

Assembly Bill No. 324

CHAPTER 7

An act to amend Sections 731 and 733 of, and to add Section 1752.16 to, the Welfare and Institutions Code, relating to juveniles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 29, 2012. Filed with
Secretary of State February 29, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 324, Buchanan. Juvenile offenders: recall of commitment.

Existing law provides that a person who is under 18 years of age and who commits a crime is within the jurisdiction of the juvenile court, as specified. If the juvenile court declares a person to be a ward of the court, the court issues an order with the disposition of the case. Under existing law, the court may, in some cases, commit the ward to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities. Existing law prohibits a court from committing a ward to the Division of Juvenile Facilities under certain conditions unless the ward's most recent admitted or adjudicated offense is a specified serious or violent offense or a sex offense.

This bill would expand the class of persons who may be committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities to include a ward who has committed a specified sex offense, or who was previously found to have committed a specified serious or violent offense or a specified sex offense. Additionally, this bill would authorize the chief of the Division of Juvenile Facilities to enter into contracts with counties for the Division of Juvenile Facilities to provide housing to a ward who was in the custody of the Division of Juvenile Facilities on December 12, 2011, and whose commitment was recalled under specific circumstances.

This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 731 of the Welfare and Institutions Code is amended to read:

731. (a) If a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 602, the court may order any of the types of treatment referred to in Sections 727 and 730 and, in addition, may do any of the following:

(1) Order the ward to make restitution, to pay a fine up to two hundred fifty dollars (\$250) for deposit in the county treasury if the court finds that

the minor has the financial ability to pay the fine, or to participate in uncompensated work programs.

(2) Commit the ward to a sheltered-care facility.

(3) Order that the ward and his or her family or guardian participate in a program of professional counseling as arranged and directed by the probation officer as a condition of continued custody of the ward.

(4) Commit the ward to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, if the ward has committed an offense described in subdivision (b) of Section 707 or subdivision (c) of Section 290.008 of the Penal Code, and is not otherwise ineligible for commitment to the division under Section 733.

(b) The Division of Juvenile Facilities shall notify the Department of Finance when a county recalls a ward pursuant to Section 731.1. The division shall provide the department with the date the ward was recalled and the number of months the ward has served in a state facility. The division shall provide this information in the format prescribed by the department and within the timeframes established by the department.

(c) A ward committed to the Division of Juvenile Facilities may not be held in physical confinement for a period of time in excess of the maximum period of imprisonment that could be imposed upon an adult convicted of the offense or offenses that brought or continued the minor under the jurisdiction of the juvenile court. A ward committed to the Division of Juvenile Facilities also may not be held in physical confinement for a period of time in excess of the maximum term of physical confinement set by the court based upon the facts and circumstances of the matter or matters that brought or continued the ward under the jurisdiction of the juvenile court, which may not exceed the maximum period of adult confinement as determined pursuant to this section. This section does not limit the power of the Board of Parole Hearings to retain the ward on parole status for the period permitted by Section 1769.

SEC. 2. Section 733 of the Welfare and Institutions Code is amended to read:

733. A ward of the juvenile court who meets any condition described below shall not be committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities:

(a) The ward is under 11 years of age.

(b) The ward is suffering from any contagious, infectious, or other disease that would probably endanger the lives or health of the other inmates of any facility.

(c) The ward has been or is adjudged a ward of the court pursuant to Section 602, and the most recent offense alleged in any petition and admitted or found to be true by the court is not described in subdivision (b) of Section 707 or subdivision (c) of Section 290.008 of the Penal Code. This subdivision shall be effective on and after September 1, 2007.

SEC. 3. Section 1752.16 is added to the Welfare and Institutions Code, to read:

1752.16. (a) The chief of the Division of Juvenile Facilities, with approval of the Director of Finance, may enter into contracts with any county of this state for the Division of Juvenile Facilities to furnish housing to a ward who was in the custody of the Division of Juvenile Facilities on December 12, 2011, and whose commitment was recalled based on both of the following:

(1) The ward was committed to the Division of Juvenile Facilities for the commission of an offense described in subdivision (c) of Section 290.008 of the Penal Code.

(2) The ward has not been adjudged a ward of the court pursuant to Section 602 for commission of an offense described in subdivision (b) of Section 707.

(b) It is the intent of the Legislature in enacting this act to address the California Supreme Court's ruling in *In re C.H.* (2011) 53 Cal.4th 94.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the public by preventing the possible release of juvenile offenders who committed serious or violent offenses or sex offenses, it is necessary that this act take effect immediately.