

Senate Bill 92 Juvenile Justice
Committee on Budget and Fiscal Review. Juvenile Justice
7/1/2021 - Prohibits Commitment to DJJ (exception transfer)
6/30/2021 – DJJ Closure

Section 1, Penal Code 3056 Amended

Technical Changes

Until 7/1/2021 a parolee under 18 may be housed at DJJ

Section 2, WIC 208 Amended

When person under 18 is detained or sentenced to an adult facility, including a jail or other facility established for the purpose of confinement of adults, unlawful to permit that person to come or remain in contact with adults confined there.

Section 3, WIC 208.5

Person whose case originated in juvenile court but who was sentenced in criminal court shall not serve their sentence in a juvenile facility, but if not otherwise excluded, may remain in the juvenile facility until transferred to serve their sentence in an adult facility.

Section 4, WIC 607

As added by Section 24 of Chapter 337 of the Statutes of 2020

Technical Changes

Section 5, WIC 704, Section 6, WIC 707.2

Technical Changes

Section 8, WIC 731 added

Section 9, WIC 731.1 amended

Section 10, WIC 736.5 amended

Section 11, WIC 779.5 added

MODIFY OR SET ASIDE ORDER OF COMMITMENT

Court committing ward to SYTF (WIC 875) may modify or set aside the order of commitment upon written application of the ward or probation department and upon showing of good cause that the county or the commitment facility has:

- Failed, or is unable to provide the ward with treatment, programming, and education consistent with their Rehabilitation Plan
- Conditions under which ward is confined are harmful to the ward, or
- The JJ goals of rehabilitation and community safety are no longer served by continued confinement of the ward in a SYTF

SECTION 12, ARTICLE 23.5 (COMMENCING WITH SECTION 875) IS ADDED TO CHAPTER 2 OF PART 1 OF DIVISION 2 OF WIC

SECURE YOUTH TREATMENT FACILITIES (SYTF) – WIC 875 (1 – 3)

COURT MAY ORDER A YOUTH 14 YEARS OR OLDER BE COMMITTED TO A SECURE YOUTH TREATMENT FACILITY (SYTF)

(1) Adjudicated 707(b)	(2) 707(b) adjudication is the most recent offense the juvenile has been adjudicated for	(3) Court made a finding that a less restrictive, alternative disposition for the youth is suitable. Consider all relevant and material evidence, including recs of counsel, probation dept. & any other agency or individual designated by the court to advise on the disposition of the case.
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COURT - ADDITIONAL CRITERIA IN THE DETERMINATION COMMITMENT TO SYTF - WIC 875 (3) (A-E)

(A) Severity of the offense(s) ward has been most recently adjudicated, including ward’s role in the offense, behavior, and harm done to victims.	(B) Previous delinquent history, including the adequacy & success of previous attempts by the juvenile court to rehabilitate the ward.	(C) Whether programming, treatment & education offered & provided in SYTF is appropriate to meet treatment & security needs of the ward.	(D) Whether the goals of rehabilitation & community safety can be met by assigning the youth to an alternative, less restrictive disposition that is available to the court.	(E) Youth’s age, developmental maturity, mental & emotional health, sexual orientation, gender identity & expression, any disabilities or special needs affecting the safety or suitability of committing the youth to SYTF.
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BASELINE TERM OF CONFINEMENT – JUDICIAL COUNCIL DEVELOPMENT/ADOPTION - WIC 875 (E) (b)		
<p><u>Most Serious Offense</u> Based on the most serious offense adjudicated.</p>	<p><u>Time in Custody</u> Necessary to meet the developmental & treatment needs of the ward & to prepare them for discharge to a period of probation supervision in the community.</p>	<p><u>Offense-Based Classifications</u> Baseline determined according to offense-based classifications approved by Judicial Council (sub h).</p>
<p><u>Pending development of the baseline by the Judicial Council</u></p> <p>The court will set a baseline term utilizing the discharge consideration date guidelines applied by CDCR DJJ prior to closure as set forth in Sections 30807 to 30813 of Title 9 CCR.</p> <p>Guidelines shall be used only to determine baseline confinement time for the ward and shall not be used or relied upon to modify the ward’s confinement time in any manner other than as provided in this section.</p>	<p><u>Pending adoption of Judicial Council guidelines</u></p> <p>The court may modify the initial baseline term with a deviation of + or – 6 months.</p> <p>The baseline is subject to modification in progress review hearings (as described in subsection e).</p>	
MAX TERM CONFINEMENT IN SYTF – WIC 875 (c) (1-2)		
MAX TERM REPRESENTS THE LONGEST TERM OF CONFINEMENT IN A FACILITY THE WARD MAY SERVICE SUBJECT TO THE FOLLOWING:		
<p><u>23 Years of Age</u></p> <p>(1) Youth committed to SYTF under this section shall not held in secure confinement beyond 23 years of age or 2 years from the date of commitment, whichever occurs later.</p>	<p><u>25 Years of Age</u></p> <p>(1) Youth committed to a facility based on adjudication for an offense(s) for which the youth, <i>if convicted as an adult</i>, would face an aggregate sentence of 7 or more years, the max period of confinement shall not exceed 25 years of age or 2 years from the date of commitment, whichever occurs later.</p>	<p><u>Middle Term</u></p> <p>(2) Max confinement cannot exceed the middle term of imprisonment imposed on an adult convicted of the same offense(s).</p>

