

**PROBATION DEPARTMENT
JUVENILE MANUAL**

Chapter No. 2704	Page 1
Issue Date:	03/01/83
Revised:	12/10/19

DETENTION OPTIONS

**Notes and
References**

I. General

Juvenile law provides for youth to be taken into physical custody under certain circumstances. These include:

- A. For actions that would constitute a criminal offense if committed by an adult.
- B. For youth who have been declared a ward of the Juvenile Court and are under probation supervision, for actions that constitute a violation of the terms and conditions of their probation.
- C. For youth who have been released from physical custody on home supervision and/or electronic monitoring, and allowed to return to their home under parental supervision with detention orders remaining in effect, and whose actions constitute a violation of the home supervision agreement or court order.

II. Department Use of Detention

It is the intent of the Probation Department that:

- A. Youth taken into physical custody for any purpose be detained for only as long as necessary to insure youth and public safety, guarantee appearances before the Juvenile Court, transition a youth from a custody setting to another setting, and to comply with a court order mandating detention.
- B. Use of detention when alleging a violation of probation terms for a youth who had been declared a ward is to be avoided when possible, and limited in scope when warranted. Its use is to be consistent with youth and public safety considerations, identified youth risks and needs, case plan goals, youth capacity, relevant court orders, and the immediacy of the matter being addressed.

III. When a youth may be taken into custody

- A. A law enforcement officer may take into temporary physical custody without a warrant a youth:

Chapter No. 2704	Page 2
Issue Date:	03/01/83
Revised:	12/10/19

Detention Options (continued)

**Notes and
References**

1. Who is under the age of 18 years when the officer has reasonable cause for believing the youth is a person described by §602 of the Welfare and Institutions Code (WIC).
 2. Who is a ward of the Juvenile Court when the officer has reasonable cause for believing the youth has violated an order of the Juvenile Court or who has escaped from any court-ordered commitment.
 3. Who is under the age of 18 years and is found in any street or public place suffering from sickness or injury which requires care, medical treatment, hospitalization, or other remedial care.
 4. The above circumstances do not necessarily mean a youth will be detained further.
- B. Youth brought to the Santa Maria Juvenile Hall (SMJH) for admission for any of these reasons will be evaluated by Probation Department personnel assigned there in accordance with SMJH procedures and policies. These include administering a detention assessment, determining suitability for admission based on medical and mental health conditions, the capacity of parents or guardians, a youth's status as a ward or probationer, and the applicability of governing laws.
- C. A Deputy Probation Officer (DPO) may take a youth who has been declared a ward into physical custody pursuant to §777 WIC when alleging a violation of a term of probation not amounting to a crime.
- D. A DPO or Juvenile Institutions Officer (JIO) may return a youth to physical custody when that youth had previously been released on home supervision and/or electronic monitoring with detention orders remaining in effect, when that youth is alleged to have violated a condition of the release from custody. This includes any associated court order or condition of a home supervision agreement.
- E. The Juvenile Court does not have delinquency jurisdiction over youth under the age of 12 except for certain serious offenses, and they are not subject to arrest or custody for any actions that constitute a criminal offense.

Chapter No. 2704	Page 3
Issue Date:	03/01/83
Revised:	12/10/19

Detention Options (continued)

Notes and References

IV. Detention Hearing

Whenever a youth is taken into custody and brought to the SMJH for admission and is not released, a hearing before the Juvenile Court is to be calendared so that the allegations against the youth can be heard and the need for continued detention addressed by the court and parties. In determining if a youth should remain detained, the Juvenile Court will need to address various factors as indicated in §635 WIC. Unless one or more these factors are determined to be present, the youth must be released. These factors are:

- A. The youth has violated an order of the Juvenile Court or has escaped from the commitment of the Juvenile Court.
- B. It is a matter of immediate and urgent necessity for the protection of the youth or reasonable necessity for the protection of the person or property of another.
- C. The youth is likely to flee the jurisdiction of the Juvenile Court.

