

MARIN COUNTY JUVENILE DELINQUENCY COURT

INFORMATION FOR PARENTS

The purposes of the delinquency court are: to protect, to give guidance, to punish children who commit delinquent acts, and to protect the community.

If your child becomes a ward of the court as a juvenile delinquent, the court will make orders for you and your child so that your child and the community will be protected.

As a ward of the delinquency court:

1. Your child may be allowed to live in your home under court supervision; or
2. Your child may be placed outside of your home in an unlocked or locked facility, depending upon your child's age, the seriousness of the offense, and your child's history of delinquency.

The petition and other papers you may have received say your child is accused of having done certain delinquent acts. The petition does not prove anything, but it is important for you to know what your child is accused of having done. You have the right to receive a copy of the petition.

PLEASE READ THE PETITION CAREFULLY.

1. My child came home after being arrested. What will happen now?

Your county's probation department will probably get in touch with you and ask your child to come in for a meeting with a probation officer.

You will receive a Notice to Appear (a specific date and time you must show up at the probation department).

In very serious cases, your child may receive a Notice to Appear directly in juvenile court.

2. My child was arrested and taken into custody. What can the arresting officer do?

The officer may do one of five things:

- a) Let your child go home to you or accompany him or her home or back to the place of arrest, and maintain a record of the contact.
- b) Refer your child to a community agency providing shelter, care, diversion, or counseling.
- c) In some counties, require your child to return to the police station rather than to the probation department (this is sometimes referred to as "cited back").
- d) Give you and your child a Notice to Appear, telling you what you and your child must do and when you must do it.
- e) Shortly after the arrest, lock up your child in the probation juvenile hall (this is called "detention"). If your child is locked up or held by the officer, your child has the right to make at least two phone calls no later than one hour after arrest. One of the phone calls must be a completed call to a parent, guardian, responsible relative, or employer. The other call must be a completed call to an attorney. If the officer is going to question your child about what happened, the officer must also tell your child that he or she has the right to remain silent, that anything your child says will be used against him or her, that he or she has a right to be represented by a lawyer, and that the court will appoint a lawyer if your child cannot afford one. These are called *Miranda* rights. If the officer is not going to question your child, the officer will not necessarily explain these rights.

If your child is locked up or held somewhere, the officer must take immediate steps to notify you that your child is in custody and where your child is being held. When you are notified, the officer must also tell you about each of the *Miranda* rights that your child has.

3. If we get a Notice to Appear, what will happen at the meeting with the probation officer? What should I do?

If your child doesn't already have a lawyer, you may wish to contact the public defender or a private attorney for advice.

One of three things may happen at the meeting:

- a) the probation officer can reprimand your child and then let your child go home without getting the juvenile court involved.
- b) The probation officer may offer your child a voluntary program instead of going to court. Each county is different and programs vary, but generally, if your son or daughter successfully completes the program (for example, attending special classes or substance abuse counseling, performing community service, cleaning graffiti, or going to a youth or peer court if your county has one), the juvenile court does not need to become involved. If you and your child agree to a voluntary program, the probation department may ask you to sign an informal contract describing what you and your child must do. It can last up to six months.
- c) The probation officer can refer your child's case to the district attorney, who will decide whether or not to file a petition.

4. Do I need a lawyer for myself?

No, not usually. If your child has a lawyer, the lawyer represents your child and not you.

5. Does my child need a lawyer?

Yes, and your child has a right to a lawyer who is both effective and prepared. If you cannot afford to hire a lawyer for your child, the court will appoint a lawyer to represent your child.

6. My child's probation officer told me that the district attorney will be filing a petition. What does that mean?

A petition asks the court to become involved in your child's life. The petition says what the state believes your child did. Later, a judge will decide if what the petition says is true.

There are two types of petitions. They are named after numbered sections of California law:

- a) **601 Petition.** A 601 Petition is filed by the probation department and says that a child has run away, skipped school, violated curfew, or regularly disobeyed his or her parents. If the court finds that the petition is true, the youth may become a "ward" of the court and is known as a "status offender"

- b) **602 Petition.** A 602 Petition is filed by the district attorney's office and says that a child has committed an act that would be considered against the law if an adult had done it. If the court finds the facts stated in the petition to be true, the child becomes a "ward" of the court as a delinquent.

Section 602 covers any act that is against the law when an adult does it. This includes felonies such as auto theft, burglary, selling a controlled substance (drugs), rape, and murder, and misdemeanors such as simple assault and drunk driving.

The penalty for the offense depends on the type of offense.

7. What will happen if my child is taken to juvenile hall after the arrest?

It is up to the probation officer whether or not to keep your child in custody. The probation officer may let your child go home without asking the district attorney to file a petition. The probation officer may allow your child to go home and still refer the case to the district attorney, who will decide whether or not to file a petition. There may be restrictions placed on your child as a condition of being allowed to go home.

If the probation officer keeps your child locked up, the law requires that a petition be filed very quickly, usually within 48 hours from the time the child is taken into custody by the police. Then there must be a detention hearing the next day that the court is in session. The courts are closed on Saturdays, Sundays, and holidays.

