

AMENDED IN SENATE AUGUST 15, 2016

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 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.

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.

This bill would incorporate additional changes in Sections 727.1 and 727.4 of the Welfare and Institutions Code proposed by AB 1997, that would become operative only if AB 1997 and this bill are both chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.

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
2 Code is amended to read:
3 727.1. (a) If the court orders the care, custody, and control of
4 the minor to be under the supervision of the probation officer for
5 foster care placement pursuant to subdivision (a) of Section 727,
6 the decision regarding choice of placement, pursuant to Section
7 706.6, shall be based upon selection of a safe setting that is the
8 least restrictive or most family like, and the most appropriate
9 setting that meets the individual needs of the minor and is available,
10 in proximity to the parent's home, consistent with the selection of

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

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

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

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

28 (3) The requirements of Section 7911.1 of the Family Code are
29 met.

30 (c) If, upon inspection, the probation officer of the county in
31 which the minor is adjudged a ward of the court determines that
32 the out-of-state facility or program is not in compliance with the
33 standards required under paragraph (2) of subdivision (b) or has
34 an adverse impact on the health and safety of the minor, the
35 probation officer may temporarily remove the minor from the
36 facility or program. The probation officer shall promptly inform
37 the court of the minor's removal, and shall return the minor to the
38 court for a hearing to review the suitability of continued out-of-state
39 placement. The probation officer shall, within one business day
40 of removing the minor, notify the State Department of Social

1 Services' Compact Administrator, and, within five working days,
2 submit a written report of the findings and actions taken.

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

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

10 *SEC. 1.5. Section 727.1 of the Welfare and Institutions Code*
11 *is amended to read:*

12 727.1. (a) ~~When~~*If* the court orders the care, custody, and
13 control of the minor to be under the supervision of the probation
14 officer for foster care placement pursuant to subdivision (a) of
15 Section 727, the decision regarding choice of placement, pursuant
16 to Section 706.6, shall be based upon selection of a safe setting
17 that is the least restrictive or most family like, and the most
18 appropriate setting that meets the individual needs of the minor
19 and is available, in proximity to the parent's home, consistent with
20 the selection of the environment best suited to meet the minor's
21 special needs and best interests. The selection shall consider, in
22 order of priority, placement with relatives, tribal members, and
23 foster family, group care, and residential treatment pursuant to
24 Section 7950 of the Family Code.

25 (b) Unless otherwise authorized by law, the court ~~may~~ *shall* not
26 order the placement of a minor who is adjudged a ward of the court
27 on the basis that he or she is a person described by either Section
28 601 or 602 in a private residential facility or program that provides
29 24-hour supervision, outside of the state, unless the court ~~finds;~~
30 *finds by clear and convincing evidence*, in its order of placement,
31 that all of the following conditions are met:

32 (1) ~~In-state~~*The case plan for the minor, developed in strict*
33 *accordance with Section 706.6, demonstrates that the out-of-state*
34 *placement is the most appropriate and is in the best interests of*
35 *the minor and that in-state facilities or programs have been*
36 ~~determined to be considered and are~~ *unavailable or inadequate*
37 *to meet the needs and best interests of the minor.*

38 (2) The State Department of Social Services or its designee has
39 performed initial and continuing inspection of the out-of-state
40 residential facility or program and has either certified that the

1 facility or program meets the greater of all licensure standards
2 required of group homes or of short-term residential ~~treatment~~
3 ~~centers~~ *therapeutic programs* operated in California, or that the
4 department has granted a waiver to a specific licensing standard
5 upon a finding that there exists no adverse impact to health and
6 safety, pursuant to subdivision (c) of Section 7911.1 of the Family
7 Code.

8 (3) The requirements of Section 7911.1 of the Family Code are
9 met.

10 (c) If, upon inspection, the probation officer of the county in
11 which the minor is adjudged a ward of the court determines that
12 the out-of-state facility or program is not in compliance with the
13 standards required under paragraph (2) of subdivision (b) or has
14 an adverse impact on the health and safety of the minor, the
15 probation officer may temporarily remove the minor from the
16 facility or program. The probation officer shall promptly inform
17 the court of the minor's removal, and shall return the minor to the
18 court for a hearing to review the suitability of continued out-of-state
19 placement. The probation officer shall, within one business day
20 of removing the minor, notify the State Department of Social
21 Services' Compact Administrator, and, within five working days,
22 submit a written report of the findings and actions taken.

