

AMENDED IN SENATE JUNE 15, 2014
AMENDED IN ASSEMBLY MARCH 24, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2607

Introduced by Assembly Member Skinner

February 21, 2014

An act to amend Sections 727 and 737 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2607, as amended, Skinner. Juveniles: detention.

Existing law makes a minor, under certain circumstances, subject to the jurisdiction of the juvenile court. If the minor has been abused or neglected, or if the minor has violated a law or ordinance, as specified, the juvenile court may adjudge the minor to be a dependent or a ward of the court, respectively. Existing law authorizes the court to order a person who has been adjudged a ward of the juvenile court to be detained in the detention home, or in the case of a ward who is 18 years of age or older, in a county ~~jail~~ *jail or otherwise as the court deems fit until the execution of the order of commitment or of other disposition*. In any case in which a minor is detained for more than 15 days pending the execution of the order of commitment or of any other disposition, existing law requires the court to periodically review the case to determine whether the delay is reasonable.

This bill would make those provisions *that mandate a periodic review* applicable to nonminors. The bill would require these periodic reviews to be held at a hearing and ~~also~~ *would delete the limitation on the court's authority to order a ward to be detained in a detention home, or in the*

case of a ward who is 18 years of age or older, in a county jail, until the execution of the order of commitment or of other disposition. The bill would prohibit a court from determining that certain delays are reasonable, including, but not limited to, ~~delays a delay~~ caused by administrative processes. The bill would require the court to issue any necessary orders, sanctions, or relief if the court finds a delay to be unreasonable, including, but not limited to, releasing the minor or nonminor to be under the supervision of the probation officer who may place the minor or nonminor in an available temporary nonsecure setting if the court finds it is in the best interests of the minor or nonminor.

Existing law authorizes the court to make any reasonable orders for the care, supervision, custody, conduct, maintenance, and support of a minor or nonminor who is adjudged a ward of the court. Existing law requires the court in certain cases to order the care, custody, and control of the minor or nonminor to be under the supervision of a probation officer who may place the minor or nonminor in an approved home of a relative or nonrelative, suitable licensed home community care facility, or with a foster family agency.

This bill would require a minor or nonminor to be released from juvenile detention upon an order being entered to place the minor or nonminor under the supervision of a probation officer, unless the court determines that a delay in the release from juvenile detention is reasonable.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

- 1 SECTION 1. Section 727 of the Welfare and Institutions Code
- 2 is amended to read:
- 3 727. (a) (1) If a minor or nonminor is adjudged a ward of the
- 4 court on the ground that he or she is a person described by Section
- 5 601 or 602, the court may make any reasonable orders for the care,
- 6 supervision, custody, conduct, maintenance, and support of the
- 7 minor or nonminor, including medical treatment, subject to further
- 8 order of the court.
- 9 (2) In the discretion of the court, a ward may be ordered to be
- 10 on probation without supervision of the probation officer. The
- 11 court, in so ordering, may impose on the ward any and all

1 reasonable conditions of behavior as may be appropriate under
2 this disposition. A minor or nonminor who has been adjudged a
3 ward of the court on the basis of the commission of any of the
4 offenses described in subdivision (b) or paragraph (2) of
5 subdivision (d) of Section 707, Section 459 of the Penal Code, or
6 subdivision (a) of Section 11350 of the Health and Safety Code,
7 shall not be eligible for probation without supervision of the
8 probation officer. A minor or nonminor who has been adjudged a
9 ward of the court on the basis of the commission of any offense
10 involving the sale or possession for sale of a controlled substance,
11 except misdemeanor offenses involving marijuana, as specified in
12 Chapter 2 (commencing with Section 11053) of Division 10 of the
13 Health and Safety Code, or of an offense in violation of Section
14 32625 of the Penal Code, shall be eligible for probation without
15 supervision of the probation officer only when the court determines
16 that the interests of justice would best be served and states reasons
17 on the record for that determination.

18 (3) In all other cases, the court shall order the care, custody, and
19 control of the minor or nonminor to be under the supervision of
20 the probation officer who may place the minor or nonminor in any
21 of the following:

22 (A) The approved home of a relative or the approved home of
23 a nonrelative, extended family member, as defined in Section
24 362.7. If a decision has been made to place the minor in the home
25 of a relative, the court may authorize the relative to give legal
26 consent for the minor's medical, surgical, and dental care and
27 education as if the relative caretaker were the custodial parent of
28 the minor.

