

Senate Bill No. 449

Passed the Senate August 26, 2004

Secretary of the Senate

Passed the Assembly August 19, 2004

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Sections 202, 207.1, 636, 706, 707.1, 727, 729.2, and 740 of the Welfare and Institutions Code, relating to wards of the juvenile court.

LEGISLATIVE COUNSEL'S DIGEST

SB 449, Escutia. Wards: education.

(1) Existing law, the Juvenile Court Law, provides that the purpose of the provisions governing juvenile law is to provide for the protection and safety of the public and each minor who is under the jurisdiction of the juvenile court. When the minor is removed from his or her family, the purpose of these provisions is to secure for the minor the custody, care, and discipline as nearly as possible equivalent to that which should have been given by his or her parents.

This bill would require the court to take the educational needs of the minor into consideration when determining the disposition of the minor or when making any other orders related to the care and detention of the minor.

(2) Existing law authorizes the juvenile court to place a minor who is within the jurisdiction of the court in a juvenile hall or other suitable place designated by the court. The court may also leave the minor in his or her home, subject to certain conditions of probation, including requiring the minor to attend a school program approved by the probation officer without absence. Certain minors may be detained in a jail or other secure facility for adults under specified circumstances. These provisions also require the probation officer to prepare, and the court to receive into evidence, a social study of the minor when the court hears evidence on the question of the proper disposition of the minor.

This bill would require the social study prepared by the probation officer to include a description of the minor's educational needs and a recommendation for meeting those needs and, whenever possible, preserving the stability of the minor's educational program. If a minor is required to attend a school program as a condition of probation, the bill would require the probation officer to approve that program consistent with maintaining the stability of the minor's educational program and



the educational needs of the minor. By imposing additional duties on probation officers, the bill would impose a state-mandated local program.

In addition, if a minor is detained in a secure facility, the bill would require the facility to ensure the minor's attendance at an educational program in accordance with state law. The bill would make related changes.

(3) This bill would further incorporate additional changes in Section 740 of the Welfare and Institutions Code proposed by AB 1948, to be operative if AB 1948 and this bill become effective on or before January 1, 2005, and this bill is enacted last.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 202 of the Welfare and Institutions Code is amended to read:

202. (a) The purpose of this chapter is to provide for the protection and safety of the public and each minor under the jurisdiction of the juvenile court and to preserve and strengthen the minor's family ties whenever possible, removing the minor from the custody of his or her parents only when necessary for his or her welfare or for the safety and protection of the public. When removal of a minor is determined by the juvenile court to be necessary, reunification of the minor with his or her family shall be a primary objective. When the minor is removed from his or her own family, it is the purpose of this chapter to secure for the minor custody, care, and discipline as nearly as possible equivalent to that which should have been given by his or her parents and that will



meet the educational needs of the child. This chapter shall be liberally construed to carry out these purposes.

(b) Minors under the jurisdiction of the juvenile court who are in need of protective services shall receive care, treatment and guidance consistent with their best interest and the best interest of the public. Minors under the jurisdiction of the juvenile court as a consequence of delinquent conduct shall, in conformity with the interests of public safety and protection, receive care, treatment, and guidance that is consistent with their best interest, that meets their educational needs, that holds them accountable for their behavior, and that is appropriate for their circumstances. This guidance may include punishment that is consistent with the rehabilitative objectives of this chapter. If a minor has been removed from the custody of his or her parents, family preservation and family reunification are appropriate goals for the juvenile court to consider when determining the disposition of a minor under the jurisdiction of the juvenile court as a consequence of delinquent conduct when those goals are consistent with his or her best interests and the best interests of the public. When a minor is removed from the custody of his or her parents, the court shall take the educational needs of the minor into consideration when determining the disposition of the minor or when making any other order related to the care of the minor. When the minor is no longer a ward of the juvenile court, the guidance he or she received should enable him or her to be a law-abiding and productive member of his or her family and the community.

(c) It is also the purpose of this chapter to reaffirm that the duty of a parent to support and maintain a minor child continues, subject to the financial ability of the parent to pay, during any period in which the minor may be declared a ward of the court and removed from the custody of the parent.

(d) Juvenile courts and other public agencies charged with enforcing, interpreting, and administering the juvenile court law shall consider the safety and protection of the public, the importance of redressing injuries to victims, and the best interests of the minor in all deliberations pursuant to this chapter. Participants in the juvenile justice system shall hold themselves accountable for its results. They shall act in conformity with a comprehensive set of objectives established to improve system performance in a vigorous and ongoing manner. In working to



improve system performance, the presiding judge of the juvenile court and other juvenile court judges designated by the presiding judge of the juvenile court shall take into consideration the recommendations contained in subdivision (e) of Standard 24 of the Standards of Judicial Administration, contained in Division I of the Appendix to the California Rules of Court.

