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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 Juvenile Court Law [200 - 987] (*Chapter 2 repealed and added by Stats. 1961, Ch. 1616.*)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 23.5. Secure Youth Treatment Facilities [875 - 876] (*Article 23.5 added by Stats. 2021, Ch. 18, Sec. 12.*)

875. (a) In addition to the types of treatment specified in Sections 727 and 730, commencing July 1, 2021, the court may order that a ward who is 14 years of age or older be committed to a secure youth treatment facility for a period of confinement described in subdivision (b) if the ward meets all of the following criteria:

(1) The juvenile is adjudicated and found to be a ward of the court based on an offense listed in subdivision (b) of Section 707 that was committed when the juvenile was 14 years of age or older.

(2) The adjudication described in paragraph (1) is the most recent offense for which the juvenile has been adjudicated.

(3) The court has made a finding on the record that a less restrictive, alternative disposition for the ward is unsuitable. In determining this, the court shall consider all relevant and material evidence, including the recommendations of counsel, the probation department, and any other agency or individual designated by the court to advise on the appropriate disposition of the case. The court shall additionally make its determination based on all of the following criteria:

(A) The severity of the offense or offenses for which the ward has been most recently adjudicated, including the ward's role in the offense, the ward's behavior, and harm done to victims.

(B) The ward's previous delinquent history, including the adequacy and success of previous attempts by the juvenile court to rehabilitate the ward.

(C) Whether the programming, treatment, and education offered and provided in a secure youth treatment facility is appropriate to meet the treatment and security needs of the ward.

(D) Whether the goals of rehabilitation and community safety can be met by assigning the ward to an alternative, less restrictive disposition that is available to the court.

(E) The ward's age, developmental maturity, mental and emotional health, sexual orientation, gender identity and expression, and any disabilities or special needs affecting the safety or suitability of committing the ward to a term of confinement in a secure youth treatment facility.

(b) (1) In making its order of commitment for a ward, the court shall set a baseline term of confinement for the ward that is based on the most serious recent offense for which the ward has been adjudicated. The baseline term of confinement shall represent the time in custody necessary to meet the developmental and treatment needs of the ward and to prepare the ward for discharge to a period of probation supervision in the community. The baseline term of confinement for the ward shall be determined according to offense-based classifications that are approved by the Judicial Council, as described in subdivision (h). Pending the development and adoption of offense-based classifications by the Judicial Council, the court shall set a baseline term of confinement for the ward utilizing the discharge consideration date guidelines applied by the Department of Corrections and Rehabilitation, Division of Juvenile Justice prior to its closure and as set forth in Sections 30807 to 30813, inclusive, of Title 9 of the California Code of Regulations. These guidelines shall be used only to determine a baseline confinement time for the ward and shall not be used or relied on to modify the ward's confinement time in any manner other than as provided in this section. The court may, pending the

adoption of Judicial Council guidelines, modify the initial baseline term with a deviation of plus or minus six months. The baseline term shall also be subject to modification in progress review hearings as described in subdivision (e).

(2) For youth transferred from the Division of Juvenile Justice and committed to a secure youth treatment facility, the baseline term of confinement shall not exceed a youth's projected juvenile parole board date as defined in paragraph (12) of Section 30800 of Title 9 of the California Code of Regulations, at the time of their transfer from the Division of Juvenile Justice. Youth shall receive credit against their secure youth treatment facility baseline term for all programs completed or substantially completed at the Division of Juvenile Justice, as reflected in the transition report completed by the Division of Juvenile Justice.

(c) (1) In making its order of commitment, the court shall additionally set a maximum term of confinement for the ward based upon the facts and circumstances of the matter or matters that brought or continued the ward under the jurisdiction of the court and as deemed appropriate to achieve rehabilitation. The maximum term of confinement shall represent the longest term of confinement in a facility that the ward may serve subject to the following:

(A) A ward committed to a secure youth treatment facility under this section shall not be held in secure confinement beyond 23 years of age, or two years from the date of the commitment, whichever occurs later. However, if the ward has been committed to a secure youth treatment facility based on adjudication for an offense or offenses for which the ward, if convicted in adult criminal court, would face an aggregate sentence of seven or more years, the ward shall not be held in secure confinement beyond 25 years of age, or two years from the date of commitment, whichever occurs later.

