

Assembly Bill No. 1481

CHAPTER 342

An act to amend Sections 631 and 631.3 of the Code of Civil Procedure, and to amend Sections 607, 1719, 1719.5, 1769, and 1771 of the Welfare and Institutions Code, relating to public safety, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor September 17, 2012. Filed with
Secretary of State September 17, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1481, Committee on Budget. Public safety.

Existing law requires each party demanding a jury trial to deposit advance jury fees in the amount of \$150 with the clerk or judge. Existing law requires the court to transmit the advance jury fees to the State Treasury for deposit in the Trial Court Trust Fund within 45 calendar days after the end of the month in which the advance jury fees are deposited with the court.

This bill would instead require that at least one party demanding a jury on each side of a civil case pay a nonrefundable fee of \$150, unless the fee has been paid by another party on the same side of the case. The bill would make that fee due on or before the date scheduled for the initial case management conference in the action, except in specified circumstances. The bill would make related and conforming changes to those provisions.

Existing law authorizes the juvenile court to retain jurisdiction over a ward of the court, until the ward attains 21 years of age, except in certain circumstances. Existing law further authorizes the court to retain jurisdiction over a ward who has committed specified serious offenses or other offenses requiring registration as a sex offender, until age 25, if committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, or to a state hospital or mental health facility. Existing law also requires, on and after July 1, 2012, every person committed by the juvenile court to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, by reason of committing specified offenses, to be discharged after a 2-year period of control, or when that person reaches 23 years of age, whichever occurs later, except as specified.

This bill would remove specified offenses requiring registration as a sex offender from those provisions that allow the court, in certain circumstances, to retain jurisdiction over a ward until that person attains either 25 years of age or 23 years of age. The bill would state that these changes apply retroactively.

Existing law authorizes the Department of Corrections and Rehabilitation to develop and implement a system of graduated sanctions for wards that distinguishes between minor, intermediate, and serious misconduct. Existing

law further requires the department to promulgate regulations to implement a table of sanctions to be used in determining discharge consideration date extensions. Existing law also authorizes the department to extend a ward's discharge consideration date, subject to appeal, to not more than 12 months, for a sustained serious misconduct violation if all other sanctioning options have been considered and determined to be unsuitable in light of the previous case history and circumstances of the misconduct.

This bill would delete the above provision requiring the department to promulgate regulations to implement a table of sanctions, in certain circumstances. The bill would also revise the above provision regarding a ward's discharge to instead prohibit the department from extending a ward's discharge consideration date for incidents occurring after September 1, 2012.

The bill would appropriate \$1,000 from the General Fund to the Department of Corrections and Rehabilitation for administration.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

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

SECTION 1. Section 631 of the Code of Civil Procedure is amended to read:

631. (a) The right to a trial by jury as declared by Section 16 of Article I of the California Constitution shall be preserved to the parties inviolate. In civil cases, a jury may only be waived pursuant to subdivision (f).

(b) At least one party demanding a jury on each side of a civil case shall pay a nonrefundable fee of one hundred fifty dollars (\$150), unless the fee has been paid by another party on the same side of the case. The fee shall offset the costs to the state of providing juries in civil cases. If there are more than two parties to the case, for purposes of this section only, all plaintiffs shall be considered one side of the case, and all other parties shall be considered the other side of the case. Payment of the fee by a party on one side of the case shall not relieve parties on the other side of the case from waiver pursuant to subdivision (f).

(c) The fee described in subdivision (b) shall be due on or before the date scheduled for the initial case management conference in the action, except as follows:

(1) In unlawful detainer actions, the fees shall be due at least five days before the date set for trial.

(2) If no case management conference is scheduled in a civil action, or the initial case management conference occurred before June 28, 2012, and the initial complaint was filed on or after July 1, 2011, the fee shall be due no later than 365 calendar days after the filing of the initial complaint.

(3) If the initial case management conference occurred before June 28, 2012, and the initial complaint in the case was filed before July 1, 2011, the

fee shall be due at least 25 calendar days before the date initially set for trial.

(4) If the party requesting a jury has not appeared before the initial case management conference, or first appeared more than 365 calendar days after the filing of the initial complaint, the fee shall be due at least 25 calendar days before the date initially set for trial.