(e) As used in this chapter, “punishment” means the imposition of sanctions. It shall not include a court order to place a child in foster care as defined by Section 727.3. Permissible sanctions may include the following:

(1) Payment of a fine by the minor.

(2) Rendering of compulsory service without compensation performed for the benefit of the community by the minor.

(3) Limitations on the minor’s liberty imposed as a condition of probation or parole.

(4) Commitment of the minor to a local detention or treatment facility, such as a juvenile hall, camp, or ranch.

(5) Commitment of the minor to the Department of the Youth Authority.

“Punishment,” for the purposes of this chapter, does not include retribution.

(f) In addition to the actions authorized by subdivision (e), the juvenile court may, as appropriate, direct the offender to complete a victim impact class, participate in victim offender conferencing subject to the victim’s consent, pay restitution to the victim or victims, and make a contribution to the Victim Restitution Fund after all victim restitution orders and fines have been satisfied, in order to hold the offender accountable or restore the victim or community.

SEC. 2. Section 207.1 of the Welfare and Institutions Code is amended to read:

207.1. (a) No court, judge, referee, peace officer, or employee of a detention facility shall knowingly detain any minor in a jail or lockup, except as provided in subdivision (b) or (d).

(b) Any minor who is alleged to have committed an offense described in subdivision (b), paragraph (2) of subdivision (d), or subdivision (e) of Section 707 whose case is transferred to a court of criminal jurisdiction pursuant to Section 707.1 after a finding is made that he or she is not a fit and proper subject to be dealt with under the juvenile court law, or any minor who has been charged



directly in or transferred to a court of criminal jurisdiction pursuant to Section 707.01, may be detained in a jail or other secure facility for the confinement of adults if all of the following conditions are met:

(1) The juvenile court or the court of criminal jurisdiction makes a finding that the minor's further detention in the juvenile hall would endanger the safety of the public or would be detrimental to the other minors in the juvenile hall.

(2) Contact between the minor and adults in the facility is restricted in accordance with Section 208.

(3) The minor is adequately supervised and the facility will ensure the minor's attendance at an educational program in accordance with state law.

(c) A minor who is either found not to be a fit and proper subject to be dealt with under the juvenile court law or who will be transferred to a court of criminal jurisdiction pursuant to Section 707.01, at the time of transfer to a court of criminal jurisdiction or at the conclusion of the fitness hearing, as the case may be, shall be entitled to be released on bail or on his or her own recognizance upon the same circumstances, terms, and conditions as an adult who is alleged to have committed the same offense.

(d) (1) A minor 14 years of age or older who is taken into temporary custody by a peace officer on the basis of being a person described by Section 602, and who, in the reasonable belief of the peace officer, presents a serious security risk of harm to self or others, may be securely detained in a law enforcement facility that contains a lockup for adults, if all of the following conditions are met:

(A) The minor is held in temporary custody for the purpose of investigating the case, facilitating release of the minor to a parent or guardian, or arranging transfer of the minor to an appropriate juvenile facility.

(B) The minor is detained in the law enforcement facility for a period that does not exceed six hours except as provided in subdivision (f).

(C) The minor is informed at the time he or she is securely detained of the purpose of the secure detention, of the length of time the secure detention is expected to last, and of the maximum six-hour period the secure detention is authorized to last. In the event an extension is granted pursuant to subdivision (f), the minor



shall be informed of the length of time the extension is expected to last.

(D) Contact between the minor and adults confined in the facility is restricted in accordance with Section 208.

(E) The minor is adequately supervised.

(F) A log or other written record is maintained by the law enforcement agency showing the offense that is the basis for the secure detention of the minor in the facility, the reasons and circumstances forming the basis for the decision to place the minor in secure detention, and the length of time the minor was securely detained.

(2) Any other minor, other than a minor to which paragraph (1) applies, who is taken into temporary custody by a peace officer on the basis that the minor is a person described by Section 602 may be taken to a law enforcement facility that contains a lockup for adults and may be held in temporary custody in the facility for the purposes of investigating the case, facilitating the release of the minor to a parent or guardian, or arranging for the transfer of the minor to an appropriate juvenile facility. While in the law enforcement facility, the minor may not be securely detained and shall be supervised in a manner so as to ensure that there will be no contact with adults in custody in the facility. If the minor is held in temporary, nonsecure custody within the facility, the peace officer shall exercise one of the dispositional options authorized by Sections 626 and 626.5 without unnecessary delay and, in every case, within six hours.

(3) “Law enforcement facility,” as used in this subdivision, includes a police station or a sheriff’s station, but does not include a jail, as defined in subdivision (i).

(e) The Board of Corrections shall assist law enforcement agencies, probation departments, and courts with the implementation of this section by doing all of the following:

(1) The board shall advise each law enforcement agency, probation department, and court affected by this section as to its existence and effect.

