

**RESOLUTION 16-03-2017**

**DIGEST**

Division of Juvenile Facilities: Retaining Jurisdiction Upon Release

Amends Welfare and Institution Code section 731 to modify the maximum confinement time at the juvenile facility to reflect the realignment to local supervision.

**RESOLUTION COMMITTEE RECOMMENDATION**

APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution amends Welfare and Institution Code section 731 to modify the maximum confinement time at the juvenile facility to reflect the realignment to local supervision. This resolution should be approved in principle to address the inconsistency between the language of the statute and the law as it was supposed to be after realignment.

For the past decade, there has been a concerted effort to clean up, modernize and professionalize the juvenile justice system in California. In 2007, Senate Bill 81 was signed into law making changes to Government Code sections 15819.40, 15819.401, 15819.41, 15819.411, and 15820.907, Penal Code sections 1557, 4016.5, 4750, 4758, 6005, 6051, 6126, 7000, 7003.5, 2063, 3007, and 7050, and Welfare and Institutions Code sections 208.5, 731, 736, 1731.5, 1766, 1767.3, 1776, 731.1, and 1767.35.

The 2007 changes were important in that they moved thousands of juveniles out of violent and under-performing state institutions into local institutions that could better address their needs. State institutions were failing to perform in their stated task of helping juveniles as well as providing for their welfare and health. Realignment and the changes from 2007 helped clean up a system that brutalized juveniles. Additionally, part of the legislation allowed the courts that handled juvenile matters to oversee and retain jurisdiction over the ward’s supervision during the period of time allowed by law (as controlled by Welf. & Inst. Code §1769). The proposed language would add clarifying language to Welfare and Institutions Code section 731 to reflect the language and stated purpose of Senate Bill 81. Additionally, the Board of Parole Hearings no longer controls or supervises juveniles; juveniles are supervised by the Board of Juvenile Hearings. As such, the proposed language cleans up section 731.

**TEXT OF RESOLUTION**

**RESOLVED** that the Conference of California Bar Associations recommends that legislation be sponsored to amend Welfare and Institutions Code section 731 to read as follows:

- 1 § 731
- 2 (a) If a minor is adjudged a ward of the court on the ground that he or she is a person
- 3 described by Section 602, the court may order any of the types of treatment referred to in

4 Sections 727 and 730 and, in addition, may do any of the following:

5 (1) Order the ward to make restitution, to pay a fine up to two hundred fifty dollars  
6 (\$250) for deposit in the county treasury if the court finds that the minor has the financial ability  
7 to pay the fine, or to participate in uncompensated work programs.

8 (2) Commit the ward to a sheltered-care facility.

9 (3) Order that the ward and his or her family or guardian participate in a program of  
10 professional counseling as arranged and directed by the probation officer as a condition of  
11 continued custody of the ward.

12 (4) Commit the ward to the Department of Corrections and Rehabilitation, Division of  
13 Juvenile Facilities, if the ward has committed an offense described in subdivision (b) of Section  
14 707 or subdivision (c) of *Section 290.008 of the Penal Code*, and is not otherwise ineligible for  
15 commitment to the division under Section 733.

16 (b) The Division of Juvenile Facilities shall notify the Department of Finance when a  
17 county recalls a ward pursuant to Section 731.1. The division shall provide the department with  
18 the date the ward was recalled and the number of months the ward has served in a state facility.  
19 The division shall provide this information in the format prescribed by the department and within  
20 the timeframes established by the department.

21 (c) A ward committed to the Division of Juvenile Facilities may not be held in physical  
22 confinement for a period of time in excess of the maximum period of imprisonment that could be  
23 imposed upon an adult convicted of the offense or offenses that brought or continued the minor  
24 under the jurisdiction of the juvenile court. A ward committed to the Division of Juvenile  
25 Facilities also may not be held in physical confinement for a period of time in excess of the  
26 maximum term of physical confinement set by the court based upon the facts and circumstances  
27 of the matter or matters that brought or continued the ward under the jurisdiction of the juvenile  
28 court, which may not exceed the maximum period of adult confinement as determined pursuant  
29 to this section. This section does not limit the power of the Board of ~~Parole~~ Juvenile Hearings to  
30 retain the ward on parole status for the period permitted by Section 1769 - or for the committing  
31 court to retain jurisdiction and establish conditions of the ward's supervision pursuant to Section  
32 1766 (b) for the period permitted by Section 1769.

(Proposed new language underlined; language to be deleted stricken)

**PROPONENT:** Los Angeles County Bar Association

### **STATEMENT OF REASONS**

The Problem: Currently 731(c) does not reflect the realignment of youth to the counties for supervision and is resulting in fewer judges utilizing their discretion to limit the time youth spend at Division of Juvenile Facilities.

The Solution: Amend the resolution to reflect the realignment of youth to the counties for supervision. More courts will utilize their discretion to limit the time youth spend on their initial commitment to Division of Juvenile Facilities without limiting the court's jurisdiction to retain the youth on probation supervision.

**IMPACT STATEMENT**

The resolution does not affect any other law, statute or rule other than those expressly identified.

**CURRENT OR PRIOR RELATED LEGISLATION**

None known.

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