(B) The maximum term of confinement shall not exceed the middle term of imprisonment that can be imposed upon an adult convicted of the same offense or offenses. 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 confinement shall be the aggregate term of imprisonment specified in subdivision (a) of Section 1170.1 of the Penal Code, which includes any additional term imposed pursuant to Section 667, 667.5, 667.6, or 12022.1 of the Penal Code, and Section 11370.2 of the Health and Safety Code.

(C) Precommitment credits for time served must be applied against the maximum term of confinement as set pursuant to this subdivision.

(2) For purposes of this section, "maximum term of confinement" has the same meaning as "maximum term of imprisonment," as defined in paragraph (2) of subdivision (d) of Section 726.

(d) (1) Within 30 judicial days of making an order of commitment to a secure youth treatment facility, the court shall receive, review, and approve an individual rehabilitation plan that meets the requirements of paragraph (2) for the ward that has been submitted to the court by the probation department and any other agencies or individuals the court deems necessary for the development of the plan. The plan may be developed in consultation with a multidisciplinary team of youth service, mental and behavioral health, education, and other treatment providers who are convened to advise the court for this purpose. The prosecutor and the counsel for the ward may provide input in the development of the rehabilitation plan prior to the court's approval of the plan. The plan may be modified by the court based on all of the information provided.

(2) An individual rehabilitation plan shall do all of the following:

(A) Identify the ward's needs in relation to treatment, education, and development, including any special needs the ward may have in relation to health, mental or emotional health, disabilities, or gender-related or other special needs.

(B) Describe the programming, treatment, and education to be provided to the ward in relation to the identified needs during the commitment period.

(C) Reflect, and be consistent with, the principles of trauma-informed, evidence-based, and culturally responsive care.

(D) The ward and their family shall be given the opportunity to provide input regarding the needs of the ward during the identification process stated in subparagraph (A), and the opinions of the ward and the ward's family shall be included in the rehabilitation plan report to the court.

(e) (1) (A) The court shall, during the term of commitment, including any term spent in a less restrictive program pursuant to subdivision (f), schedule and hold a progress review hearing for the ward not less frequently than once every six months. In the review hearing, the court shall evaluate the ward's progress in relation to the rehabilitation plan and shall determine whether the baseline term of confinement is to be modified. The court shall consider the recommendations of counsel, the probation department and any behavioral, educational, or other specialists having information relevant to the ward's progress. At the conclusion of each review hearing, upon making a finding on the record, the court may order that the ward remain in custody for the remainder of the baseline term or may order that the ward's baseline term or previously modified baseline term be modified downward by a reduction of confinement time not to exceed six months for each review hearing. The court may additionally order that the ward be assigned to a less restrictive program, as provided in subdivision (f). The determination of whether the baseline term will be modified, or whether

a youth will be assigned to a less restrictive program, is a judicial decision and the juvenile court's discretion may not be limited by stipulation of the parties at any time.

(B) If the ward is already assigned to a less restrictive program, the court may, based on the ward's progress, order a reduction in the length of time the ward is to remain in the less restrictive program prior to a probation discharge hearing. If the court determines that ward has failed materially to comply with the court-ordered conditions of placement in the less restrictive program, the court may modify the order of placement in the less restrictive program as provided in paragraph (2) of subdivision (f).

(2) The ward's confinement time, including time spent in a less restrictive program described in subdivision (f), shall not be extended beyond the baseline confinement term, or beyond a modified baseline term, for disciplinary infractions or other in-custody behaviors. Any infractions or behaviors shall be addressed by alternative means, which may include a system of graduated sanctions for disciplinary infractions adopted by the operator of a secure youth treatment facility and subject to any relevant state standards or regulations that apply to juvenile facilities generally.

(3) The court shall, at the conclusion of the baseline confinement term, including any modified baseline term, hold a probation discharge hearing for the ward. For a ward who has been placed in a less restrictive program described in subdivision (f), the probation discharge hearing shall occur at the end of the period, or modified period, of placement that has been ordered by the court. At the discharge hearing, the court shall review the ward's progress toward meeting the goals of the individual rehabilitation plan and the recommendations of counsel, the probation department, and any other agencies or individuals having information the court deems necessary. At the conclusion of the hearing, the court shall order that the ward be discharged to a period of probation supervision in the community under conditions approved by the court, unless the court finds that the ward constitutes a substantial risk of imminent harm to others in the community if released from custody. If the court so finds, the ward may be retained in custody in a secure youth treatment facility for up to one additional year of confinement, subject to the review hearing and probation discharge hearing provisions of this subdivision and subject to the maximum confinement provisions of subdivision (c).