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

26 (e) The county shall not be entitled to receive or expend any
27 public funds for the placement of a minor in an out-of-state group
28 home or short-term residential ~~treatment center~~, *therapeutic*
29 *program*, unless the conditions of subdivisions (b) and (d) are met.

30 SEC. 2. Section 727.4 of the Welfare and Institutions Code is
31 amended to read:

32 727.4. (a) (1) Notice of any hearing pursuant to Section 727,
33 727.1, 727.2, or 727.3 shall be mailed by the probation officer to
34 the minor, the minor's parent or guardian, any adult provider of
35 care to the minor including, but not limited to, foster parents,
36 relative caregivers, preadoptive parents, community care facility,
37 or foster family agency, and to the counsel of record if the counsel
38 of record was not present at the time that the hearing was set by
39 the court, by first-class mail addressed to the last known address
40 of the person to be notified, or shall be personally served on those

1 persons, not earlier than 30 days nor later than 15 days preceding
2 the date of the hearing. The notice shall contain a statement
3 regarding the nature of the status review or permanency planning
4 hearing and any change in the custody or status of the minor being
5 recommended by the probation department. The notice shall also
6 include a statement informing the foster parents, relative caregivers,
7 or preadoptive parents that he or she may attend all hearings or
8 may submit any information he or she deems relevant to the court
9 in writing. The foster parents, relative caregiver, and preadoptive
10 parents are entitled to notice and opportunity to be heard but need
11 not be made parties to the proceedings. Proof of notice shall be
12 filed with the court.

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

16 (b) At least 10 calendar days prior to each status review and
17 permanency planning hearing, after the hearing during which the
18 court orders that the care, custody and control of the minor to be
19 under the supervision of the probation officer for placement
20 pursuant to subdivision (a) of Section 727, the probation officer
21 shall file a social study report with the court, pursuant to the
22 requirements listed in Section 706.5.

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

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

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

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

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

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

1 (A) If the minor is detained pending foster care placement, and
2 remains detained for more than 60 days, then the date of entry into
3 foster care means the date the court adjudges the minor a ward and
4 orders the minor placed in foster care under the supervision of the
5 probation officer.

6 (B) If, before the minor is placed in foster care, the minor is
7 committed to a ranch, camp, school, or other institution pending
8 placement, and remains in that facility for more than 60 days, then
9 the “date of entry into foster care” is the date the minor is
10 physically placed in foster care.

11 (C) If at the time the wardship petition was filed, the minor was
12 a dependent of the juvenile court and in out-of-home placement,
13 then the “date of entry into foster care” is the earlier of the date
14 the juvenile court made a finding of abuse or neglect, or 60 days
15 after the date on which the child was removed from his or her
16 home.

17 (5) “Reasonable efforts” means:

18 (A) Efforts made to prevent or eliminate the need for removing
19 the minor from the minor’s home.

20 (B) Efforts to make it possible for the minor to return home,
21 including, but not limited to, case management, counseling,
22 parenting training, mentoring programs, vocational training,
23 educational services, substance abuse treatment, transportation,
24 and therapeutic day services.

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

27 (D) In child custody proceedings involving an Indian child,
28 “reasonable efforts” shall also include “active efforts” as defined
29 in Section 361.7.

30 (6) “Relative” means an adult who is related to the minor by
31 blood, adoption, or affinity within the fifth degree of kinship
32 including stepparents, stepsiblings, and all relatives whose status
33 is preceded by the words “great,” “great-great,” “grand,” or the
34 spouse of any of these persons even if the marriage was terminated
35 by death or dissolution. “Relative” shall also include an “extended
36 family member” as defined in the federal Indian Child Welfare
37 Act (25 U.S.C. Sec. 1903(2)).

38 (7) “Hearing” means a noticed proceeding with findings and
39 orders that are made on a case-by-case basis, heard by either of
40 the following:

1 (A) A judicial officer, in a courtroom, recorded by a court
2 reporter.

3 (B) An administrative panel, provided that the hearing is a status
4 review hearing and that the administrative panel meets the
5 following conditions:

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

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

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

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

19 *SEC. 2.5. Section 727.4 of the Welfare and Institutions Code*
20 *is amended to read:*

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

1 and opportunity to be heard but need not be made parties to the
2 proceedings. Proof of notice shall be filed with the court.