(d) If a party failed to timely pay the fee described in subdivision (b) that was due between June 27, 2012, and November 30, 2012, the party will be relieved of a jury waiver on that basis only if the party pays the fee on or before December 31, 2012, or 25 calendar days before the date initially set for trial, whichever is earlier.

(e) The parties demanding a jury trial shall deposit with the clerk or judge, at the beginning of the second and each succeeding day's session, a sum equal to that day's fees and mileage of the jury, including the fees and mileage for the trial jury panel if the trial jury has not yet been selected and sworn. If more than one party has demanded a jury, the respective amount to be paid daily by each party demanding a jury shall be determined by stipulation of the parties or by order of the court.

(f) A party waives trial by jury in any of the following ways:

(1) By failing to appear at the trial.

(2) By written consent filed with the clerk or judge.

(3) By oral consent, in open court, entered in the minutes.

(4) By failing to announce that a jury is required, at the time the cause is first set for trial, if it is set upon notice or stipulation, or within five days after notice of setting if it is set without notice or stipulation.

(5) By failing to timely pay the fee described in subdivision (b), unless another party on the same side of the case has paid that fee.

(6) By failing to deposit with the clerk or judge, at the beginning of the second and each succeeding day's session, the sum provided in subdivision (e).

(g) The court may, in its discretion upon just terms, allow a trial by jury although there may have been a waiver of a trial by jury.

(h) The court shall transmit the fee described in subdivision (b) to the State Treasury for deposit in the Trial Court Trust Fund within 45 calendar days after the end of the month in which the fee is paid to the court.

SEC. 2. Section 631.3 of the Code of Civil Procedure is amended to read:

631.3. (a) Notwithstanding any other law, when a party to the litigation has deposited jury fees with the judge or clerk and that party waives a jury or obtains a continuance of the trial, or the case is settled, none of the deposit shall be refunded if the court finds there has been insufficient time to notify the jurors that the trial would not proceed at the time set. If the jury fees so deposited are not refunded for any of these reasons, or if a refund of jury fees deposited with the judge or clerk has not been requested, in writing, by the depositing party within 20 business days from the date on which the jury is waived or the action is settled, dismissed, or a continuance thereof

granted, the fees shall be transmitted to the Controller for deposit into the Trial Court Trust Fund.

(b) All jury fees and mileage fees that may accrue by reason of a juror serving on more than one case in the same day shall be transmitted to the Controller for deposit into the Trial Court Trust Fund. All jury fees that were deposited with the court in advance of trial pursuant to Section 631 prior to January 1, 1999, and that remain on deposit in cases that were settled, dismissed, or otherwise disposed of, and three years have passed since the date the case was settled, dismissed, or otherwise disposed of, shall be transmitted to the Controller for deposit into the Trial Court Trust Fund.

(c) The fee described in subdivision (b) of Section 631 shall be nonrefundable and is not subject to this section.

SEC. 3. Section 607 of the Welfare and Institutions Code is amended to read:

607. (a) The court may retain jurisdiction over any person who is found to be a ward or dependent child of the juvenile court until the ward or dependent child attains 21 years of age, except as provided in subdivisions (b), (c), and (d).

(b) The court may retain jurisdiction over any person who is found to be a person described in Section 602 by reason of the commission of any of the offenses listed in subdivision (b) or paragraph (2) of subdivision (d) of Section 707, until that person attains 25 years of age if the person was committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

(c) The court shall not discharge any person from its jurisdiction who has been committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities so long as the person remains under the jurisdiction of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, including periods of extended control ordered pursuant to Section 1800.

(d) The court may retain jurisdiction over any person described in Section 602 by reason of the commission of any of the offenses listed in subdivision (b) or paragraph (2) of subdivision (d) of Section 707, who has been confined in a state hospital or other appropriate public or private mental health facility pursuant to Section 702.3 until that person attains 25 years of age, unless the court that committed the person finds, after notice and hearing, that the person's sanity has been restored.

(e) The court may retain jurisdiction over any person while that person is the subject of a warrant for arrest issued pursuant to Section 663.

