

Part 4

A LEGAL MAP FOR JUVENILE HALLS IN CALIFORNIA

This tool is part of a series designed to map key legal requirements at various stages in California’s juvenile delinquency system. The purpose of these maps is to enable community members and system stakeholders to navigate the legal landscape of juvenile justice and move towards system transformation. For other maps in this series, please visit Youth Law Center’s website, yhc.org/navigate-juvenile-justice-law.

This map provides an overview of California law related to juvenile halls. Across the state, many county juvenile halls are operating below capacity, raising questions about whether such facilities can be replaced with alternatives.¹ For example, in 2019, the Board of Supervisors in San Francisco voted to establish an alternative place of detention and close its juvenile hall facility by the end of 2021.² This tool maps the legal requirements regarding county juvenile halls in California. Below is a summary of the key legal guideposts related to juvenile hall facilities, followed by a detailed explanation of each point of law.³

¹ See Jill Tucker and Joaquin Palomino, Vanishing Violence: Juvenile Hall Costs Skyrocket, S.F. CHRONICLE, Apr. 26, 2019, available at: <https://www.sfchronicle.com/news/article/Vanishing-Violence-Cost-of-locking-up-a-youth-in-13793488.php>.

Jill Tucker and Joaquin Palomino, In historic move, SF supervisors vote to close juvenile hall by end of 2021, S.F. CHRONICLE, Jun. 4, 2019, available at: <https://www.sfchronicle.com/bayarea/article/Closure-of-SF-s-juvenile-hall-less-than-one-13936500.php>.

³ Disclaimer: The information provided in this tool does not constitute legal advice. All content is for general informational purposes only.

THE LAW OF JUVENILE HALLS

KEY GUIDEPOSTS FOR REFORM:

- ✦ California law does not require that counties operate juvenile halls as they currently exist around the state. While there are requirements for counties to maintain a “place of detention” for youth, such a place need not replicate the security hardware or cell-based confinement that is typically associated with adult jail facilities. In fact, the law requires just the opposite. A county’s place for youth detention must be a safe and supportive homelike environment.
- ✦ A county must provide for a “suitable house or place” for the detention of youth. This place is designated for youth who come into detention either through child welfare or through arrest, and can include both youth who are already under the jurisdiction of the dependency or delinquency court, and youth who have pending allegations that they belong under court jurisdiction (but have not yet had the charges adjudicated in court). The “house or place” for youth detention cannot be connected to any adult jail or prison, and it cannot be deemed or treated as a penal institution.
- ✦ A county’s “place of detention” serves as its “juvenile hall,” and may be used by both Probation and the court for detention of youth who have been brought into custody for a delinquent act (i.e. “criminal offense”). However, the law presumes that arrested youth should be released, not detained, and only allows detention when certain factors are present. If either Probation or the court makes a decision to detain a youth, the law allows for options other than the county’s “place of detention” for the detention of that youth.
- ✦ The county must maintain a place of detention at the county’s expense. The place of detention is under the management and control of the county’s probation officer, and its location must be approved by the presiding judge of the county’s juvenile court. Alternatively, a county may operate a place of detention jointly with another county or counties.
- ✦ If a county does not have a place of detention within the county, or if its place of detention is deemed unsuitable or unfit, the court may order a youth to be detained in another county’s place of detention for up to 60 days, subject to certain requirements.