(2) The board shall make available and, upon request, shall provide, technical assistance to each governmental agency that reported the confinement of a minor in a jail or lockup in calendar year 1984 or 1985. The purpose of this technical assistance is to develop alternatives to the use of jails or lockups for the



confinement of minors. These alternatives may include secure or nonsecure facilities located apart from an existing jail or lockup, improved transportation or access to juvenile halls or other juvenile facilities, and other programmatic alternatives recommended by the board. The technical assistance shall take any form the board deems appropriate for effective compliance with this section.

(f) (1) (A) Under the limited conditions of inclement weather, acts of God, or natural disasters that result in the temporary unavailability of transportation, an extension of the six-hour maximum period of detention set forth in paragraph (2) of subdivision (d) may be granted to a county by the Board of Corrections. The extension may be granted only by the board, on an individual, case-by-case basis. If the extension is granted, the detention of minors under those conditions shall not exceed the duration of the special conditions, plus a period reasonably necessary to accomplish transportation of the minor to a suitable juvenile facility, not to exceed six hours after the restoration of available transportation.

(B) A county that receives an extension under this paragraph shall comply with the requirements set forth in subdivision (d). The county also shall provide a written report to the board that specifies when the inclement weather, act of God, or natural disaster ceased to exist, when transportation availability was restored, and when the minor was delivered to a suitable juvenile facility. If the minor was detained in excess of 24 hours, the board shall verify the information contained in the report.

(2) Under the limited condition of temporary unavailability of transportation, an extension of the six-hour maximum period of detention set forth in paragraph (2) of subdivision (d) may be granted by the board to an offshore law enforcement facility. The extension may be granted only by the board, on an individual, case-by-case basis. If the extension is granted, the detention of minors under those conditions shall extend only until the next available mode of transportation can be arranged.

An offshore law enforcement facility that receives an extension under this paragraph shall comply with the requirements set forth in subdivision (d). The facility also shall provide a written report to the board that specifies when the next mode of transportation became available, and when the minor was delivered to a suitable



juvenile facility. If the minor was detained in excess of 24 hours, the board shall verify the information contained in the report.

(3) At least annually, the board shall review and report on extensions sought and granted under this subdivision. If, upon that review, the board determines that a county has sought one or more extensions resulting in the excessive confinement of minors in adult facilities, or that a county is engaged in a pattern and practice of seeking extensions, it shall require the county to submit a detailed explanation of the reasons for the extensions sought and an assessment of the need for a conveniently located and suitable juvenile facility. Upon receiving this information, the board shall make available, and the county shall accept, technical assistance for the purpose of developing suitable alternatives to the confinement of minors in adult lockups.

(g) Any county that did not have a juvenile hall on January 1, 1987, may establish a special purpose juvenile hall, as defined by the Board of Corrections, for the detention of minors for a period not to exceed 96 hours. Any county that had a juvenile hall on January 1, 1987, also may establish, in addition to the juvenile hall, a special purpose juvenile hall. The board shall prescribe minimum standards for that type of facility.

(h) No part of a building or a building complex that contains a jail may be converted or utilized as a secure juvenile facility unless all of the following criteria are met:

(1) The juvenile facility is physically or architecturally separate and apart from the jail or lockup to ensure that there is no contact between juveniles and incarcerated adults.

(2) Sharing of nonresidential program areas only occurs where there are written policies and procedures that assure that there is time-phased use of those areas that prevents contact between juveniles and incarcerated adults.

(3) The juvenile facility has a dedicated and separate staff from the jail or lockup, including management, security, and direct care staff. Staff who provide specialized services such as food, laundry, maintenance, engineering, or medical services, who are not normally in contact with detainees, or whose infrequent contacts occur under conditions of separation of juveniles and adults, may serve both populations.



(4) The juvenile facility complies with all applicable state and local statutory, licensing, and regulatory requirements for juvenile facilities of its type.

(i) (1) “Jail,” as used in this chapter, means a locked facility administered by a law enforcement or governmental agency, the purpose of which is to detain adults who have been charged with violations of criminal law and are pending trial, or to hold convicted adult criminal offenders sentenced for less than one year.

(2) “Lockup,” as used in this chapter, means any locked room or secure enclosure under the control of a sheriff or other peace officer that is primarily for the temporary confinement of adults upon arrest.

(3) “Offshore law enforcement facility,” as used in this section, means a sheriff’s station containing a lockup for adults that is located on an island located at least 22 miles from the California coastline.

(j) Nothing in this section shall be deemed to prevent a peace officer or employee of an adult detention facility or jail from escorting a minor into the detention facility or jail for the purpose of administering an evaluation, test, or chemical test pursuant to Section 23157 of the Vehicle Code, if all of the following conditions are met:

(1) The minor is taken into custody by a peace officer on the basis of being a person described by Section 602 and there is no equipment for the administration of the evaluation, test, or chemical test located at a juvenile facility within a reasonable distance of the point where the minor was taken into custody.

