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Juveniles

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Juveniles

Juveniles; parental liability for acts of minors

Civil Code §1714.1 (amended)
AB 219 (Waters); 1983 STAT. Ch 981
Support: Assembly Crime Victim Restitution Program

Under existing law, parents and guardians with custody or control of a minor¹ are subject to limited liability² for the minor's willful misconduct resulting in damage to property,³ personal injury, or death.⁴ Under prior law, liability for damages and expenses resulting from the minor's willful misconduct was limited to \$5,000.⁵ In an attempt to enhance the ability of juvenile crime victims to obtain restitution,⁶ Chapter 981 increases the maximum amount of this imputed liability to \$10,000.⁷ Under Chapter 981, however, this liability is imposed only upon parents or guardians with custody and control of the minor.⁸ Finally, Chapter 981 eliminates provisions that imputed liability to parents or guardians for civil damages, including court costs and attorneys' fees, caused by the willful misconduct of minors resulting in the defacement of property with paint or a similar substance.⁹

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1. CAL. CIV. CODE §25 (definition of minor).
 2. The liability of the parent or guardian is joint and severally. *Id.* §1714.1(a).
 3. *Id.* §1714.1(b).
 4. *Id.* §1714.1(a), (b).
 5. 1979 Cal. Stat. c. 127, §1, at 314 (amending CAL. CIV. CODE §1714.1).
 6. 1983 Cal. Stat. c. 981, §2, at ____.
 7. Compare CAL. CIV. CODE §1714.1 with 1979 Cal. Stat. c. 127, §1, at ____ (amending CAL. CIV. CODE §1714.1).
 8. CAL. CIV. CODE §1714.1.
 9. Compare CAL. CIV. CODE §1714.1 with 1979 Cal. Stat. c. 127, §1, at 314 (amending CAL. CIV. CODE §1714.1).

Juveniles; parental responsibility for costs of confinement

Welfare & Institutions Code §903 (repealed); §903 (new); §§202, 904 (amended).
AB 846 (Sher); 1983 STAT. Ch 1135
(Effective September 28, 1983)
Support: Attorney General; California Youth Authority; Department

of Finance; Los Angeles County; Santa Clara County

Under prior law, when a minor¹ was committed to, or placed or detained in a county institution or other place designated by a juvenile court order,² the minor's parent, spouse, or other person liable for the minor's support was required to reimburse the county for the costs of the *minor's care, support, and maintenance*.³ Recently, the California Supreme Court, in *In re Jerald C.*,⁴ declared this support obligation unconstitutional.⁵ In an apparent response to this decision, Chapter 1135 reaffirms the continuing duty of a parent to support and maintain a minor child while the minor is declared a ward of the court and removed from parental custody.⁶ Chapter 1135 limits a parent's liability to the *reasonable costs of supporting the minor*,⁷ and *excludes* liability for the costs of the minor's rehabilitation, incarceration, treatment, or supervision imposed for the protection of society and the minor.⁸ Furthermore, responsibility is placed on the county to demonstrate that the charges for which reimbursement is sought conform to these limitations.⁹

1. CAL. CIV. CODE §25 (definition of minor).

2. See CAL. WELF. & INST. CODE §§362, 704, 727, 1736 (jurisdiction of juvenile court to provide for placement of a ward of the court in a government institution or other specified place); see also *id.* §§300, 601, 602 (grounds upon which a juvenile court may declare a minor a dependent or ward of the court).

3. See 1961 Cal. Stat. c. 1616, §2, at 3500 (enacting CAL. WELF. & INST. CODE §903).

4. 33 Cal. 3d 1, 654 P.2d 745, 187 Cal. Rptr. 562 (1982), *reh'g granted*. An order granting a rehearing vacates the previous judgment. *Miller & Lux, Inc. v. James*, 180 Cal. 38, 48, 179 P. 174, 178 (1919).

5. *In re Jerald C.*, 33 Cal. 3d 1, 7, 654 P.2d 745, 748, 187 Cal. Rptr. 563, 565 (1982). The court found that when a minor child is declared a ward of the court and confined, the purpose of the confinement is protecting society and rehabilitating the minor. *Id.* at 7, 654 P.2d at 748, 187 Cal. Rptr. at 565. By charging parents for the confinement conducted for public benefit, the court held that the parents were denied equal protection of law since they were selected as a particular class of persons for taxation without a rational basis supporting the classification. *Id.* at 6-7, 654 P.2d at 747-48, 187 Cal. Rptr. at 564-65.

