

## 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 a civil court designed to handle matters associated with juvenile law, including dependency proceedings for abused or neglected children,<sup>1</sup> status offense proceedings for youth between the ages of 12 and 17 who have violated laws that only apply to minors,<sup>2</sup> and juvenile justice or juvenile delinquency proceedings for cases concerning violations of the criminal law by minors between the ages of 12 and 17.<sup>3</sup> However, proceedings in juvenile court are not deemed to be “criminal” and adjudications are not deemed to be “convictions” for any purpose.<sup>4</sup>

The purpose of the juvenile court for all cases is to provide for the protection and safety of the public and the minor, to preserve and strengthen the minor's family ties whenever possible, including keeping the minor at home unless removal is necessary for the welfare or safety of the minor and the protection of the public.<sup>5</sup> If removal is necessary, the juvenile court must make reunification of the minor a primary objective, and the purpose of removal shall be to secure for the minor custody, care, and discipline as nearly as possible equivalent to that which should have been given by the minor's parents/guardians.<sup>6</sup>

In delinquency proceedings, the goal of the system is to provide care, treatment, and guidance to minors that is consistent with their best interest, that holds minors accountable for their behavior, and that is appropriate for their circumstances.<sup>7</sup> In meeting that goal, the juvenile justice system may impose a range of interventions. Juvenile court interventions include diversion, community service, restorative discipline, informal probation, formal probation, and out-of-home placement—for example placement in foster care, commitment to a local juvenile facility (e.g. a juvenile hall, camp, or ranch), or in limited cases<sup>8</sup> commitment to the state Division of Juvenile Justice (DJJ) for placement in a state-operated juvenile facility for minors with transfer

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<sup>1</sup> Cal. Welf. & Inst. Code § 300.

<sup>2</sup> Cal. Welf. & Inst. Code § 601. Status offenses are typically heard in the juvenile delinquency division.

<sup>3</sup> Cal. Welf. & Inst. Code § 602.

<sup>4</sup> Cal. Welf. & Inst. Code § 203.

<sup>5</sup> Cal. Welf. & Inst. Code § 202(a).

<sup>6</sup> *Id.*

<sup>7</sup> Cal. Welf. & Inst. Code § 202(b).

<sup>8</sup> Cal. Welf. & Inst. Code §§ 736.5, 730. It is the intent of the Legislature to close the Division of Juvenile Justice on June 30, 2023. Beginning July 1, 2021, minors shall not be committed to DJJ except if there was a motion to transfer the minor from juvenile court to a court of criminal jurisdiction filed and the minor were otherwise eligible to be committed. As of July 1, 2021, minors may also be placed at the Pine Grove Youth Conservation Camp if they meet the placement criteria.

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petitions.<sup>9</sup> Juvenile court intervention may also include “punishment” that is consistent with rehabilitative objectives.<sup>10</sup>

### How does a minor get into the juvenile justice system?

A peace officer has the discretion to take a minor into temporary custody if the officer believes that a minor has committed an offense and may:

- 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 and take the minor directly to juvenile hall.<sup>11</sup>

In addition, probation officers, either on their own or upon formal application by another person, shall make any investigation he or she deems necessary to determine whether proceedings in the juvenile court should be commenced.<sup>12</sup>

### Does a minor have a right to an attorney?

Whenever a juvenile is detained, the minor has a right to an attorney. When taken before a probation officer, the minor and his or her parents/guardians must be immediately advised of the juvenile’s constitutional right to remain silent, right to have counsel present during interrogation(s), and right to have counsel appointed if the juvenile cannot afford counsel.<sup>13</sup> A juvenile age 17 or younger must consult with legal counsel, prior to a custodial interrogation or before the waiver of any Miranda rights.<sup>14</sup>

### 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 minor into juvenile hall, or not.<sup>15</sup> If the minor is “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.<sup>16</sup> If the probation officer does not

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<sup>9</sup> Cal. Welf. & Inst. Code §§ 202 (e), 626, and 725-730.

