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Code: Section:

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WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 2. CHILDREN [100 - 1500] (*Division 2 enacted by Stats. 1937, Ch. 369.*)

PART 1. DELINQUENTS AND WARDS OF THE JUVENILE COURT [100 - 1459] (*Part 1 enacted by Stats. 1937, Ch. 369.*)

CHAPTER 2. Juvenile Court Law [200 - 987] (*Chapter 2 repealed and added by Stats. 1961, Ch. 1616.*)

ARTICLE 3. Probation Commission [240 - 243] (*Heading of Article 3 amended by Stats. 1987, Ch. 228, Sec. 2.*)

240. 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.

(Amended by Stats. 1987, Ch. 228, Sec. 3.)

241. 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.

(Amended by Stats. 1987, Ch. 228, Sec. 4.)

241.1. (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 child welfare services 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 that is filed on behalf of the minor, and the court shall determine which status is appropriate for the minor. Any other juvenile court having jurisdiction over the minor shall receive notice from the court, within five calendar days, of the presentation of the recommendations of the departments. The notice shall include the name of the judge to whom, or the courtroom to which, the recommendations were presented.

(b) (1) The probation department and the child welfare services 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.

(2) These protocols shall require, but 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 that 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 child welfare services departments regarding the need for dependency or ward status and provisions for determining the circumstances under which filing a new petition is required to change the minor's status.

(3) (A) These protocols may also require immediate notification of the child welfare services department and the minor's dependency attorney upon referral of a dependent minor to probation, procedures for release to, and placement by, the child welfare services department pending resolution of the determination pursuant to this section, timelines for dependents in secure custody to ensure timely resolution of the determination pursuant to this section for detained dependents, and nondiscrimination provisions to ensure that dependents are provided with any option that would otherwise be available to a nondependent minor.

(B) If the alleged conduct that appears to bring a dependent minor within the description of Section 601 or 602 occurs in, or under the supervision of, a foster home, group home, or other licensed facility that provides residential care for minors, the county probation department and the child welfare services department may consider whether the alleged conduct was within the scope of behaviors to be managed or treated by the foster home or facility, as identified in the minor's case plan, needs

and services plan, placement agreement, facility plan of operation, or facility emergency intervention plan, in determining which status will serve the best interests of the minor and the protection of society pursuant to subdivision (a).

(4) The protocols shall contain the following processes:

(A) A process for determining which agency and court shall supervise a child whose jurisdiction is modified from delinquency jurisdiction to dependency jurisdiction pursuant to paragraph (2) of subdivision (b) of Section 607.2 or subdivision (i) of Section 727.2.

(B) A process for determining which agency and court shall supervise a nonminor dependent under the transition jurisdiction of the juvenile court.

(C) A process that specifically addresses the manner in which supervision responsibility is determined when a nonminor dependent becomes subject to adult probation supervision.

(c) Whenever a minor who is under the jurisdiction of the juvenile court of a county pursuant to Section 300, 601, or 602 is alleged to come within the description of Section 300, 601, or 602 by another county, the county probation department or child welfare services department in the county that has jurisdiction under Section 300, 601, or 602 and the county probation department or child welfare services department of the county alleging the minor to be within one of those sections shall initially determine which status will best serve the best interests of the minor and the protection of society. The recommendations of both departments shall be presented to the juvenile court in which the petition is filed on behalf of the minor, and the court shall determine which status is appropriate for the minor. In making their recommendation to the juvenile court, the departments shall conduct an assessment consistent with the requirements of subdivision (b). Any other juvenile court having jurisdiction over the minor shall receive notice from the court in which the petition is filed within five calendar days of the presentation of the recommendations of the departments. The notice shall include the name of the judge to whom, or the courtroom to which, the recommendations were presented.

(d) Except as provided in subdivision (e), this section shall not 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.

(e) Notwithstanding subdivision (d), the probation department and the child welfare services department, in consultation with the presiding judge of the juvenile court, in any county may create a jointly written protocol to allow the county probation department and the child welfare services department to jointly assess and produce a recommendation that the child be designated as a dual status child, allowing the child to be simultaneously a dependent child and a ward of the court. This protocol shall be signed by the chief probation officer, the director of the county social services agency, and the presiding judge of the juvenile court prior to its implementation. A juvenile court shall not order that a child is simultaneously a dependent child and a ward of the court pursuant to this subdivision unless and until the required protocol has been created and entered into. This protocol shall include all of the following:

(1) A description of the process to be used to determine whether the child is eligible to be designated as a dual status child.

(2) A description of the procedure by which the probation department and the child welfare services department will assess the necessity for dual status for specified children and the process to make joint recommendations for the court's consideration prior to making a determination under this section. These recommendations shall ensure a seamless transition from wardship to dependency jurisdiction, as appropriate, so that services to the child are not disrupted upon termination of the wardship.