(f) Notwithstanding subdivisions (b) and (d), on and after July 1, 2012, every person committed by the juvenile court to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, who is found to be a person described in Section 602 by reason of the violation of any of the offenses listed in subdivision (b) or paragraph (2) of subdivision (d) of Section 707 shall be discharged upon the expiration of a two-year period of control, or when the person attains 23 years of age, whichever occurs later, unless an order for further detention has been made by the committing

court pursuant to Article 6 (commencing with Section 1800) of Chapter 1 of Division 2.5. This section shall not apply to persons committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, or persons confined in a state hospital or other appropriate public or private mental health facility, by a court prior to July 1, 2012, pursuant to subdivisions (b) and (d).

(g) The amendments to this section made by the act adding this subdivision shall apply retroactively.

SEC. 4. Section 1719 of the Welfare and Institutions Code, as amended by Section 94 of Chapter 41 of the Statutes of 2012, is amended to read:

1719. (a) This section applies only to a ward who is released to parole supervision prior to the 90th day after the enactment of the act adding this subdivision.

(b) Commencing July 1, 2005, the following powers and duties shall be exercised and performed by the Juvenile Parole Board: discharges of commitment, orders to parole and conditions thereof, revocation or suspension of parole, and disciplinary appeals.

(c) Any ward may appeal an adjustment to his or her parole consideration date to a panel comprised of at least two commissioners.

(d) The following powers and duties shall be exercised and performed by the Division of Juvenile Facilities: return of persons to the court of commitment for redispotion by the court, determination of offense category, setting of parole consideration dates, conducting annual reviews, treatment program orders, institution placements, furlough placements, return of nonresident persons to the jurisdiction of the state of legal residence, disciplinary decisionmaking, and referrals pursuant to Section 1800.

(e) The department shall promulgate policies and regulations implementing a departmentwide system of graduated sanctions for addressing ward disciplinary matters. The disciplinary decisionmaking system shall be employed as the disciplinary system in facilities under the jurisdiction of the Division of Juvenile Facilities, and shall provide a framework for handling disciplinary matters in a manner that is consistent, timely, proportionate, and ensures the due process rights of wards. The department shall develop and implement a system of graduated sanctions that distinguishes between minor, intermediate, and serious misconduct. The department may not extend a ward's discharge consideration date. The department also may promulgate regulations to establish a process for granting wards who have successfully responded to disciplinary sanctions a reduction of up to 50 percent of any time acquired for disciplinary matters.

(f) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 5. Section 1719 of the Welfare and Institutions Code, as amended by Section 95 of Chapter 41 of the Statutes of 2012, is amended to read:

1719. (a) The following powers and duties shall be exercised and performed by the Juvenile Parole Board: discharges of commitment, orders

for discharge from the jurisdiction of the Division of Juvenile Facilities to the jurisdiction of the committing court, and disciplinary appeals.

(b) Any ward may appeal a decision by the Juvenile Parole Board to deny discharge to a panel comprised of at least two commissioners.

(c) The following powers and duties shall be exercised and performed by the Division of Juvenile Facilities: return of persons to the court of commitment for redispotion by the court or a reentry disposition, determination of offense category, setting of discharge consideration dates, conducting annual reviews, treatment program orders, institution placements, furlough placements, return of nonresident persons to the jurisdiction of the state of legal residence, disciplinary decisionmaking, and referrals pursuant to Section 1800.

(d) The department shall promulgate policies and regulations implementing a departmentwide system of graduated sanctions for addressing ward disciplinary matters. The disciplinary decisionmaking system shall be employed as the disciplinary system in facilities under the jurisdiction of the Division of Juvenile Facilities, and shall provide a framework for handling disciplinary matters in a manner that is consistent, timely, proportionate, and ensures the due process rights of wards. The department shall develop and implement a system of graduated sanctions that distinguishes between minor, intermediate, and serious misconduct. The department may not extend a ward's discharge consideration date. The department also may promulgate regulations to establish a process for granting wards who have successfully responded to disciplinary sanctions a reduction of any time acquired for disciplinary matters.

(e) This section shall become operative on January 1, 2013.

SEC. 6. Section 1719.5 of the Welfare and Institutions Code is amended to read:

1719.5. (a) This section shall become operative on the 90th day after the enactment of the act adding this section.