V. Detention Report

Whenever it appears that the youth has met the conditions for remaining detained, the DPO will prepare and submit a written report for the Juvenile Court's consideration at the Detention Hearing. The report – detention memorandum - is to accurately and concisely provide the following information, at a minimum:

- A. The reasons why the youth was taken into custody and removed from the parent's custody.
- B. Any prior referrals for abuse or neglect of the youth or any prior filings regarding the youth pursuant to §300 WIC.
- C. Any prior referrals or filings for delinquency matters pursuant to Section §602 WIC.
- D. The need, if any, for continued detention. If the DPO believes that continued detention is warranted, the report should indicate which considerations described in §635 WIC apply and insure that the report supports their applicability.

Chapter No. 2704	Page 4
Issue Date:	03/01/83
Revised:	12/10/19

Detention Options (continued)

**Notes and
References**

- E. The available services that could facilitate the return of the youth to the custody of the youth’s parents or guardians.
- F. Whether there are any relatives who are able and willing to provide effective care and control over the youth.

VI. Home Supervision

- A. §628 WIC provides that a youth who meets one or more criteria for detention under §628 WIC but who, in the opinion of the Probation Officer, does not require twenty-four (24) hour secure detention, shall be released on Home Supervision (HS), which can include Electronic Monitoring (EM).
- B. There are three levels of Home Supervision:
 - 1. Home Detention: youth to remain in residence from 1900 to 0600 hours
 - 2. House Arrest (HA): youth to remain in residence at all times excluding approved time away from home for school, counseling, work, etc.
 - 3. Electronic Monitoring (EM): youth to remain in residence at all times unless otherwise noted or ordered.
- C. A youth who is a ward pursuant to §602 WIC and being supervised on probation can also be placed on Home Supervision by the Probation Officer upon approval of the Supervising Probation Officer (SPO). All paperwork must be completed in its entirety and forwarded to the DPO(s) assigned the responsibility of supervising and monitoring the activities of youth on Home Supervision immediately.
- D. Youth on Home Supervision are entitled to the same legal protections as a youth in secure detention, including the need for a detention hearing within specified timelines, unless the period of supervision is ordered as a post-disposition sanction.

§636 WIC

§628 WIC
§631 WIC

See Manual
Section 2513,
Electronic
Monitoring

Chapter No. 2704	Page 5
Issue Date:	03/01/83
Revised:	12/10/19

Detention Options (continued)

**Notes and
References**

E. Violations

1. The facts and circumstances of an alleged violation need to be investigated fully in order to determine if the youth can be left in the community or should be returned to custody. Violations of the Home supervision agreement, tampering with EM equipment, or leaving designated areas can result in a youth being re-detained in the Juvenile Hall.
2. When the DPO has gathered all the information pertaining to the violation, he or she will then discuss the matter with the SPO or Senior Deputy Probation Officer (Sr. DPO) in the SPO's absence.
 - a. The SPO or Sr. DPO will make a decision to either continue the youth on Home Supervision or have the youth detained and placed in Juvenile Hall pending a Detention Hearing.
 - b. If a youth on Home Supervision violates a provision of his/her agreement and the violation does not rise to the level requiring detention, the DPO may elect to refer the youth to an alternative community based sanction after consulting with the SPO.
3. Absent exigent circumstances, any decision to return a youth on home supervision to detention requires approval from a Manager.

F. Home Supervision Absence Exceptions

1. There are standard conditions which the youth agrees to conform to while on Home Supervision or risk being returned to secured detention or returned to Court.
2. There may be instances where a person placed on a home supervision program would be allowed to have an exception to his/her program due to unforeseen circumstances. DPOs will have the authority to approve any exceptions.
3. If the exception involves the person leaving Santa Barbara County, the DPO will be responsible for completing an informational report

Chapter No. 2704	Page 6
Issue Date:	03/01/83
Revised:	12/10/19

Detention Options (continued)

**Notes and
References**

or stipulation and order to be filed with the Court the next business day. The DPO is responsible for issuing a travel permit.

4. Any exception that will be longer than 48 hours must be returned to Court by the assigned DPO for the Court’s approval.

VII. Time Limits in Custody

A. Filing Deadlines for Violent Misdemeanors, Felonies and Wards

§631(a) WIC
§631.1 WIC

Except as provided below, whenever a youth is taken into custody by a peace officer or probation officer, except when the youth willfully misrepresents himself or herself as 18 or more years of age, the youth shall be released within 48 hours after having been taken into custody, excluding non-judicial days, unless within that period a petition to declare the youth a ward of the court has been filed.

