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**Notes and  
References**

## **NON-WARDSHIP PROBATION SUPERVISION**

### **I. Informal Probation pursuant to §654 and §654.2 of the Welfare and Institutions Code (WIC)**

A. Youth placed on Informal Probation pursuant to §654 WIC by the Deputy Probation Officer (DPO) and those placed on §654.2 WIC Informal Probation by the Juvenile Court will be supervised according to their risks and needs as determined by the Positive Achievement Change Tool (PACT) risk assessment instrument, unless it is overridden by a Supervising Probation Officer (SPO).

1. Refer to §654.3 WIC for eligibility requirements.
2. Youth placed on §654.2 WIC Informal Probation by the Court will have a review hearing in six months (Refer to I-D)
3. The contract for youth placed on §654 WIC Informal Probation by the DPO expires six (6) months from the date of signing.
4. Youth being supervised pursuant to a §654 WIC agreement are not subject to search and seizure or chemical testing.
5. Youth being supervised pursuant to §654.2 WIC are only subject to search and seizure or chemical testing if specifically ordered by the Court. This is not something Probation is to recommend.
6. Youth are not to be arrested or detained for an alleged violation of §654 or §654.2 WIC diversion terms and conditions.

#### **B. New Criminal Offenses**

1. In the event a new criminal offense is allegedly committed by a youth on informal supervision (§654 WIC or §654.2 WIC), the investigation of this referral will be handled by the assigned DPO.

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- a. The initial referral which resulted in the youth being placed on informal probation and the new referral will be forwarded to the District Attorney for review and potential filing of a petition for those under §654 WIC. For those under §654.2 WIC, the new referral will be forwarded to the District Attorney’s (DA) office for review and a §654.2 review (failure) report will be filed if the DA files a new petition.
  - b. Any other form of handling shall be staffed with the unit SPO.
  - c. Circumstances which may be considered exceptions, such as minor infractions, should be staffed with the unit SPO or designee.
- C. Termination of §654 WIC
- 1. Informal probation cases may be terminated at any time prior to the expiration date; however, a minimum of three (3) months on informal probation is encouraged.
  - 2. When the expiration date has passed, or an early termination has been agreed upon, the case may be closed.
    - a. A closing Event note should be completed in IMPACT, which also includes any programming completed during the supervision period.
    - b. The case shall immediately reflect the body status “closed” in IMPACT, all conditions are to be deleted and an Officer Instruction is completed indicting “probation terminated.”
    - c. The assigned Officer shall insure a letter is sent to the youth and his or her parent indicating that the youth’s case has been closed. The letter shall also contain instructions on record sealing pursuant to §781 WIC.

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- c. Route the files through the unit SPO or designee for review and transfer to Administrative Office Professional (AOP) staff for closing.
  - 3. Unilateral decisions to terminate the agreement by the youth or parent should be discussed with the unit SPO.
  - 4. If the youth fails to comply with the §654 WIC agreement, the case should be staffed with the unit SPO to determine if a referral should be submitted to the District Attorney’s Office for consideration of filing a petition.
    - a. If a referral is forwarded to the District Attorney and the DA declines to file a petition, the case is to be closed.
  - 5. A petition may be filed for §654 WIC failures up to 90 days after the expiration date on the agreement.
- D. Termination of §654.2 WIC
  - 1. At the time of granting Informal Probation, the Court will set a review hearing which the youth must attend.
  - 2. If the youth is arrested for a criminal offense, the procedures in Sec. B above will be followed, which will normally terminate the §654.2 WIC probation or the matter will be continued to the previously set review date at the discretion of the Court.
  - 3. Fifteen (15) days prior to the review date, the assigned DPO will submit a review report to the Court (Pro 661) outlining the youth’s progress on diversion and either recommend that the petition be dismissed, or that proceedings on the petition be reinstated. If dismissal is recommended, record sealing documents pursuant to §786 WIC are also to be filed with the report.

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4. If the youth has not successfully completed the period of probation, the Court may extend probation for two additional three-month periods. Proceedings on the petition shall commence no later than 12 months from the date the petition is filed.

§654.2 W&IC

**II. Formal Probation without Wardship pursuant to §725(a) WIC**

- A. §725(a) WIC provides that if the Court has found that a youth is a person described by §601 or §602 WIC, the Court may, without adjudging the youth a ward of the Court, place the youth on probation under the supervision of the DPO for a period not to exceed six (6) months.
- B. The alleged offense(s) must be misdemeanor(s) and the youth must admit the charge(s) prior to being granted this type of probation supervision.
- C. Usually, §725(a) WIC probation is considered in those cases in which formal wardship does not appear necessary, yet the actions in the offense or other factors indicate a need for the youth to admit the charge(s).
- D. New Criminal Offenses
  1. In the event a new criminal offense is allegedly committed by a youth on §725(a) WIC probation supervision, the investigation of this referral will be handled by the assigned DPO.
    - a. The assigned DPO will complete the §725(a) WIC review report.
    - b. The recommendation should always be to reinstate proceedings for matters involving new felony and misdemeanor offenses
  2. Circumstances which may be considered exceptions, such as minor infractions, should be staffed with the unit SPO or designee.

