

## Invitation to Comment

Title	Juvenile Court Purpose Clause (Repeal Welf. & Instit. Code, § 202; replace with Welf. & Instit., §§ 201.5–202.2)
Summary	The statute setting forth the purpose of the juvenile court would be repealed and replaced with new provisions intended to reorganize and clarify existing law and to incorporate the principles of balanced and restorative justice.
Source	Family and Juvenile Law Advisory Committee Hon. Jerilyn Borack, Cochair Hon. Susan Huguenor, Cochair
Staff	Jennifer Walter, Supervising Attorney, (415) 865-7687, jennifer.walter@jud.ca.gov LaRon Hogg-Haught, Attorney, (415) 865-8834, laron.hogg@jud.ca.gov
Discussion	<p>The purpose clause for the juvenile courts is currently contained in Welfare and Institutions Code section 202. That section sets forth the mission of the juvenile court in dependency and delinquency matters. In addition, numerous other sections of the Welfare and Institutions Code contain language related to the purpose or goals of the juvenile court relative to child welfare or juvenile justice. Section 202 has been amended numerous times and has been cited in published appellate decisions in over two dozen cases. It is a critical tool for judges and other stakeholders as they analyze the key mission of the juvenile court and should reflect current statutes and practice in child welfare and juvenile justice.</p> <p>After reviewing the current purpose statute, as well as statutes from other states that have recently revised their purpose clauses, the Judicial Council’s Family and Juvenile Law Advisory Committee determined that a rewrite of the California statute would benefit the juvenile court and the systems it oversees by clearly stating the goals of the child welfare and juvenile justice systems in a manner that will guide those working within the systems. A subcommittee was assembled with representation from the bench, district attorneys, public defenders, probation, child welfare agencies, and county counsel. This group worked to draft the proposed new statute to incorporate into the existing mission of the court more recent emphases on the value of community involvement, the principles of restorative justice, including offender accountability to victims and the community, and the crucial need for cooperation between the juvenile court and all of the entities that serve the youth in the child welfare and juvenile justice systems. In addition, the revised statute emphasizes the need for the systems to be accountable and to measure performance and achievement. All of these themes have been incorporated into juvenile law through legislation in recent years, yet the purpose clause has not been rewritten to reflect these changes.</p>

Changing the purpose clause is a crucial step as the juvenile court endeavors to state more clearly and accurately its mission so that it reflects the commitment and work that is already being done to improve both the experience and outcomes for our children and families. Identifying stakeholders' responsibilities, clarifying shared goals, and seeking ways to measure the achievement of these goals will help the court and other agencies to work cooperatively to achieve needed reforms and hold ourselves and the systems we work within accountable.

---

Attachment

Welfare and Institutions Code section 202 would be repealed:

1 ~~202.~~ (a) The purpose of this chapter is to provide for the protection and safety of the  
2 public and each minor under the jurisdiction of the juvenile court and to preserve and  
3 strengthen the minor's family ties whenever possible, removing the minor from the  
4 custody of his or her parents only when necessary for his or her welfare or for the safety  
5 and protection of the public. When removal of a minor is determined by the juvenile  
6 court to be necessary, reunification of the minor with his or her family shall be a primary  
7 objective. When the minor is removed from his or her own family, it is the purpose of  
8 this chapter to secure for the minor custody, care, and discipline as nearly as possible  
9 equivalent to that which should have been given by his or her parents. This chapter shall  
10 be liberally construed to carry out these purposes.

11 ~~-(b) Minors under the jurisdiction of the juvenile court who are in need of protective~~  
12 ~~services shall receive care, treatment and guidance consistent with their best interest and~~  
13 ~~the best interest of the public. Minors under the jurisdiction of the juvenile court as a~~  
14 ~~consequence of delinquent conduct shall, in conformity with the interests of public safety~~  
15 ~~and protection, receive care, treatment, and guidance that is consistent with their best~~  
16 ~~interest, that holds them accountable for their behavior, and that is appropriate for their~~  
17 ~~circumstances. This guidance may include punishment that is consistent with the~~  
18 ~~rehabilitative objectives of this chapter. If a minor has been removed from the custody of~~  
19 ~~his or her parents, family preservation and family reunification are appropriate goals for~~  
20 ~~the juvenile court to consider when determining the disposition of a minor under the~~  
21 ~~jurisdiction of the juvenile court as a consequence of delinquent conduct when those~~  
22 ~~goals are consistent with his or her best interests and the best interests of the public.~~  
23 ~~When the minor is no longer a ward of the juvenile court, the guidance he or she received~~  
24 ~~should enable him or her to be a law-abiding and productive member of his or her family~~  
25 ~~and the community.~~