6. CAL. WELF. & INST. CODE §202(c). This duty of support is subject to the parent's financial ability to pay. *Id.*

7. Chapter 1135 defines "costs of support" as that portion of the costs incurred by the county in maintaining a minor that are equivalent to the reasonable support and education expenditures required of a parent under existing law. CAL. WELF. & INST. CODE §903. The county must separately itemize, for any person from whom it seeks reimbursement, the cost of each major cost component of the minor's costs of support such as food, clothing, and medical expenses. *Id.*

8. *Id.*

9. *Id.* In addition, the county board of supervisors is required to determine the monthly or daily charge, not to exceed costs, for the care, support, and maintenance of minors placed in any institution by order of the juvenile court. *Id.* §904.

Juveniles; child welfare services

Welfare & Institutions Code §§16501.5, 16502.5 (repealed); §§362,

366.2, 11462, 16707.5 (amended).

SB 99 (Presley); 1983 Stat. Ch 467

Support: California Association of Services for Children; Department of Finance; Department of Health Services

Under existing law, a juvenile court may order family maintenance services¹ and place the minor² and the minor's parents under the supervision of a probation officer³ upon finding that a minor is subject to the jurisdiction of the court.⁴ Alternatively, the court may adjudge the minor a dependent child of the court⁵ and order removal of the child from parental custody.⁶ If the minor child is removed from parental custody either by being adjudged a dependent child of the court or by a voluntary placement agreement,⁷ the child may be placed in the home of a relative,⁸ a community care facility,⁹ or a homefinding agency.¹⁰ Chapter 467 adds¹¹ another placement option to this list by specifying that a child may be placed in a home or facility that complies with the federal Indian Child Welfare Act.¹²

Existing law entitles any dependent child of the court who is in foster care¹³ to periodic review¹⁴ hearings regarding the child's status.¹⁵ In these hearings, the court must determine the appropriate disposition of the child.¹⁶ The probation officer must file a supplemental report with the court regarding the services offered to the family, the progress made by the family, the prognosis for returning the child to the parents, and the probation officer's recommended disposition. This report must be filed at

1. The probation officer or social worker shall attempt to keep the minor and the minor's parents together by providing *appropriate* services to the family. CAL. WELF. & INST. CODE §272.5. The court may order a probation officer to provide services to the minor and the minor's parents for the purpose of facilitating reunification. *Id.* §361(e).

2. CAL. CIV. CODE §25 (definition of minor).

3. CAL. WELF. & INST. CODE §360(a).

4. *Id.* §300.

5. *Id.* §§300 (persons who may be adjudged a dependent of the court), 360(b) (order for services or adjudging a minor a dependent child of the court).

6. *Id.* §§361, 361.5; *see also id.* §362 (order for care, supervision, custody, conduct, maintenance, and support of dependent child).

7. *Id.* §§11400(l) (definition of voluntary placement), 11400 (m) (definition of voluntary placement agreement).

8. *Id.* §§362(a)(1), 16507.5(a)(1); *see id.* §11400(k) (definition of relative).

9. *Id.* §§362(a)(2), 16507.5(a)(2); CAL. HEALTH & SAFETY CODE §1502(2) (definition of community care facility).

10. CAL. WELF. & INST. CODE §§362(a)(3), 16507.5(a)(3); CAL. HEALTH & SAFETY CODE §1502(4) (definition of homefinding agency).

11. Compare CAL. WELF. & INST. CODE §362 with 1982 Cal. Stat. c. 978, §1, at— (enacting CAL. WELF. & INST. CODE §362); *see also Review of Selected 1982 California Legislation*, 14 PAC. L. J. 667, 667-75.

12. CAL. WELF. & INST. CODE §362(a)(4), 25 U.S.C. §1901-1963 (provisions of the Indian Child Welfare Act).

13. CAL. WELF. & INST. CODE §11400(e) (definition of foster care).

14. *Id.* §11400(g) (definition of periodic review).

15. *Id.* §366.

