

State of California

WELFARE AND INSTITUTIONS CODE

Section 875

875. (a) In addition to the types of treatment specified in Sections 727 and 730, commencing July 1, 2021, the court may order that a ward who is 14 years of age or older be committed to a secure youth treatment facility for a period of confinement described in subdivision (b) if the ward meets all of the following criteria:

(1) The juvenile is adjudicated and found to be a ward of the court based on an offense listed in subdivision (b) of Section 707 that was committed when the juvenile was 14 years of age or older.

(2) The adjudication described in paragraph (1) is the most recent offense for which the juvenile has been adjudicated.

(3) The court has made a finding on the record that a less restrictive, alternative disposition for the ward is unsuitable. In determining this, the court shall consider all relevant and material evidence, including the recommendations of counsel, the probation department, and any other agency or individual designated by the court to advise on the appropriate disposition of the case. The court shall additionally make its determination based on all of the following criteria:

(A) The severity of the offense or offenses for which the ward has been most recently adjudicated, including the ward's role in the offense, the ward's behavior, and harm done to victims.

(B) The ward's previous delinquent history, including the adequacy and success of previous attempts by the juvenile court to rehabilitate the ward.

(C) Whether the programming, treatment, and education offered and provided in a secure youth treatment facility is appropriate to meet the treatment and security needs of the ward.

(D) Whether the goals of rehabilitation and community safety can be met by assigning the ward to an alternative, less restrictive disposition that is available to the court.

(E) The ward's age, developmental maturity, mental and emotional health, sexual orientation, gender identity and expression, and any disabilities or special needs affecting the safety or suitability of committing the ward to a term of confinement in a secure youth treatment facility.

(b) In making its order of commitment for a ward, the court shall set a baseline term of confinement for the ward that is based on the most serious recent offense for which the ward has been adjudicated. The baseline term of confinement shall represent the time in custody necessary to meet the developmental and treatment needs of the ward and to prepare the ward for discharge to a period of probation supervision in the community. The baseline term of confinement for the ward shall be determined

according to offense-based classifications that are approved by the Judicial Council, as described in subdivision (h). Pending the development and adoption of offense-based classifications by the Judicial Council, the court shall set a baseline term of confinement for the ward utilizing the discharge consideration date guidelines applied by the Department of Corrections and Rehabilitation, Division of Juvenile Justice prior to its closure and as set forth in Sections 30807 to 30813, inclusive, of Title 9 of the California Code of Regulations. These guidelines shall be used only to determine a baseline confinement time for the ward and shall not be used or relied on to modify the ward's confinement time in any manner other than as provided in this section. The court may, pending the adoption of Judicial Council guidelines, modify the initial baseline term with a deviation of plus or minus six months. The baseline term shall also be subject to modification in progress review hearings as described in subdivision (e).

(c) (1) In making its order of commitment, the court shall additionally set a maximum term of confinement for the ward based upon the facts and circumstances of the matter or matters that brought or continued the ward under the jurisdiction of the court and as deemed appropriate to achieve rehabilitation. The maximum term of confinement shall represent the longest term of confinement in a facility that the ward may serve subject to the following:

(A) A ward committed to a secure youth treatment facility under this section shall not be held in secure confinement beyond 23 years of age, or two years from the date of the commitment, whichever occurs later. However, if the ward has been committed to a secure youth treatment facility based on adjudication for an offense or offenses for which the ward, if convicted in adult criminal court, would face an aggregate sentence of seven or more years, the ward shall not be held in secure confinement beyond 25 years of age, or two years from the date of commitment, whichever occurs later.

(B) The maximum term of confinement shall not exceed the middle term of imprisonment that can be imposed upon an adult convicted of the same offense or offenses. If the court elects to aggregate the period of physical confinement on multiple counts or multiple petitions, including previously sustained petitions adjudging the minor a ward within Section 602, the maximum term of confinement shall be the aggregate term of imprisonment specified in subdivision (a) of Section 1170.1 of the Penal Code, which includes any additional term imposed pursuant to Section 667, 667.5, 667.6, or 12022.1 of the Penal Code, and Section 11370.2 of the Health and Safety Code.

(C) Precommitment credits for time served must be applied against the maximum term of confinement as set pursuant to this subdivision.

(2) For purposes of this section, "maximum term of confinement" has the same meaning as "maximum term of imprisonment," as defined in paragraph (2) of subdivision (d) of Section 726.

(d) (1) Within 30 judicial days of making an order of commitment to a secure youth treatment facility, the court shall receive, review, and approve an individual rehabilitation plan that meets the requirements of paragraph (2) for the ward that has

been submitted to the court by the probation department and any other agencies or individuals the court deems necessary for the development of the plan. The plan may be developed in consultation with a multidisciplinary team of youth service, mental and behavioral health, education, and other treatment providers who are convened to advise the court for this purpose. The prosecutor and the counsel for the ward may provide input in the development of the rehabilitation plan prior to the court's approval of the plan. The plan may be modified by the court based on all of the information provided.