26 ~~-(c) It is also the purpose of this chapter to reaffirm that the duty of a parent to support~~  
27 ~~and maintain a minor child continues, subject to the financial ability of the parent to pay,~~  
28 ~~during any period in which the minor may be declared a ward of the court and removed~~  
29 ~~from the custody of the parent.~~

30 ~~-(d) Juvenile courts and other public agencies charged with enforcing, interpreting, and~~  
31 ~~administering the juvenile court law shall consider the safety and protection of the public,~~  
32 ~~the importance of redressing injuries to victims, and the best interests of the minor in all~~  
33 ~~deliberations pursuant to this chapter. Participants in the juvenile justice system shall~~  
34 ~~hold themselves accountable for its results. They shall act in conformity with a~~  
35 ~~comprehensive set of objectives established to improve system performance in a vigorous~~  
36 ~~and ongoing manner. In working to improve system performance, the presiding judge of~~  
37 ~~the juvenile court and other juvenile court judges designated by the presiding judge of the~~  
38 ~~juvenile court shall take into consideration the recommendations contained in subdivision~~  
39 ~~(e) of Standard 24 of the Standards of Judicial Administration, contained in Division I of~~  
40 ~~the Appendix to the California Rules of Court.~~

41 ~~-(e) As used in this chapter, "punishment" means the imposition of sanctions. It shall not~~  
42 ~~include a court order to place a child in foster care as defined by Section 727.3.~~

43 ~~Permissible sanctions may include the following:~~

44 ~~-(1) Payment of a fine by the minor.~~

- 1 ~~-(2) Rendering of compulsory service without compensation performed for the benefit of~~  
2 ~~the community by the minor.~~
- 3 ~~-(3) Limitations on the minor's liberty imposed as a condition of probation or parole.~~
- 4 ~~-(4) Commitment of the minor to a local detention or treatment facility, such as a~~  
5 ~~juvenile hall, camp, or ranch.~~
- 6 ~~-(5) Commitment of the minor to the Department of the Youth Authority.~~
- 7 ~~"Punishment," for the purposes of this chapter, does not include retribution.~~
- 8 ~~-(f) In addition to the actions authorized by subdivision (e), the juvenile court may, as~~  
9 ~~appropriate, direct the offender to complete a victim impact class, participate in victim~~  
10 ~~offender conferencing subject to the victim's consent, pay restitution to the victim or~~  
11 ~~victims, and make a contribution to the victim restitution fund after all victim restitution~~  
12 ~~orders and fines have been satisfied, in order to hold the offender accountable or restore~~  
13 ~~the victim or community.~~
- 14

Welfare and Institutions Code sections 201.5–202.2 would be added as follows:

1 **201.5 [Definitions]**

2  
3 **As used in this chapter:**

- 4  
5 (a) “Child welfare system” is defined as the juvenile court together with all private and public  
6 agencies that work with the juvenile court to improve the outcomes for  
7 (1) children who come under the jurisdiction of the juvenile dependency court,  
8 (2) families of these children, (3) victim(s), and (4) the community.  
9 (b) “Juvenile justice system” is defined as the juvenile court and/or the informal juvenile traffic  
10 court together with all private and public agencies that work with the juvenile court to  
11 improve outcomes for (1) children who come under the jurisdiction of the delinquency court,  
12 (2) families of these children, (3) victim(s), and (4) the community.  
13 (c) “Competency” is the development of educational, vocational, social, emotional, and basic  
14 life skills that enable a child to mature into a productive responsible member of society.  
15 (d) “Public agencies” refers to all governmental agencies that work with children and families  
16 and includes, but is not limited to, child welfare agencies, probation departments,  
17 prosecutor’s offices, public defender’s offices, schools, and mental health service providers.  
18 (e) “Private agencies” refers to all private social service agencies, nonprofit organizations, and  
19 all court-connected service providers, which include but are not limited to court-appointed  
20 special advocates, court-appointed counsel, and mediators.