16. *Id.*

least sixteen days before the status review hearing.¹⁷ Existing law requires that the minor's parents be provided with a copy of the probation officer's report.¹⁸ With the enactment of Chapter 467, the probation officer must also provide a summary of this report to the child's foster parents, community care facility, or homefinding agency having custody of the child. That summary must be provided at least fourteen days before the hearing.¹⁹ Furthermore, Chapter 467 requires the community care facility or homefinding agency with physical custody of the child to file a recommendation for disposition prior to any hearing that may result in (1) return of the child to the custody of the parents, (2) adoption of the child, or (3) creation of a legal guardianship.²⁰ The court must consider each report before determining the disposition.²¹

Finally, existing law mandates that the child be returned to parental custody if the child has been temporarily detained.²² If the court finds, however, that returning the child to the parents would create a substantial risk of harm to the physical or emotional well-being of that child, return to parental custody is not required.²³ Chapter 467 clarifies this exception by stating that the risk of harm must be established only by a preponderance of the evidence.²⁴

17. *Id.* §366.2.

18. *Id.*

19. *Id.*

20. *Id.* §366.2(d).

21. *Id.*

22. *Id.* §366.2(e). Peace officers may, without a warrant, take into temporary custody a minor when the minor is a person described under existing law and subject to being adjudged a dependent of the court. *Id.* §305; *see id.* §300 (persons to be adjudged a dependent of the court).

23. *Id.* §366.2(e).

24. *Compare id.* §366.2(e) with 1982 Cal. Stat. c. 978, §26, at___ (enacting CAL. WELF. & INST. CODE §366.2(e)).

Juveniles; unfit subjects for juvenile courts

Welfare & Institutions Code §§675, 707 (amended).

AB 1418 (McClintock); 1983 STAT. Ch 390

Support: Department of Youth Authority; Ventura County District Attorney

Opposition: California Judges Association

Under existing law, minors¹ sixteen years of age or older, who are ad-

1. CAL. CIV. CODE §25 (definition of minor).

judged unfit² to be dealt with under juvenile court law,³ must be prosecuted in a court of criminal jurisdiction.⁴ Chapter 390 provides that once a minor is adjudged unfit⁵ and subsequently convicted of a specified offense in a criminal court,⁶ the minor thereafter is deemed unfit to be dealt with by the juvenile court for any alleged violation of the specified offenses.⁷ The provisions of Chapter 390 do not affect the right to appellate review⁸ of the prior finding of unfitness *or* the length of time jurisdiction is retained by the juvenile court.⁹

Finally, cases arising under the provisions of the Arnold-Kennick Juvenile Court Law¹⁰ must be heard at a special or separate session of the court.¹¹ Chapter 390 allows hearings for two or more minors to be combined, subject to the rules of joinder, consolidation, and severance applicable to criminal proceedings.¹²

2. To support a finding of unfitness, a court must conclude the minor would not be amenable to care, treatment, and training programs available through the facilities of the juvenile court. CAL. WELF. & INST. CODE §707(a).

3. *Id.* §702 (findings and orders of the juvenile court regarding fitness of the accused).

4. *Id.* §707.1.

5. To determine the fitness of a minor under this act, the behavioral patterns and social history of the minor are investigated by a probation officer. The probation officer's report and any relevant evidence submitted by the minor are considered by the court in determining fitness. *Id.* §707(a).

6. *See id.* §707(b) (offenses include murder, arson, armed robbery, assault, forcible rape, forcible sodomy, forcible oral copulation, and kidnapping).

7. *Id.* §707(d). The district attorney or other prosecuting officer has the authority to file an accusatory pleading in a court of criminal jurisdiction against a minor declared unfit to be dealt with under juvenile court law. *Id.* §707.1.

8. *Id.* §800 (appeals from orders of a juvenile court).

9. *Id.* §707(d); *see also id.* §607 (retention of jurisdiction by juvenile court).

10. *Id.* §§500 (short title), 500-945.

11. *Id.* §675.

12. *Compare id.* §675(b) with 1969 Cal. Stat. c. 185, §1, at 465 (amending CAL. WELF. & INST. CODE §675). *See* CAL. PENAL CODE §954 (rules of joinder, consolidation and severance applicable to criminal proceedings).

Juveniles; detention of minors

Welfare & Institutions Code §707.1 (amended).