(2) An individual rehabilitation plan shall do all of the following:

(A) Identify the ward's needs in relation to treatment, education, and 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.

(B) Describe the programming, treatment, and education to be provided to the ward in relation to the identified needs during the commitment period.

(C) Reflect, and be consistent with, the principles of trauma-informed, evidence-based, and culturally responsive care.

(D) The ward and their family shall be given the opportunity to provide input regarding the needs of the ward during the identification process stated in subparagraph (A), and the opinions of the ward and the ward's family shall be included in the rehabilitation plan report to the court.

(e) (1) The court shall, during the term of commitment, schedule and hold a progress review hearing for the ward not less frequently than once every six months. In the review hearing, the court shall evaluate the ward's progress in relation to the rehabilitation plan and shall determine whether the baseline term of confinement is to be modified. The court shall consider the recommendations of counsel, the probation department and any behavioral, educational, or other specialists having information relevant to the ward's progress. At the conclusion of each review hearing, upon making a finding on the record, the court may order that the ward remain in custody for the remainder of the baseline term or may order that the ward's baseline term or previously modified baseline term be modified downward by a reduction of confinement time not to exceed six months for each review hearing. The court may additionally order that the ward be assigned to a less restrictive program, as provided in subdivision (f).

(2) The ward's confinement time, including time spent in a less restrictive program described in subdivision (f), shall not be extended beyond the baseline confinement term, or beyond a modified baseline term, for disciplinary infractions or other in-custody behaviors. Any 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 secure youth treatment facility and subject to any relevant state standards or regulations that apply to juvenile facilities generally.

(3) The court shall, at the conclusion of the baseline confinement term, including any modified baseline term, hold a probation discharge hearing for the ward. For a ward who has been placed in a less restrictive program described in subdivision (f), the probation discharge hearing shall occur at the end of the period, or modified period, of placement that has been ordered by the court. At the discharge hearing, the court

shall review the ward's progress toward meeting the goals of the individual rehabilitation plan and the recommendations of counsel, the probation department, and any other agencies or individuals having information the court deems necessary. At the conclusion of the hearing, the court shall order that the ward be discharged to a period of probation supervision in the community under conditions approved by the court, unless the court finds that the ward constitutes a substantial risk of imminent harm to others in the community if released from custody. If the court so finds, the ward may be retained in custody in a secure youth treatment facility for up to one additional year of confinement, subject to the review hearing and probation discharge hearing provisions of this subdivision and subject to the maximum confinement provisions of subdivision (c).

(4) If the ward is discharged to probation supervision, the court shall determine the reasonable conditions of probation that are suitable to meet the developmental needs and circumstances of the ward and to facilitate the ward's successful reentry into the community. The court shall periodically review the ward's progress under probation supervision and shall make any additional orders deemed necessary to modify the program of supervision in order to facilitate the provision of services or to otherwise support the ward's successful reentry into the community. If the court finds that the ward has failed materially to comply with the reasonable orders of probation imposed by the court, the court may order that the ward be returned to a juvenile facility or to a placement described in subdivision (f) for a period not to exceed either the remainder of the baseline term, including any court-ordered modifications, or six months, whichever is longer, and in any case not to exceed the maximum confinement limits of subdivision (c).

(f) (1) Upon a motion from the probation department or the ward, the court may order that the ward be transferred from a secure youth treatment facility to less restrictive program, such as a halfway house, a camp or ranch, or a community residential or nonresidential service program. The purpose of a less restrictive program is to facilitate the safe and successful reintegration of the ward into the community. The court shall consider the transfer request at the next scheduled treatment review hearing or at a separately scheduled hearing. The court shall consider the recommendations of the probation department on the proposed change in placement. Approval of the request for a less restrictive program shall be made only upon the court's determination that the ward has made substantial progress toward the goals of the individual rehabilitation plan described in subdivision (d) and that placement is consistent with the goals of youth rehabilitation and community safety. In making its determination, the court shall consider both of the following factors:

(A) The ward's overall progress in relation to the rehabilitation plan during the period of confinement in a secure youth treatment facility.

(B) The programming and community transition services to be provided, or coordinated by the less restrictive program, including, but not limited to, any educational, vocational, counseling, housing, or other services made available through the program.