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- ✦ A place of detention may be secure or nonsecure. In a secure place of detention, entrances and exits are under the exclusive control of staff. A secure place of detention does not have to rely on locked rooms, buildings, fences or physical restraints to control the behavior of its residents, and it may allow freedom of movement within the building.
 - ✦ A nonsecure place of detention does not have physically restraining characteristics. Residents in a nonsecure place of detention can access the surrounding community with minimal supervision, but some reasonable restrictions may be imposed. Probation is authorized under the law to operate or contract for nonsecure facilities as a place of detention for youth involved in the delinquency system.
 - ✦ The California Board of State and Community Corrections (BSCC) sets the minimum standards for the operation and maintenance of juvenile facilities. Juvenile halls must comply with these standards, but counties may apply to establish pilot projects or alternate means of compliance. Counties can also operate “special purpose juvenile halls” that are exempted from some of the minimum standards requirements.
 - ✦ The minimum standards set by the BSCC for juvenile facilities impose certain requirements, including requirements for education, health, nutrition, and hygiene. The standards also require consideration of the “least restrictive environment” for confined youth.
 - ✦ The California Building Standards Code also includes regulations that apply to juvenile facilities. While these regulations require a secure perimeter for such facilities, they do not specify that living spaces within the facility must be locked.
 - ✦ Under both state law and regulation, youth have rights related to their treatment while being held in a place of detention. These rights are in addition to federally-protected rights, including constitutional rights and right protected by the Americans with Disabilities Act.

JUVENILE HALLS



A juvenile hall is a “house or place” that provides detention housing outside of the home for certain categories of youth.

The law defines a “juvenile hall” as a “house” or “place” designated for the detention of youth involved in the dependency or delinquency systems.⁴ Specifically, a juvenile hall is the location established by the county as a “suitable house or place of detention” for children who are either already under the jurisdiction of the juvenile delinquency or dependency courts, or who are alleged to come within the jurisdiction of the juvenile delinquency or dependency courts.⁵ In other words, a facility designated as a county juvenile hall can house youth who come into detention both through child welfare and through arrest, and can include both youth who are already under court jurisdiction and youth who have pending allegations that they belong under court jurisdiction (but have not yet had their charges adjudicated in court). However, youth whose cases are in the dependency system must be provided with segregated facilities, such that they are separated from youth whose cases are in the delinquency system.⁶

⁴ Welf. & Inst. Code § 850.

⁵ *Id.*

⁶ Welf. & Inst. Code § 206.



The law requires that a county’s “place of detention” be a supportive, homelike environment, not a penal institution. The fact that a youth has been “detained” does not dictate that he or she be held in the type of juvenile hall facilities that currently exist in California.

Although many juvenile halls operate much like adult jails, the law prohibits a place of detention from being treated as a “penal institution.”⁷ *In fact, the law requires that a place of detention be a “safe and supportive homelike environment.”*⁸ A place of detention cannot be in, or connected with, any jail or prison.⁹

There can be some confusion about the word “detention” because it has so many different meanings in the law and is often thought of as synonymous with confinement. However, the term “detention” in the context of youth specifically refers to removal of the youth from their home and the custody of their parent or guardian. This meaning is clear from the fact that “detention” applies both to dependency youth and delinquency youth. Thus, the fact that a youth has come into “detention” means only that he or she has been removed from his or her parents’ custody, and is being held temporarily by the state. The term “detention” does not, in and of itself, dictate the particular type of facility, space, or location used for the detention housing.

Under the law, a county’s place of detention for youth is to be known as the “juvenile hall” of the county.¹¹ However, the remainder of this tool will use the term “place of detention” rather than juvenile hall, in an effort to preserve a distinction between actual juvenile hall facilities as they exist now, and the potentially improved places of detention that are permitted by statute.



The law presumes that youth should not be detained, and only allows detention when certain factors are present. If either Probation or the court makes a decision to detain a youth, the law allows for options other than the county’s “place of detention” for the detention of the youth.

The presumption in the law is that an arrested youth will not be detained, but instead released to a parent, guardian, or responsible relative.¹² Probation has the authority to bring an arrested youth into detention, but can only do so if certain statutory factors

⁷ Welf. & Inst. Code § 851.

⁸ *Id.*

⁹ *Id.*

¹⁰ Welf. & Inst. Code § 850.