(b) The following powers and duties shall be exercised and performed by the Juvenile Parole Board: discharges of commitment, orders for discharge from the jurisdiction of the Division of Juvenile Facilities to the jurisdiction of the committing court, revocation or suspension of parole, and disciplinary appeals.

(c) Any ward may appeal a decision by the Juvenile Parole Board to deny discharge to a panel comprised of at least two commissioners.

(d) The following powers and duties shall be exercised and performed by the Division of Juvenile Facilities: return of persons to the court of commitment for redispotion by the court or a reentry disposition, determination of offense category, setting of discharge consideration dates, conducting annual reviews, treatment program orders, institution placements, furlough placements, return of nonresident persons to the jurisdiction of the state of legal residence, disciplinary decisionmaking, and referrals pursuant to Section 1800.

(e) The department shall promulgate policies and regulations implementing a departmentwide system of graduated sanctions for addressing

ward disciplinary matters. The disciplinary decisionmaking system shall be employed as the disciplinary system in facilities under the jurisdiction of the Division of Juvenile Facilities, and shall provide a framework for handling disciplinary matters in a manner that is consistent, timely, proportionate, and ensures the due process rights of wards. The department shall develop and implement a system of graduated sanctions that distinguishes between minor, intermediate, and serious misconduct. The department may not extend a ward's discharge consideration date for incidents occurring after September 1, 2012. In any case in which a discharge consideration date has been extended, the disposition report shall clearly state the reasons for the extension. The length of any discharge consideration date extension shall be based on the seriousness of the misconduct, the ward's prior disciplinary history, the ward's progress toward treatment objectives, the ward's earned program credits, and any extenuating or mitigating circumstances. The department shall promulgate regulations to implement a table of sanctions to be used in determining discharge consideration date extensions. The department also may promulgate regulations to establish a process for granting wards who have successfully responded to disciplinary sanctions a reduction of up to 50 percent of any time acquired for disciplinary matters.

(f) This section applies only to a ward who is discharged from state jurisdiction to the jurisdiction of the committing court on or after the operative date of this section.

(g) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 7. Section 1769 of the Welfare and Institutions Code is amended to read:

1769. (a) Every person committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, by a juvenile court shall, except as provided in subdivision (b), be discharged upon the expiration of a two-year period of control or when he or she attains 21 years of age, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800).

(b) Every person committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, by a juvenile court who has been found to be a person described in Section 602 by reason of the violation of any of the offenses listed in subdivision (b) or paragraph (2) of subdivision (d) of Section 707, shall be discharged upon the expiration of a two-year period of control or when he or she attains 25 years of age, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800).

(c) Notwithstanding subdivision (b), on and after July 1, 2012, every person committed by a juvenile court to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, who is found to be a person described in Section 602 by reason of the violation of any of the offenses

listed in subdivision (b) or paragraph (2) of subdivision (d) of Section 707, shall be discharged upon the expiration of a two-year period of control, or when he or she attains 23 years of age, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800). This section shall not apply to persons committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, by a juvenile court prior to July 1, 2012, pursuant to subdivision (b).

(d) The amendments to this section made by the act adding this subdivision shall apply retroactively.

SEC. 8. Section 1771 of the Welfare and Institutions Code is amended to read:

1771. (a) Every person convicted of a felony and committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, shall be discharged when he or she attains 25 years of age, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800) or unless a petition is filed under Article 5 (commencing with Section 1780). In the event that a petition under Article 5 (commencing with Section 1780) is filed, the division shall retain control until the final disposition of the proceeding under Article 5 (commencing with Section 1780).

(b) Notwithstanding subdivision (a), on and after July 1, 2012, every person committed by a juvenile court to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, who is found to be a person described in Section 602 by reason of the violation of any of the offenses listed in subdivision (b) or paragraph (2) of subdivision (d) of Section 707, shall be discharged upon the expiration of a two-year period of control, or when the person attains 23 years of age, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800). This section shall not apply to persons committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, by a juvenile court prior to July 1, 2012, pursuant to subdivision (a).

(c) The amendments to this section made by the act adding this subdivision shall apply retroactively.

SEC. 9. The sum of one thousand dollars (\$1,000) is hereby appropriated from the General Fund to the Department of Corrections and Rehabilitation for administration.

SEC. 10. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.