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A. Non-Compliance with Terms and Conditions

1. If it is believed that a youth is not complying with the terms and conditions, the assigned DPO will complete a §725(a) WIC review report (Juv 777).
2. The recommendation should generally be to reinstate proceedings. A case conference with a Senior DPO or Supervisor is necessary when circumstances are such that an alternative recommendation is warranted.
3. Youth are not to be arrested or detained for alleged violations of §725(a) WIC probation conditions.

B. Termination

1. Youth placed on probation pursuant to §725(a) WIC will have their grant of probation expire six months from the date they are placed on probation, which should be reflected both on the terms and conditions and minute order. Record sealing paperwork pursuant to §786 WIC is to be filed ex parte within 10 court days of expiration.
2. When a case is closed:
  - a. A closing Event note should be completed in IMPACT, which also includes any programming completed during the supervision period.
  - b. The case shall immediately reflect the body status “closed” in IMPACT, all conditions are to be deleted and an officer instruction is completed indicting “probation terminated.”
  - c. Route the files through the unit SPO or designee for review and transfer to the AOP staff for closing.

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**III. Deferred Entry of Judgment (DEJ) pursuant to §790 WIC**

- A. §790 WIC provides that if the Court has found that a youth is a person described by §602, the Court may, without adjudging the youth a ward of the Court, place the youth on probation for one (1) to three (3) years.
  - 1. The youth must admit at least one (1) felony offense prior to being granted this type of probation supervision.
  - 2. Although the youth admits the charge(s) on the petition, he/she is not considered to be adjudicated of the offense(s), which is deferred pending the completion of the probation supervision period.
- B. Eligibility Criteria
  - 1. The youth has not previously been declared a ward of the Court for the commission of a felony offense.
  - 2. The charged offense(s) is not a §707 (b) WIC offense.
  - 3. The youth has not previously been committed to the Division of Juvenile Justice (DJJ).
  - 4. The prior record of the youth does not indicate probation has ever been revoked without being completed.
  - 5. The youth is at least 14 years old **at the time of the hearing.**
  - 6. The youth is eligible for probation pursuant to §1203.03 PC.
- C. In accordance with §791(6)(c) WIC, a youth's admission of the charges contained in the petition shall not constitute a finding that a petition has been sustained for any purpose unless a judgment is entered pursuant to §793(b) WIC.

§791(a) (3)  
W&IC

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- D. Probation pursuant to §790 WIC is for a term of not less than one (1) year and not more than three (3) years.
  - 1. A 12-month review hearing is scheduled by the Court when the youth is granted DEJ. The §790 WIC review report and record sealing paperwork is to be filed 10 court days prior to that review date.
  
- E. New Criminal Offense or Non-Compliance with Terms and Conditions
  - 1. In the event a new criminal offense is allegedly committed by a youth on DEJ, the investigation of the referral will be handled by the assigned DPO.
  - 2. The assigned DPO will complete the Notice of Non-Compliance and file it with the Court. The Court will make one of the following orders:
    - a. Decline to set a hearing and all prior orders will continue.
    - b. A hearing will be set by the Court on a date chosen by the Judge.
    - c. The Court will customize an order in the “other” section.
  
- F. Terminations
  - 1. At the time of the 12-month review hearing, the Court will do one of the following:
    - a. Find that the youth successfully completed the program of supervision after the §790 WIC review report (Pro 661) is filed and dismiss the petition.

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- b. Set the case for an additional review hearing if there are minimal non-compliance issues and it is believed the issues can be addressed.
- c. Find the youth did not successfully complete the program of supervision, file the Pro 661 to reinstate the criminal petition, and proceed with a §602 WIC disposition.
- 2. Prior to the review hearing the DPO will complete a review report detailing the accomplishments of the youth and/or deficiencies while on probation.
- 3. When a case is closed:
  - a. A closing Event note should be completed in IMPACT, which also includes any programming completed during the supervision period.
  - b. The case shall immediately reflect the body status “closed” in IMPACT, all conditions are to be deleted and an officer instruction is completed indicating “probation terminated”.
  - c. Route the files through the unit SPO or designee for review and transfer to AOP staff for closing.
  - d. The assigned Officer shall insure a letter is sent to the youth and his or her parent indicating that the youth’s case has been closed. The letter shall also contain instructions on record sealing pursuant to §781 WIC.

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