(4) If the ward is discharged to probation supervision, the court shall determine the reasonable conditions of probation that are suitable to meet the developmental needs and circumstances of the ward and to facilitate the ward's successful reentry into the community. The court shall periodically review the ward's progress under probation supervision and shall make any additional orders deemed necessary to modify the program of supervision in order to facilitate the provision of services or to otherwise support the ward's successful reentry into the community. If the court finds that the ward has failed materially to comply with the reasonable orders of probation imposed by the court, the court may order that the ward be returned to a juvenile facility or to a placement described in subdivision (f) for a period not to exceed either the remainder of the baseline term, including any court-ordered modifications, or six months, whichever is longer, and in any case not to exceed the maximum confinement limits of subdivision (c).

(f) (1) Upon a motion from the probation department or the ward, the court may order that the ward be transferred from a secure youth treatment facility to less restrictive program, such as a halfway house, a camp or ranch, or a community residential or nonresidential service program. The purpose of a less restrictive program is to facilitate the safe and successful reintegration of the ward into the community. The court shall consider the transfer request at the next scheduled treatment review hearing or at a separately scheduled hearing. The court shall consider the recommendations of the probation department on the proposed change in placement. Approval of the request for a less restrictive program shall be made only upon the court's determination that the ward has made substantial progress toward the goals of the individual rehabilitation plan described in subdivision (d) and that placement is consistent with the goals of youth rehabilitation and community safety. In making its determination, the court shall consider both of the following factors:

(A) The ward's overall progress in relation to the rehabilitation plan during the period of confinement in a secure youth treatment facility.

(B) The programming and community transition services to be provided, or coordinated by the less restrictive program, including, but not limited to, any educational, vocational, counseling, housing, or other services made available through the program.

(2) In any order transferring the ward from a secure youth treatment facility to a less restrictive program, the court may require the ward to observe any conditions of performance or compliance with the program that are reasonable and appropriate in the individual case and that are within the capacity of the ward to perform. The court shall set the length of time the ward is to remain in a less restrictive program, not to exceed the remainder of the baseline or modified baseline term, prior to a probation discharge hearing described in subdivision (e). If, after placement in a less restrictive program, the court determines that the ward has materially failed to comply with the court-ordered conditions of placement in the program, the court may modify the terms and conditions of placement in the program or may order the ward to be returned to a secure youth treatment facility for the remainder of the baseline term, or modified baseline term, and subject to further periodic review hearings, as provided in subdivision (e) and to the maximum confinement provisions of subdivision (c). If the ward is returned to the secure youth treatment facility under the

provisions of this paragraph, the ward's baseline or modified baseline term shall be adjusted to include credit for the time served by the ward in the less restrictive program.

(g) A secure youth treatment facility, as described in this section, shall meet the following criteria:

(1) The facility shall be a secure facility that is operated, utilized, or accessed by the county of commitment to provide appropriate programming, treatment, and education for wards having been adjudicated for the offenses specified in subdivision (a).

(2) The facility may be a stand-alone facility, such as a probation camp or other facility operated under contract with the county, or with another county, or may be a unit or portion of an existing county juvenile facility, including a juvenile hall or probation camp, that is configured and programmed to serve the population described in subdivision (a) and is in compliance with the standards described in paragraph (3).

(3) The Board of State and Community Corrections shall by July 1, 2023, review existing juvenile facility standards and modify or add standards for the establishment, design, security, programming and education, and staffing of any facility that is utilized or accessed by the court as a secure youth treatment facility under the provisions of this section. The standards shall be developed by the board with the coordination and concurrence of the Office of Youth and Community Restoration established by Section 2200. The standards shall specify how the facility may be used to serve or to separate juveniles, other than juveniles described in subdivision (a) serving baseline confinement terms, who may also be detained in or committed to the facility or to some portion of the facility. Pending the final adoption of these modified standards, a secure youth treatment facility shall comply with applicable minimum standards for juvenile facilities in Title 15 and Title 24 of the California Code of Regulations.

(4) A county proposing to establish a secure youth treatment facility for wards described in subdivision (a) shall notify the Board of State and Community Corrections of the operation of the facility and shall submit a description of the facility to the board in a format designated by the board. Commencing July 1, 2022, the Board of State and Community Corrections shall conduct a biennial inspection in accordance with Section 209 of each secure youth treatment facility that was used for the confinement of juveniles placed pursuant to subdivision (a) during the preceding calendar year. To the extent new standards are not yet in place, the board shall utilize the standards in existing regulations.