(2) The minor is not locked in a cell or room within the adult detention facility or jail, is under the continuous, personal supervision of a peace officer or employee of the detention facility or jail, and is not permitted to come in contact or remain in contact with in-custody adults.

(3) The evaluation, test, or chemical test administered pursuant to Section 23157 of the Vehicle Code is performed as expeditiously as possible, so that the minor is not delayed unnecessarily within the adult detention facility or jail. Upon completion of the evaluation, test, or chemical test, the minor shall be removed from the detention facility or jail as soon as reasonably possible. No minor shall be held in custody in an adult detention



facility or jail under the authority of this paragraph in excess of two hours.

SEC. 3. Section 636 of the Welfare and Institutions Code is amended to read:

636. (a) (1) If it appears upon the hearing that the minor has violated an order of the juvenile court or has escaped from a commitment of the juvenile court or that it is a matter of immediate and urgent necessity for the protection of the minor or reasonably necessary for the protection of the person or property of another that he or she be detained or that the minor is likely to flee to avoid the jurisdiction of the court, and that continuance in the home is contrary to the minor's welfare, the court may make its order that the minor be detained in the juvenile hall or other suitable place designated by the juvenile court for a period not to exceed 15 judicial days and shall enter that order together with its findings of fact in support thereof in the records of the court. The circumstances and gravity of the alleged offense may be considered, in conjunction with other factors, to determine whether it is a matter of immediate and urgent necessity for the protection of the minor or the person or property of another that the minor be detained.

(2) In deciding whether the minor shall be detained, the court shall consider the educational needs of the minor and the importance of preserving the stability of the minor's educational program.

(b) If the court finds that the criteria of Section 628.1 are applicable, the court shall place the minor on home supervision for a period not to exceed 15 judicial days, and shall enter the order together with its findings of fact in support thereof in the records of the court. If the court releases the minor on home supervision, the court may continue, modify, or augment any conditions of release previously imposed by the probation officer, or may impose new conditions on a minor released for the first time. If there are new or modified conditions, the minor shall be required to sign a written promise to obey those conditions pursuant to Section 628.1.

(c) If the probation officer is recommending that the minor be detained, the probation officer shall submit to the court documentation, as follows:



(1) Documentation that continuance in the home is contrary to the minor's welfare shall be submitted to the court as part of the detention report prepared pursuant to Section 635.

(2) Documentation that reasonable efforts were made to prevent or eliminate the need for removal of the minor from the home and documentation of the nature and results of the services provided shall be submitted to the court either as part of the detention report prepared pursuant to Section 635, or as part of a case plan prepared pursuant to Section 636.1, but in no case later than 30 days from the date of detention.

(3) Any information on the minor's educational service and placement needs as has been provided by the school upon request of the probation officer, consistent with applicable laws on confidentiality.

(d) Before detaining the minor, the court shall determine whether continuance in the home is contrary to the minor's welfare and whether there are available services that would prevent the need for further detention. The court shall make that determination on a case-by-case basis and shall make reference to the documentation provided by the probation officer or other evidence relied upon in reaching its decision.

(1) If the minor can be returned to the custody of his or her parent or legal guardian at the detention hearing, through the provision of services to prevent removal, the court shall release the minor to the physical custody of his or her parent or legal guardian and order that those services shall be provided.

(2) If the minor cannot be returned to the custody of his or her parent or legal guardian at the detention hearing, the court shall state the facts upon which the detention is based. The court shall make the following findings on the record and reference the probation officer's report or other evidence relied upon to make its determinations:

(A) Whether continuance in the home of the parent or legal guardian is contrary to the minor's welfare.

(B) Whether reasonable efforts have been made to safely maintain the minor in the home of his or her parent or legal guardian and to prevent or eliminate the need for removal of the minor from his or her home. This finding shall be made at the detention hearing if possible, but in no case later than 60 days following the minor's removal from the home.



(3) If the minor cannot be returned to the custody of his or her parent or legal guardian at the detention hearing, the court shall make the following orders:

(A) The probation officer shall provide services as soon as possible which will enable the minor's parent or legal guardian to obtain any assistance that may be needed to enable the parent or guardian to effectively provide the care and control necessary for the minor to return to the home.

(B) The minor's placement and care shall be the responsibility of the probation department pending disposition or further order of the court.

(4) If the matter is set for rehearing pursuant to Section 637, or continued pursuant to Section 638, or continued for any other reason, the court shall find that the continuance of the minor in the parent's or guardian's home is contrary to the minor's welfare at the initial petition hearing or order the release of the minor from custody.

(e) Whether the minor is returned home or detained, the court shall order the minor's parent or guardian to cooperate with the probation officer in obtaining those services described in paragraph (1) or in subparagraph (A) of paragraph (3).

