

AMENDED IN SENATE MAY 31, 2016

AMENDED IN ASSEMBLY MARCH 15, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2005

Introduced by Assembly Member Ridley-Thomas

February 16, 2016

An act to amend ~~Section~~ *Sections 727.1, 727.4, and 730* of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2005, as amended, Ridley-Thomas. Juveniles: out-of-state placement.

Existing law establishes the jurisdiction of the juvenile court, under which the juvenile court may adjudge a person who is under 18 years of age when he or she violates any law or ordinance to be a ward of the court, as specified. Existing law authorizes the court to make any reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the minor who is adjudged a ward of the court. In the discretion of the court, existing law authorizes the court to order a ward to be on probation without the supervision of the probation officer. In all other cases, existing law requires the court to order the care, custody, and control of the minor to be under the supervision of a probation officer who is required to determine the appropriate placement for the ward, and authorizes the probation agency to place the minor in specified treatment settings, including the approved home of a relative or nonrelative, a foster home, or a suitable licensed community care facility. As an alternative to these types of treatments,

existing law authorizes the court to commit the minor to a juvenile home, ranch, camp, or forestry camp.

~~This bill would prohibit the court from ordering the commitment or placement of a minor to a juvenile home, ranch, camp, or forestry camp outside of the state unless the court makes specified determinations, including that the commitment or placement is necessary to protect the health or safety of the minor and that there is not an equivalent setting available in this state.~~

The bill would clarify that these provisions shall not be construed to authorize the court to commit the minor to a juvenile home, ranch, camp, or forestry camp outside of the state.

Existing law prohibits the court from ordering the placement of a minor who is adjudged a ward of the court in a private residential facility or program that provides 24-hour supervision, outside of the state, unless the court finds that specified conditions are met, including that in-state facilities or programs have been determined to be unavailable or inadequate to meet the needs of the minor.

The bill would instead authorize the court to order the placement of a minor who is adjudged a ward of the court in a private residential facility or program that provides 24-hour supervision outside of the state if the court finds by clear and convincing evidence that, among other things, the case plan developed for the minor demonstrates that the out-of-state placement is the most appropriate and is in the best interests of the minor and that in-state facilities or programs have been considered and are unavailable or inadequate to meet the needs and best interests of the minor. The bill would make conforming changes.

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 727.1 of the Welfare and Institutions Code*
- 2 *is amended to read:*
- 3 727.1. (a) ~~When~~ *If* the court orders the care, custody, and
- 4 control of the minor to be under the supervision of the probation
- 5 officer for foster care placement pursuant to subdivision (a) of
- 6 Section 727, the decision regarding choice of placement, pursuant
- 7 to Section 706.6, shall be based upon selection of a safe setting
- 8 that is the least restrictive or most family like, and the most
- 9 appropriate setting that meets the individual needs of the minor

1 and is available, in proximity to the parent's home, consistent with
2 the selection of the environment best suited to meet the minor's
3 special needs and best interests. The selection shall consider, in
4 order of priority, placement with relatives, tribal members, and
5 foster family, group care, and residential treatment pursuant to
6 Section 7950 of the Family Code.

7 (b) Unless otherwise authorized by law, the court ~~may~~ *shall* not
8 order the placement of a minor who is adjudged a ward of the court
9 on the basis that he or she is a person described by either Section
10 601 or 602 in a private residential facility or program that provides
11 24-hour supervision, outside of the state, unless the court ~~finds~~;
12 *finds by clear and convincing evidence*, in its order of placement,
13 that all of the following conditions are met:

14 ~~(1) In-state facilities or programs have been determined to be~~
15 ~~unavailable or inadequate to meet the needs of the minor.~~

16 *(1) The case plan for the minor, developed in strict accordance*
17 *with Section 706.6, demonstrates that the out-of-state placement*
18 *is the most appropriate and is in the best interests of the minor*
19 *and that in-state facilities or programs have been considered and*
20 *are unavailable or inadequate to meet the needs and best interests*
21 *of the minor.*

22 (2) The State Department of Social Services or its designee has
23 performed initial and continuing inspection of the out-of-state
24 residential facility or program and has either certified that the
25 facility or program meets the greater of all licensure standards
26 required of group homes or of short-term residential treatment
27 centers operated in California, or that the department has granted
28 a waiver to a specific licensing standard upon a finding that there
29 exists no adverse impact to health and safety, pursuant to
30 subdivision (c) of Section 7911.1 of the Family Code.

31 (3) The requirements of Section 7911.1 of the Family Code are
32 met.

33 (c) If, upon inspection, the probation officer of the county in
34 which the minor is adjudged a ward of the court determines that
35 the out-of-state facility or program is not in compliance with the
36 standards required under paragraph (2) of subdivision (b) or has
37 an adverse impact on the health and safety of the minor, the
38 probation officer may temporarily remove the minor from the
39 facility or program. The probation officer shall promptly inform
40 the court of the minor's removal, and shall return the minor to the

1 court for a hearing to review the suitability of continued out-of-state
2 placement. The probation officer shall, within one business day
3 of removing the minor, notify the State Department of Social
4 Services' Compact Administrator, and, within five working days,
5 submit a written report of the findings and actions taken.