AB 298 (Klehs); 1983 STAT. Ch 204

Support: Alameda County; California Peace Officers Association; Department of Youth Authority; State Bar Committee on Juvenile Justice
 Opposition: California Judges Association; Friends Committee for

Legislation

Under existing law, a juvenile court¹ judge may declare a minor² an improper subject for the juvenile court.³ Except in specified circumstances,⁴ a minor determined unsuitable will be detained in juvenile hall until final disposition of the case by a criminal court.⁵

In an apparent attempt to decrease crowding in juvenile halls⁶ and to separate older offenders from minors,⁷ Chapter 204 requires that upon reaching the age of eighteen, a detainee must be transferred to the custody of the county sheriff.⁸ The detainee, however, may request a hearing before the juvenile court to present evidence in support of a finding that confinement in juvenile hall would best serve the interests of both the detainee and the public.⁹ If a hearing is requested, the detainee's transfer will be stayed until the court makes a final determination.¹⁰

1. See generally CAL. WELF. & INST. CODE §§245-265 (jurisdiction and procedures of the juvenile court).

2. CAL. CIV. CODE §25 (definition of a minor).

3. See CAL. WELF. & INST. CODE §707(a); see also 6 B. WITKIN, SUMMARY OF CALIFORNIA LAW, *Parent and Child* §§332, 333 (8th ed. 1974), 333A, 333B, 333C (Supp. 1978), *Review of Selected 1979 California Legislation*, 11 PAC. L.J. 562 (1980).

4. If the juvenile court determines that the detainee's presence in juvenile hall endangers the public safety or is detrimental to other inmates, the detainee will be transferred to the county sheriff's custody. *Id.* See also WITKIN, *supra* note 3, at §333C (Supp. 1978). Before the minor's transfer takes place, however, the juvenile court must find that there is no other proper facility to detain the minor except county jail. See *Daryl K. v. Superior Court*, 73 Cal. App. 3d 813, 815, 141 Cal. Rptr. 81, 82 (1977).

5. CAL. WELF. & INST. CODE §707.1(b)(1).

6. See telephone conversation with Assemblyman Johan Klehs (July 26, 1983) (notes on file at the *Pacific Law Journal*).

7. *Id.*

8. CAL. WELF. & INST. CODE §707.1(b)(2).

9. *Id.*

10. *Id.*

Juveniles; sentencing to youth authority

Welfare & Institutions Code §1731.5 (amended).

SB 821 (Torres); 1983 STAT. Ch 701

Support: Department of Corrections; Department of Finance; Department of Youth Authority; Los Angeles District Attorney

Under existing law, a court may commit to the Youth Authority persons under age twenty-one who have been convicted of a public offense.¹

1. CAL. WELF. & INST. CODE §1731.5. A court may commit to the Youth Authority any person convicted of a public offense who (1)(a) is under age 21 at the time of apprehension and (b) is not convicted of first-degree murder, committed when 18 years of age or older, or sentenced to death, imprisonment for life, imprisonment for 90 days or less, or the

A person who is not committed, may be *transferred* to the Youth Authority by the Director of the Department of Corrections for purposes of inmate housing and participation in Youth Authority programs.² This transfer must be approved by the Director of the Youth Authority.³ Jurisdiction over the transferred inmate, however, remains with the Department of Corrections and the Board of Prison Terms.⁴ Chapter 701 permits a court that sentences a person under age twenty-one to *order* that person transferred to the custody of the Youth Authority.⁵ If the Youth Authority fails to approve the transfer and take custody of the person, Chapter 701 requires that the person be returned to the court for resentencing.⁶

payment of a fine, or after having been directed to pay a fine, defaults in the payment thereof, and is subject to imprisonment for more than 90 days under the judgment, and either (2) is not granted probation, or (3) was granted probation and probation is revoked and terminated. *Id.*

2. *Id.* §1731.5(c).
3. *Id.*
4. *Id.*
5. *Id.*
6. *Id.*

Juveniles; transfer to the youth authority

Penal Code §5080.5 (repealed); §667.5 (amended); Welfare & Institutions Code §1252 (amended).
SB 1046 (Lockyer); 1983 STAT. Ch 229

Existing law allows the Director of the California Department of Corrections¹ (hereinafter referred to as the Director) to transfer an inmate under the age of twenty-one to a facility operated by the Youth Authority² for the purpose of housing, counseling, educating, training, and rehabilitating the inmate.³ Chapter 229 provides that a person subject to the custody of the Director, while incarcerated in a Youth Authority facility, is deemed to be serving a term in the state prison.⁴ Consequently, although the place of confinement is changed, inmates transferred to a Youth Authority facility are considered to be serving their original prison terms.⁵

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1. CAL. PENAL CODE §5053 (powers and duties of Director of Corrections).
 2. *Id.* §§1256 (definition of Youth Authority), 1731.5(c).
 3. *See id.* §1731.5(c).
 4. CAL. PENAL CODE § 667.5(j).
 5. The Director of the California Department of Corrections is in charge of the California state prison system. Inmates in the Director's custody therefore are already serving a prison term; transfer under Chapter 229 does not change the status of their confinement. *See* CAL. PENAL CODE §§ 5050, 5054.