¹¹ *Id.*

¹² Welf. & Inst. Code §§ 628(a)(1), 635(a).

are present.¹³ If Probation determines that a youth's circumstances meet the statutory requirements for detention and that the youth should be detained, Probation must consider whether "Home Supervision" should be used, instead of detention.¹⁴ By law, if Probation determines that 24-hour secure detention is not required 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, then Probation must consider releasing the youth on Home Supervision.¹⁵ For a full discussion of these laws, see Youth Law Center's publication, *Navigating the Legal Landscape towards Juvenile Justice Transformation: A Legal Map of Youth Detention in California*.

Similarly, the law presumes that a youth who has been held by Probation will be released by the court at the detention hearing, unless certain statutory factors are present.¹⁷ If those factors are present, the court is permitted, but not required, to order the youth to be detained.¹⁸ But, if the court finds that the criteria for Home Supervision have been met, the youth must be released under Home Supervision.¹⁹ For a full discussion of these laws, see Youth Law Center's publications, *Navigating the Legal Landscape towards Juvenile Justice Transformation: A Legal Map of Youth Detention Hearings in California*.²⁰

In addition, even if the court is ordering a youth to be detained, the law does not require that the youth be detained in juvenile hall. Instead, the law states that the court may order a youth detained in juvenile hall or in "another suitable place designated by the juvenile court."²¹ For a full discussion of these laws, see Youth Law Center's publication, *Navigating the Legal Landscape towards Juvenile Justice Transformation: A Legal Map of Non-Custodial Residential Options for Youth in California*.²²

¹³ See Welf. & Inst. Code § 628. For a certain subset of cases, Probation must hold a youth in custody until the young person can be brought before a judge for a detention hearing. See Welf. & Inst. Code § 629.1. This subset includes youth who are 14 years of age or older and taken into custody for the personal use of a firearm in an attempt or commission of a felony or for any offense listed in Welfare and Institutions Code section 707(b). *Id.* The law does not require that these youth be held in a detention facility, only that they be retained in "custody" pending their court detention hearing.

¹⁴ See Welf. & Inst. Code § 628.1.

¹⁵ *Id.* Section 628.1 is best read to require a release on Home Supervision whenever secure detention is not required, except in those limited cases when the home is deemed unsuitable to provide care and supervision to the youth. When this section was drafted, and at the time of the most recent amendments, the provisions of Welfare and Institutions Code section 628 (which are referenced in section 628.1) contained substantially different language aimed at ensuring suitability of a youth's home and caretaker prior to release on Home Supervision. As long as a youth's home is suitable, the law mandates that a youth who is otherwise eligible should be released on Home Supervision.

¹⁶ *Navigating the Legal Landscape towards Juvenile Justice Transformation: A Legal Map of Youth Detention in California*, www.ylc.org/navigate-juvenile-justice-law.

¹⁷ Welf. & Inst. Code § 635(a).

¹⁸ Welf. & Inst. Code § 636(a).

¹⁹ Welf. & Inst. Code § 636(b).

²⁰ *Navigating the Legal Landscape towards Juvenile Justice Transformation: A Legal Map of Youth Detention Hearings in California*, www.ylc.org/navigate-juvenile-justice-law

²¹ Welf. & Inst. Code § 636(a).

²² *Navigating the Legal Landscape towards Juvenile Justice Transformation: A Legal Map of Non-Custodial Residential Options for Youth in California*, www.ylc.org/navigate-juvenile-justice-law (forthcoming).



The county must provide for and maintain a “place of detention” at the county’s expense, and it must be under the management and control of the county probation officer. The juvenile court must approve of the location of the “place of detention.”

The county board of supervisors is responsible for providing and maintaining a place of detention at the county’s expense.²³ The place of detention is under the management and control of the county probation officer, who appoints the superintendent and other employees pursuant to a civil service system.²⁴ The county is responsible for providing the funds for the superintendent’s salary, and the salaries of any employees needed for efficient management of the place of detention.²⁵

The location of the place of detention must be approved by the judge of the juvenile court.²⁶ If a county has more than one juvenile court judge, it must be approved by the presiding judge of the juvenile court.²⁷



Instead of operating its own “place of detention” within the county, a county may operate a joint space with another county or counties.

