurisdiction hearing, the court may reset the petition for hearing within the time limit prescribed by subdivision (a) of this rule.

(c) [Tolling of time period] Any period of delay resulting from the child's neglect or failure to appear, to and including the date of the child's next appearance in the court wherein the petition was filed, shall be excluded in computing the time limits prescribed by subdivisions (a) and (b) of this rule. After excluding that period, the petition shall be set for hearing, and the hearing shall be commenced within the appropriate time limit prescribed in either subdivision (a) or (b), or within 10 judicial days after the child's reappearance in the court in which the petition was filed, whichever is later.

(d) [Dismissal] Except as provided in subdivision (c) or in rule 1486, when a jurisdiction hearing is not commenced within the time limits prescribed in either subdivision (a) or (b), the court shall order the petition dismissed.

(e) [Refiling of petition, effect on detention] An order under subdivision (d) dismissing the petition prior to the jurisdiction hearing shall not in itself bar the filing of a subsequent petition commencing new proceedings based upon the same allegations as in the original petition, but if the petition was dismissed for failure to comply with the time limits set forth in subdivision (b) the child shall not be detained under the subsequent petition.

(f) [Waiver of hearing (§ 657)] At the detention hearing, or at any time thereafter, a child may, with the consent of counsel, admit in court the allegations of the petition and thereby waive any further jurisdiction hearing.

[Adopted effective July 1, 1989.]

Rule 1486. Grounds for continuance of jurisdiction hearing

(a) [Prior to hearing request by child's counsel (§ 682)] Upon request of counsel for the child, or upon request of the child if not represented by counsel after an intelligent waiver, the court may, for good cause shown, continue the jurisdiction hearing beyond the time limit within which the hearing is otherwise required to be commenced.

(b) [Implied consent to continuance (§ 682)] If the child is represented by counsel and no objection is made to an order continuing the jurisdiction hearing beyond the time limit within which the hearing is otherwise required to be commenced, the absence of an objection shall be deemed a consent to the continuance.

(c) [Commencement of hearing—appointment of counsel (§ 700)] At the beginning of the jurisdiction hearing, the court shall continue the hearing for not to exceed seven calendar days:

(1) As necessary to make an appointment of counsel;

(2) To enable counsel to become acquainted with the case; or

(3) To determine whether the parent or guardian or adult relative is unable to afford counsel.

(d) [Commencement of hearing—to prepare case (§ 700)] The court shall continue the jurisdiction hearing as necessary to provide reasonable opportunity for the child and the parent, guardian, or adult relative to prepare for the hearing.

(e) [During hearing—unexpected contest (§ 701)] If the child denies the allegations of the petition after having made a statement admitting the allegations of the petition, or after indicating an intention to admit the same at the time of the jurisdiction hearing, the court may continue the hearing for not to exceed seven calendar days to enable the petitioner to subpoena witnesses to attend the hearing to prove the allegations of the petition.

(f) [Unavailable necessary witness (§ 700.5)] If the child is not detained in custody and the court is satisfied than an unavailable and necessary witness will be available within that time, the court may continue the hearing for not more than 10 calendar days in addition to any other authorized continuance.

[Adopted effective July 1, 1989.]

Rule 1487. Commencement of hearing—explanation of petition; right to counsel

(a) [Petition read and explained (§ 700)] At the beginning of the jurisdiction hearing, the petition shall be read to those present. The court shall then explain the meaning and contents of the petition and the nature of the hearing, its procedures, and possible consequences.

(b) [Right to counsel explained (§§ 700, 903.1)] The court shall next ascertain whether the child and the parent, guardian, or adult relative, as the case may be, are represented by counsel; if not, the court shall advise the child and those persons, if present, of their right to have counsel present and, where applicable, of the right to appointed counsel, subject to a claim by the county for reimbursement as provided by law.

