



Overview of the Juvenile Justice System in California

A Fact Sheet Prepared by Youth Law Center

What is the goal of the juvenile justice system?

The California Juvenile Court is designed to handle all matters associated with juvenile law, including juvenile justice or juvenile delinquency proceedings.¹ Juvenile delinquency cases concern charges of violations of the criminal law by a “minor.”² However, proceedings in juvenile court are not deemed to be “criminal.”³

The goal of the juvenile justice system is twofold. On one hand, the system is in place to ensure the safety and protection of the public.⁴ On the other hand, the system seeks to provide care, treatment, and guidance to minors that have committed violations of the law.⁵ This treatment should be consistent with the minor’s best interest; it should hold the minor accountable for his or her behavior and it should be appropriate for his or her circumstances. This may include punishment that is consistent with rehabilitative objectives. To meet this goal, California’s Juvenile Justice System generally provides for escalating responses to offenses of increasing severity, such as fines, community service, informal probation, formal probation, detention, and incarceration.⁶

How does a minor get into the juvenile justice system?

If a police officer believes that a minor has committed an offense, he/she may take the minor into temporary custody and has the discretion to:

- Issue a warning and release the minor;
- Deliver and refer the minor to a shelter or diversion services;
- Cite the juvenile for a minor offense and issue a notice to appear; or
- Detain them and take the minor directly to juvenile hall.⁷

In addition, a probation officer may initiate an investigation, either on his/her own initiative or upon formal application by a person to have a petition filed against a

¹ “Status offenses,” conduct that violates the law only when committed by a minor, are a separate category of juvenile court cases often handled by the juvenile delinquency section of the juvenile court. Cal. Welf. & Inst. Code § 601(a).

² “Minor” is defined as a person under the age of 18. Cal. Fam. Code § 6500.

³ Cal. Welf. & Inst. Code § 203.

⁴ Cal. Welf. & Inst. Code § 202(a).

⁵ Cal. Welf. & Inst. Code § 202(b).

⁶ Cal. Welf. & Inst. Code § 202(e).

⁷ Cal. Welf. & Inst. Code §§ 625.3, 626, 626.5, 626.6. (A minor alleged to have personally used a firearm in the commission of a felony may not be released until that minor has appeared before a judicial officer).

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juvenile, whenever the officer deems it necessary to determine whether proceedings in the juvenile court should be commenced.⁸

Does a minor have a right to an attorney?

Whenever a juvenile is detained, he/she has a right to an attorney. When taken before a probation officer, the probation officer must immediately advise the minor and their parent/guardian of the juvenile's right to remain silent, right to have counsel present during interrogation, and right to have counsel appointed if the juvenile cannot afford counsel.⁹ Effective January 1, 2018, a juvenile age 15 or younger prior to a custodial interrogation, and before the waiver of any Miranda rights, must consult with legal counsel.¹⁰

What happens if the minor is taken to juvenile hall?

If the minor is taken to juvenile hall, the probation department has the discretion to “book” and accept the juvenile or not. If “booked,” the probation officer or district attorney decides whether to file a petition with the Juvenile Court alleging that the minor has committed a crime.¹¹ If accepted, the juvenile remains in custody at the juvenile hall pending the outcome of the juvenile court process. Only those arrestees accused of violent crimes are likely to be held, while others will be released back to their parents.

If no petition is filed, what happens?

The probation department, in lieu of formally proceeding with a petition in juvenile court, may also proceed with informal probation, participation by the minor in specific programs of supervision not to exceed six months.¹² The juvenile must meet specific eligibility requirements for informal probation.¹³

During the six-month probationary period when a juvenile is on informal probation, the probation officer retains discretion to file a petition at any time.¹⁴ If the probation officer determines that the minor has not completed the terms of the informal probation, he/she must immediately file a petition with the juvenile court.¹⁵

⁸ Cal. Welf. & Inst. Code §§ 653, 653.1.

⁹ Cal. Welf. & Inst. Code § 627.5.

¹⁰ SB 395 (Lara 2017), codified at Cal. Welf. & Inst. Code § 625.6

¹¹ Cal. Welf. & Inst. Code § 630(a). (Immediately after filing the petition the probation officer or prosecuting attorney must serve the minor with a copy of the petition and notify both the minor and the minor's parents or guardians of the time and place of the detention hearing).

¹² Cal. Welf. & Inst. Code §§ 654–654.6.

¹³ Cal. Welf. & Inst. Code § 654.3.