Juveniles; extended jurisdiction over juveniles

Welfare & Institutions Code §1777(new); §607 (amended).
SB 415 (Carpenter); 1983 STAT. Ch 936
Support: Attorney General; California Peace Officers Association;
Cal-Tax; California Youth Authority

Existing law grants a court legal authority over a juvenile until the youth reaches the age of twenty-one.¹ A court may retain jurisdiction until the ward² reaches the age of twenty-five if the ward committed a specified offense³ and was sentenced to the Department of Youth Authority.⁴ Chapter 936 grants a court the authority to retain this jurisdiction until the age of twenty-five if the ward commits any of the specified offenses and is confined to a state hospital or other appropriate public or private mental health facility because the youth pleaded not guilty by reason of insanity.⁵ The court loses this extended jurisdiction, however, if the court that committed the ward finds that the youth's sanity has been restored.⁶ Finally, under Chapter 936, any money that a ward who is incarcerated by the Youth Authority receives pursuant to the Social Security Act⁷ must be applied to meet the reasonable costs of the ward's support and maintenance.⁸

1. CAL. WELF. & INST. CODE §607(a). These juveniles are wards or dependants of the court. *Id.*

2. *Id.* §§601, 602 (definition of ward of the court).

3. *Id.* §707(b) (list of specified offenses).

4. *Id.* §607(b).

5. *Id.* §607(d); *see id.* §702.3 (procedure for confining juveniles to mental health facilities).

6. CAL. WELF. & INST. CODE §607(d).

7. 42 U.S.C. §§301-1396i (Social Security Act).

8. CAL. WELF. & INST. CODE §1777.

Juveniles; community service

Penal Code §853.6a (amended); Welfare & Institutions Code §§256,
257, 269.1(amended).
SB 104 (Davis); 1983 STAT. Ch 22
Support: Department of Youth Authority; Los Angeles Regional

Transit District

Under existing law, nonfelonious violations of specified statutes¹ committed by minors² may be heard by a juvenile court traffic hearing officer.³ Pursuant to Chapter 22, a traffic hearing officer also may hear nonfelonious offenses committed by minors in public transportation facilities and vehicles.⁴ As punishment for these offenses, existing law allows the judge, referee, or traffic hearing officer to (1) reprimand the minor,⁵ (2) direct the probation officer to file a petition to declare the minor a ward or dependant of the court,⁶ or (3) order the minor to pay a fine of up to \$50.⁷ Chapter 22 additionally permits the judge, referee, or traffic hearing officer to order the minor to perform up to twenty hours of community service work.⁸

1. CAL. WELF. & INST. CODE §256 (specifying the offenses that a traffic hearing officer may hear and decide when committed by a minor).

2. The minor must have been under the age of 18 at the time of the alleged offense. CAL. PENAL CODE §853.6(a); CAL. WELF. & INST. CODE §256.

3. CAL. PENAL CODE §853.6(a); CAL. WELF. & INST. CODE §256; *see* CAL. WELF. & INST. CODE §§255 (qualifications of traffic hearing officers).

4. CAL. PENAL CODE §853.6(a); *see id.* §640 (acts forbidden on vehicles or facilities of public transportation systems).

5. CAL. WELF. & INST. CODE §259.1(a)(1).

6. *Id.* §259.1(a)(2); *see id.* §§650 - 664 (procedure in juvenile courts to declare a minor a ward or dependant of the court).

7. *Id.* §259.1(a)(3).

8. *Compare id.* §259.1(a)(4) with 1982 Cal. Stat. c. 1235, §6, at___ (enacting CAL. WELF. & INST. CODE §259.1). The hours are to be performed over a period not to exceed 30 days, during times other than the school or employment hours of the minor. CAL. WELF. & INST. CODE §259.1(a)(4).

