

THE JUVENILE COURT OF THE COUNTY OF GLENN
STATE OF CALIFORNIA
PROTOCOL PURSUANT TO
WELFARE AND INSTITUTIONS CODE SECTION 241.1

I. Basic Guidelines

- A. A minor may be declared to be a Ward of the Juvenile Court on any of the following grounds:
- The child is habitually disobedient and uncontrollable
 - The child violates a curfew ordinance
 - The child is habitually truant
 - The child violates any criminal law or ordinance
 - The child commits a traffic violation or other violations that may be heard by a juvenile hearing officer under Welfare and Institutions Code Section 256 (Welfare and Institutions Code Sections 258, 601, 602, 603.5).
- B. A child may be declared to be a Dependent Child of the Juvenile Court on various grounds of neglect or abuse, including, but not limited to:
- The child is currently being physically abused
 - The child is currently being sexually abused
 - The child is currently being emotionally abused
 - The child is currently being neglected
 - The child is currently being exploited
 - When necessary to protect children who are at risk of these harms. (Welfare and Institutions Code Sections 300, 300.2)

II. Dual Jurisdiction

- A. Dual jurisdiction is prohibited. A child cannot simultaneously be both a dependent and a ward of

the juvenile court. (*In re Marcus G.* (1999) 73 Cal. App. 4th 1008, 1012)

B. A potential dual jurisdiction case may come before the court in any of the following ways:

- At the time a child is detained by law enforcement
- A child who is a dependent child has committed an act that could bring the child into the delinquency system.
- A delinquent child being considered for termination of wardship has an abusive or neglectful home situation might justify dependency proceedings.
- Both departments file petitions
- A child adjudicated a dependent or a delinquent in Glenn County is alleged to come under the dependency law or the delinquency law in another county.

C. Welfare and Institutions Code Section 241.1 requires each County to develop a Protocol between the Probation Department and Child Welfare Services Department to be used in resolving disagreements between the departments.

- If the proceedings are brought in Glenn County and the child is either a ward or dependent of Glenn County, the Glenn County Probation Department and Glenn County Child Welfare Services Department shall assess the child under a jointly developed written protocol and prepare a joint assessment report to be filed in Glenn County.

III. Factors to Consider

A. The Probation Department and Child Welfare Services Department are required to determine which status will serve the best interest of the child and the protection of society.

- The assessment must be completed as soon as possible after the child comes to the attention of either department.
- Whenever possible, the determination of status must be made before any petition concerning the child is filed.

- The assessment report need not be prepared before the petition is filed but must be provided to the court for the hearing as set forth below.
- If a petition has been filed, on the request of the child, parent, guardian, or counsel, or on the court's own motion, the court may set a hearing for a determination under section 241.1 and order that the joint assessment report be made available as required by Rule 1403.5.

In order to determine their recommendation, the Departments must consider, but are not limited to, the following factors:

- A description of the nature of the referral
- The age of the child
- The history of any physical, sexual, or emotional abuse of the child
- The prior record of the child's parents for abuse of this or any other child
- The prior record of the child for out-of-control or delinquent behavior.
- The parents' cooperation with the child's school
- The child's functioning at school
- The nature of the child's home environment
- The history of involvement of any agencies or professionals with the child and his or her family.
- Any services or community agencies available to assist the child and his or her family
- A statement by any counsel currently representing the child; and
- A statement by any Court Appointed Special Advocate Currently appointed for the child.

B. Child Welfare Services may provide informal services to a delinquent child and his or her family without a declaration of dependency. (Welfare and Institutions Code Section 301) Likewise, the Probation Department may provide informal supervision of a dependent child without a declaration of wardship. (Welfare and Institutions Code Section 654)

C. The length of available confinement time under the child's delinquency status is not a

determinative factor in deciding whether the child should be treated as a dependent child or a delinquent minor. The fact that a child's confinement time has run out cannot be the sole basis for terminating wardship and initiating dependency proceedings. The departments must focus on the child rather than shift the focus to the child's confinement time.

IV. Pre-Petition Investigations

A. When a child is taken into custody by a peace officer and turned over to either Child Welfare Services or the Probation Department, the Department receiving the child shall determine the following:

- Is the child a dependent or delinquent of the Glenn County Juvenile Court?
- Is the child a dependent or delinquent of any other county's Juvenile Court?
- If the child is initially placed in the custody of the Probation Department, the probation officer assigned to the case shall determine if signs of abuse or neglect are present and, if so, cross-report them to Child Welfare Services and/or the appropriate law enforcement agency for a concurrent investigation. The Probation Officer shall follow-up with a Suspected Child Abuse Report form (SS 8572) within 36 hours.
- If the child is initially placed in the custody of Child Protective Services, the Social Worker assigned to the case will immediately begin an investigation to determine if the child comes within any of the provisions of Welfare and Institutions Code Section 300. If, in the opinion of Child Protective Services, the facts do not support a finding under any of the subsections to Section 300, and out-of-control behavior is alleged by the parents, the Social Worker shall immediately call the Probation Department or on-call Probation Officer to determine the appropriate status of the child.
- The Department in whose custody a child is initially placed shall be responsible for the care and custody of the child until the child's status is determined by agreement of the Departments or Court order.