A county may enter into an agreement with another county or counties to establish and operate a joint place of detention.²⁸ A county operating a joint place of detention with another county does not have to maintain its own separate detention housing within the county.²⁹

²³ Welf. & Inst. Code § 850.

²⁴ Welf. & Inst. Code §§ 852, 854.

²⁵ Welf. & Inst. Code § 853.

²⁶ Welf. & Inst. Code § 850.

²⁷ *Id.*

²⁸ Welf. & Inst. Code § 870.

²⁹ *Id.*



When there is no “place of detention” in a youth’s county of residence, or when a county’s “place of detention” becomes unfit or unsafe, a judge may order a youth to be detained in another county.

When there is no place of detention within a youth’s county of residence (for example, because the county has an agreement for a joint juvenile hall in another county), or when the place of detention becomes unfit or unsafe, the presiding juvenile court judge may order a youth to be detained in the place of detention of another county in the state.³⁰ This detention must be with the recommendation of Probation in the sending county and the consent of Probation in the receiving county.³¹ The period of detention may not exceed 60 days, and the court may modify or vacate the order at any time.³²



Under state law, a “place of detention” can be secure or nonsecure. In a secure “place of detention,” entrances and exits are under the exclusive control of staff. In a nonsecure “place of detention,” construction and procedures may not be physically restricting, but there may be reasonable limits on residents’ access to the community.

The law does not specify what type of security must be maintained at a place of detention.

There are two types of detention facilities under the law, “secure” and “nonsecure.”³³ A secure facility means that all entrances and exits are under the exclusive control of the staff of the facility, whether or not the facility uses other physical constraints or procedures to control behavior of residents.³⁴ It is crucial to note that a facility can be deemed “secure” even if the internal spaces of the facility are not locked down.³⁵ In other words, within a secure facility, youth inside may have freedom of movement, and the facility may or may not use locked rooms and buildings, fences, or other physical restraints.³⁶

³⁰ Welf. & Inst. Code § 872.

³¹ *Id.*

³² *Id.*

³³ Welf. & Inst. Code § 206.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

A “nonsecure” facility means that there are no “physically restricting” characteristics, such as construction, hardware, or procedures.³⁷ Residents in a nonsecure facility have access to the surrounding community with minimal supervision.³⁸ But, a facility can be deemed “nonsecure” even if it has any of the following: 1) a small room within the facility for the protection of residents from themselves or others; 2) reasonable restrictions on hours when residents can come and go from the facility; and 3) staff control of ingress and egress in the same manner as a prudent parent.³⁹

Probation is specifically authorized under the law to maintain nonsecure facilities for the purpose of detaining youth who are alleged to have committed a delinquent act (i.e. a “criminal offense”).⁴⁰ Probation can either operate such facilities itself, or can contract with a public or private agency to do so.⁴¹ Nonsecure facilities may be used for the detention of youth who are not considered an escape risk or a danger to themselves or to the person or property of another.⁴²

Finally, as described in #1 above, a place of detention can house youth who are in custody pursuant to delinquency or dependency (i.e. child welfare). Young people who are in detention for dependency-related matters must be held in nonsecure facilities, and must be segregated from young people who are in detention because of delinquency-related matters.⁴³ The segregated facilities for dependency-involved youth can be within the juvenile hall, as long as the facilities segregated for the use of dependency-involved youth are nonsecure.⁴⁴

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Welf. & Inst. Code § 636.2.

⁴¹ *Id.*

⁴² *Id.*



The California Board of State and Community Corrections sets the minimum standards for the operation and maintenance of juvenile facilities. Juvenile halls must comply with these standards, but counties may apply to establish alternate means of compliance and/or pilot projects. Counties can also operate “special purpose juvenile halls” that are exempted from some of the minimum standards requirements.

