

Butte County Department of Employment and Social Services
Butte County Probation Department
PROTOCOL FOR SECTION 241.1 WELFARE AND INSTITUTIONS CODE

“If a determination as to which code section (300 or 602), can not be readily identified, Welfare and Institutions (W & I) Code Section 241.1 requires that whenever a minor appears to come within the description of both W & I Sections 300 and Section 601 or 602, the county probation department and the county child protective services department shall, pursuant to a jointly developed written protocol, initially determine which status will best serve the interests of both the minor and the protection of society. The recommendations of both departments shall be presented to the juvenile court with the petition that is filed on behalf of the minor, and the Court shall determine which status is appropriate for the minor. Any other juvenile court having jurisdiction over the minor shall receive notice from the Court, within five calendar days, of the presentation of the recommendation of the departments. The notice shall include the name of the Judge to whom, or the courtroom to which, the recommendations were submitted.” (W&I Code 241.1)

Assembly Bill 129 authorizes “the probation department and the child welfare services department in any county to create a protocol which would permit a minor who meets specific criteria to be designated as both a dependent child and a ward of the juvenile court, as specified. A minor who is designated as both a dependent child and a ward of the juvenile court would be known as a dual status child.” (AB 129, Cohn)

This protocol is entered into between the Butte County Department of Employment and Social Services and the Butte County Probation Department. The overall goal is to ensure appropriate local coordination, in a courteous and professional manner, in the assessment of those minors who fall under the provisions of W & I Section 241.1 and AB 129.

INVESTIGATION:

Whenever a minor is detained by a peace officer and turned over to either the Butte County Department of Employment and Social Services, Children's Services Division (CSD), or the Butte County Probation Department (Probation), the assigned social worker or probation officer will immediately determine what they believe to be the appropriate status of the child, under W&I Section 300, 601 or 602.

In circumstances where the status is unclear, the following procedures apply:

- A. Should the minor initially be placed in the custody of the probation department, the probation officer assigned will immediately determine if evidence of abuse or neglect are present and cross-report to Children's Services Division (CSD) and/or the appropriate law enforcement agency for a concurrent investigation. Reports to CSD are to be made immediately on the Child Abuse 24-hour line, 538-7617 (Oroville area) or 1-800-400-0902. A Suspected Child Abuse Report form (SS 8572) must be submitted within 36 hours. The on-call intake social worker will take the referral and determine if an in-person response is required. CSD will proceed in their assessment pursuant to the following procedures:

- 1) If the referral indicates a need for an in-person response, CSD will assess the referral and respond according to CSD policy -either the current Immediate Response (IR) policy (generally within twenty-four hours) or the ten-day Emergency Response (ER) policy. A child scheduled to be released within 48 hours will be assigned to an IR worker.
- 2) If the allegations are determined to be unfounded or inconclusive after an investigation, CSD will close its case.
- 3) If the allegations are substantiated or other indications of risk to the child are identified, CSD will maintain an open case until there is no longer risk to the minor or unless the probation officer indicates the matter will proceed under W & 1 Section 602. In cases where there is a question as to whether the matter will proceed under W&I Section 300 or 602, the social worker and the probation officer will proceed as described in Section C, to follow.
- 4) If the child is assessed by CSD to be at risk of abuse or neglect, CSD will assume case management responsibility upon dismissal of all 602 W & I allegations, or release from Juvenile Hall if no charges have been filed.
- 5) In some cases, no abuse or neglect is alleged; however, there is no parent or caretaker, or the parent or caretaker refuses to resume custody of the child. In these cases, Probation should proceed as follows:
 - (a) Immediately notify CSD, Using the 24-hour number, when it appears a child will be discharged who has no parent or caretaker, or the parent or caretaker indicates they will not assume custody.
 - (b) Document contacts with all possible parents or caretakers, or attempts to contact them, and their response, in writing if possible.

B. Should the minor initially be placed in the custody of CSD, the assigned social worker will immediately begin an investigation to determine if the minor comes within any of the provisions of W&I Section 300. In circumstances where there is delinquent behavior alleged, the social worker will immediately inform their supervisor and refer the matter to the appropriate law enforcement agency.