29 (B) A suitable licensed community care facility, except a
30 runaway and homeless youth shelter licensed by the State
31 Department of Social Services pursuant to Section 1502.35 of the
32 Health and Safety Code.

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

36 (D) (i) Every minor adjudged a ward of the juvenile court who
37 is residing in a placement as defined in subparagraphs (A) to (C),
38 inclusive, shall be entitled to participate in age-appropriate
39 extracurricular, enrichment, and social activities. A state or local
40 regulation or policy shall not prevent, or create barriers to,

1 participation in those activities. Each state and local entity shall
2 ensure that private agencies that provide foster care services to
3 wards have policies consistent with this section and that those
4 agencies promote and protect the ability of wards to participate in
5 age-appropriate extracurricular, enrichment, and social activities.
6 A group home administrator, a facility manager, or his or her
7 responsible designee, and a caregiver, as defined in paragraph (1)
8 of subdivision (a) of Section 362.04, shall use a reasonable and
9 prudent parent standard, as defined in paragraph (2) of subdivision
10 (a) of Section 362.04, in determining whether to give permission
11 for a minor residing in foster care to participate in extracurricular,
12 enrichment, and social activities. A group home administrator, a
13 facility manager, or his or her responsible designee, and a caregiver
14 shall take reasonable steps to determine the appropriateness of the
15 activity taking into consideration the minor's age, maturity, and
16 developmental level.

17 (ii) A group home administrator or a facility manager, or his or
18 her responsible designee, is encouraged to consult with social work
19 or treatment staff members who are most familiar with the minor
20 at the group home in applying and using the reasonable and prudent
21 parent standard.

22 (E) For nonminors, an approved supervised independent living
23 setting as defined in Section 11400, including a residential housing
24 unit certified by a licensed transitional housing placement provider.

25 (4) The minor or nonminor shall be released from juvenile
26 detention upon an order being entered under paragraph (3), unless
27 the court determines that a delay in the release from detention is
28 reasonable pursuant to Section 737.

29 (b) (1) To facilitate coordination and cooperation among
30 agencies, the court may, at any time after a petition has been filed,
31 after giving notice and an opportunity to be heard, join in the
32 juvenile court proceedings any agency that the court determines
33 has failed to meet a legal obligation to provide services to a minor,
34 for whom a petition has been filed under Section 601 or 602, to a
35 nonminor, as described in Section 303, or to a nonminor dependent,
36 as defined in subdivision (v) of Section 11400. In any proceeding
37 in which an agency is joined, the court shall not impose duties
38 upon the agency beyond those mandated by law. The purpose of
39 joinder under this section is to ensure the delivery and coordination
40 of legally mandated services to the minor. The joinder shall not

1 be maintained for any other purpose. Nothing in this section shall
2 prohibit agencies that have received notice of the hearing on joinder
3 from meeting prior to the hearing to coordinate services.

4 (2) The court has no authority to order services unless it has
5 been determined through the administrative process of an agency
6 that has been joined as a party, that the minor, nonminor, or
7 nonminor dependent is eligible for those services. With respect to
8 mental health assessment, treatment, and case management services
9 pursuant to Chapter 26.5 (commencing with Section 7570) of
10 Division 7 of Title 1 of the Government Code, the court's
11 determination shall be limited to whether the agency has complied
12 with that chapter.

13 (3) For the purposes of this subdivision, "agency" means any
14 governmental agency or any private service provider or individual
15 that receives federal, state, or local governmental funding or
16 reimbursement for providing services directly to a child, nonminor,
17 or nonminor dependent.

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

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

36 If counseling or other treatment services are ordered for the
37 minor, the parent, guardian, or foster parent shall be ordered to
38 participate in those services, unless participation by the parent,
39 guardian, or foster parent is deemed by the court to be inappropriate
40 or potentially detrimental to the minor.