(c) [Appointment of counsel (§ 700)] If the child appears at the jurisdiction hearing without counsel, the court shall appoint counsel to represent the child whether or not the child is able to afford counsel, unless there is an intelligent waiver of the child's right to counsel by the child, concurred in by the parent or guardian, if present, and entered in the minutes of the court. If the parent or guardian does not furnish counsel, the court shall appoint counsel, subject to a claim by the county for reimbursement by the parent or guardian as provided by law. If necessary, the court shall continue the hearing pursuant to rule 1486.

(d) [Conflict of interest (§ 634)] In any case in which it appears to the court that there is such a conflict of interest between a parent or guardian and the child that one attorney could not properly represent both, the court shall take appropriate action to eliminate the conflict of interest.

[Adopted effective July 1, 1989.]

Rule 1488. Commencement of hearing—advice of trial rights; admission of allegations

(a) [Trial rights explained (§§ 664, 679, 702.5)] After giving the advice required by rule 1487, the court shall next inform those present of each of the following rights of the child:

(1) The right to a trial by the court on the issues raised by the petition;

(2) The right to remain silent, and that anything the child says may be used against the child in the juvenile court proceedings;

(3) The right to confront, and to cross-examine, any witness that may be called to testify against the child;

(4) The right to use the process of the court to compel the attendance of witnesses on the child's behalf.

(b) [Prehearing motions] Unless a different procedure is provided for by written local rule, the court shall hear and decide any motions to suppress evidence at this time, and prior to the attachment of jeopardy.

(c) [Admission of allegations; prerequisites to acceptance] The court shall then inquire whether the child intends to admit or deny the truth of the allegations of the petition. If the child neither admits nor denies the truth of the allegations, the court shall indicate for the record that the child does not admit the truth of the allegations. Before accepting an admission by the child that the allegations of the petition are true:

(1) The court shall first satisfy itself, and the minutes shall reflect, that the child understands each of the trial rights enumerated in subdivision (a), the nature of the allegations, and the direct consequences of finding that the allegations are true, and that by admitting the truth of the allegations in the petition, the child will be waiving those rights.

(2) If the child is not represented by counsel, the court shall then inquire of the parents, guardian, or adult relative whether they understand each of the child's rights and whether they consent to the child waiving those rights and admitting the truth of the allegations of the petition.

(3) If the child is represented by counsel, no admission shall be accepted unless counsel consents to the child's admission of the truth of the allegations of the petition.

(4) The court shall then satisfy itself that the child is admitting the truth of the allegations of the petition because the child did in fact commit the acts alleged, and that the admission by the child is voluntarily made.

(d) [Child must admit] An admission by the child shall be made personally by the child.

(e) [Findings by court (§ 702)] If the court is satisfied that the admission should be received, the court shall then ask whether the child admits or denies the truth of the allegations in the petition. Upon admission, the court shall make findings as to each of the following, noted in the minutes of the court:

(1) That notice has been given as required by law;

(2) The birthdate and county of residence of the child;

(3) That the child has knowingly and intelligently waived the right to a trial on the issues by the court, the right to remain silent, and the right to confront and to cross-examine adverse witnesses and to use the process of the court to compel the attendance of witnesses on the child's behalf;

(4) That the child understands the nature of the conduct alleged in the petition and the possible consequences of an admission;

(5) That the admission by the child is freely and voluntarily made;

(6) That there is a factual basis for the child's admission;

(7) That the allegations of the petition as admitted are true as alleged; and

(8) That the child is a person described by section 601 or 602 of the Welfare and Institutions Code.

(f) [No contest] In lieu of admitting the allegations of the petition, the child may enter no contest concerning the truth of the allegations, subject to the approval of the court. For purposes of these rules, the procedure for and legal effect of an entry of no contest shall be the same as that of an admission, but the entry of no contest may not be used against the child as an admission in any other action or proceeding.

[Adopted effective July 1, 1989.]

Rule 1489. Contested hearing on petition

(a) [Contested jurisdiction hearing (§ 701)] If the child denies the allegations of the petition, a contested hearing shall be held at which the court must determine whether the allegations set forth in the petition are true.