C. When a minor appears to be a person described in both W & 1 Section 300 and 602, the social worker and the probation officer shall jointly determine which type of petition will be in the minor's best interest. In determining the type of petition to be filed, each department is not limited to, but shall give consideration to the following:

- Nature of the referral.
- Age of the minor.
- Prior record of minor's parents for child abuse.
- Prior record of the minor for out-of-control or delinquent behavior.
- The parents' cooperation with the minor's school.
- The minor's functioning at school.

- Nature of the minor's home environment.
 - Records of other agencies which have been involved with the minor and his or her family.
- D. When an agreement between the social worker and the probation officer cannot be reached concerning the minor's status, the matter will be staffed with the CSD and Probation liaisons to attempt to resolve the issue. The matter may be referred to the SB933 Interagency Placement Committee for further discussion and recommendations. A representative from the District Attorney's Office, Children's Services Attorney and the minor's attorney may also be consulted and involved in the decision making process. The social worker and the probation officer shall staff this matter with their immediate supervisor before invoking this step.
- E. Whenever an agreement cannot be reached using the procedure listed above, and the minor has been turned over to CSD or Probation by a peace officer after arrest or detention, the agency having temporary custody may file a petition with the Juvenile Court and request the Juvenile Court determine the appropriate status of the minor. A brief oral or written assessment and recommendation shall be prepared by each department concerning what is in the best interests of the minor and the protection of society and submitted to the Court at the time of the Detention Hearing or at the Jurisdictional Hearing if the minor is not detained. If the Court requests additional information, a written assessment shall be prepared by each department to be submitted to the Court within two weeks of the request.
- F. Once a petition has been filed, or in cases where a minor is already adjudicated, and new information comes to light which may have a bearing on the status of the minor, the department maintaining custody of the minor will immediately inform the other of the new circumstances. The department receiving the new information shall proceed with their investigation according to the above procedure.
- G. In those cases in which W&I Section 241.1 may apply, and in which a Juvenile Court has already acquired jurisdiction over the minor, under either W&I Section 300: 601, or 602, and a new petition is filed by either CSD or Probation, a written assessment under W&I Section 241.1, shall be filed along with the new petition. The determination of the appropriate status of the minor will then be made by the Juvenile Court that is acting on the new petition. Notice of the new petition shall be given to the Juvenile Court that had already acquired jurisdiction. In those cases where a minor is already a 300 W&I dependant of the Butte County Court and a petition has been filed in another County to declare a minor a 602 W&I ward of the court, no recommendation shall be made by CSD regarding the status of the child's 602 petition without first consulting with Butte County Probation.
- H. Except as provided in subsection (I), nothing in this agreement shall be construed to authorize or mandate the filing of a petition or petitions, or

the entry of an order by Juvenile Court, to make a minor simultaneously both a dependent child and a ward of the Court.

- I. Pursuant to AB 129, the probation department and the child welfare services department, in consultation with the presiding judge of the Juvenile Court, in any county may create a jointly written protocol to allow the county probation department and the child welfare services department to jointly assess and produce a recommendation that the child be designated as a dual status child, allowing the child to be simultaneously a dependent child and a ward of the court. This protocol shall include:

- 1) If a petition has been filed in both the 300 W&I jurisdiction and the 602 jurisdiction both agencies agree to meet and confer as to which status best meets the needs of the child as described in section C of the previous section.

- 2) If Probation and CSD cannot agree as to which jurisdiction is most appropriate for the child then the steps as outlined in the 241.1 protocol shall be utilized.

- 3) Nothing in this protocol shall mandate the filing of a 300 W&I petition or 602 W&I petition solely for the purpose of making the minor a dual status child. Probation and CSD agree to continue utilizing the least restrictive options which ensure the best interests of the child and community are preserved.

Current practice shall remain in place wherein a minor may remain a dependant following the sustaining of a 602 petition. After consulting with the probation officer and social worker, the minor's petition may be dismissed without prejudice, or continued for an agreed upon period of time by all parties. The child and family may be offered services under 654 W&I (informal probation contract), therefore, the formal (602)disposition may be delayed in order to assure the minor stabilizes under services provided by CSD at which time the minor will be assessed as to whether further 602 proceedings are necessary.