COURT REVIEW INDIVIDUAL REHABILITATION PLAN – WIC 875 (2)(d)(1)

WITHIN 30 DAYS OF ORDER OF COMMITMENT TO SYTF, COURT SHALL RECEIVE, REVIEW, & APPROVE AN INDIVIDUAL REHABILITATION PLAN (Plan)

<p align="center"><u>Probation Department</u></p> <p>Court shall receive Plan submitted to the court by the probation department.</p>	<p align="center"><u>Programming</u></p> <p>Plan shall identify the programming to be provided during commitment in SYTF.</p>	<p align="center"><u>Multidisciplinary Team</u></p> <p>Plan may be developed in consultation with multidisciplinary team of youth service, behavioral health, education, & other treatment providers convened to advise the court for this purpose.</p>	<p align="center"><u>Prosecutor and Counsel</u></p> <p>The prosecutor and the counsel for the ward may provide input in the development of the plan prior to the court’s approval of the plan.</p>
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INDIVIDUAL REHABILITATION PLAN REQUIREMENTS – WIC 875 (2)(d)(2)(A-D)

<p>(A) Identify the ward’s needs in relation to treatment, education & development, including any special needs the ward may have in relation to health, mental or emotional health, disabilities, or gender-related or other special needs.</p>	<p>(B) Describe the programming, treatment & education to be provided during the commitment period</p>	<p>(C) Reflect, and be consistent with, the principles of trauma-informed, evidence-based, and culturally responsive care.</p>	<p>(D) Ward & their family given the opportunity to provide input regarding the needs of the ward during the identification process stated in (A), & the opinions of the ward & the ward’s family shall be included in the plan report to the court.</p>
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PROGRESS REVIEW HEARINGS – DURING TERM OF COMMITMENT – WIC 875 (2)(D)(e)(1)

<p align="center"><u>6 months</u></p> <p>Schedule & hold a progress review hearing not less frequently than once every 6 months</p>	<p align="center"><u>Modification of Term</u></p> <p>Evaluate youth’s progress toward Plan & determine whether the baseline term of confinement is to be modified.</p>	<p align="center"><u>Recommendations</u></p> <p>Court shall consider recs of counsel, probation dept & any behavioral, educational, or other specialists having info relevant to the youth’s progress.</p>	<p align="center"><u>Conclusion of Review Hearing</u></p> <p>Court may order:</p> <ul style="list-style-type: none"> • Ward to remain in custody for the remainder of the baseline term; or • Modify the baseline term downward by a reduction of confinement time not to exceed 6 months. <p>The court may additionally order the ward to a less restrictive program as described in subsection (f)</p>
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CONFINEMENT / INFRACTIONS – WIC 875 (2)(D)(e)(2)			
<u>Disciplinary Infractions</u>		<u>Alternatives / Graduated Sanctions</u>	
Confinement time shall not be extended beyond the baseline term, or beyond a modified baseline term, for disciplinary infractions or other in-custody behaviors.		Infractions or behaviors shall be addressed by alternative means, which may include a system of graduated sanctions for disciplinary infractions adopted by the operator of a SYTF & subject to state standards and regs that apply to juvenile facilities generally.	
CONCLUSION OF BASELINE CONFINEMENT – PROBATION DISCHARGE HEARING – WIC 875 (2)(D)(e)(3)			
<u>Probation Discharge Hearing</u>	<u>Review Youth’s Progress</u>	<u>Conclusion of Hearing - Probation Supervision – Conditions</u>	<u>Imminent Harm to Others – Retained in Custody</u>
At the conclusion of the baseline term, including any modified baseline term, the court shall hold a probation discharge hearing. For a ward who has been placed in a less restrictive program described in sub (f), the probation discharge hearing shall occur at the end of the period or modified period, of placement that has been court ordered.	Court shall review the youth’s progress toward meeting the terms of their Plan & the recommendations of counsel, probation, & other agencies or individuals having information the court deems necessary.	Court shall order the youth be discharged to a period of probation supervision in the community under conditions approved by the court, unless court finds youth a substantial risk of imminent harm to other if released from custody.	If the court finds the youth to be a substantial risk of imminent harm to others if released, the youth may be retained in a SYTF up to 1 additional year, subject to the review hearing and probation discharge hearing provisions of this subsection & subject to the max confinement provisions of sub (c)
PROBATION SUPERVISION – WIC 875 (2)(D)(e)(4)			
<u>Reasonable Conditions of Probation</u>	<u>Periodic Review of Youth’s Progress – Probation</u>		<u>Failure to Comply Reasonable Orders of Probation</u>
Court shall determine reasonable conditions of probation that are suitable to meet the developmental needs & circumstances of the youth & to facilitate the youth’s successful reentry into the community.	Court shall periodically review the youth’s progress under probation & make additional orders as necessary to modify the program of supervision & make additional orders necessary to modify the program of supervision in order to facilitate the provision of services or otherwise support the ward’s successful reentry into the community.		Court may order the youth returned to a juvenile facility or to a placement described in sub (f) for a period not to exceed either the remainder of the base term, including court-ordered modifications, or 6 months, whichever is longer, not to exceed the max confinement limits of sub (c)