1 SEC. 2. Section 737 of the Welfare and Institutions Code is
2 amended to read:

3 737. (a) Whenever a person has been adjudged a ward of the
4 juvenile court and has been committed or otherwise disposed of
5 as provided in this chapter for the care of wards of the juvenile
6 court, the court may order that the ward be detained ~~in the detention~~
7 ~~home, or in the case of a ward of the age of 18 years or more, in~~
8 ~~the county jail or otherwise as the court deems fit until the~~
9 execution of the order of commitment or of other disposition.

10 (b) In any case in which a minor or nonminor is detained for
11 more than 15 days pending the execution of the order of
12 commitment or of any other disposition, the court shall periodically
13 review the case to determine whether the delay is reasonable. These
14 periodic reviews shall occur at a hearing held at least every 15
15 days, commencing from the time the minor or nonminor was
16 initially detained pending the execution of the order of commitment
17 or of any other ~~disposition, and during disposition. Prior to the~~
18 ~~hearing, the probation officer shall contact appropriate placements~~
19 ~~in order to identify specific, appropriate, and available placements~~
20 ~~for the minor or nonminor. During the course of each review, the~~
21 court shall inquire regarding the action taken by the probation
22 department to carry out its order, the reasons for the delay, and the
23 effect of the delay upon the minor or nonminor. ~~All of the~~
24 ~~following shall not be considered reasonable delays: The probation~~
25 ~~department shall explain to the court what steps have been taken~~
26 ~~to identify an appropriate placement for the minor or nonminor.~~

27 (c) (1) A court shall not consider any of the following to be a
28 reasonable delay:

29 ~~(1)~~

30 (A) The probation officer's ~~failure inability~~ to identify a specific,
31 appropriate, and available placement for the minor ~~in the case plan~~
32 ~~described in Section 706.6 upon the court issuing an order pursuant~~
33 ~~to paragraph (3) of subdivision (a) of Section 727 if the minor was~~
34 ~~previously adjudged to be a dependent child of the court and was~~
35 ~~in foster care at the time the petition was filed to adjudicate the~~
36 ~~minor to be a ward of the court on the ground that the minor is a~~
37 ~~person described in Section 601 or 602. or nonminor when the~~
38 court finds that the probation officer has not made reasonable
39 efforts to identify a specific, appropriate, and available placement
40 for the minor or nonminor.

1 ~~(2) Delays~~

2 (B) A delay caused by administrative processes, including, but
3 not limited to, the ~~work load~~ workload of ~~probation officers~~ county
4 personnel, transfer or reassignment of a case, or the availability
5 of reports or records.

6 ~~(3) Delays~~

7 (C) A delay in convening any meetings between agencies. For
8 purposes of this paragraph, “agency” has the same meaning as
9 defined in Section 727.

10 (2) *This subdivision does not preclude the court from*
11 *determining that any other delay is not reasonable, including, but*
12 *not limited to, in the case of a minor or nonminor who was*
13 *previously adjudged to be a dependent child of the court and was*
14 *in foster care at the time the petition was filed pursuant to Section*
15 *601 or 602, if the probation officer does not identify a specific,*
16 *appropriate, and available placement for the minor or nonminor*
17 *in the case plan described in Section 706.6 upon the court issuing*
18 *its orders pursuant to paragraph (3) of subdivision (a) of Section*
19 *727, unless the probation officer provides documentation that his*
20 *or her efforts to find an appropriate placement were reasonable.*

21 (d) (1) *If the court finds the delay to be unreasonable, the court*
22 *shall issue any necessary orders, sanctions, or relief pending the*
23 *execution of the order of commitment or of other disposition, which*
24 *may include, but shall not be limited to, releasing the minor or*
25 *nonminor to be under the supervision of a probation officer who*
26 *may place the minor or nonminor in a temporary nonsecure setting*
27 *if the court finds that a temporary nonsecure setting is available*
28 *and it is in the best interests of the minor or nonminor.*

29 (2) *The court shall continue to periodically review the case,*
30 *pursuant to subdivision (b), until the execution of the order of*
31 *commitment or of other disposition.*

32 (e) *It is the intent of the Legislature, in amending this section*
33 *in the 2013–14 Regular Session, that minors and nonminors are*
34 *to be released to their court-ordered dispositions expeditiously,*
35 *and that any unreasonable periods of detention must be eliminated*
36 *because they are not in the best interests of the minor or nonminor.*

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