SEC. 4. Section 706 of the Welfare and Institutions Code is amended to read:

706. After finding that a minor is a person described in Section 601 or 602, the court shall hear evidence on the question of the proper disposition to be made of the minor. The court shall receive in evidence the social study of the minor made by the probation officer and any other relevant and material evidence that may be offered, including any written or oral statement offered by the victim, the parent or guardian of the victim if the victim is a minor, or if the victim has died or is incapacitated, the victim's next of kin, as authorized by subdivision (b) of Section 656.2. The social study of the minor made by the probation officer shall include information provided by the school in response to the probation officer's request with respect to the minor's educational needs, recommendations for meeting those needs, and, whenever possible, preserving the stability of the minor's educational program. In any judgment and order of disposition, the court shall state that the social study made by the probation officer has been



read and that the social study and any statement has been considered by the court.

SEC. 5. Section 707.1 of the Welfare and Institutions Code is amended to read:

707.1. (a) If the minor is declared not a fit and proper subject to be dealt with under the juvenile court law, or as to a minor for whom charges in a petition or petitions in the juvenile court have been transferred to a court of criminal jurisdiction pursuant to Section 707.01, the district attorney, or other appropriate prosecuting officer may file an accusatory pleading against the minor in a court of criminal jurisdiction. The case shall proceed from that point according to the laws applicable to a criminal case. If a prosecution has been commenced in another court but has been suspended while juvenile court proceedings are being held, it shall be ordered that the proceedings upon that prosecution shall resume.

(b) (1) The juvenile court, as to a minor alleged to have committed an offense described in subdivision (b), paragraph (2) of subdivision (d), or subdivision (e) of Section 707 and who has been declared not a fit and proper subject to be dealt with under the juvenile court law, or as to a minor for whom charges in a petition or petitions in the juvenile court will be transferred to a court of criminal jurisdiction pursuant to Section 707.01, or as to a minor whose case has been filed directly in or transferred to a court of criminal jurisdiction pursuant to Section 707.01, may order the minor to be delivered to the custody of the sheriff upon a finding that the presence of the minor in the juvenile hall would endanger the safety of the public or be detrimental to the other inmates detained in the juvenile hall. Other minors declared not fit and proper subjects to be dealt with under the juvenile court law, if detained, shall remain in the juvenile hall pending final disposition by the criminal court or until they attain the age of 18, whichever occurs first.

(2) Upon attainment of the age of 18 years, a person who is detained in juvenile hall shall be delivered to the custody of the sheriff unless the court finds that it is in the best interests of the person and the public that he or she be retained in juvenile hall. If a hearing is requested by the person, the transfer shall not take place until after the court has made its findings.



(3) When a person under 18 years of age is detained pursuant to this section in a facility in which adults are confined, the detention shall be in accordance with the conditions specified in subdivision (b) of Section 207.1 and the facility shall ensure the minor's attendance at an educational program in accordance with state law.

(4) A minor found not a fit and proper subject to be dealt with under the juvenile court law shall, upon the conclusion of the fitness hearing, be entitled to release on bail or on his or her own recognizance on the same circumstances, terms, and conditions as an adult alleged to have committed the same offense.

SEC. 6. Section 727 of the Welfare and Institutions Code is amended to read:

727. (a) (1) When a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 601 or 602 the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the minor, including medical treatment, subject to further order of the court. In making its dispositional decision, the court shall consider the educational needs of the minor and the importance of preserving the stability of the minor's educational program. To facilitate coordination and cooperation among government agencies, the court may, after giving notice and an opportunity to be heard, join in the juvenile court proceedings any agency that the court determines has failed to meet a legal obligation to provide services to the minor. However, no governmental agency shall be joined as a party in a juvenile court proceeding in which a minor has been ordered committed to the Department of the Youth Authority. In any proceeding in which an agency is joined, the court shall not impose duties upon the agency beyond those mandated by law. Nothing in this section shall prohibit agencies which have received notice of the hearing on joinder from meeting prior to the hearing to coordinate services for the minor.

(2) The court has no authority to order services unless it has been determined through the administrative process of an agency that has been joined as a party, that the minor is eligible for those services. With respect to mental health assessment, treatment, and case management services pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government



Code, the court's determination shall be limited to whether the agency has complied with that chapter.

(3) In the discretion of the court, a ward may be ordered to be on probation without supervision of the probation officer. The court, in so ordering, may impose on the ward any and all reasonable conditions of behavior as may be appropriate under this disposition. A minor who has been adjudged a ward of the court on the basis of the commission of any of the offenses described in subdivision (b) or paragraph (2) of subdivision (d) of Section 707, Section 459 of the Penal Code, or subdivision (a) of Section 11350 of the Health and Safety Code, shall not be eligible for probation without supervision of the probation officer. A minor who has been adjudged a ward of the court on the basis of the commission of any offense involving the sale or possession for sale of a controlled substance, except misdemeanor offenses involving marijuana, as specified in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, or of an offense in violation of Section 12220 of the Penal Code, shall be eligible for probation without supervision of the probation officer only when the court determines that the interests of justice would best be served and states reasons on the record for that determination.