<sup>10</sup> Cal. Welf. & Inst. Code § 202(e). “Punishment” means the imposition of sanctions, for example payment of a fine or compulsory community service by the minor. It does not include retribution and shall not include a court order to place a child in foster care.

<sup>11</sup> Cal. Welf. & Inst. Code §§ 625.3 (minors alleged to have personally used a firearm in the commission or attempted commission of a felony or other serious offense may not be released until appearing before a judicial officer), 626, 626.5, 626.6.

<sup>12</sup> Cal. Welf. & Inst. Code §§ 653, 653.1.

<sup>13</sup> Cal. Welf. & Inst. Code § 627.5.

<sup>14</sup> Cal. Welf. & Inst. Code § 625.6.

<sup>15</sup> Cal. Welf. & Inst. Code §§ 625.3 (limits discretion to release certain juveniles), 628, and 636.

<sup>16</sup> 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).

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release the minor after booking, the minor remains in custody at the juvenile hall until the probation officer decides to release the minor or the court orders release. The law imposes upon both the probation officers and the courts a presumption in favor of releasing most juveniles.<sup>17</sup> The probation officer is required to immediately release a minor to the parent, legal guardian, or responsible relative unless it determines that continuance in the home is contrary to the minor's welfare **and**:

- 1) continued detention is immediately and urgently necessary to protect the minor or reasonably necessary to protect another person or property;
- 2) the minor is likely to flee the jurisdiction; **or**
- 3) the minor has violated an order of the court.<sup>18</sup>

### If no petition is filed, what happens?

The juvenile court case cannot proceed without the filing of a petition. The probation department may just drop the matter entirely, leave the matter open to file a petition at a later time, refer the minor to a diversion program, or offer the minor informal probation in lieu of formally proceeding with a petition in juvenile court. Informal probation is a formal agreement with eligible minors and their parent/guardian who consent to participate in specific programs of supervision and terms of probation not to exceed six months.<sup>19</sup> However, the probation officer retains discretion to file a petition at any time during the six-month probationary period or up to 90 days thereafter.<sup>20</sup>

### If a petition is filed, how is the juvenile court involved?

The filing of a **Petition** formally commences the juvenile court proceeding. In addition to stating alleged violations of law and supporting facts, the juvenile petition contains a notice to the minor's parents/guardians of the proceedings and their liability for the cost of care and support of their child while the minor is placed in out-of-home care.<sup>21</sup> The juvenile petition requests the court to adjudicate the charges and decide the disposition for the case.

For minors who are held in a juvenile hall, the petition must be filed within 48 hours (excluding nonjudicial days) of detention and a **Detention Hearing** must be held by the end of the next judicial day after the petition is filed.<sup>22</sup> If either act is not completed within the given time period, the minor must be released from custody.<sup>23</sup>

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<sup>17</sup> *Supra* note 15.

<sup>18</sup> Cal. Welf. & Inst. Code § 628.

<sup>19</sup> Cal. Welf. & Inst. Code §§ 654–654.6.

<sup>20</sup> Cal. Welf. & Inst. Code § 654.

<sup>21</sup> Cal. Welf. & Inst. Code § 656.

<sup>22</sup> Cal. Welf. & Inst. Code §§ 631, 632.

<sup>23</sup> *Id.*

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A probation officer will be assigned to the juvenile throughout the court process. However, the probation officer does not represent the minor. The probation officer's primary role, with respect to court, is to review the juvenile's case and to decide whether and how to proceed.<sup>24</sup> 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.<sup>25</sup>

Similarly, the district attorney does not represent the minor, but represents the state.<sup>26</sup> 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.<sup>27</sup> 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(s) 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.<sup>28</sup>

Even after the filing of a petition, but before the Jurisdiction Hearing, the court may grant (with the consent of the minor and the minor's parents/guardians) informal probation if doing so would be in the interests of the child and the community.<sup>29</sup> If informal probation is granted, the petition is suspended but not dismissed pending successful completion of the six-month term of probation.<sup>30</sup> 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.<sup>31</sup>

### What happens if the petition is sustained?

Once the juvenile is adjudicated as having committed a delinquent offense, the judge determines the consequence to be imposed upon the juvenile at a **Disposition Hearing**. The court will review a social study provided by the probation officer and any

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<sup>24</sup> Cal. Welf. & Inst. Code § 636.1.