6 (d) The court shall review each of these placements for
7 compliance with the requirements of subdivision (b) at least once
8 every six months.

9 (e) The county shall not be entitled to receive or expend any
10 public funds for the placement of a minor in an out-of-state group
11 home or short-term residential treatment center, unless the
12 conditions of subdivisions (b) and (d) are met.

13 *SEC. 2. Section 727.4 of the Welfare and Institutions Code is*
14 *amended to read:*

15 727.4. (a) (1) Notice of any hearing pursuant to Section 727,
16 727.1, 727.2, or 727.3 shall be mailed by the probation officer to
17 the minor, the minor's parent or guardian, any adult provider of
18 care to the minor including, but not limited to, foster parents,
19 relative caregivers, preadoptive parents, community care facility,
20 or foster family agency, and to the counsel of record if the counsel
21 of record was not present at the time that the hearing was set by
22 the court, by first-class mail addressed to the last known address
23 of the person to be notified, or shall be personally served on those
24 persons, not earlier than 30 days nor later than 15 days preceding
25 the date of the hearing. The notice shall contain a statement
26 regarding the nature of the status review or permanency planning
27 hearing and any change in the custody or status of the minor being
28 recommended by the probation department. The notice shall also
29 include a statement informing the foster parents, relative caregivers,
30 or preadoptive parents that he or she may attend all hearings or
31 may submit any information he or she deems relevant to the court
32 in writing. The foster parents, relative caregiver, and preadoptive
33 parents are entitled to notice and opportunity to be heard but need
34 not be made parties to the proceedings. Proof of notice shall be
35 filed with the court.

36 (2) If the court or probation officer knows or has reason to know
37 that the minor is or may be an Indian child, any notice sent under
38 this section shall comply with the requirements of Section 224.2.

39 (b) At least 10 calendar days prior to each status review and
40 permanency planning hearing, after the hearing during which the

1 court orders that the care, custody and control of the minor to be
2 under the supervision of the probation officer for placement
3 pursuant to subdivision (a) of Section 727, the probation officer
4 shall file a social study report with the court, pursuant to the
5 requirements listed in Section 706.5.

6 (c) The probation department shall inform the minor, the minor's
7 parent or guardian, and all counsel of record that a copy of the
8 social study prepared for the hearing will be available 10 days
9 prior to the hearing and may be obtained from the probation officer.

10 (d) As used in Article 15 (commencing with Section 625) to
11 Article 18 (commencing with Section 725), inclusive:

12 (1) "Foster care" means residential care provided in any of the
13 settings described in Section 11402.

14 (2) "At risk of entering foster care" means that conditions within
15 a minor's family may necessitate his or her entry into foster care
16 unless those conditions are resolved.

17 (3) "Preadoptive parent" means a licensed foster parent who
18 has been approved for adoption by the State Department of Social
19 Services when it is acting as an adoption agency or by a licensed
20 adoption agency.

21 (4) "Date of entry into foster care" means the date that is 60
22 days after the date on which the minor was removed from his or
23 her home, unless one of the exceptions below applies:

24 (A) If the minor is detained pending foster care placement, and
25 remains detained for more than 60 days, then the date of entry into
26 foster care means the date the court adjudges the minor a ward and
27 orders the minor placed in foster care under the supervision of the
28 probation officer.

29 (B) If, before the minor is placed in foster care, the minor is
30 committed to a ranch, camp, school, or other institution pending
31 placement, and remains in that facility for more than 60 days, then
32 the "date of entry into foster care" is the date the minor is
33 physically placed in foster care.

34 (C) If at the time the wardship petition was filed, the minor was
35 a dependent of the juvenile court and in out-of-home placement,
36 then the "date of entry into foster care" is the earlier of the date
37 the juvenile court made a finding of abuse or neglect, or 60 days
38 after the date on which the child was removed from his or her
39 home.

40 (5) "Reasonable efforts" means:

1 (A) Efforts made to prevent or eliminate the need for removing
2 the minor from the minor's home.

3 (B) Efforts to make it possible for the minor to return home,
4 including, but not limited to, case management, counseling,
5 parenting training, mentoring programs, vocational training,
6 educational services, substance abuse treatment, transportation,
7 and therapeutic day services.

8 (C) Efforts to complete whatever steps are necessary to finalize
9 a permanent plan for the minor.

10 (D) In child custody proceedings involving an Indian child,
11 "reasonable efforts" shall also include "active efforts" as defined
12 in Section 361.7.