(4) In all other cases, the court shall order the care, custody, and control of the minor to be under the supervision of the probation officer who may place the minor in any of the following:

(A) The approved home of a relative, or the approved home of a nonrelative, extended family member as defined in Section 362.7. When a decision has been made to place the minor in the home of a relative, the court may authorize the relative to give legal consent for the minor's medical, surgical, and dental care and education as if the relative caretaker were the custodial parent of the minor.

(B) A suitable licensed community care facility.

(C) With a foster family agency to be placed in a suitable licensed foster family home or certified family home which has been certified by the agency as meeting licensing standards.

(5) The probation officer shall consider the educational needs of the minor in making the placement decision and shall take necessary actions to ensure that the educational needs of the minor



are met and to preserve the stability of the minor's educational program.

(b) When a minor has been adjudged a ward of the court on the ground that he or she is a person described in Section 601 or 602 and the court finds that notice has been given in accordance with Section 661, and when the court orders that a parent or guardian shall retain custody of that minor either subject to or without the supervision of the probation officer, the parent or guardian may be required to participate with that minor in a counseling or education program, including, but not limited to, parent education and parenting programs operated by community colleges, school districts, or other appropriate agencies designated by the court.

(c) The juvenile court may direct any and all reasonable orders to the parents and guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out subdivisions (a) and (b), including orders to appear before a county financial evaluation officer and orders directing the parents or guardians to ensure the minor's regular school attendance and to make reasonable efforts to obtain appropriate educational services necessary to meet the needs of the minor.

When counseling or other treatment services are ordered for the minor, the parent, guardian, or foster parent shall be ordered to participate in those services, unless participation by the parent, guardian, or foster parent is deemed by the court to be inappropriate or potentially detrimental to the child.

SEC. 7. Section 729.2 of the Welfare and Institutions Code is amended to read:

729.2. If a minor is found to be a person described in Section 601 or 602 and the court does not remove the minor from the physical custody of the parent or guardian, the court as a condition of probation, except in any case in which the court makes a finding and states on the record its reasons for finding that the condition would be inappropriate, shall:

(a) Require the minor to attend a school program approved by the probation officer without absence. Consistent with applicable laws on parental rights, the probation officer shall approve the school program consistent with the educational needs of the minor as reported by the school, including, but not limited to, maintaining the stability of the educational program.



(b) Require the parents or guardian of the minor to participate with the minor in a counseling or education program, including, but not limited to, parent education and parenting programs operated by community colleges, school districts, or other appropriate agencies designated by the court or the probation department, unless the minor has been declared a dependent child of the court pursuant to Section 300 or a petition to declare the minor a dependent child of the court pursuant to Section 300 is pending.

(c) Require the minor to be at his or her legal residence between the hours of 10:00 p.m. and 6:00 a.m. unless the minor is accompanied by his or her parent or parents, legal guardian or other adult person having the legal care or custody of the minor.

SEC. 8. Section 740 of the Welfare and Institutions Code is amended to read:

740. (a) Any minor adjudged to be a ward of the court on the basis that he or she is a person described in Section 602 and who is placed in a community care facility shall be placed in a community care facility within his or her county of residence, unless both of the following apply:

(1) He or she has identifiable needs requiring specialized care that cannot be provided in a local facility, or his or her needs dictate physical separation from his or her family.

(2) The county of residence agrees to pay the placement county the costs of providing services to the minor, pursuant to Section 1566.25 of the Health and Safety Code.

(b) (1) Before the placement of a minor adjudged to be a ward of the court on the basis that he or she is a person described in Section 602 in any community care facility outside the ward's county of residence, the probation officer of the county making the placement, or in the case of a Youth Authority ward, the parole officer in charge of his or her case, shall send written notice of the placement, including the name of the ward, the juvenile record of the ward (including any known prior offenses), and the ward's county of residence, to the probation officer of the county in which the community care facility is located; with regard to this requirement, it is the intention of the Legislature that the probation officer of the county making the placement, or in the case of a Youth Authority ward, the parole officer in charge of his or her case, shall make his or her best efforts to send, or to hand deliver,



the notice at the same time the placement is made. When that placement is terminated, the probation officer of the county making the placement, or in the case of a Youth Authority ward, the parole officer in charge of his or her case, shall send notice thereof to any person or agency receiving notification of the placement.

(2) When the placement of a minor outside his or her county of residence will require a change of school or educational placement, the probation officer shall notify the local education agency of the student's expected last day of attendance, request calculation of the student's seat time, credits, and grades in preparation for transfer of records, and request that the student be transferred out. The probation officer shall provide notice to the local education agency and make the request at least 10 days before the minor is transferred to the out-of-county placement, unless an immediate placement is required, in which case the probation officer shall provide the notice and make the request as soon as possible.