¹⁴ Cal. Welf. & Inst. Code § 654 (including 90 days thereafter).

¹⁵ *Id.*

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The specific services of informal probation may include treatment of substance abuse, mental health, or other addictions and will require the juvenile's parents or guardians to participate in counseling or educational programs with the minor.¹⁶

The probation department may also refer the minor to a local diversion program or just dismiss the case whenever a petition is not filed.

If a petition is filed, how is the Juvenile Court involved?

The filing of a **petition** is akin to filing charges. However, in addition to stating alleged violations of law and facts to support the violation, the juvenile petition contains a notice to the minor's parents of their liability for the cost of care and support of their child while placed in out-of-home care.¹⁷ The juvenile petition requests the court to adjudge and sentence the minor. Once a petition is filed, the juvenile court process begins.

For minors who are held in juvenile hall, the petition must be filed within 48 hours (excluding non-judicial days) of detention and a **Detention Hearing** must be held by the end of the next judicial day after the petition is filed; if either act is not completed within the given time period, the minor must be released from custody.¹⁸

A probation officer will be assigned to the juvenile throughout the court process. The probation officer does not represent the minor. It is their job to review the juvenile's case and decide whether and how to proceed.¹⁹ The probation officer's duties include compiling a social study and a pre-disposition report that includes a social history of the minor and provides recommendations to the judge for sentencing of the minor.

Similarly, the district attorney does not represent the minor, but represents the state. It is the district attorney's primary role to support the petition with evidence and to prosecute the case. However, the district attorney may reduce, modify, or drop the petition if warranted.

A minor is not entitled to a jury trial, only to a **Jurisdiction Hearing** in front of a judge. At the Jurisdiction Hearing, the juvenile court judge will review the probation officer's written report, and any medical, psychiatric, or other reports regarding the juvenile. The judge will also review any evidence offered by the district attorney and the juvenile's attorney regarding the charge and the minor. The court will then make a determination of whether the petition filed against the juvenile is true, and should therefore be sustained.

Even after the filing of a petition, but before the Jurisdiction Hearing, the juvenile may request and the court may grant informal probation if the interests of justice would best be served. If informal probation is granted, the petition is suspended but not dismissed

¹⁶ *Id.*

¹⁷ Cal. Welf. & Inst. Code § 656(h).

¹⁸ Cal. Welf. & Inst. Code §§ 631, 632.

¹⁹ Cal. Welf. & Inst. Code § 636.1.

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pending successful completion of the six-month probation.²⁰ The juvenile court retains jurisdiction and requires periodic progress reports of the juvenile's success in completing the terms of the informal probation. If the court determines that the juvenile is not completing the terms of the informal probation, the petition against the juvenile will be reinstated. If the court determines that the juvenile has successfully completed the program of supervision at the end of the six-month period, the court will dismiss the petition against the juvenile.²¹

What happens if the petition is sustained?

If the juvenile is adjudicated a "delinquent" or "ward" of the court, the judge determines where the juvenile will be placed at a **Disposition Hearing**. The court will review a social study provided by the probation officer and any other relevant and material evidence relating to sentencing from the juvenile's attorney and the district attorney in determining where to place the juvenile.

The minor can be:

1. Placed on informal probation or formal probation under the supervision of probation in the community²²;
2. Placed under the supervision of probation for placement in a licensed or approved foster care setting (e.g. relative/kinship home, foster home, FFA or a group home), or a short-term residential therapeutic program²³;
3. Committed to a juvenile ranch or camp²⁴; or
4. Committed to the California's Division of Juvenile Justice (DJJ) as a ward of the state.²⁵

Formal probation is a disposition releasing the minor into the community, in lieu of confinement, but under the supervision of a probation officer for a determined period. The juvenile court judge sets the terms of the juvenile's probation that usually include school attendance, participation in a service program (e.g., substance abuse treatment, anger management, family counseling) and regular meetings with a probation officer,

Foster care placements are non-secure (unlocked) settings in out-of-home care. For a more detailed discussion of these types of placements, see the Youth Law Center's Fact Sheet: **Overview of the Foster Care System in California**.

Juvenile probation camps and ranches are generally shorter-term programs and are authorized to provide educational services, counseling, a variety of vocational training, work experience and recreational activities. Some counties contract with other counties

²⁰ Cal. Welf. & Inst. Code § 654.2.

²¹ Cal. Welf. & Inst. Code § 654.2.