8. How long could my child have to stay in juvenile hall?

At the detention hearing, the judge could decide your child must be kept in juvenile hall until the next hearing. The different hearings are described in question 12. The judge may continue to order your child to remain in juvenile hall until the case is finished.

9. Can I visit my child in juvenile hall?

Usually, but you should contact the probation officer to find out when you can see your child.

10. What is the role of the probation officer?

The probation officer is responsible for writing a report to the juvenile court judge about your child. The report tells the judge what the probation department thinks would be best for your child if the judge finds that your child committed the crime. The report also includes your child's prior arrest record; a description of the current offense; statements from your child, his or her family, and other people who know your child well; a school report; and a statement by the victim. The probation officer presents this report at the disposition hearing.

If your child is placed on probation, the probation officer will enforce the court's orders. This means monitoring your child to make sure he or she obeys the law and follows the terms of probation. The probation officer will also encourage your child's positive involvement in school and participation in job training, counseling, and community programs. Depending on the situation, the probation officer could meet with your child as often as twice a week or as little as once a month.

If your child is in custody, and the judge decides your child should not go home right after the case is finished, the probation officer's job is to find an appropriate placement for your child. This could be with a relative, in a county-based foster or group home, or in a private institution.

11. How will my child and I find out about the court hearings?

If your child is locked up you should get the petition and notice of the hearing, personally or by mail, as soon as possible after the petition is filed and at least 5 days before the hearing. If the hearing is less than 5 days after the petition is filed, you will get notice at least 24 hours before the hearing. Your child has the right to get notice if he or she is at least 8 years old.

If your child is not in custody, you should get notice of the petition and hearing personally or by first-class mail at least 10 calendar days before the hearing.

12. What hearings will my child go to in juvenile court?

There are several types of hearings:

- a) **The Detention Hearing.** If your child is locked up in juvenile hall for more than 48 hours, there will be a detention hearing after no more than 72 hours, counting only court business days (no Saturdays, Sundays, or holidays). At the detention hearing, the judge will decide whether or not to let your child go home before the next hearing.
- b) **The Pretrial or Settlement Conference.** In many counties, a court appearance is scheduled to try to resolve the matter without a trial.
- c) **Hearings on Motions.** There may be court appearances for the court to hear additional matters that come up before the matter is resolved.
- d) **The Fitness or Waiver Hearing.** If your child is at least 14 years old, the district attorney may ask that your child be tried in adult court. At the fitness hearing the judge will decide whether your child will be tried in adult court or in juvenile court. If your child is ruled "unfit" for juvenile court, he or she will be tried in adult court. If your child is younger than 14, there will be no fitness hearing.
- e) **The Jurisdiction Hearing.** At the jurisdictional hearing, the judge will decide whether or not your child committed the offense.
- f) **The Disposition Hearing.** If the judge rules that your child committed the offense, then at the disposition hearing the judge will decide what orders should be made about your child. If the judge rules that your child did not commit the offense, there is no disposition hearing. Sometimes the disposition hearing is held right after the jurisdiction hearing, on the same day.
- g) **Review Hearings.** In some cases, the law or the court may set hearings to review your child's progress and performance under probation supervision.

13. What will happen at the jurisdiction hearing?

In many cases, the child will admit all or part of the petition.

Your child's attorney will advise your child as to whether or not to make an admission.

If there is a contested hearing, or "trial," the district attorney will present the case against your child. Then your child's attorney will present your child's defense. Based on this evidence, the judge will decide whether or not your child has committed the acts he or she is accused of. If the judge makes a "true finding," this means that there is enough evidence for the judge to find beyond a reasonable doubt that your child did commit the acts.

After a "true finding," the judge schedules a disposition hearing to decide what the consequences will be.

If there is not enough evidence for the judge to find that your child committed the act he or she is accused of, the case will be dismissed. If your child is in custody, he or she will be released.

14. What will happen at the disposition hearing?

The judge will decide one of six things:

- a) Your child may remain at home on probation supervision for up to 6 months.
- b) Your child may be ordered home under the formal supervision of a probation officer. Formal supervision is set up by the judge.
- c) Your child may be placed on probation and ordered to live in a relative's home, a private residential group home, or an institutional program.
- d) Your child may be placed on probation and sent to a probation camp or ranch.
- e) Your child may be committed to the California Department of Corrections and Rehabilitation, Division of Juvenile Justice (DJJJ). But if your child is tried as an adult, the adult criminal court could sentence your child to the California Department of Corrections and Rehabilitation, Division of Adult Operations (see questions 19 and 20).
- f) As a parent, you may be ordered to comply with conditions such as counseling or parent training.

15. May I be present at the hearings?

Yes. In fact, state law requires you to be present. One thing the judge will decide is what will be best for your child. Depending on the offense, if you can show that your child will listen to you and follow your rules, and that you will hold your child accountable and be supportive at home, the judge may order that your child be released to your custody.

