

West's Annotated California Codes
Welfare and Institutions Code (Refs & Annos)
Division 2. Children
Part 1. Delinquents and Wards of the Juvenile Court
Chapter 2. Juvenile Court Law (Refs & Annos)
Article 17. Wards--Hearings (Refs & Annos)

West's Ann.Cal.Welf. & Inst.Code § 709

§ 709. Incompetency; suspension of proceedings; hearing; application; expert opinion
that minor is developmentally disabled; determination of eligibility for services

Effective: January 1, 2012

Currentness

(a) During the pendency of any juvenile proceeding, the minor's counsel or the court may express a doubt as to the minor's competency. A minor is incompetent to proceed if he or she lacks sufficient present ability to consult with counsel and assist in preparing his or her defense with a reasonable degree of rational understanding, or lacks a rational as well as factual understanding, of the nature of the charges or proceedings against him or her. If the court finds substantial evidence raises a doubt as to the minor's competency, the proceedings shall be suspended.

(b) Upon suspension of proceedings, the court shall order that the question of the minor's competence be determined at a hearing. The court shall appoint an expert to evaluate whether the minor suffers from a mental disorder, developmental disability, developmental immaturity, or other condition and, if so, whether the condition or conditions impair the minor's competency. The expert shall have expertise in child and adolescent development, and training in the forensic evaluation of juveniles, and shall be familiar with competency standards and accepted criteria used in evaluating competence. The Judicial Council shall develop and adopt rules for the implementation of these requirements.

(c) If the minor is found to be incompetent by a preponderance of the evidence, all proceedings shall remain suspended for a period of time that is no longer than reasonably necessary to determine whether there is a substantial probability that the minor will attain competency in the foreseeable future, or the court no longer retains jurisdiction. During this time, the court may make orders that it deems appropriate for services, subject to subdivision (h), that may assist the minor in attaining competency. Further, the court may rule on motions that do not require the participation of the minor in the preparation of the motions. These motions include, but are not limited to, the following:

- (1) Motions to dismiss.
- (2) Motions by the defense regarding a change in the placement of the minor.
- (3) Detention hearings.
- (4) Demurrers.

(d) If the minor is found to be competent, the court may proceed commensurate with the court's jurisdiction.

(e) This section applies to a minor who is alleged to come within the jurisdiction of the court pursuant to [Section 601](#) or [602](#).

(f) If the expert believes the minor is developmentally disabled, the court shall appoint the director of a regional center for developmentally disabled individuals described in Article 1 (commencing with [Section 4620](#)) of Chapter 5 of Division 4.5, or his or her designee, to evaluate the minor. The director of the regional center, or his or her designee, shall determine whether the minor is eligible for services under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with [Section 4500](#))), and shall provide the court with a written report informing the court of his or her determination. The court's appointment of the director of the regional center for determination of eligibility for services shall not delay the court's proceedings for determination of competency.

(g) An expert's opinion that a minor is developmentally disabled does not supersede an independent determination by the regional center whether the minor is eligible for services under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with [Section 4500](#))).

(h) Nothing in this section shall be interpreted to authorize or require the following:

(1) The court to place a minor who is incompetent in a developmental center or community facility operated by the State Department of Developmental Services without a determination by a regional center director, or his or her designee, that the minor has a developmental disability and is eligible for services under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with [Section 4500](#))).

(2) The director of the regional center, or his or her designee, to make determinations regarding the competency of a minor.

Credits

(Added by [Stats.2010, c. 671 \(A.B.2212\)](#), § 1. Amended by [Stats.2011, c. 37 \(A.B.104\)](#), § 3, eff. June 30, 2011; [Stats.2011, c. 471 \(S.B.368\)](#), § 4.)

Editors' Notes

Relevant Additional Resources

Additional Resources listed below contain your search terms.

HISTORICAL AND STATUTORY NOTES

“Dear Mr. Wilson: The purpose of this letter is to clarify the intent of specific provisions of Assembly Bill 2212, which adds Section [709](#) to the Welfare and Institutions Code.

Notes of Decisions containing your search terms (0)

[View all 51](#)

West's Ann. Cal. Welf. & Inst. Code § 709, CA WEL & INST § 709

Current with urgency legislation through Ch. 859 of 2017 Reg.Sess

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