²² Cal. Welf. & Inst. Code § 727 (a)(2)

²³ Cal. Welf. & Inst. Code § 727 (a)(4)

²⁴ Cal. Welf. & Inst. Code § 730 (a). If there is no county ranch or camp, the court may commit the minor to the juvenile hall.

²⁵ Cal. Welf. & Inst. Code § 731(a)(4).

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for camp programs, meaning that a juvenile may be placed in another county than where they live.

The DJJ facilities represent the most restrictive setting and commitments are limited to serious juvenile offenders.²⁶ Juveniles committed directly to DJJ facilities do not receive determinate sentencing, but are subject to a maximum time of confinement set by the juvenile court.²⁷ The period of incarceration is determined by the Board of Juvenile Hearings which has the authority to discharge a juvenile's commitment to DJJ.²⁸

How does a juvenile offender end up in adult court?

A juvenile offender can be tried in adult court if the juvenile was 16 years of age or older and violated any felony criminal statute, or if the juvenile committed a particularly serious offense when he/she was 14 or 15 years of age.²⁹ In these circumstances, the prosecuting officer may make a motion to transfer the minor from juvenile court to a court of criminal jurisdiction (adult court) because the minor is unfit to be judged as a juvenile. The juvenile court will make the determination of whether or not the juvenile should be transferred to adult court in a *fitness hearing*.

Is a juvenile convicted in adult court subject to the same sentencing as adults?

Generally, if the juvenile is tried and convicted in adult court, they can receive any sentence an adult could receive for the same offense, up to and including, life without the possibility of parole.³⁰

Juveniles convicted in adult court may, in limited circumstances, be sentenced to DJJ (instead of the California Department of Corrections or state prison):

- A juvenile who was transferred into adult court can request the court to impose a juvenile disposition if the juvenile was convicted of an offense that would not justify direct file into adult court, and the minor's age and type of offense would have qualified for a fitness hearing with a presumption of unfitness in the Juvenile Court.³¹
- The court **must** impose the juvenile disposition if the minor's age and type of offense would have qualified for a fitness hearing with a presumption of fitness in the Juvenile Court, *unless* the prosecutor prevails on his/her motion to find the minor not fit for the Juvenile Court.³²

²⁶ Cal. Welf. & Inst. Code § 731(a)(4) limits commitments to WIC 707(b) or Penal Code 290.008 offenses.

²⁷ Cal. Welf. & Inst. Code § 731(c).

²⁸ Cal. Welf. & Inst. Code § 1719.

²⁹ Cal. Welf. & Inst. Code §§ 707(a)-(b). (The serious offenses listed include, but are not limited to: murder, arson, robbery, rape with force or violence, kidnapping for ransom, and assault with a firearm).

³⁰ Cal. Penal Code § 190.5. (prohibits the death penalty). The United States Supreme Court, in *Graham v. Florida*, 130 S.Ct. 2011 (2010), held that a life sentence without the possibility of parole for a juvenile in a non-homicide case is unconstitutional.

³¹ Cal. Penal Code § 1170.17(b).

³² Cal. Penal Code § 1170.17(c).

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- Additionally, where the juvenile's age and the type of offense do not render the minor eligible for transfer to adult court, the sentence must be a juvenile disposition.³³

Any minor convicted in adult court who is eligible for a juvenile disposition can request the court to remand the case back to the Juvenile Court for the disposition hearing.³⁴

Commitment (sentence) to DJJ is prohibited under certain circumstances including when ³⁵:

- The minor is convicted of a violent felony³⁶ and is sentenced to life or has a maximum determinate sentence that would extend beyond the minor's 25th birthday; or
- The conviction is for a serious offense³⁷ and the minor is 16 years or older when the offense was committed.

Does a minor in the juvenile justice system have the same constitutional rights as an adult in the criminal justice system?

A minor in the juvenile court does not have a right to bail or to a jury trial. However, a juvenile does have the following rights:

- Right to have Miranda rights read at the time of arrest;
- Right to remain silent;
- Right to have an attorney present prior to any police interrogation;
- Right to an attorney throughout the court process and to have the court appoint an attorney if the juvenile cannot afford one;
- Right to be given a copy of the petition (charge);
- Right to a hearing to confront and cross-examine witnesses.

³³ Cal. Penal Code § 1170.17(d).

³⁴ Cal. Penal Code § 1170.19(b)(1).

³⁵ Cal. Welf. & Inst. Code § 1732.6.

³⁶ Cal. Penal Code § 667.5(c).

³⁷ Cal. Welf. & Inst. Code § 707(b).