- If the Departments cannot reach agreement concerning the child's status, each Department will write a recommendation which considers all of the factors set forth in Article III of this Protocol and submit it to the Juvenile Court. The Department in whose custody the child is initially placed shall file a Petition and submit their recommendation at the first Detention Hearing. Copies of the recommendation shall be served on all counsel. Counsel for each Department shall be given notice of the hearing and shall appear. The Court shall determine which status is appropriate for the child.
- Within five (5) calendar days after the recommendations are made to the Glenn County Juvenile Court, the Clerk of the Court shall provide notice to any other Juvenile Court having jurisdiction over the child that the recommendations have been made to the Glenn County Juvenile Court. This notice shall include the name of the Judge to whom the recommendations were made.

V. Post-Petition Investigations

A. Once a Petition has been filed and new information comes to light which may have a bearing on the status of the child, the Department who has custody of the child will immediately inform the other Department of the new circumstances.

A staffing/meeting shall be scheduled as soon as possible, but no more than 10 days after notification to the other Department. Only representatives of each Department, Deputy County Counsel, and the District Attorney's Office shall be present at the staffing. This group will determine whether or not a new petition should be filed to change the child's status.

B. If the group **cannot** reach agreement concerning the child's status and whether to file a new petition, each Department will write a recommendation which considers all of the factors set forth in Article III of this Protocol and submit it to the Judge of the division of the Juvenile Court which already has jurisdiction of the child.

- C. If a child is already a dependent of the Court and a petition to declare the child a delinquent has been filed, the assessment and recommendation under 241.1 must be made to the Juvenile Court Judge hearing the delinquency petition.
- D. If a child is already a ward of the Court and a petition to declare the child a dependent has been filed, the assessment and recommendation under 241.1 must be made to the Juvenile Court Judge hearing the dependency petition. (*In re Marcus G.* (1999) 73 Cal. App. 4th 1008, 1013)
- E. Either the Judge of the Delinquency Court or the Judge of the Dependency Court may request a 241.1 staffing and/or recommendations from the Departments at any stage of the proceedings.
- F. In all cases where a recommendation is made by both Departments to the Court, copies of the recommendation shall be served on all counsel prior to the hearing. The Clerk of the Court shall set a hearing within 7 days and notice Departments and all counsel, the child, foster parents or placement and the child's parents of the date and time of the hearing. At the hearing, the Court shall determine which status is appropriate for the child.

VI. Hearing on Joint Assessment

- A. If the child is detained, the hearing on the joint assessment report must occur as soon as possible after or concurrent with the detention hearing, but no later than 15 court days after the order of detention and prior to the jurisdictional hearing.
- B. If the child is not detained, the hearing on the joint assessment must occur prior to the jurisdictional hearing and within 30 days of the date of the petition. The juvenile court must conduct the hearing and determine which type of jurisdiction over the child best meets the child's unique circumstances.

- C. At least five (5) calendar days before the hearing, notice of the hearing and copies of the joint assessment report must be provided to the child, the child's parent or guardian, all attorneys of record, any Court Appointed Special Advocate, and any other juvenile court having jurisdiction over the child. The notice must be directed to the judicial officer who will conduct the hearing.
- D. All parties and their attorneys must have an opportunity to be heard at the hearing. The court must make a determination regarding the appropriate status of the child and state its reasons on the record or in a written order.
- E. Within five (5) calendar days after the hearing, the clerk of the juvenile court must transmit the court's findings and orders to any other juvenile court with current jurisdiction over the child.

VII. Procedure When Two Counties Involved

- A. If a minor child of this County who has been adjudicated a ward or a dependent under Sections 300, 601, or 602 of the Welfare and Institutions Code is alleged in another county to be a minor who comes within Sections 300, 601, or 602 of the Welfare and Institutions Code, the assessment process must be consistent with the requirements of Welfare and Institutions Code Section 241.1.
- B. If the child has been adjudicated award in Glenn County Juvenile Court and another County alleges that the minor comes within Section 300 of the Welfare and Institutions Code, the Glenn County Probation Department and the Child Welfare Services of the other county shall conduct a joint assessment. A joint assessment report must contain the recommendations and reasoning of both the child welfare and the probation departments. The report must be filed at least five (5) calendar days before the hearing on the joint assessment in the county where the second

(dependency) petition has been filed.

If the departments cannot agree on which will prepare the joint assessment report, then the department in the county where the dependency petition is to be filed must prepare the joint assessment report.

The dependency Court Judge in the other County will determine whether the child should be treated as a dependent or a delinquent child. The Judge of the Glenn County Juvenile Court may contact the Judge of the other juvenile court to confer on the matter.

- C. If the child has been adjudicated a dependent child of the Glenn County Juvenile Court and another County alleges that the child comes within Sections 601 or 602 of the Welfare and Institutions Code, Glenn County Child Welfare Services and the Probation Department of the other county shall conduct a joint assessment.

A joint assessment report must contain the recommendations and reasoning of both the child welfare and the probation departments. The report must be filed at least five (5) calendar days before the hearing on the joint assessment in the county where the second (delinquency) petition has been filed.

If the departments cannot agree on which will prepare the joint assessment report, then the department in the county where the delinquency petition is to be filed must prepare the joint assessment report.

The delinquency Court Judge in the other County will determine whether the child should be treated as a dependent or a delinquent child.

The Judge of the Glenn County Juvenile Court may contact the Judge of the other juvenile court

to confer on the matter.

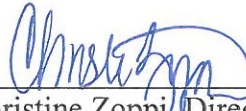
APPROVED BY:

Dated: 6/30/16



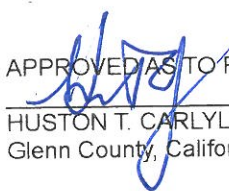
Brandon Thompson, Chief Probation
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Dated: 7/1/16



Christine Zoppi, Director
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APPROVED AS TO FORM



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