(3) A provision for ensuring communication between the judges who hear petitions concerning children for whom dependency jurisdiction has been suspended while they are within the jurisdiction of the juvenile court pursuant to Section 601 or 602. A judge may communicate by providing a copy of any reports filed pursuant to Section 727.2 concerning a ward to a court that has jurisdiction over dependency proceedings concerning the child.

(4) A plan to collect data in order to evaluate the protocol pursuant to Section 241.2.

(5) Counties that exercise the option provided for in this subdivision shall adopt either an "on-hold" system as described in subparagraph (A) or a "lead court/lead agency" system as described in subparagraph (B). There shall not be any simultaneous or duplicative case management or services provided by both the county probation department and the child welfare services department. It is the intent of the Legislature that judges, in cases in which more than one judge is involved, shall not issue conflicting orders.

(A) In counties in which an on-hold system is adopted, the dependency jurisdiction shall be suspended or put on hold while the child is subject to jurisdiction as a ward of the court. When it appears that termination of the court's jurisdiction, as established pursuant to Section 601 or 602, is likely and that reunification of the child with his or her parent or guardian would be detrimental to the child, the county probation department and the child welfare services department shall jointly assess and produce a recommendation for the court regarding whether the court's dependency jurisdiction shall be resumed.

(B) In counties in which a lead court/lead agency system is adopted, the protocol shall include a method for identifying which court or agency will be the lead court/lead agency. That court or agency shall be responsible for case management, conducting statutorily mandated court hearings, and submitting court reports.

(f) Whenever the court determines pursuant to this section or Section 607.2 or 727.2 that it is necessary to modify the court's jurisdiction over a dependent or ward who was removed from his or her parent or guardian and placed in foster care, the court shall ensure that all of the following conditions are met:

(1) The petition under which jurisdiction was taken at the time the dependent or ward was originally removed is not dismissed until the new petition has been sustained.

(2) The order modifying the court's jurisdiction contains all of the following provisions:

(A) Reference to the original removal findings and a statement that findings that continuation in the home is contrary to the child's welfare, and that reasonable efforts were made to prevent removal, remain in effect.

(B) A statement that the child continues to be removed from the parent or guardian from whom the child was removed under the original petition.

(C) Identification of the agency that is responsible for placement and care of the child based upon the modification of jurisdiction.

(Amended by Stats. 2014, Ch. 760, Sec. 4. (AB 388) Effective January 1, 2015.)

241.2. (a) The Judicial Council shall convene a committee comprised of stakeholders involved in serving the needs of dependents or wards of the juvenile court, including, but not limited to, judges, probation officers, social workers, youth involved in both the child welfare system and the juvenile justice system, child welfare and juvenile justice attorneys, child welfare and juvenile justice advocates, education officials, and representatives from the State Department of Social Services, county child welfare agencies, and county probation departments. By January 1, 2018, the committee shall develop and report to the Legislature, pursuant to Section 9795 of the Government Code, its recommendations to facilitate and enhance comprehensive data and outcome tracking for the state's youth involved in both the child welfare system and the juvenile justice system. The committee's recommendations shall include, but not be limited to, all of the following:

(1) A common identifier for counties to use to reconcile data across child welfare and juvenile justice systems statewide.

(2) Standardized definitions for terms related to the populations of youth involved in both the child welfare system and the juvenile justice system.

(3) Identified and defined outcomes for counties to track youth involved in both the child welfare system and the juvenile justice system, including, but not limited to, outcomes related to recidivism, health, pregnancy, homelessness, employment, and education.

(4) Established baselines and goals for the identified and defined outcomes specified in paragraph (3).

(5) An assessment as to the costs and benefits associated with requiring all counties to implement the committee's recommendations.

(6) An assessment of whether a single technology system, including, but not limited to, the State Department of Social Services' Child Welfare Services/Case Management System (CWS/CMS) or the Child Welfare Services-New System (CWS-NS), is needed to track youth in the child welfare system and the juvenile justice system.

(b) The State Department of Social Services shall, on or before January 1, 2019, implement a function within the applicable case management system that will enable county child welfare agencies and county probation departments to identify youth involved in both the child welfare system and the juvenile justice system who are within their counties and shall issue instructions to all counties on how to completely and consistently track the involvement of these youth in both the child welfare system and the juvenile justice system.

(Repealed and added by Stats. 2016, Ch. 637, Sec. 2. (AB 1911) Effective January 1, 2017.)

242. 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.

(Amended by Stats. 1987, Ch. 228, Sec. 5.)

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

(Amended by Stats. 1987, Ch. 228, Sec. 6.)