

Assembly Bill No. 2607

CHAPTER 615

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

[Approved by Governor September 26, 2014. Filed with Secretary of State September 26, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2607, 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 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 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, a delay caused by administrative processes. The bill would require the court to order the probation officer to assess the availability of any suitable temporary placement or other alternative to continued detention, and would authorize the court, after consulting with interested parties, including the family of the minor or nonminor, to order the minor or nonminor to be placed in a suitable and available temporary nonsecure placement.

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 additionally allow for a minor to be placed in an approved home of a resource family, as defined. The 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.

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

SECTION 1. Section 727 of the Welfare and Institutions Code is amended to read:

727. (a) (1) If a minor or nonminor is adjudged a ward of the court on the ground that he or she is a person described by Section 601 or 602, the court may make any reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the minor or nonminor, including medical treatment, subject to further order of the court.

(2) In the discretion of the court, a ward may be ordered to be on probation without supervision of the probation officer. The court, in so ordering, may impose on the ward any and all reasonable conditions of behavior as may be appropriate under this disposition. A minor or nonminor who has been adjudged a ward of the court on the basis of the commission of any of the offenses described in subdivision (b) or paragraph (2) of subdivision (d) of Section 707, Section 459 of the Penal Code, or subdivision (a) of Section 11350 of the Health and Safety Code, shall not be eligible for probation without supervision of the probation officer. A minor or nonminor who has been adjudged a ward of the court on the basis of the commission of any offense involving the sale or possession for sale of a controlled substance, except misdemeanor offenses involving marijuana, as specified in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, or of an offense in violation of Section 32625 of the Penal Code, shall be eligible for probation without supervision of the probation officer only when the court determines that the interests of justice would best be served and states reasons on the record for that determination.

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

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

(B) The approved home of a resource family, as defined in Section 16519.5.

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

(D) With a foster family agency to be placed in a suitable licensed foster family home or certified family home that has been certified by the agency as meeting licensing standards.

(E) (i) Every minor adjudged a ward of the juvenile court who is residing in a placement as defined in subparagraphs (A) to (D), inclusive, shall be entitled to participate in age-appropriate extracurricular, enrichment, and social activities. A state or local regulation or policy shall not prevent, or create barriers to, participation in those activities. Each state and local entity shall ensure that private agencies that provide foster care services to wards have policies consistent with this section and that those agencies promote and protect the ability of wards to participate in age-appropriate extracurricular, enrichment, and social activities. A group home administrator, a facility manager, or his or her responsible designee, and a caregiver, as defined in paragraph (1) of subdivision (a) of Section 362.04, shall use a reasonable and prudent parent standard, as defined in paragraph (2) of subdivision (a) of Section 362.04, in determining whether to give permission for a minor residing in foster care to participate in extracurricular, enrichment, and social activities. A group home administrator, a facility manager, or his or her responsible designee, and a caregiver shall take reasonable steps to determine the appropriateness of the activity taking into consideration the minor's age, maturity, and developmental level.

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

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

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

(b) (1) To facilitate coordination and cooperation among agencies, the court may, at any time after a petition has been filed, after giving notice and an opportunity to be heard, join in the juvenile court proceedings any agency that the court determines has failed to meet a legal obligation to provide services to a minor, for whom a petition has been filed under Section 601 or 602, to a nonminor, as described in Section 303, or to a nonminor dependent, as defined in subdivision (v) of Section 11400. In any proceeding in which an agency is joined, the court shall not impose duties upon the agency beyond those mandated by law. The purpose of joinder under this section is to ensure the delivery and coordination of legally mandated services to the minor. The joinder shall not be maintained for any other purpose. Nothing in this section shall prohibit agencies that have received

notice of the hearing on joinder from meeting prior to the hearing to coordinate services.

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

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

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

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

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

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

737. (a) Whenever a person has been adjudged a ward of the juvenile court and has been committed or otherwise disposed of as provided in this chapter for the care of wards of the juvenile court, the court may order that the ward be detained until the execution of the order of commitment or of other disposition.

(b) In any case in which a minor or nonminor is detained for more than 15 days pending the execution of the order of commitment or of any other disposition, the court shall periodically review the case to determine whether the delay is reasonable. These periodic reviews shall occur at a hearing held at least every 15 days, commencing from the time the minor or nonminor

was initially detained pending the execution of the order of commitment or of any other disposition. Prior to the hearing, the probation officer shall contact appropriate placements in order to identify specific, appropriate, and available placements for the minor or nonminor. During the course of each review, the court shall inquire regarding the action taken by the probation department to carry out its order, the reasons for the delay, and the effect of the delay upon the minor or nonminor. The probation department shall explain to the court what steps have been taken to identify an appropriate placement for the minor or nonminor.

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

(A) The probation officer's inability to identify a specific, appropriate, and available placement for the minor or nonminor when the court finds that the probation officer has not made reasonable efforts to identify a specific, appropriate, and available placement for the minor or nonminor.

(B) A delay caused by administrative processes, including, but not limited to, the workload of county personnel, transfer or reassignment of a case, or the availability of reports or records.

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

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

(d) (1) If the court finds the delay to be unreasonable, the court shall order the probation officer to assess the availability of any suitable temporary placements or other alternatives to continued detention of the minor or nonminor in a secure setting. The court may order that the minor or nonminor be placed in a suitable and available temporary nonsecure placement or alternative to continued detention after consultation with all interested parties present at the hearing, including the probation officer, the minor or nonminor, the family of the minor or nonminor, and other providers of services. In addition to the orders authorized by this subdivision, the court may issue any other orders or relief pursuant to its authority under paragraph (1) of subdivision (a) of Section 727.

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

(e) It is the intent of the Legislature, in amending this section in the 2013–14 Regular Session, that minors and nonminors are to be released to

their court-ordered dispositions expeditiously, and that any unreasonable periods of detention must be eliminated because they are not in the best interests of the minor or nonminor.