

AMENDED IN SENATE JUNE 1, 2016

AMENDED IN ASSEMBLY APRIL 5, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2813

Introduced by Assembly Member Bloom

February 19, 2016

An act to amend Section 628 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2813, as amended, Bloom. Juvenile offenders: dual-status minors.

Existing law requires a probation officer, upon delivery of a minor who has been taken into temporary custody, to immediately investigate the circumstances of the minor and the facts surrounding the minor being taken into custody and to immediately release the minor to the custody of his or her parent, legal guardian, or responsible relative unless evidence before the court demonstrates that continuance in the home is contrary to the child's welfare, and one or more specified circumstances is present, including, among others, that the minor is destitute.

This bill would delete several of those specified circumstances. The bill would also prohibit the probation officer, when deciding whether to detain a minor who is *currently a dependent of the juvenile court or the subject of a petition to declare him or her a dependent of the juvenile court* and who has been removed from the custody of his or her parent or guardian by the juvenile court, from considering specified information, including, among others, the minor's status as a dependent of the juvenile ~~court~~. *court or as the subject of a petition to declare him*

or her a dependent of the juvenile court. The bill would require a probation officer, to immediately release that minor to the custody of the child welfare services department or his or her current foster parent or other caregiver, except as specified. By increasing the duties on local child welfare services departments, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 628 of the Welfare and Institutions Code
 2 is amended to read:
 3 628. (a) (1) Upon delivery to the probation officer of a minor
 4 who has been taken into temporary custody under the provisions
 5 of this article, the probation officer shall immediately investigate
 6 the circumstances of the minor and the facts surrounding his or
 7 her being taken into custody and shall immediately release the
 8 minor to the custody of his or her parent, legal guardian, or
 9 responsible relative unless it can be demonstrated upon the
 10 evidence before the court that continuance in the home is contrary
 11 to the minor’s welfare and one or more of the following conditions
 12 exist:
 13 (A) Continued detention of the minor is a matter of immediate
 14 and urgent necessity for the protection of the minor or reasonable
 15 necessity for the protection of the person or property of another.
 16 (B) The minor is likely to flee the jurisdiction of the court.
 17 (C) The minor has violated an order of the juvenile court.
 18 (2) The probation officer’s decision to detain a minor who is
 19 *currently a dependent of the juvenile court pursuant to Section*
 20 *300 or the subject of a petition to declare him or her a dependent*
 21 *of the juvenile court pursuant to Section 300 and who has been*
 22 *removed from the custody of his or her parent or guardian by the*
 23 *juvenile court shall not be based on any of the following:*

1 (A) The minor's status as a dependent of the juvenile ~~court~~.
2 *court or as the subject of a petition to declare him or her a*
3 *dependent of the juvenile court.*

4 (B) A determination that continuance in the minor's current
5 placement is contrary to the minor's welfare.

6 (C) The child welfare services department's inability to provide
7 a placement for the minor.

8 (3) The probation officer shall immediately release a minor
9 described in paragraph (2) to the custody of the child welfare
10 services department or his or her current foster parent or other
11 caregiver unless the probation officer determines that one or more
12 of the conditions in paragraph (1) exist.

13 (4) This section does not limit a probation officer's authority
14 to refer a minor to child welfare services.

15 (b) If the probation officer has reason to believe that the minor
16 is at risk of entering foster care placement as defined in paragraphs
17 (1) and (2) of subdivision (d) of Section 727.4, the probation officer
18 shall, as part of the investigation undertaken pursuant to subdivision
19 (a), make reasonable efforts, as described in paragraph (5) of
20 subdivision (d) of Section 727.4, to prevent or eliminate the need
21 for removal of the minor from his or her home.