(b) [Burden of proof (§ 701)] Proof beyond a reasonable doubt, supported by evidence legally admissible in the trial of criminal cases, must be adduced to support a finding that allegations under section 602 set forth in the petition are true. Proof by a preponderance of evidence, legally admissible in the trial of civil cases, must be adduced to support a finding that allegations under section 601 set forth in the petition are true.

(c) [Admissibility of evidence—general (§ 701)] The admission and exclusion of evidence shall be in accordance with the rules of evidence established by the Evidence Code and by judicial decision.

(d) [Admissibility of evidence—probation reports] Except as otherwise provided by law, the court shall not read or consider any portion of the probation report prior to or during a contested jurisdiction hearing. If, however, a judge or referee has read a probation report in connection with other prior petitions, he shall not thereby be disqualified.

(e) [Unrepresented children (§ 701)] If the child is not represented by counsel, it shall be deemed that objections that could have been made to the evidence were made.

(f) [Findings of court—allegations true (§ 702)] If, after hearing the evidence, the court determines that the allegations of the petition are true, it shall make findings as to each of the following, noted in the minutes of the court:

(1) That notice has been given as required by law;

(2) The birthdate and county of the residence of the child;

(3) That the allegations of the petition are true as alleged;

(4) That the child is a person described by section 601 or 602; and

(5) If the child is found to be a person described by section 602, the degree of the offense and whether the offense would be a misdemeanor or felony had the offense been committed by an adult. These determinations may be deferred until the disposition hearing.

(g) [Findings of court—allegations not true (§ 702)] If, after hearing the evidence, the court determines that the allegations of the petition are not true, it shall make findings as to each of the following, noted in the minutes of the court:

(1) That notice has been given as required by law;

(2) The birthdate and county of the residence of the child;

(3) That the allegations of the petition are not true.

The court shall then order that the petition be dismissed and that the child be discharged from any detention or restriction, if applicable.

[Adopted effective July 1, 1989.]

Rule 1490. Continuance pending disposition hearing

(a) **[Continuance pending disposition hearing (§ 702)]** If the court finds that the child is a person described by section 601 or 602, it shall then proceed to hear evidence on the question of the proper disposition to be made of the child. Prior to doing so, the court may continue the disposition hearing to a date not to exceed 10 judicial days if the child is detained or, if the child is not detained, to a date not to exceed 30 calendar days from the date of filing of the petition. The court may, for good cause shown, continue the disposition hearing for an additional 15 calendar days if the child is not detained.

(b) **[Detention pending continued hearing (§ 702)]** The court in its discretion may make an order to release or detain the child during the period of the continuance.

(c) **[90-day observation and diagnosis (§ 704)]** If the child is eligible for commitment to the Youth Authority and the court concludes that a disposition of the case in the best interest of the child requires it to do so, the court may continue the disposition hearing for a period not to exceed 90 calendar days and order the child to be placed temporarily at a Youth Authority diagnostic and treatment center for observation and diagnosis. In its order, the court shall order the Youth Authority to report to the court within the 90-day period its diagnosis and recommendations concerning the child. The probation officer or any other peace officer designated by the court shall execute the order placing the child in the diagnostic and treatment center or returning the child to the court. Upon return of the child from the center, the child shall be brought before the court within two judicial days. The matter shall then be set for a disposition hearing to be commenced within 10 judicial days.

[Adopted effective July 1, 1989.]

PART IV. DISPOSITION

Rule 1495. General conduct of hearing

(a) **[Nature of disposition hearing (§ 706)]** If the child is found to be described in section 601 or 602, a disposition hearing shall be held to hear evidence on the question of the proper disposition to be ordered.

(b) **[Social study (§ 280)]** Prior to every disposition hearing, the probation officer shall prepare a social study concerning the child, which shall contain those matters relevant to disposition and a recommendation for disposition. If the child is a parolee of the Youth Authority, the social study shall include the results of any contact between the probation officer and the parole officer. The social study shall be furnished to all parties at least 48 hours prior to the commencement of the disposition hearing by depositing copies with the clerk. A continuance of 48 hours shall be granted upon request of any party who has not been furnished the probation officer's report in accordance with this rule.