(5) In lieu of establishing its own secure youth treatment facility, a county may contract with another county having a secure youth treatment facility to accept commitments of wards described in subdivision (a).

(6) A county may establish a secure youth treatment facility to serve as a regional center for commitment of juveniles by one or more other counties on a contract payment basis.

(h) (1) By July 1, 2023, the Judicial Council shall develop and adopt a matrix of offense-based classifications to be applied by the juvenile courts in all counties in setting the baseline confinement terms described in subdivision (b). Each classification level or category shall specify a set of offenses within the level or category that is linked to a standard baseline term of years to be assigned to youth, based on their most serious recent adjudicated offense, who are committed to a secure youth treatment facility as provided in this section. The individual baseline term of years to be assigned in each case may be derived from a standard range of years for each offense level or category as designated by the Judicial Council. The classification matrix may provide for upward or downward deviations from the baseline term and may also provide for a system of positive incentives or credits for time served. In developing the matrix, the Judicial Council shall be advised by a working group of stakeholders, which shall include representatives from prosecution, defense, probation, behavioral health, youth service providers, youth formerly incarcerated in the Division of Juvenile Justice, and youth advocacy and other stakeholders and organizations having relevant expertise or information on dispositions and sentencing of youth in the juvenile justice system. In the development process, the Judicial Council shall also examine and take into account youth sentencing and length-of-stay guidelines or practices adopted by other states or recommended by organizations, academic institutions, or individuals having expertise or having conducted relevant research on dispositions and sentencing of youth in the juvenile justice system.

(2) Upon final adoption by the Judicial Council, the matrix of offense-based classifications shall be applied in a standardized manner by juvenile courts in each county in cases where the court is required to set a baseline confinement term under subdivision (b) for wards who are committed to a secure youth treatment facility. The discharge consideration date guidelines of the Division of Juvenile Justice that were applied on an interim basis, as provided in subdivision (b), shall not thereafter be utilized to determine baseline confinement terms for wards who are committed to a secure youth treatment facility under the provisions of this section.

(i) A court shall not commit a juvenile to any juvenile facility, including a secure youth treatment facility as defined in this section, for a period that exceeds the middle term of imprisonment that could be imposed upon an adult convicted of the same offense or offenses.

(j) A person who is 25 years of age or older shall not be committed to or detained in a county juvenile facility, unless the court finds that such a commitment or detention is in the best interest of that person and does not find that it would create a risk to the other youth in the juvenile facility. A juvenile court exercising jurisdiction over a person who is 25 years of age or older may order

commitment or detention of the person into an adult facility, including a jail or other facility established for the confinement of adults, or into a less restrictive program, as defined in subdivision (f), if the person is otherwise eligible for that program.

(k) Upon return to local custody, a person who was, prior to July 1, 2023, sentenced to state prison and was found to be a ward of the court and committed to the Division of Juvenile Justice, shall not be committed or detained in a juvenile facility, unless the juvenile court with jurisdiction over that person finds it is in the person's best interest and does not find that it would create a risk to the other youth in the juvenile facility. A juvenile court exercising jurisdiction over the commitment or detention of a person described in this subdivision may order the person into an adult facility, including a jail or other facility established for the confinement of adults, a less restrictive program, as defined in section (f), if the person is otherwise eligible for that program, or returned to the Department of Corrections and Rehabilitation pursuant to subdivision (f) of Section 1732.9.

(Amended by Stats. 2023, Ch. 47, Sec. 30. (AB 134) Effective July 10, 2023.)

875.5. (a) It is the intent of the Legislature to apply Article 6 (commencing with Section 1800) of Chapter 1 of Division 2.5, governing extended detention of persons physically dangerous to the public who are served by the Division of Juvenile Justice, to persons physically dangerous to the public who are committed to a secure treatment facility pursuant to Section 875, pending development of a specific commitment process for realigned persons pursuant to subdivision (b).

(b) The Governor and the Legislature shall work with stakeholders, including, but not limited to, the Division of Juvenile Justice, the State Department of State Hospitals, the Chief Probation Officers of California, the California State Association of Counties, advocacy organizations representing youth, and the Judicial Council to develop language by July 1, 2021, to replace the procedures specified in Section 876 with a commitment process that ensures the treatment capacity, legal protections, and court procedures are appropriate to successfully serve persons realigned from the Division of Juvenile Justice to the counties by Senate Bill 823 (Chapter 337, Statutes of 2020).