22 (c) In any case in which there is reasonable cause for believing
23 that a minor who is under the care of a physician or surgeon or a
24 hospital, clinic, or other medical facility and cannot be immediately
25 moved is a person described in subdivision (d) of Section 300, the
26 minor shall be deemed to have been taken into temporary custody
27 and delivered to the probation officer for the purposes of this
28 chapter while he or she is at the office of the physician or surgeon
29 or that medical facility.

30 (d) (1) It is the intent of the Legislature that this subdivision
31 shall comply with paragraph (29) of subsection (a) of Section 671
32 of Title 42 of the United States Code as added by the Fostering
33 Connections to Success and Increasing Adoptions Act of 2008
34 (Public Law 110-351). It is further the intent of the Legislature
35 that the identification and notification of relatives shall be made
36 as early as possible after the removal of a youth who is at risk of
37 entering foster care placement.

38 (2) If the minor is detained and the probation officer has reason
39 to believe that the minor is at risk of entering foster care placement,
40 as defined in paragraphs (1) and (2) of subdivision (d) of Section

1 727.4, then the probation officer shall conduct, within 30 days, an
2 investigation in order to identify and locate all grandparents, adult
3 siblings, and other relatives of the child, as defined in paragraph
4 (2) of subdivision (f) of Section 319, including any other adult
5 relatives suggested by the parents. The probation officer shall
6 provide to all adult relatives who are located, except when that
7 relative’s history of family or domestic violence makes notification
8 inappropriate, within 30 days of the date on which the child is
9 detained, written notification and shall also, whenever appropriate,
10 provide oral notification, in person or by telephone, of all the
11 following information:

12 (A) The child has been removed from the custody of his or her
13 parent or parents, or his or her guardians.

14 (B) An explanation of the various options to participate in the
15 care and placement of the child and support for the child’s family,
16 including any options that may be lost by failing to respond. The
17 notice shall provide information about providing care for the child,
18 how to become a foster family home or approved relative or
19 nonrelative extended family member as defined in Section 362.7,
20 and additional services and support that are available in
21 out-of-home placements. The notice shall also include information
22 regarding the Kin-GAP Program (Article 4.5 (commencing with
23 Section 11360) of Chapter 2 of Part 3 of Division 9), the
24 CalWORKs program for approved relative caregivers (Chapter 2
25 (commencing with Section 11200) of Part 3 of Division 9),
26 adoption and adoption assistance (Chapter 2.1 (commencing with
27 Section 16115) of Part 4 of Division 9), as well as other options
28 for contact with the child, including, but not limited to, visitation.
29 When oral notification is provided, the probation officer is not
30 required to provide detailed information about the various options
31 to help with the care and placement of the child.

32 (3) The probation officer shall use due diligence in investigating
33 the names and locations of the relatives pursuant to paragraph (2),
34 including, but not limited to, asking the child in an age-appropriate
35 manner about relatives important to the child, consistent with the
36 child’s best interest, and obtaining information regarding the
37 location of the child’s adult relatives.

38 (4) To the extent allowed by federal law as a condition of
39 receiving funding under Title IV-E of the federal Social Security
40 Act (42 U.S.C. Sec. 670 et seq.), if the probation officer did not

1 conduct the identification and notification of relatives, as required
2 in paragraph (2), but the court orders foster care placement, the
3 probation officer shall conduct the investigation to find and notify
4 relatives within 30 days of the placement order. Nothing in this
5 section shall be construed to delay foster care placement for an
6 individual child.

7 SEC. 2. To the extent that this act has an overall effect of
8 increasing the costs already borne by a local agency for programs
9 or levels of service mandated by the 2011 Realignment Legislation
10 within the meaning of Section 36 of Article XIII of the California
11 Constitution, it shall apply to local agencies only to the extent that
12 the state provides annual funding for the cost increase. Any new
13 program or higher level of service provided by a local agency
14 pursuant to this act above the level for which funding has been
15 provided shall not require a subvention of funds by the state nor
16 otherwise be subject to Section 6 of Article XIII B of the California
17 Constitution.