13 (6) "Relative" means an adult who is related to the minor by
14 blood, adoption, or affinity within the fifth degree of kinship
15 including stepparents, stepsiblings, and all relatives whose status
16 is preceded by the words "great," "great-great," "grand," or the
17 spouse of any of these persons even if the marriage was terminated
18 by death or dissolution. "Relative" shall also include an "extended
19 family member" as defined in the *federal* Indian Child Welfare
20 Act (25 U.S.C. Sec. 1903(2)).

21 (7) "Hearing" means a noticed proceeding with findings and
22 orders that are made on a case-by-case basis, heard by either of
23 the following:

24 (A) A judicial officer, in a courtroom, recorded by a court
25 reporter.

26 (B) An administrative panel, provided that the hearing is a status
27 review hearing and that the administrative panel meets the
28 following conditions:

29 (i) The administrative review shall be open to participation by
30 the minor and parents or legal guardians and all those persons
31 entitled to notice under subdivision (a).

32 (ii) The minor and his or her parents or legal guardians receive
33 proper notice as required in subdivision (a).

34 (iii) The administrative review panel is composed of persons
35 appointed by the presiding judge of the juvenile court, the
36 membership of which shall include at least one person who is not
37 responsible for the case management of, or delivery of services
38 to, the minor or the parents who are the subjects of the review.

1 (iv) The findings of the administrative review panel shall be
2 submitted to the juvenile court for the court's approval and shall
3 become part of the official court record.

4 ~~SECTION 1.~~

5 *SEC. 3.* Section 730 of the Welfare and Institutions Code is
6 amended to read:

7 730. (a) If a minor is adjudged a ward of the court on the
8 ground that he or she is a person described by Section 602, the
9 court may order any of the types of treatment referred to in Section
10 727, and as an additional alternative, may commit the minor to a
11 juvenile home, ranch, camp, or forestry camp. If there is no county
12 juvenile home, ranch, camp, or forestry camp within the county,
13 the court may commit the minor to the county juvenile hall. *This*
14 *subdivision shall not be construed to authorize a court to commit*
15 *a minor to a juvenile home, ranch, camp, or forestry camp located*
16 *outside of the state.*

17 ~~(b) Notwithstanding any other law, if a minor is adjudged a~~
18 ~~ward of the court on the ground that he or she is a person described~~
19 ~~by subdivision (a) of Section 602, the court shall not order for the~~
20 ~~commitment or placement of the minor in a juvenile home, ranch,~~
21 ~~camp, or forestry camp outside of the state unless the court makes~~
22 ~~a determination of all of the following:~~

23 ~~(1) The commitment or placement is necessary to protect the~~
24 ~~health, including mental health, or safety of the minor.~~

25 ~~(2) The commitment or placement would reduce the minor's~~
26 ~~likelihood of reoffending.~~

27 ~~(3) There is not an equivalent juvenile home, ranch, camp, or~~
28 ~~forestry camp available in the state.~~

29 ~~(e)~~

30 (b) If a ward described in subdivision (a) is placed under the
31 supervision of the probation officer or committed to the care,
32 custody, and control of the probation officer, the court may make
33 any and all reasonable orders for the conduct of the ward, including
34 the requirement that the ward go to work and earn money for the
35 support of his or her dependents or to effect reparation and in either
36 case that the ward keep an account of his or her earnings and report
37 the same to the probation officer and apply these earnings as
38 directed by the court. The court may impose and require any and
39 all reasonable conditions that it may determine fitting and proper

1 to the end that justice may be done and the reformation and
2 rehabilitation of the ward enhanced.

3 ~~(d)~~

4 (c) If a ward described in subdivision (a) is placed under the
5 supervision of the probation officer or committed to the care,
6 custody, and control of the probation officer, and is required as a
7 condition of probation to participate in community service or
8 graffiti cleanup, the court may impose a condition that if the minor
9 unreasonably fails to attend or unreasonably leaves prior to
10 completing the assigned daily hours of community service or
11 graffiti cleanup, a law enforcement officer may take the minor into
12 custody for the purpose of returning the minor to the site of the
13 community service or graffiti cleanup.

14 ~~(e)~~

15 (d) If a minor is adjudged or continued as a ward of the court
16 on the ground that he or she is a person described by Section 602
17 by reason of the commission of rape, sodomy, oral copulation, or
18 an act of sexual penetration specified in Section 289 of the Penal
19 Code, the court shall order the minor to complete a sex offender
20 treatment program, if the court determines, in consultation with
21 the county probation officer, that suitable programs are available.
22 In determining what type of treatment is appropriate, the court
23 shall consider all of the following: the seriousness and
24 circumstances of the offense, the vulnerability of the victim, the
25 minor's criminal history and prior attempts at rehabilitation, the
26 sophistication of the minor, the threat to public safety, the minor's
27 likelihood of reoffending, and any other relevant information
28 presented. If ordered by the court to complete a sex offender
29 treatment program, the minor shall pay all or a portion of the
30 reasonable costs of the sex offender treatment program after a
31 determination is made of the ability of the minor to pay.