<sup>25</sup> Cal. Welf. & Inst. Code § 280.

<sup>26</sup> Cal. Welf. & Inst. Code § 681.5.

<sup>27</sup> Cal. Welf. & Inst. Code §§ 246, 702.3(f), 656, 657.

<sup>28</sup> Cal. Welf. & Inst. Code §§ 355, 356.

<sup>29</sup> Cal. Welf. & Inst. Code § 654; Cal. Rules of Court, rule 5.514(e).

<sup>30</sup> Cal. Welf. & Inst. Code § 654.2.

<sup>31</sup> *Id.*

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other relevant and material evidence presented to the court in determining the disposition of the case.<sup>32</sup>

The minor can be:

1. *Not* adjudicated a ward of the court and placed on probation at home, for up to six months, with the supervision of the probation officer;<sup>33</sup>
2. Adjudicated a ward of the court and placed on probation at home, with or without the supervision of a probation officer;<sup>34</sup>
3. Adjudicated a ward of the court and placed on probation at a licensed community care facility, at an approved foster care setting (e.g. relative/kinship home, foster home, FFA, group home), or at a short-term residential therapeutic program with the supervision of a probation officer;<sup>35</sup> or
4. Adjudicated a ward of the court and committed to a juvenile ranch, camp, or forestry camp.<sup>36</sup>

In limited circumstances, a minor can be adjudicated a ward of the court and committed to the state Division of Juvenile Justice (DJJ), pending its final closure, if there was a motion to transfer the minor from juvenile court to criminal court filed and the minor were otherwise eligible to be committed.<sup>37</sup>

Formal probation is a disposition placing the minor under the supervision of the court on probation (in most cases) in the community. The juvenile court judge sets the terms of the juvenile's probation that can last up to age 21, unless terminated sooner by the court,<sup>38</sup> and usually includes requirements such as school attendance, participation in a service program (e.g., substance abuse treatment, anger management, and family counseling), and regular meetings with a probation officer.<sup>39</sup>

Foster care placements are non-secure (unlocked) out-of-home care settings subject to regulation and oversight by the California Department of Social Services Community Care Licensing Division (CCLD).<sup>40</sup> Probation-supervised youth in foster care placements are entitled to the same benefits and protections as child-welfare-

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<sup>32</sup> Cal. Welf. & Inst. Code § 706.

<sup>33</sup> Cal. Welf. & Inst. Code § 725.

<sup>34</sup> Cal. Welf. & Inst. Code § 727(a)(2).

<sup>35</sup> Cal. Welf. & Inst. Code § 727(a)(4).

<sup>36</sup> Cal. Welf. & Inst. Code § 730(a). If there is no county ranch, camp, or forestry camp, the court may commit the minor to the juvenile hall. Forestry camp includes DJJ's Pine Grove Youth Conservation Camp. However, a minor's placement at Pine Grove is not a commitment to DJJ, but rather a use of the camp facilities. Youth placed at Pine Grove remain under the supervision of the county probation department.

<sup>37</sup> Cal. Welf. & Inst. Code § 736.5.

<sup>38</sup> Cal. Welf. & Inst. Code §§ 727, 607.

<sup>39</sup> Cal. Welf. & Inst. Code § 18221.

<sup>40</sup> Cal. Health & Safety Code §§ 1502, 1530; Cal. Welf. & Inst. Code § 727 (a)(4); 22 CCR 80001 *et seq.*

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supervised youth in foster care placements.<sup>41</sup> 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 halls, probation camps, and ranches are operated by counties and are subject to regulation through the Board of State and Community Corrections.<sup>42</sup> These local facilities have schools and provide other services and programs. Many counties do not have camp programs and contract to use programs in other counties.