Operation and maintenance of a juvenile hall is subject to the minimum standards set by the California Board of State and Community Corrections (BSCC).⁴⁵ The BSCC must inspect a juvenile hall every other year to ensure compliance with the minimum standards.⁴⁶ The judge of the juvenile court must inspect the juvenile hall every year and notify the BSCC of any noncompliance with the minimum standards.⁴⁷ If the BSCC or the court finds that a juvenile hall is not being operated and maintained as a suitable place for the confinement of minors, then 60 days thereafter, the juvenile hall may no longer be used to confine minors.⁴⁸ The juvenile hall cannot resume operations until the BSCC or the court finds that the conditions that made the juvenile hall unsafe have been remedied.⁴⁹

If a county would like to develop a new project related to the operation or management of a local juvenile facility or develop an alternate means to comply with a standard, the county can apply to the BSCC to establish a “pilot project” or “alternate means of compliance.”⁵⁰ A county may either pilot an operational innovation or new concept in operating a juvenile hall, or apply to use an alternate means of compliance as a long-term method of operation that deviates from the minimum standards. A successful pilot project can subsequently be approved for long-term use as an “alternate means of compliance” with the BSCC standards.⁵¹

Counties may also operate a special purpose juvenile hall.⁵² A special purpose juvenile hall is a place used for temporary confinement, not to exceed 96 hours, and is exempted from certain BSCC regulations.⁵³

⁴⁵ Welf. & Inst. Code § 210.

⁴⁶ Welf. & Inst. Code § 209(a)(3).

⁴⁷ Welf. & Inst. Code § 209(a)(1)-(2).

⁴⁸ Welf. & Inst. Code § 209(a)(4). A juvenile hall is unsuitable for confinement of minors if it is not in compliance with one or more of the BSCC’s minimum standards, and the juvenile hall fails to file an “approved corrective action plan” with the BSCC within 60 days of being notified of the noncompliance. Welf. & Inst. Code § 209(d).

⁴⁹ Welf. & Inst. Code § 209(a)(4).

⁵⁰ Title 15, Article 1, sec. 1303(a) and sec. 1304.

⁵¹ Title 15, Article 1, sec. 1304.

⁵² Welf. & Inst. Code § 207.1(g).

⁵³ Title 15, Article 2, sec. 1320, 1310(b).



The minimum standards set by the Board of State and Community Corrections (BSCC) for juvenile facilities impose certain requirements, including requirements for education, health, nutrition, and hygiene. The standards also require consideration of the “least restrictive environment” for confined youth.

Under the minimum standards set by the state Board of State and Community Corrections (BSCC), juvenile halls must include access to certain programming for confined youth. For example, juvenile halls must provide for educational, recreational, religious and other programming (such as skills classes).⁵⁴ Juvenile halls must ensure that health care services are provided to all youth, including dental and mental health services.⁵⁵ Juvenile halls must provide meals that meet minimum nutritional requirements,⁵⁶ and must also comply with certain specifications for laundry and personal hygiene.⁵⁷ Juvenile hall administrators must establish written criteria for detention within the facility that considers the least restrictive environment for confining a young person.⁵⁸ Additionally, youth must be screened for disabilities requiring accommodation.⁵⁹

The BSCC’s minimum standards reflect an assumption that juvenile facilities will generally operate in the manner of the juvenile halls that currently exist across California—in other words, as large, locked facilities. However, the minimum standards do not specifically require this type of facility, and cannot overrule the requirement in state law that juvenile halls must operate as a “safe and supportive homelike environment.”⁶⁰

⁵⁴ Title 15, Article 6, secs. 1370-1373.

⁵⁵ Title 15, Article 8, secs. 1400-1454.

⁵⁶ Title 15, Article 9, secs. 1460-1467.

⁵⁷ Title 15, Article 10, secs. 1480-1488.

⁵⁸ Title 15, Article 5, sec. 1350(b).

⁵⁹ Title 15, Article 8, sec. 1430.

⁶⁰ See Welf. & Inst. Code §851.



Regulations under California’s Building Standards Code impose additional facility requirements, but these regulations do not specify that living spaces within a juvenile facility must be locked.