B. Filing Deadlines for Non-Violent Misdemeanors (Non-Wards)

§631(b) WIC

Except when the youth represents himself or herself as 18 or more years of age, whenever a youth is taken into custody by a peace officer or probation officer without a warrant on the belief that the youth has committed a misdemeanor that does not involve violence, the threat of violence, or possession or use of a weapon, and if the youth is not currently on probation or parole, the youth shall be released within 48 hours after having been taken into custody, excluding non-judicial days, unless a petition has been filed to declare the youth to be a ward of the court and the youth has been ordered detained by the Court. In all detention cases, pursuant to this section, the decision to detain must be made by a Supervising Probation Officer (SPO) or reviewed and approved in writing by a SPO or designee.

C. 24-Hour Notice

1. Whenever a youth has been held in custody for more than 24 hours and is subsequently released without a petition being filed, the DPO shall prepare a written explanation of why the youth was held in custody for more than 24 hours.

§631(c) WIC

Pro-69

Chapter No. 2704	Page 7
Issue Date: 03/01/83	
Revised: 12/10/19	

Detention Options (continued)

**Notes and
References**

2. The written explanation shall be prepared within 72 hours after the youth is released from custody and filed in the probation IMPACT file. A copy of the report shall be sent to the parents, guardians, or other persons having care or custody of the youth.

D. Judicial Days

1. A judicial day is computed from 12 midnight to 12 midnight if Court is in session during any portion of that 24-hour period.
2. Time in detention begins at the time of arrest by law enforcement, and excludes non-judicial days (Saturdays, Sundays, and Court holidays). Time of arrest is NOT synonymous with time of admission into the SMJH.

VIII. False Statement of Age

- A. When a youth under 18 years of age willfully misrepresents him or herself to be 18 or more when taken into custody, and the misrepresentation causes a delay in investigating and filing a petition, the petition shall be filed within 48 hours from the time his/her true age is discovered, excluding non-judicial days.
- B. If it is learned, prior to the filing of a petition, that a person placed in detention is actually over the age of 18 years, the arresting agency is to be notified to immediately remove the person from the SMJH. If the arresting agency does not respond the same day the request is made, the person must be released from custody by the detention release officer/probation officer. Prior to releasing the detainee, the matter will be staffed with an SPO or Sr. DPO.
- C. In the event that a petition has already been filed on the alleged offense for which the person was referred, the person is to be brought before the Juvenile Court at the earliest possible time to dismiss the juvenile petition. The arresting agency, the defense attorney, the District Attorney and the Juvenile Hall must all be notified of the change in the situation, and the course of action being taken by the probation officer.

§631.1 WIC

Chapter No. 2704	Page 8
Issue Date:	03/01/83
Revised:	12/10/19

Detention Options (continued)

**Notes and
References**

IX. Place of Detention

A. Once the determination is made to temporarily hold a youth in custody pursuant to §628 WIC, there are four possible placements available

1. Juvenile Hall
2. Non-Secure Detention facility (for non-wards)
3. Home on conditional release (Home Supervision)
4. Court placements

§626(b) WIC

XI. Detention of Subjects 18 and over

A. Persons 18 year of age and older who are arrested solely on a juvenile probation violation or on a new offense that occurred prior to their 18th birthday, are to be detained in the SMJH.

B. Subjects who are 19 years of age and over cannot be housed in the SMJH or housed with other youth. All wards 19 years old and older must be booked into the County Jail. (If the subject is in juvenile hall at the time he/she turns 19, the subject has the ability to petition the court and request to remain detained in juvenile hall. In these circumstances, the subject would be required to be housed sight and sound separate from all other detainees.)

§208.5 WIC

C. Only under limited circumstances may a youth be detained in the County Jail. Should a youth be charged under §707(b), §707(d)(2) or §707(e) WIC and have his/her case transferred to criminal courts pursuant to §707.1 WIC, or a youth who has been transferred to adult court pursuant to §707.01 WIC, may be detained in a jail if all of the following conditions are met:

§207.1 WIC

1. The Juvenile Court or the Adult Court makes a finding that the youth's further detention in the juvenile hall would endanger the safety of the public or would be detrimental to the other youth in the juvenile hall.