LESS RESTRICTIVE PROGRAM – WIC 875 (2)(D)(f)			
<u>Motion Probation Department or Ward</u> Court may order that the ward be transferred from SYTF to less restrictive program, such as a halfway house, a camp or ranch, or a community residential or nonresidential service program.	<u>Purpose</u> Facilitate the safe & successful reintegration of the ward into the community.	<u>Probation Recommendations</u> Court shall consider probation recs on the proposed change in placement.	<u>Approval Based on Court’s Determination</u> Ward has made substantial progress toward the goals of the Plan described in sub (d) & that placement is consistent with the goals of the individual rehabilitation & community safety.
COURT TO CONSIDER BOTH FACTORS DETERMINATION LESS RESTRICTIVE PROGRAM – WIC 875 (2)(D)(f)(A-B)			
<u>Progress</u> (A) Ward’s overall progress in relation to the rehabilitation plan during the period of confinement in a SYTF	<u>Programming & Community Transition Services</u> (B) To be provided, or coordinated by the LRP, including but not limited to, any educational, vocational, counseling, housing, or other services made available through the program.		
COURT ORDER TRANSFERRING WARD FROM SYTF TO LRP – WIC 875 (2)(D)(f)(2)			
<u>Conditions of Performance and Compliance</u> Court may require the ward to observe any conditions of performance or compliance with the program that are reasonable & appropriate in the individual case and within the capacity of the ward to perform.	<u>Length of Time</u> Court shall set length of time ward to remain in LRP, not to exceed the remainder of the baseline or modified baseline term, prior to probation hearing described in sub (e)	<u>Failed to Comply with Conditions of Placement in Program</u> If court determines after placement in LRP ward has materially failed to comply with court-ordered conditions of placement in the program, court may modify terms & conditions of placement or may order ward returned to SYTF for remainder of baseline term, or modified term, subject to further periodic review hearings (sub e) & max confinement provisions (sub c).	

SYTF FACILITY CRITERIA – WIC (2)(D)(g)

<p align="center"><u>Secure Facility</u></p> <p>(1) Facility shall be a secure facility that is operated, utilized or accessed by the county of commitment to provide appropriate programming, treatment & education.</p>	<p align="center"><u>Stand-Alone Facility or Other</u></p> <p>(2) May be a stand-alone facility such as a probation camp or other facility under contract with the county, with another county, or a unit or portion of an existing county facility including juvenile hall or probation camp that is configured to serve this population and is in compliance with standards described in sub (3)</p>	<p align="center"><u>July 1, 2023 Facility Standards</u></p> <p>(3) By 7/1/23 BSCC shall review existing juvenile facility standards & modify or add standards for the establishment, design, security, programming & education & staffing of any facility utilized or accessed by the court as SYTF.</p> <p>Standards shall be developed by BSCC with the coordination and concurrence of the Office of Youth & Community Restoration</p> <p>Standards shall specify:</p> <ul style="list-style-type: none"> • How the facility may be used to serve or to separate juveniles, other than those described in sub (a) serving baseline confinement terms , who may also be detained in or committed to the facility or some portion of the facility. • • Pending final adoption of these modified standards, a SYTF shall comply with applicable minimum standards for juvenile facilities in Title 15 & 24 of CCR <p>A county proposing to establish SYTF shall notify the BSCC of the operation of the facility</p>	<p align="center"><u>County Establishing SYTF</u></p> <p>(4) A county proposing to establish SYTF shall notify BSCC of the operation of the facility and submit a description of the facility to BSCC.</p> <p>BSCC will conduct a biennial inspection of SYTF used during the preceding calendar year.</p>
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CONTRACT WITH OTHER COUNTIES