21  
22 **202 [Purpose of chapter; general policy statements; responsibilities]**

23  
24 (a) [Purpose]

25  
26 The Legislature declares that the child welfare system and juvenile justice system should  
27 provide for the safety and protection of the community and each child under the jurisdiction  
28 of the juvenile court, should impose accountability for violations of law, should preserve and  
29 strengthen each child’s family and tribal ties whenever possible, and should develop in  
30 children and their families the competencies necessary to live responsibly and productively.

31  
32 The Legislature declares that the purpose of this chapter is to provide a coordinated child  
33 welfare system and juvenile justice system that can effectively serve the children and  
34 families that come before the juvenile court.

35  
36 The Legislature declares that the ultimate solutions to juvenile crime and the victimization of  
37 children will stem from strengthening families and communities, drawing on the strengths of  
38 families and the resources of communities, and increasing the involvement of children,  
39 families, tribes, and communities through a multidisciplinary approach.

40  
41 The Legislature declares that children under the jurisdiction of the juvenile court who are in  
42 need of protective services or who are wards of the court shall receive care, treatment, and  
43 guidance consistent with their best interest and as near as possible to that which their parents  
44 should have provided.

1 The Legislature declares that all children are entitled to be safe and free from abuse and  
2 neglect and to be supported to pursue their interests and goals by participating in age-  
3 appropriate extracurricular social activities consistent with their best interest.  
4

5 The Legislature declares that it is the responsibility of the juvenile court to hold the providers  
6 of child welfare and juvenile justice services accountable in discharging their responsibilities  
7 to ensure the safety of the community and the safety, protection, and physical and emotional  
8 well-being of each child under the jurisdiction of the juvenile court.  
9

10 The Legislature declares that the child welfare system and juvenile justice system should  
11 have clearly stated measurable goals and that the two systems should work together to  
12 monitor progress toward goals.  
13

14 The Legislature declares that it is the policy of this state to foster the development of  
15 resources for children and families before the juvenile court and specifically to provide  
16 resources to improve the lives of children in out-of-home placements or in commitments.  
17

18 The Legislature declares that it is the policy of this state to reduce the necessity for removing  
19 children from their homes, to encourage timely reunification of families when it can be safely  
20 accomplished, to improve the quality and homelike nature of out-of-home care, to foster the  
21 educational progress of children before the court, to locate permanent homes and families for  
22 children who cannot return home, to reduce the number of placements experienced by these  
23 children, and to ensure that children exit the juvenile court system with life-long connections  
24 and support within their communities.  
25

26 The Legislature declares that foster care should be a temporary method of care for the  
27 children of this state.  
28

29 The Legislature declares that placement in foster care should not be used as a sanction to  
30 punish a child.  
31

32 The Legislature declares that reunification with the parent or parents or another alternate  
33 permanent living situation such as adoption or guardianship is more suitable to a child's well-  
34 being than is foster care.  
35

36 The Legislature declares that this state has a responsibility to attempt to ensure that children  
37 have safe permanent homes and are given the chance to have healthy lives and that, to the  
38 extent possible, the movement of children from one foster home to another until they reach  
39 the age of majority should be discouraged.  
40

41 The Legislature declares that the child welfare and juvenile justice system should implement  
42 the following practices and policies to accomplish these goals.  
43

44 (b) [General Policy Statements]  
45

1 The juvenile court should not remove a child from the custody of his or her parents unless it  
2 is for his or her safety or for the safety and protection of the public. If a child is removed  
3 from his or her own family, the child welfare and juvenile justice systems should seek to  
4 place the child in a family environment whenever possible and strive to reunify the child with  
5 his or her family as provided by statute.  
6

7 The juvenile court should ensure that the child's rights as a party, including the right to be  
8 present, to have a voice in court, and to be heard both through his or her attorney and  
9 directly, are protected.  
10

11 All persons in the child welfare and juvenile justice systems should communicate, both orally  
12 and in writing, in plain language and avoid legal terminology so that parties and other  
13 interested persons can understand the proceedings and court orders.  
14