Juvenile hall facilities also must comply with regulations under California’s Building Standards Code. Regarding security, the regulations specify that a juvenile facility must have a perimeter that is controlled by “appropriate means to ensure that youth remain within the perimeter and that the general public cannot access the facility without authorization.”⁶¹ In addition, the facility must use “security glazing” to prevent breakage of doors and windows, both on the perimeter of buildings and in interior locations as appropriate to maintain a “secure and safe environment” for youth and staff.⁶²

Living spaces within a juvenile facility are not required to be locked. According to Building Standards Code regulations, a living space may have locked sleeping rooms, single occupancy sleeping rooms, double occupancy sleeping rooms, or dormitories.⁶³ There must, however, be a locked holding room available for youth while they are pending admission to the juvenile facility.⁶⁴

A county may apply to have a facility that does not meet Building Standards Code regulations for juvenile facilities to be approved as a “pilot project” or an alternate means of compliance if that project or method otherwise meets or exceeds the intent of the regulations.⁶⁵ If the pilot project is successful, it can subsequently be granted long-term approval as an “alternate means of compliance” with the regulations.⁶⁶

⁶¹ Building Code, Title 24, Part 1, Chapter 13, Article 2, 13-201(c)(6)(B)(9)(a).

⁶² Building Code, Title 24, Part 1, Chapter 13, Article 2, 13-201(c)(6)(B)(9)(a).

⁶³ Building Code, Title 24, Part 2, Volume 1, Chapter 12, Sec. 1230.1.5-1230.1.9.

⁶⁴ Building Code, Title 24, Part 2, Volume 1, Chapter 12, Sec. 1230.1.1-1230.1.2.

⁶⁵ Building Code, Title 24, Part 1, Chapter 13, Article 2, 13-201(c)(7).

⁶⁶ Building Code, Title 24, Part 1, Chapter 13, Article 2, 13-201(c)(7)-(8).



Under both law and regulation, youth have rights related to their treatment while held in a county's place of detention.

Youth detained in a county's place of detention are granted a number of substantive rights, by both state law and regulation. For example, detained youth have a right to access computer technology and the Internet for education purposes.⁶⁷ The BSCC minimum standards also provide for a wide range of rights for youth in county detention, including the right to be immediately enrolled in school, the right to an hour of leisure or recreation time each day, and the right to an hour of exercise each day.⁶⁸ These rights are on top of federally-protected rights, including constitutional rights under the Fourteenth Amendment⁶⁹ and rights protected by the federal Americans with Disabilities Act and the Individuals with Disabilities in Education Act.⁷⁰ Any place of detention for youth must incorporate all rights and protections afforded to youth by state and federal law and regulation.

⁶⁷ Welf. & Inst. Code § 851.1(a).

⁶⁸ Title 15, Article 9, secs. 1370-1371. For an overview of important rights and protections afforded to youth in juvenile facilities beginning in 2019, see: Center on Juvenile and Criminal Justice, Children's Defense Fund California, MILPA, and National Center for Lesbian Rights, *New Rights for Youth in Juvenile Halls, Ranches & Camps*, www.cjcj.org/uploads/cjcj/documents/new_rights_for_youth_in_juvenile_halls_ranches_camps_bsc.pdf.

⁶⁹ See *Vazquez v. Cty. of Kern*, No. 18-15060, 2020 WL 501710, at *7 (9th Cir. Jan. 31, 2020) (citing *Gary H. v. Hegstrom*, 831 F.2d 1430, 1432 (9th Cir. 1987)).

⁷⁰ See *e.g.*, *T.G. v. Kern Cty.*, No. 1:18-CV-0257 JLT, 2019 WL 6529083, at *9 (E.D. Cal. Dec. 4, 2019); *G. F. v. Contra Costa Cty.*, No. 13-CV-03667-MEJ, 2015 WL 4606078, at *3 (N.D. Cal. July 30, 2015).



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