- 4) If it appears that the interests of the child and community can best be served through declaring the minor a 602 ward of the Court, then the 300 W&I jurisdiction shall be "placed on hold". At the conclusion of the 602 wardship jurisdiction Probation and CSD shall jointly assess whether CSD shall resume services under 300 W&I code. The Court shall not dismiss jurisdiction of a minor unless provided with an assessment as to the services which will be provided in order to ensure a "seamless" transition from 602 wardship to 300 dependency. It is the intent of this section that the Court be provided with a jointly developed "transitional plan". Minimally, the transitional plan will include provisions regarding living arrangements, schooling, and identified case management services which will continue to be offered to the family as outlined in Section C above.

Conversely, if it appears the interests of the child and community can best be served through continuation of the minor as a

dependant and the minor's 602 W&I matters appear to be secondary then the 602 W&I petitions shall be "placed on hold", as premised in 1., 3 above.

- 5) This section does not authorize the duplication of services between Probation and CSD. The agency having "primary jurisdiction" shall assume primary case management responsibilities. However, each jurisdiction will maintain limited oversight to the extent of providing the respective Court's with periodic statutory status reviews updated at least once every six months simultaneously in the "primary jurisdiction" Court (the matter to be in one Courtroom, not both as recommended by the Court). Probation and CSD will jointly prepare this update with a recommendation as to whether continuation as a dual status minor is necessary.

Nothing in this section shall authorize CSD to make a detention decision which will result in the placement of a minor within a locked detention facility.

- 6) If the minor is determined to be "dual status", Probation and CSD shall work jointly to provide services which shall best meet the needs of the child, family, and the community. These services shall emphasize family maintenance/ reunification, or permanence for the child, whenever possible while providing for community and child protection.
- 7) The Judge regularly hearing the 602 Wardship or 300 Dependency calendar shall ensure that whenever a child appears to be covered by both 602 and 300 jurisdictions that orders are not issued which conflict with the previously established status.
- 8) If a minor previously adjudicated as a 602 ward of the Court has been removed from the physical custody of his parents or legal guardians and is being recommended for dismissal from 602 Wardship and there does not appear to be a parent, family member, or appropriate adult arranged by the parent willing, or able, to resume custody of the minor then a referral shall be made to CSD. The referral will be made to the CSD Intake, specific to the nature of the need for CSD assessment and assignment to a social worker (Example: W&I Code 300 b; in that; there is no parent, or no appropriate parent, adult relative, or appropriate adult to provide care for the child as arranged by the parent), CSD will assess the child and family, with the consultation of probation officer. If the minor is deemed to come within the provisions of 300 W&I they shall be referred to the 300 W&I Dependency Court for proceedings.
- 9) If a current 602 Ward is detained, or at risk of being detained under section 300 W&I Code by law enforcement or a referral is assessed to place the ward at risk of abuse or exploitation, neglect, or parent incapacitation, CSD will be contacted to assist Probation with a child abuse assessment and take appropriate

action as necessary, up to and including detention and filing of a 300 W&I petition if warranted. If the current 602 ward is detained under the 300 W&I Code, the minor will be placed in an appropriate foster home or shelter, until the time the child can be assessed further to be co-placed with 300 dependents, and if further 300 Juvenile Court intervention is needed or appropriate as mentioned above.

10) The Probation Department, Children's Services Division, and the Court shall compile data regarding dual status cases and report them to the Judicial Council as prescribed in attachment A. (Information to be provided by the state regarding evaluation data and methods).

11) All parties to this jointly developed protocol agree to meet and confer after six months of implementation in order to discuss and modify this protocol as necessary after an initial "trial period".

Approved by:

Cathi Grams, Director
Butte County Department of Social Welfare

Date

John Wardell, Chief Probation Officer
Butte County Probation Department

Date

Hon. Tamara Mosbarger, Supervising Judge of Juvenile Court
Superior Court, County of Butte

Date