(3) When it has been determined that it is necessary for a ward whose board and care is funded through the Aid to Families with Dependent Children-Foster Care program, to be placed in a county other than the ward's parents' or guardians' county of residence, the specific reason the out-of-county placement is necessary shall be documented in the ward's case plan. If the reason is lack of resources in the sending county to meet the specific needs of the ward, those specific resources needs shall be documented in the case plan.

(4) When it has been determined that a ward whose board and care is funded through the Aid to Families with Dependent Children-Foster Care program, is to be placed out of county and that the sending county is to maintain responsibility for supervision and visitation of the ward, the sending county shall develop a plan of supervision and visitation activities to be performed, and shall specify that the sending county is responsible for performing those activities. The sending county shall send to the receiving county a copy of the plan of supervision and visitation, in addition to the notice of placement required in paragraph (1), prior to placement of the ward. If placement occurs on a holiday or weekend, the plan of supervision and visitation and



the notice of placement shall be provided to the receiving county on or before the end of the next business day.

(5) When it has been determined that a ward whose placement is funded through the Aid to Families with Dependent Children-Foster Care program, is to be placed out of county and the sending county plans that the receiving county shall be responsible for the supervision and visitation of the ward, the sending county shall develop a formal agreement between the sending and receiving counties. The formal agreement shall specify the supervision and visitation to be provided the ward, and shall specify that the receiving county is responsible for providing the supervision and visitation. The formal agreement shall be approved and signed by the sending and receiving counties prior to placement of the ward in the receiving county. Additionally, the notice of placement required by paragraph (1) shall be provided to the receiving county prior to placement of the ward in that county. Upon completion of the case plan, the sending county shall provide a copy of the completed case plan to the receiving county.

(c) A minor, the parent or guardian of any minor, and counsel representing a minor or the parent or guardian of a minor may petition the juvenile court for the review of any placement decision concerning the minor made by the probation officer pursuant to subdivision (a). The petition shall state the petitioner's relationship to the minor and shall set forth in concise language the grounds on which the review is sought. The court shall order that a hearing shall be held on the petition and shall give prior notice, or cause prior notice to be given, to the persons and by the means as prescribed by Section 776, and, in instances in which the means of giving notice is not prescribed by that section, then by any means as the court prescribes.

(d) If a minor is placed in a community care facility out of his or her county of residence and is then arrested and placed in juvenile hall pending a jurisdictional hearing, the county of residence shall pay to the probation department of the county of placement all reasonable costs resulting directly from the minor's stay in the juvenile hall, provided that these costs exceed one hundred dollars (\$100).

(e) If, as a result of the hearing in subdivision (d), the minor is remanded back to his or her county of residence, the county of residence shall pay to the probation department of the county of



placement, in addition to any payment made pursuant to subdivision (d), all reasonable costs resulting directly from transporting the minor to the county of residency, provided that these costs exceed one hundred dollars (\$100).

(f) Claims made by the probation department in the county of placement, to the county of residence, pursuant to subdivisions (d) and (e), shall be paid within 30 days of the submission of these claims and the probation department in the county of placement shall bear the remaining expense.

(g) As used in this section, “community care facility” shall be defined as provided in Section 1502 of the Health and Safety Code.

SEC. 8.5. Section 740 of the Welfare and Institutions Code is amended to read:

740. (a) Any minor adjudged to be a ward of the court on the basis that he or she is a person described in Section 602 and who is placed in a community care facility shall be placed in a community care facility within his or her county of residence, unless both of the following apply:

(1) He or she has identifiable needs requiring specialized care that cannot be provided in a local facility, or his or her needs dictate physical separation from his or her family.

(2) The county of residence agrees to pay the placement county the costs of providing services to the minor, pursuant to Section 1566.25 of the Health and Safety Code.

(b) (1) Before the placement of a minor adjudged to be a ward of the court on the basis that he or she is a person described in Section 602 in any community care facility outside the ward’s county of residence, the probation officer of the county making the placement, or in the case of a Youth Authority ward, the parole officer in charge of his or her case, shall send written notice of the placement, including the name of the ward, the juvenile record of the ward (including any known prior offenses), and the ward’s county of residence, to the probation officer of the county in which the community care facility is located; with regard to this requirement, it is the intention of the Legislature that the probation officer of the county making the placement, or in the case of a Youth Authority ward, the parole officer in charge of his or her case, shall make his or her best efforts to send, or to hand deliver, the notice at the same time the placement is made. When that placement is terminated, the probation officer of the county



making the placement, or in the case of a Youth Authority ward, the parole officer in charge of his or her case, shall send notice thereof to any person or agency receiving notification of the placement.