(c) **[Explanation of proceedings]** At the beginning of the disposition hearing, the court shall inform the child and parent or guardian, if present, of the

purpose and scope of the disposition hearing. If the child is not represented by counsel, the court shall advise the child of the right to be represented by counsel at the hearing and, where applicable, of the right to appointed counsel.

(d) **[Evidence considered (§ 706)]** The court shall receive in evidence the social study prepared by the probation officer and other relevant and material evidence offered by the petitioner, the child, or the parent or guardian. The court may receive other relevant and material evidence on its own motion. In any order of disposition, the court shall state that the social study has been read and considered by the court.

[Adopted effective July 1, 1989.]

Rule 1496. Judgment and orders of the court

(a) **[Orders of court (§§ 725, 782)]** Following receipt and consideration of the evidence concerning the proper disposition of the case, the court may order as follows:

(1) The court may dismiss the petition if it finds that the interests of justice and the welfare of the child require a dismissal, or if it finds that the child is not in need of treatment or rehabilitation. The specific reasons for dismissal shall be set forth in an order entered upon the minutes.

(2) Without adjudging the child a ward of the court, the court may place the child on probation, under the supervision of the probation officer, for a period not to exceed six months.

(3) The court may order and adjudge the child to be a ward of the court.

Whether or not the child is adjudged a ward of the court, the court may set reasonable terms and conditions of probation for the child.

(b) **[Limitations on parental control (§§ 726, 727)]** If the child is adjudged a ward, the court may limit the control to be exercised over the child by any parent or guardian and shall by its order clearly and specifically set forth all of those limitations. If notice was previously given under rule 1406, and the court orders that a parent or guardian retain physical custody of the child subject to the supervision of the probation officer, the parent or guardian may be required to participate with the child in a counseling program. No ward shall be taken from the physical custody of a parent or guardian unless the court finds one of the following:

(1) That the parent or guardian is incapable of providing or has failed or neglected to provide proper maintenance, training, and education for the child;

(2) That the child has been tried on probation in the physical custody of a parent or guardian and has failed to reform; or

(3) That continued custody by the parent or guardian would be detrimental to the child and the welfare of the child requires that custody be taken from the parent or guardian.

(c) **[Permissible disposition orders—general (§§ 726, 727, 730, 731)]** When a child is adjudged a ward, the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child, including medical treatment, subject to the further order of the court. The court may order the care, custody, control, and conduct of the child to be under the supervision of the probation officer or may commit the child to the care, custody, and control of any person or organization enumerated in section

727. If the child was adjudged a ward under section 602, the court, as additional alternatives, may make an order for the treatment or commitment of the child under either section 730 or 731.

(d) [Permissible disposition orders—Youth Authority ward] If the child has previously been committed to the Youth Authority and is at the time of the disposition hearing a ward of the Youth Authority, the court may, as a disposition under subdivision (c), either recommit or return the ward to the Youth Authority. If the child is returned to the Youth Authority, the court may make a recommendation to the Authority that the ward's parole status be revoked or not be revoked, or the court may make no recommendation.

(e) [15-day reviews (§ 737)] Whenever a child is detained pending the execution of the disposition order, the court shall review the case at least every 15 calendar days to determine whether the delay is reasonable. During each review the court shall inquire regarding the action taken by the probation department to carry out the court's order, the reason for the delay, and the effect of the delay upon the child.

[Adopted effective July 1, 1989.]

Rule 1497. Required determination—disposition orders (§§ 702 and 726)

(a) [Determination: felony-misdemeanor] If the child is found to have committed an offense which would in the case of an adult be punishable alternatively as a felony or a misdemeanor, the court shall declare the offense to be a felony or misdemeanor if that determination has not been made previously.

(b) [Determination—physical confinement] When the child is removed from the physical custody of the parent or guardian as the result of an order of wardship made pursuant to section 602, the disposition order shall specify the maximum period of confinement determined in accordance with section 726.

(c) [Determination—Youth Authority commitments] When a child is committed to the Youth Authority, the disposition order shall specify whether or not the offense is one listed in section 707(b).

[Adopted effective July 1, 1989.]

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