16. May I speak at the hearings?

You may speak if the judge asks you questions directly, or if you are called as a witness. You may ask to speak to the judge. Generally, your child's lawyer will speak for your child. The district attorney will speak for the state. The probation department may be called as a witness.

17. Do we have the right to an interpreter?

Your child has a constitutional right to an interpreter. You may also have a right to an interpreter and should ask for one if you need one.

18. May the victim attend and speak at the disposition hearing?

Yes. A crime victim's bill of rights allows the victim to come to the hearing. The victim, and his or her parents if the victim is a child, will get notice of the hearing.

19. When can my child be tried as an adult?

For some felonies, your child can be tried and sentenced as an adult if your child is at least 14 years. The case would be moved to adult court. There are major differences between juvenile and adult criminal court procedures and philosophies. If the district attorney requests that your child be tried as an adult, it is extremely important to talk to your child's attorney about all of the very serious consequences of your child's situation.

20. What felonies are likely to be tried in adult court?

A child can be tried in adult court for a wide range of offenses. These are violent and serious offenses, including murder and attempted murder, arson of an inhabited building, robbery with a dangerous or deadly weapon, some forms of rape, some forms of kidnapping and carjacking, some felonies involving firearms, certain controlled substance offenses, and certain violent escapes from a juvenile detention facility.

21. Where will my child go if he or she is sent to the Division of Juvenile Justice (DJJ)

Your child will first go to a reception center for 30 to 90 days. After that, your child will be sent to one of nine correctional facilities or one of four youth camps. These are the three reception centers where staff will assess your child's education and treatment needs:

- a) The Northern Youth Correctional Reception Center and Clinic Preston Youth Correctional Facility and Reception Center and Clinic in Lone (209-274-8000)
- b) The Southern Youth Correctional Reception Center and Clinic in Norwalk (562-868-9979)
- c) The Ventura Youth Correctional Facility (for girls) (805-485-7951)

You may visit your child during visiting hours, which are on Saturdays or Sundays for 2 to 3 hours at a time, depending on the reception center. The Ventura reception center for girls allows visits for up to 6-1/2 hours at a time. You may not call your child at the reception center, but you may write to your child. Your child may make collect calls to you from a pay phone.

22. When would my child go to the division of Adult Operations instead of the Division of Juvenile Justice (DJJ)?

Your child can be sentenced to adult prison (California Department of Corrections and Rehabilitation, Division of Adult Operations) if he or she is tried as an adult (see questions 19 and 20). If your child will be tried as an adult, it is extremely important to talk to your child's attorney about all of the very serious consequences of your child's situation.

Between the ages of 14 and 16, your child must stay at DJJ even if he or she is sentenced to adult prison.

If your child is at least 16 years old and is tried in adult court, the judge can order your child to serve time in adult prison rather than at DJJ.

If your child is at least 16, he or she may serve the entire term at DJJ only if the term will end before he or she reaches age 21. If your child's term will last past age 21, then your child could be at DJJ until age 18, and then would automatically

be transferred to the Division of Adult Operations on his or her 18th birthday. The court could also order your child directly to the Division of Adult Operations at age 16.

23. Am I financially liable for my child's acts?

Yes. You may also have to pay restitution to the victim if your child is ordered to pay. Restitution is money to pay for the victim's losses caused by your child's illegal conduct. Examples of restitution might include the value of stolen or damaged property, medical expenses, and lost wages.

24. Will I be required to pay my child's fees?

Yes. Unless you have been the victim of your child's crime, you will receive a bill from the county for your child's attorney's fees. You will be billed for probation department services fees (such as food and laundry while your child was in juvenile hall), and placement costs for keeping your child in a state placement such as the DJJ, a probation camp, or an out-of-home placement. These costs can be expensive. You will have a chance to show how much, if any, of these costs you are able to pay. The Juvenile Court does not make that determination.

25. Can my child's juvenile records be sealed?

This is very important for your child, but will not happen automatically, and not all records may be sealed including some Department of Motor Vehicle convictions. Your child must file a petition to request this.

Your child can file a petition after he or she turns 18. Your child can also file a petition 5 years (in some cases, 6 years) after everything connected with his or her case is over. This probation department will make sure that your child was not involved in any later crime. If the petition to seal the records is granted by the court, all records of the case and the arrest will be ordered sealed.

Ask your child's attorney or probation officer for help.

26. Can my child's juvenile court record be used against him or her as an adult?

Under the three-strikes law, certain serious or violent felonies committed as a juvenile can be counted as strikes and used against your child in the future. This can happen even if the Juvenile Court record has been sealed.

27. What should I do as a parent?

All your parental responsibilities continue when your child receives a citation. You may want to contact a lawyer for assistance.

If your child is placed in a group home or committed to a probation camp or the DJJ, do your best to maintain contact with your child and support the positive activities he or she does there. Understand what is happening in your child's life so that you can prepare for his or her return. Explore ways of creating a protective and supportive environment for your child's return to school or work. Develop strategies to hold your child accountable for his or her behavior.

Contact your child's parole agent or probation officer to ask for referrals to community organizations that can assist you, such as parent groups or counseling. Your school district and local hospital or mental health department may also offer programs.