<p align="center"><u>County Contract</u></p> <p>(5) A county may contract with another county in lieu of establishing its own SYTF.</p>	<p align="center"><u>Regional Center</u></p> <p>(6) A county may establish a SYTF to serve as a regional center for commitment of juveniles by 1 or more counties on a contract payment basis.</p>
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MATRIX – DEVELOPED AND ADOPTED BY 7/1/2023 – WIC (2)(D)(h)			
<p style="text-align: center;"><u>Develop Matrix</u></p> <p>Judicial Council shall develop & adopt a matrix of offense-based classifications to be applied by juvenile courts in all counties setting the baseline confinement terms.</p>	<p style="text-align: center;"><u>Matrix Classification Level or Category</u></p> <p>Each classification level or category shall specify a set of offenses within the level or category that is linked to standard baseline term of years to be assigned to youth, based on their most serious recent adjudicated offense, who are committed to a SYTF.</p>	<p style="text-align: center;"><u>Upward & Downward Deviations from Baseline Term/Incentives</u></p> <p>Matrix may provide for upward & downward deviations from the baseline term & may also provide for a system of positive incentives or credits for time served</p>	<p style="text-align: center;"><u>Advisory Group</u></p> <p>Stakeholders including reps from prosecution, defense, probation, behavioral health, youth service providers, youth formerly incarcerated in DJJ & youth advocacy & other stakeholders & organizations having relevant expertise or information on dispositions & sentencing of youth in the juvenile justice system shall advise the Judicial Council in the development of the Matrix.</p>
<p><u>Development Process of Matrix Best Practices / Research / Expertise</u></p> <p>The Judicial Council shall also examine & take into account youth sentencing & length-of-stay guidelines & practices adopted by other states or recommended by organizations, academic institutions, or individuals having expertise or having conducted relevant research on dispositions & sentencing of youth in the juvenile justice system.</p>			
ADOPTION OF MATRIX - WIC (2)(D)(h)(2)			
<p style="text-align: center;"><u>Matrix of Offense-Based Classifications</u></p> <p>Matrix of offense-based classifications shall be applied in a standardized manner by juvenile courts in each county in cases where the court is required to set a baseline confinement term for youth committed to a SYTF</p>	<p style="text-align: center;"><u>Discharge Consideration Date Guidelines</u></p> <p>Discharge consideration date guidelines of DJJ that were applied on an interim basis, as provided in sub (b) shall not be utilized to determine baseline confinement terms for youth committed to SYTF under the provision of this section.</p>		
MIDDLE TERM COMMITMENT – WIC (2)(D)(h)(2)(i)			
<p>Court shall not commit a juvenile to any juvenile facility, including a SYTF for a period that exceeds the middle term of imprisonment that could be imposed upon an adult convicted of the same offense(s)</p>			

**LEGISLATIVE INTENT CONFINEMENT OF PERSONS PHYSICALLY DANGEROUS TO THE PUBLIC
WIC SECTION 875.5**

<p align="center"><u>Legislative Intent</u></p> <p>Apply Article 6 (commencing with Section 1800) of Chapter 1 of Division 2.5, governing extended detention of persons physically dangerous to the public who are committed to a secure treatment facility pursuant to 875 pending development of a specific commitment process for realigned persons pursuant to sub (b).</p>	<p align="center"><u>Working Group</u></p> <p>Working group to develop language by 7/1/2021 to replace Section 876 with a commitment process that ensures treatment capacity, legal protections & court procedures are appropriate to successfully serve persons realigned from DJJ to the counties.</p> <p>Governor & Legislature shall work with stakeholders, including but not limited to:</p> <ul style="list-style-type: none"> - DJJ - State Dept of State Hospitals - CPOC - CAAC - Judicial Council - Advocacy Organizations Representing Youth 	<p align="center"><u>Enact Legislation Effective 7/1/2022 Extend Detention</u></p> <p>Legislative intent to enact legislation that would, effective 7/1/2022, extend detention of persons physically dangerous to the public who are in a SYTF pursuant to the commitment process developed in sub (b).</p>
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PROBATION DEPARTMENT PETITION THE COURT – WIC 876 (a – b)