15 In all respects, the child welfare and juvenile justice systems should promote permanency for  
16 each child, foster life-long, positive connections to family and the community, and provide  
17 appropriate services to the child and family to assist the child in becoming a productive and  
18 responsible member of the community.  
19

20 (c) [Responsibilities]

21  
22 The child welfare and juvenile justice systems should strive to gain the trust and confidence  
23 of the public by being open, accessible, and accountable.  
24

25 The child welfare and juvenile justice systems should uniformly provide due process through  
26 which children, victims, parents, and guardians are consistently provided with fair legal  
27 proceedings that enforce their legal and constitutional rights; and that victims and witnesses  
28 of crimes committed by children be afforded the same rights as the victims and witnesses of  
29 crimes committed by adults.  
30

31 The juvenile justice system should ensure that victims, witnesses, parents, foster parents,  
32 guardians, children, and all other interested parties are treated with dignity, respect, courtesy,  
33 and sensitivity in all facets of the juvenile justice system.  
34

35 The child welfare and juvenile justice systems should work to meet the full needs of the  
36 children who move between the two systems as both dependents and wards of the juvenile  
37 court, as well as the needs of their families.  
38

39 In carrying out their responsibilities, the courts of this state should heed the recommendations  
40 of section 5.40(e) of the California Standards of Judicial Administration and work with the  
41 community, the child welfare system, and other juvenile justice system partners to provide  
42 for a range of innovative, culturally relevant, and effective outcome-based programs that are  
43 subject to continuing evaluation.  
44

1 It is the duty of a parent to support and maintain a minor child, subject to the financial ability  
2 of the parent to pay, during any period in which the child may be declared a dependent or  
3 ward of the court and removed from the custody of the parent.

4  
5 **202.1 [Juvenile Delinquency Cases]**

6  
7 It is the responsibility of the juvenile justice system to ensure that there is an adequate continuum  
8 of services, sanctions, and incentives designed to protect the community, promote accountability  
9 to victims and the community, and develop competencies in the children who enter the juvenile  
10 justice system. The appropriate program of supervision and sanctions should use the least  
11 restrictive measures possible while ensuring that the goals of the juvenile justice system are met.

12  
13 (a) [Protecting the Community]

14  
15 To protect the community, the continuum of intervention responses should:

- 16  
17 (1) Promote, to the greatest extent possible, the development and implementation of  
18 community-based programs designed to prevent delinquent behavior and minimize  
19 children's involvement in the juvenile justice system.  
20 (2) Divert children from the formal juvenile justice system only when that does not  
21 compromise the protection of the public.  
22 (3) Provide an early, individualized assessment and a cost-effective, outcome-based action  
23 plan to meet each child's needs, including but not limited to education, substance abuse  
24 treatment, mental health, and life skills development.  
25 (4) Consider the most appropriate controls, discipline, punishment, and treatment, whether  
26 through informal or formal probation supervision or through removal from the home.  
27 (5) Ensure that a child removed from his or her home is placed in the least restrictive and  
28 most family-like environment possible.  
29 (6) Securely confine only children who present a danger to the community, but confinement  
30 should be in an environment that is age-appropriate and least restrictive for the child.

31  
32 (b) [Accountability]

33  
34 To ensure each child is held accountable to their victims and communities, the continuum of  
35 intervention responses should:

- 36  
37 (1) Hold each child directly accountable to the victim and the community for his or her  
38 conduct by enforcing completion of restitution and community-service requirements.  
39 (2) Involve the child's parents or guardians in holding the child responsible for his or her  
40 conduct.  
41 (3) Hold both the child and the parent or guardian accountable, where appropriate, for  
42 payment of costs, restitution to victims, and attendance at parenting skills and family  
43 counseling sessions.

44  
45 (c) [Competency Development]

46

1 To develop competencies, the continuum of programs and services should:

- 2
- 3 (1) Include treatment, rehabilitation, and educational services that are based on the  
4 individualized needs of the child and his or her parents.
- 5 (2) Be documented in a case plan that expands the child’s and parents’ access to applicable  
6 programs and community resources.
- 7 (3) Provide education and counseling to ensure as much as possible that the child  
8 understands the full effects of his or her criminal violation on the victim, his or her  
9 family, and members of the community.
- 10 (4) Provide children at all levels of supervision with training, life skills, and education,  
11 including career development.
- 12 (5) Provide post-release reentry services to children and their families to help with family  
13 reunification and return to their communities after detention.