(2) When the placement of a minor outside his or her county of residence will require a change of school or educational placement, the probation officer shall notify the local education agency of the student's expected last day of attendance, request calculation of the student's seat time, credits, and grades in preparation for transfer of records, and request that the student be transferred out. The probation officer shall provide notice to the local education agency and make the request at least 10 days before the minor is transferred to the out-of-county placement, unless an immediate placement is required, in which case the probation officer shall provide the notice and make the request as soon as possible.

(3) When it has been determined that it is necessary for a ward whose board and care is funded through the Aid to Families with Dependent Children-Foster Care program, to be placed in a county other than the ward's parents' or guardians' county of residence, the specific reason the out-of-county placement is necessary shall be documented in the ward's case plan. If the reason is lack of resources in the sending county to meet the specific needs of the ward, those specific resources needs shall be documented in the case plan.

(4) When it has been determined that a ward whose board and care is funded through the Aid to Families with Dependent Children-Foster Care program, is to be placed out of county and that the sending county is to maintain responsibility for supervision and visitation of the ward, the sending county shall develop a plan of supervision and visitation activities to be performed, and shall specify that the sending county is responsible for performing those activities. The sending county shall send to the receiving county a copy of the plan of supervision and visitation, in addition to the notice of placement required in paragraph (1), prior to placement of the ward. If placement occurs on a holiday or weekend, the plan of supervision and visitation and the notice of placement shall be provided to the receiving county on or before the end of the next business day.



(5) When it has been determined that a ward whose placement is funded through the Aid to Families with Dependent Children-Foster Care program, is to be placed out of county and the sending county plans that the receiving county shall be responsible for the supervision and visitation of the ward, the sending county shall develop a formal agreement between the sending and receiving counties. The formal agreement shall specify the supervision and visitation to be provided the ward, and shall specify that the receiving county is responsible for providing the supervision and visitation. The formal agreement shall be approved and signed by the sending and receiving counties prior to placement of the ward in the receiving county. Additionally, the notice of placement required by paragraph (1) shall be provided to the receiving county prior to placement of the ward in that county. Upon completion of the case plan, the sending county shall provide a copy of the completed case plan to the receiving county.

(6) The probation department of a receiving county that has a group home in which a minor is placed by the probation department of another county, after adjudication of the minor for any felony offense, may disclose to the sheriff of the receiving county or to the municipal police department of the city in which the group home is located, the name of the minor, the felony offense or offenses for which the minor has been adjudicated, and the address of the group home. This information shall be utilized only for law enforcement purposes and may not be utilized in any manner that is inconsistent with the rehabilitative program in which the minor has been placed or with the progress the minor may be making in the placement program. Notwithstanding any other provision of law, the information provided by the probation department to a law enforcement agency under this paragraph may be provided to other law enforcement personnel for the limited law enforcement purposes described in this paragraph, but shall otherwise remain confidential.

(c) A minor, the parent or guardian of any minor, and counsel representing a minor or the parent or guardian of a minor may petition the juvenile court for the review of any placement decision concerning the minor made by the probation officer pursuant to subdivision (a). The petition shall state the petitioner's relationship to the minor and shall set forth in concise language the grounds on which the review is sought. The court shall order that



a hearing shall be held on the petition and shall give prior notice, or cause prior notice to be given, to the persons and by the means as prescribed by Section 776, and, in instances in which the means of giving notice is not prescribed by that section, then by any means as the court prescribes.

(d) If a minor is placed in a community care facility out of his or her county of residence and is then arrested and placed in juvenile hall pending a jurisdictional hearing, the county of residence shall pay to the probation department of the county of placement all reasonable costs resulting directly from the minor's stay in the juvenile hall, provided that these costs exceed one hundred dollars (\$100).

(e) If, as a result of the hearing in subdivision (d), the minor is remanded back to his or her county of residence, the county of residence shall pay to the probation department of the county of placement, in addition to any payment made pursuant to subdivision (d), all reasonable costs resulting directly from transporting the minor to the county of residency, provided that these costs exceed one hundred dollars (\$100).

(f) Claims made by the probation department in the county of placement, to the county of residence, pursuant to subdivisions (d) and (e), shall be paid within 30 days of the submission of these claims and the probation department in the county of placement shall bear the remaining expense.

(g) As used in this section:

(1) "Community care facility" shall be defined as provided in Section 1502 of the Health and Safety Code.

(2) "Group home" has the same meaning as provided in paragraph (1) of subdivision (g) of Section 80001 of Title 22 of the California Code of Regulations.

SEC. 9. Section 8.5 of this bill incorporates amendments to Section 740 of the Welfare and Institutions Code proposed by both this bill and Assembly Bill 1948. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2005, (2) each bill amends Section 740 of the Welfare and Institutions Code, and (3) this bill is enacted after Assembly Bill 1948, in which case Section 8 of this bill shall not become operative.

SEC. 10. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this



act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.



Approved _____, 2004

Governor