<p align="center"><u>Request Prosecuting Attorney Petition the Court</u></p> <p>If a Probation Dept. determines discharge of a person confined in SYTF from the control of the court at the time required by Section 875 would be physically dangerous to the public due to their mental or physical condition, disorder or other problem that causes serious difficulty controlling their dangerous behavior, the Dept. shall request the prosecuting attorney petition the court for the person to remain in the control of the department beyond that time.</p>	<p align="center"><u>90 days prior to discharge</u></p> <p>Petition shall be filed 90 days before the time of discharge otherwise required</p>	<p align="center"><u>Statement of Facts/Dismissal</u></p> <p>Petition shall be accompanied by a written statement of facts upon which the Dept. based its opinion that the discharge at the time stated would be physically dangerous to the public.</p> <p>Petition may not be dismissed & an order may not be denied merely because of technical defects in the application</p>	<p align="center"><u>Decision not to File Petition</u></p> <p>Prosecuting Attorney shall promptly notify Probation of decision not to file a petition</p>
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PROBATION DEPARTMENT PETITION THE COURT – WIC 876 (c)		
<u>Hearing</u>	<u>Notification of Rights and Hearing</u>	
Court shall order a hearing if the petition supports a finding of probable cause.	Probable cause hearing shall be held within 10 calendar days after the date the order is issued unless the person named in the petition waives this time.	
PROBABLE CAUSE HEARING – WIC 876 (d)		
<u>Probable Cause Hearing</u>	<u>No Probable Cause</u>	<u>Probable Cause</u>
Court shall receive evidence & determine whether there is probable cause to believe that discharge of the person would be physically dangerous to the public due to the person’s mental or physical condition, disorder or other problem that causes person to have serious difficulty controlling dangerous behavior.	If the court determines no probable cause, the court will dismiss the petition and the person shall be discharged from the control of the SYTF at the time required in Section 875.	Court determines probable cause, the court shall order a trial be conducted to determine whether the person is physically dangerous to the public due to their mental or physical condition, disorder, or other problem.
JURY TRIAL – WIC 876 (e)		
<u>Jury Trial Waived</u>	<u>Jury Trial</u>	
If trial order, trial shall be by jury unless the right to a jury trial is personally waived by the person, after being fully advised of their constitutional rights.	If jury is not waived, the court shall cause a jury to be summoned and to be in attendance at a date stated, no less than 4 days nor more than 30 days from the date of the order for trial, unless the person named in the petition waives time.	

JURY TRIAL – WIC 876 (e)

Court shall submit to the jury, or at a court trial, the court shall answer the following questions:

- Is the person physically dangerous to the public because of a mental or physical condition, disorder, or other problem that causes the person to have serious difficulty controlling their dangerous behavior?

The court’s previous order entered pursuant to this section shall not be read to the jury, nor alluded to in the trial.

CONTINUED DETENTION – WIC 876 (f)

<u>Order for Continued Detention</u>	<u>Applications May Be Repeated & Civil Commitment / Transfer of Custody over age of 25</u>	<u>Discharge from Control of Probation Department</u>
<p>If order for continued detention is made, the control of the department over the person shall continue, subject to the provisions of this article, but, unless the person is previously discharged as provided in Section 875, the department shall, within 2 years after the date of the order, file a new application for continued detention in accordance with the provisions of this section if continued detention is necessary.</p>	<p>Applications may be repeated at intervals as often as in the opinion of the department may be necessary for the protection of the public, except that the court shall have the power, in order to protect other persons in the custody of probation to refer the person for evaluation for civil commitment or to transfer the custody of anyone over the age of 25 to the county adult probation authorities for placement in an appropriate institution.</p>	<p>Each person shall be discharged from the control of the probation dept. at the termination of the period stated in this section, unless the probation department has filed a new application and the court has made a new order for continued detention</p>

APPEALS – WIC 876 (g)

<p>An order of the committing court made pursuant to section 876 is appealable by the person whose liberty is involved in the same manner as a judgment in a criminal case.</p>	<p>Pending appeal, the appellant shall remain under the control of the Probation Department</p>
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