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

6 (b) At least 10 calendar days prior to each status review and
7 permanency planning hearing, after the hearing during which the
8 court orders that the care, ~~custody~~ custody, and control of the minor
9 to be under the supervision of the probation officer for placement
10 pursuant to subdivision (a) of Section 727, the probation officer
11 shall file a social study report with the court, pursuant to the
12 requirements listed in Section 706.5.

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

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

19 (1) "Foster care" means residential care provided in any of the
20 settings described in Section ~~11402~~ 11402 or 11402.01.

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

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

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

31 (A) If the minor is detained pending foster care placement, and
32 remains detained for more than 60 days, then the date of entry into
33 foster care means the date the court adjudges the minor a ward and
34 orders the minor placed in foster care under the supervision of the
35 probation officer.

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

1 (C) If at the time the wardship petition was filed, the minor was
2 a dependent of the juvenile court and in out-of-home placement,
3 then the “date of entry into foster care” is the earlier of the date
4 the juvenile court made a finding of abuse or neglect, or 60 days
5 after the date on which the child was removed from his or her
6 home.

7 (5) “Reasonable efforts” means:

8 (A) Efforts made to prevent or eliminate the need for removing
9 the minor from the minor’s home.

10 (B) Efforts to make it possible for the minor to return home,
11 including, but not limited to, case management, counseling,
12 parenting training, mentoring programs, vocational training,
13 educational services, substance abuse treatment, transportation,
14 and therapeutic day services.

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

17 (D) In child custody proceedings involving an Indian child,
18 “reasonable efforts” shall also include “active efforts” as defined
19 in Section 361.7.

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

28 (7) “Hearing” means a noticed proceeding with findings and
29 orders that are made on a case-by-case basis, heard by either of
30 the following:

31 (A) A judicial officer, in a courtroom, recorded by a court
32 reporter.

33 (B) An administrative panel, provided that the hearing is a status
34 review hearing and that the administrative panel meets the
35 following conditions:

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

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

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

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

9 SEC. 3. Section 730 of the Welfare and Institutions Code is
10 amended to read:

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

21 (b) If a ward described in subdivision (a) is placed under the
22 supervision of the probation officer or committed to the care,
23 custody, and control of the probation officer, the court may make
24 any and all reasonable orders for the conduct of the ward, including
25 the requirement that the ward go to work and earn money for the
26 support of his or her dependents or to effect reparation and in either
27 case that the ward keep an account of his or her earnings and report
28 the same to the probation officer and apply these earnings as
29 directed by the court. The court may impose and require any and
30 all reasonable conditions that it may determine fitting and proper
31 to the end that justice may be done and the reformation and
32 rehabilitation of the ward enhanced.

33 (c) If a ward described in subdivision (a) is placed under the
34 supervision of the probation officer or committed to the care,
35 custody, and control of the probation officer, and is required as a
36 condition of probation to participate in community service or
37 graffiti cleanup, the court may impose a condition that if the minor
38 unreasonably fails to attend or unreasonably leaves prior to
39 completing the assigned daily hours of community service or
40 graffiti cleanup, a law enforcement officer may take the minor into

1 custody for the purpose of returning the minor to the site of the
2 community service or graffiti cleanup.

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

20 *SEC. 4. (a) Section 1.5 of this bill incorporates amendments*
21 *to Section 727.1 of the Welfare and Institutions Code proposed by*
22 *both this bill and Assembly Bill 1997. It shall only become*
23 *operative if (1) both bills are enacted and become effective on or*
24 *before January 1, 2017, (2) each bill amends Section 727.1 of the*
25 *Welfare and Institutions Code, and (3) this bill is enacted after*
26 *Assembly Bill 1997, in which case Section 1 of this bill shall not*
27 *become operative.*

28 *(b) Section 2.5 of this bill incorporates amendments to Section*
29 *727.4 of the Welfare and Institutions Code proposed by both this*
30 *bill and Assembly Bill 1997. It shall only become operative if (1)*
31 *both bills are enacted and become effective on or before January*
32 *1, 2017, (2) each bill amends Section 727.4 of the Welfare and*
33 *Institutions Code, and (3) this bill is enacted after Assembly Bill*
34 *1997, in which case Section 2 of this bill shall not become*
35 *operative.*