The DJJ facilities represent the most restrictive setting and commitments are limited to serious juvenile offenders.<sup>43</sup> 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.<sup>44</sup> The period of incarceration is determined by the Board of Juvenile Hearings which also has the authority to discharge a juvenile's commitment to DJJ.<sup>45</sup> However, after June 30, 2023 the DJJ will be closed and no minors will be committed after July 1, 2021 except in limited circumstances.<sup>46</sup> For youth who have committed serious offenses and less restrictive settings would not be suitable, secure county or regional youth treatment facilities will be created to prevent transfers of youth to adult facilities after DJJ is closed.<sup>47</sup> This will result in a realignment of youth to the care of California's 58 counties to provide for the needs of the population of youth who would formerly have been committed to DJJ.

### How does a juvenile offender end up in adult court?

A juvenile offender can be tried in adult court if the juvenile committed certain serious offenses at age 16 or older, and, after a motion to transfer and hearing in juvenile court, a juvenile court judge finds the minor unfit to be tried in the juvenile court.<sup>48</sup>

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

Like other mitigating factors, the hallmarks of youth (e.g., immaturity, impetuosity, and vulnerability to negative influences and peer pressure) should be taken into consideration by the court when sentencing youthful offenders (juveniles tried and

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<sup>41</sup> Cal. Welf. & Inst. Code §§ 727, 16001.9.

<sup>42</sup> Cal. Welf. & Inst. Code §§ 209, 210, 850, 881, and 885.

<sup>43</sup> Cal. Welf. & Inst. Code § 731(a) limits commitments to Cal. Welf. & Inst. Code § 707(b), Cal. Pen.Code § 290.008 offenses.

<sup>44</sup> Cal. Welf. & Inst. Code § 731(b).

<sup>45</sup> Cal. Welf. & Inst. Code § 1719.

<sup>46</sup> Cal. Welf. & Inst. Code § 736.5.

<sup>47</sup> Cal. Welf. & Inst. Code § 875.

<sup>48</sup> Cal. Welf. & Inst. Code §§ 707(a)–(b). The list of serious offenses include, but are not limited to, murder, attempted murder, arson, robbery, rape with force, violence, or threat of great bodily harm, kidnapping for ransom, and assault with a firearm or destructive device.

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convicted in adult courts). However, juveniles tried and convicted in adult courts could receive the same sentences as adults tried and convicted for the same offense, up to and including life with the possibility of parole after 25 years of incarceration.<sup>49</sup> California law requires a youthful offender, who was 25 years of age or younger at the time of the offense, to be given a meaningful opportunity to seek parole after serving long periods of incarceration.<sup>50</sup>

### **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;<sup>51</sup>
- Right to remain silent;<sup>52</sup>
- Right to have an attorney present prior to any police interrogation;<sup>53</sup>
- Right to an attorney throughout the court process and to have the court appoint an attorney if the juvenile cannot afford one;<sup>54</sup>
- Right to be given a copy of the petition (charge);<sup>55</sup> and
- Right to a hearing to confront and cross-examine witnesses.<sup>56</sup>

## Juvenile Justice Resources

Juvenile Justice Transformation: Navigating the Legal Landscape

<https://www.ylc.org/navigate-juvenile-justice-law/>

California Courts Juvenile Delinquency Overview

<https://www.courts.ca.gov/selfhelp-delinquency.htm>

Pacific Juvenile Defender Center

<https://www.pjdc.org/>

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<sup>49</sup> Cal. Pen. Code §§ 190.5 (prohibiting juvenile death penalty), 3051 (requiring youthful offenders with life sentences to be given an opportunity for parole after 25 years of incarceration); *People v. Gutierrez* (2014) 324 P.3d 245 (holding that Cal. Pen. Code § 190.5 does not impose a presumption in favor of life without parole even for youth who were convicted of special circumstance murder).

<sup>50</sup> Cal. Pen. Code §§ 3051, 4801(c).

<sup>51</sup> Cal. Welf. & Inst. Code § 625.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> Cal. Welf. & Inst. Code § 658.

<sup>56</sup> Cal. Welf. & Inst. Code § 317.