(2) In any order transferring the ward from a secure youth treatment facility to a less restrictive program, the court may require the ward to observe any conditions of performance or compliance with the program that are reasonable and appropriate in the individual case and that are within the capacity of the ward to perform. The court shall set the length of time the ward is to remain in a less restrictive program, not to exceed the remainder of the baseline or modified baseline term, prior to a probation discharge hearing described in subdivision (e). If, after placement in a less restrictive program, the court determines that the ward has materially failed to comply with the court-ordered conditions of placement in the program, the court may modify the terms and conditions of placement in the program or may order the ward to be returned to a secure youth treatment facility for the remainder of the baseline term, or modified baseline term, and subject to further periodic review hearings, as provided in subdivision (e) and to the maximum confinement provisions of subdivision (c). If the ward is returned to the secure youth treatment facility under the provisions of this paragraph, the ward's baseline or modified baseline term shall be adjusted to include credit for the time served by the ward in the less restrictive program.

(g) A secure youth treatment facility, as described in this section, shall meet the following criteria:

(1) The facility shall be a secure facility that is operated, utilized, or accessed by the county of commitment to provide appropriate programming, treatment, and education for wards having been adjudicated for the offenses specified in subdivision (a).

(2) The facility may be a stand-alone facility, such as a probation camp or other facility operated under contract with the county, or with another county, or may be a unit or portion of an existing county juvenile facility, including a juvenile hall or probation camp, that is configured and programmed to serve the population described in subdivision (a) and is in compliance with the standards described in paragraph (3).

(3) The Board of State and Community Corrections shall by July 1, 2023, review existing juvenile facility standards and modify or add standards for the establishment, design, security, programming and education, and staffing of any facility that is utilized or accessed by the court as a secure youth treatment facility under the provisions of this section. The standards shall be developed by the board with the coordination and concurrence of the Office of Youth and Community Restoration established by Section 2200. The standards shall specify how the facility may be used to serve or to separate juveniles, other than juveniles described in subdivision (a) serving baseline confinement terms, who may also be detained in or committed to the facility or to some portion of the facility. Pending the final adoption of these modified standards, a secure youth treatment facility shall comply with applicable minimum standards for juvenile facilities in Title 15 and Title 24 of the California Code of Regulations.

(4) A county proposing to establish a secure youth treatment facility for wards described in subdivision (a) shall notify the Board of State and Community Corrections of the operation of the facility and shall submit a description of the facility to the board in a format designated by the board. Commencing July 1, 2022, the Board of State and Community Corrections shall conduct a biennial inspection of each secure

youth treatment facility that was used for the confinement of juveniles placed pursuant to subdivision (a) during the preceding calendar year. To the extent new standards are not yet in place, the board shall utilize the standards in existing regulations.

(5) In lieu of establishing its own secure youth treatment facility, a county may contract with another county having a secure youth treatment facility to accept commitments of wards described in subdivision (a).

(6) A county may establish a secure youth treatment facility to serve as a regional center for commitment of juveniles by one or more other counties on a contract payment basis.

(h) (1) By July 1, 2023, the Judicial Council shall develop and adopt a matrix of offense-based classifications to be applied by the juvenile courts in all counties in setting the baseline confinement terms described in subdivision (b). Each classification level or category shall specify a set of offenses within the level or category that is linked to a standard baseline term of years to be assigned to youth, based on their most serious recent adjudicated offense, who are committed to a secure youth treatment facility as provided in this section. The individual baseline term of years to be assigned in each case may be derived from a standard range of years for each offense level or category as designated by the Judicial Council. The classification matrix may provide for upward or downward deviations from the baseline term and may also provide for a system of positive incentives or credits for time served. In developing the matrix, the Judicial Council shall be advised by a working group of stakeholders, which shall include representatives from prosecution, defense, probation, behavioral health, youth service providers, youth formerly incarcerated in the Division of Juvenile Justice, and youth advocacy and other stakeholders and organizations having relevant expertise or information on dispositions and sentencing of youth in the juvenile justice system. In the development process, the Judicial Council shall also examine and take into account youth sentencing and length-of-stay guidelines or practices adopted by other states or recommended by organizations, academic institutions, or individuals having expertise or having conducted relevant research on dispositions and sentencing of youth in the juvenile justice system.

(2) Upon final adoption by the Judicial Council, the 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 under subdivision (b) for wards who are committed to a secure youth treatment facility. The discharge consideration date guidelines of the Division of Juvenile Justice that were applied on an interim basis, as provided in subdivision (b), shall not thereafter be utilized to determine baseline confinement terms for wards who are committed to a secure youth treatment facility under the provisions of this section.

(i) A court shall not commit a juvenile to any juvenile facility, including a secure youth treatment facility as defined in this section, for a period that exceeds the middle term of imprisonment that could be imposed upon an adult convicted of the same offense or offenses.

(Amended by Stats. 2022, Ch. 58, Sec. 41. (AB 200) Effective June 30, 2022.)