(c) It is the intent of the Legislature to enact legislation that would, effective July 1, 2022, extend detention of persons physically dangerous to the public who are in a secure youth treatment facility pursuant to the commitment process developed in subdivision (b).

(Added by Stats. 2021, Ch. 18, Sec. 12. (SB 92) Effective May 14, 2021.)

876. (a) If a probation department determines that the discharge of a person confined in a secure youth treatment facility from the control of the court at the time required by Section 875 would be physically dangerous to the public because of the person's mental or physical condition, disorder, or other problem that causes the person to have serious difficulty controlling their dangerous behavior, the department shall request the prosecuting attorney to petition the committing court for an order directing that the person remain subject to the control of the department 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 department bases its opinion that discharge at the time stated would be physically dangerous to the public, but the petition may not be dismissed and an order may not be denied merely because of technical defects in the application.

(b) The prosecuting attorney shall promptly notify the probation department of a decision not to file a petition.

(c) If a petition is filed with the court and, upon review, the court determines that the petition, on its face, supports a finding of probable cause, the court shall order that a hearing be held. The court shall provide notification of the hearing to the person whose liberty is involved and, if the person is a minor, the minor's parent or guardian, if the minor's parent or guardian can be reached, and, if not, the court shall appoint a person to act in the place of the parent or guardian and shall afford the person an opportunity to appear at the hearing with the aid of counsel and the right to cross-examine experts or other witnesses upon whose information, opinion, or testimony the petition is based. The court shall inform the person named in the petition of their right of process to compel attendance of relevant witnesses and the production of relevant evidence. When the person is unable to provide their own counsel, the court shall appoint counsel to represent them. The probable cause hearing shall be held within 10 calendar days after the date the order is issued pursuant to this subdivision unless the person named in the petition waives this time.

(d) At the probable cause hearing, the court shall receive evidence and determine whether there is probable cause to believe that discharge of the person would be physically dangerous to the public because of the person's mental or physical condition, disorder, or other problem that causes the person to have serious difficulty controlling dangerous behavior. If the court determines there is not probable cause, the court shall dismiss the petition and the person shall be discharged from the control of a secure youth treatment facility at the time required by Section 875, as applicable. If the court determines there is probable cause, the court shall order that a trial be conducted to determine whether the person is physically dangerous to the public because of their mental or physical condition, disorder, or other problem.

(e) If a trial is ordered, the trial shall be by jury unless the right to a jury trial is personally waived by the person, after the person has been fully advised of the constitutional rights being waived, and by the prosecuting attorney, in which case trial shall be by the court.

If the jury is not waived, the court shall cause a jury to be summoned and to be in attendance at a date stated, not less than 4 days nor more than 30 days from the date of the order for trial, unless the person named in the petition waives time. The court shall submit to the jury, or, at a court trial, the court shall answer, the following question: Is the person physically dangerous to the public

because of a mental or physical condition, disorder, or other problem that causes the person to have serious difficulty controlling their dangerous behavior? The court's previous order entered pursuant to this section shall not be read to the jury, nor alluded to in the trial. The person shall be entitled to all rights guaranteed under the federal and state constitutions in criminal proceedings. A unanimous jury verdict shall be required in any jury trial. As to either a court or a jury trial, the standard of proof shall be that of proof beyond a reasonable doubt.

(f) If an order for continued detention is made pursuant to this section, the control of the department over the person shall continue, subject to the provisions of this article, but, unless the person is previously discharged as provided in Section 875, the department shall, within two years after the date of that order in the case of persons committed by the juvenile court, or within two years after the date of that 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 this section if continued detention is deemed necessary. These applications may be repeated at intervals as often as in the opinion of the department may be necessary for the protection of the public, except that the court shall have the power, in order to protect other persons in the custody of probation to refer the person for evaluation for civil commitment or to transfer the custody of any person over 25 years of age to the county adult probation authorities for placement in an appropriate institution. Each person shall be discharged from the control of the probation department at the termination of the period stated in this section unless the probation department has filed a new application and the court has made a new order for continued detention as provided above in this section.

(g) An order of the committing court made pursuant to this section 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 probation department.

(Added by Stats. 2021, Ch. 18, Sec. 12. (SB 92) Effective May 14, 2021.)