14

15 (d) [Permissible Sanctions]

16

17 As used in this chapter, the terms “community safety,” “accountability,” and “competency  
18 development” comprise the goals of the juvenile court. In order to achieve these goals, the  
19 court shall impose sanctions that encourage positive outcomes and restrict negative outcomes  
20 for wards of the court. It shall not include a court order to place a child in foster care as  
21 defined by Section 727.3.

22

23 In addition to the actions authorized in this subdivision, the juvenile court shall, as  
24 appropriate, direct the child to complete a victim-impact class, meet with the victim subject  
25 to the victim’s consent, pay restitution to the victim, and make a contribution to the victim-  
26 restitution fund after all victim-restitution orders and fines have been satisfied, in order to  
27 hold the child accountable and restore the victim or community.

28

29 Permissible sanctions may include the following:

- 30
- 31 (1) Payment of a fine by the child.
- 32 (2) Rendering of compulsory service without compensation performed for the benefit of the  
33 community by the child.
- 34 (3) Limitations on the child’s liberty imposed as a condition of probation or parole.
- 35 (4) Commitment of the child to a local detention or treatment facility, such as a juvenile hall,  
36 camp, or ranch.
- 37 (5) Commitment of the child to the Division of Juvenile Facilities, Department of  
38 Corrections and Rehabilitation.

39

40 The sanctions associated with achieving the goals of protecting the community,  
41 accountability, and competency development, for the purposes of this chapter, do not include  
42 retribution.

43

44 202.2 [Juvenile Dependency Cases]

45

1 It is the responsibility of the child welfare system to ensure that every child is free from abuse  
2 and neglect by establishing programs and services that are designed to provide protection,  
3 support, or care of children, to provide protective services to the fullest extent deemed necessary  
4 by the juvenile court and the county welfare agency, to perform the duties prescribed by this  
5 code to ensure that the safety, protection, and physical and emotional well-being of children are  
6 not violated or threatened by their present circumstances or environment. Such essential services  
7 may be provided irrespective of whether the child or the family of the child is otherwise known  
8 to the responsible local agency.  
9

10 The purpose of the provisions of this chapter relating to dependent children is to provide  
11 maximum safety and protection for children who are currently being physically, sexually, or  
12 emotionally abused, being neglected, or being exploited, and to ensure the safety, protection, and  
13 physical and emotional well-being of children who are at risk of these kinds of harm. Provisions  
14 for the safety, protection, and physical and emotional well-being of at-risk children may include  
15 a full array of social and health services to help the child and family and to prevent reabuse of  
16 children. The focus shall be on the preservation of the family as well as the safety, protection,  
17 and physical and emotional well-being of the child. The provision of a home environment free  
18 from the negative effects of substance abuse and/or family violence is a necessary condition for  
19 the safety, protection, and physical and emotional well-being of the child. Successful  
20 participation in a treatment program for substance abuse and/or family violence may be  
21 considered in evaluating the home environment.

**Item LEG07-01 Response Form**

**Title:** Juvenile Court Purpose Clause (Repeal Welf. & Instit. Code, § 202; replace with Welf. & Instit., §§ 201.5–202.2)

- Agree** with proposed changes
- Agree** with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Name:** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Organization:** \_\_\_\_\_

- Commenting on behalf of an organization**

**Address:** \_\_\_\_\_

**City, State, Zip:** \_\_\_\_\_

Please **write** or **fax** or **respond using the Internet** to:

**Address:** Ms. Camilla Kieliger,  
Judicial Council, 455 Golden Gate Avenue,  
San Francisco, CA 94102  
**Fax:** (415) 865-7664      **Attention:** Camilla Kieliger  
**Internet:** [www.courtinfo.ca.gov/invitationstocomment](http://www.courtinfo.ca.gov/invitationstocomment)

**DEADLINE FOR COMMENT: 5:00 p.m., Wednesday, June 20, 2007**

Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council, the Rules and Projects Committee, or the Policy Coordination and Liaison Committee. All comments will become part of the public record of the council's action.*