


<p>California Department of Justice DIVISION OF LAW ENFORCEMENT Stephen Woolery, Chief</p> 	<h1>INFORMATION BULLETIN</h1>	
<p><i>Subject:</i></p> <p>New Law Clarifying Juvenile Court Jurisdiction Regarding Youth Under the Age of 12</p> <p>(Supersedes 2019-DLE-04)</p>	<p><i>No.</i></p> <p>2024-DLE-20</p>	<p><i>Contact for information:</i></p> <p>Stephen Woolery, Chief Division of Law Enforcement (916) 210-6300</p>
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TO: ALL CALIFORNIA LAW ENFORCEMENT AGENCIES

This bulletin provides a summary of Senate Bill 1484 (2024), which amended Welfare and Institutions Code sections 256, 257, and 660.5, in accordance with Senate Bill 439 (2018) and takes effect January 1, 2025. Together, SB 1484 and SB 439 protect youth under the age of 12 from involvement with the juvenile justice system, including informal or expedited juvenile court proceedings, with limited exceptions, and require counties to develop alternative services for youth under the age of 12.

This bulletin provides a summary of the law and suggested protocols that law enforcement officers should follow when they come into contact with youth under the age of 12 whose conduct, if committed by a youth 12 through 17 years old, inclusive, could otherwise subject them to the jurisdiction of the juvenile court. This bulletin does not create or confer any rights for or on any person or entity, nor does it impose any requirements beyond those required under applicable law and regulations.

Please direct your questions regarding this bulletin to Division of Law Enforcement Chief Stephen Woolery at (916) 210-6300.

SENATE BILL 439 (2018) ESTABLISHED 12 AS THE MINIMUM AGE FOR JUVENILE COURT JURISDICTION

In September 2018, California enacted SB 439, amending Welfare and Institutions Code sections 601 and 602, and adding section 602.1. The purpose of SB 439 was to protect youth¹ under the age of 12 from the negative impacts of formal involvement with the justice system through alternative youth-oriented services. (Assem. Com. on Public Safety, 3rd reading analysis of Sen. Bill No. 439 (2017-2018 Reg. Sess.) as amended Aug. 20, 2018, p. 2.) A summary of the changes to the law impacted by SB 439 are discussed below:

1. Established Age 12 as the Floor for Juvenile Court Jurisdiction Over a Youth, Except as Provided

SB 439 amended Welfare and Institutions Code sections 601 and 602 to establish that only a youth between the ages of 12 and 17, inclusive, may fall within juvenile court jurisdiction or be adjudged a ward of the court under any violation of the law. Youth under the age of 12 are subject to juvenile court jurisdiction only if they have allegedly committed one of the following enumerated offenses under Welfare and Institutions Code section 602, subdivision (b):

¹ For the purposes of this bulletin, “youth” refers to individuals under the age of 18.

- (1) Murder.
- (2) Rape by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.
- (3) Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.
- (4) Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.
- (5) Sexual penetration by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.

2. Directed Counties to Establish Alternative Programs for Youth Under Age 12

Since January 1, 2020, if the juvenile offense does not fall under the section 602, subdivision (b), exceptions, the added Welfare and Institutions Code section 602.1, subdivision (a), has directed counties to use existing funding for behavioral health, mental health, or other available existing funding sources to provide the least restrictive alternative school-based, health-based, and community-based programming for youth under the age of 12 who have engaged in behavior as described in Welfare and Institutions Code sections 601 and 602, subdivision (a), and would otherwise be subject to juvenile court jurisdiction.

3. Directed Law Enforcement to Release Youth Under Age 12

Since January 1, 2020, the added Welfare and Institutions Code section 602.1, subdivision (b), has directed counties to release youth under the age of 12, whose behavior brings them to the attention of law enforcement, to the youth's parent, guardian, caregiver, or other designated county program.

SENATE BILL 1484 (2024) CLARIFIES THE SCOPE OF SB 439 FOR INFORMAL OR EXPEDITED PROCEDURES

In August 2024, California enacted SB 1484, amending Welfare and Institutions Code sections 256, 257, and 660.5. The purpose of SB 1484 is to clarify the scope of SB 439 and ensure that young children are protected from the negative impacts of formal justice system involvement and to promote their rights, health, and well-being through alternative child-serving systems. (SB 1484, § 1.) In passing SB 1484, the Legislature reaffirmed its support "for utilizing research- and evidence-based, trauma-informed, community-based programs that include alternatives to arrest, incarceration, and formal involvement with the juvenile justice system, and which aim to deflect or divert youth from justice system engagement at the earliest possible point." (SB 1484, § 1, subd. (g).)

1. Affirms Age 12 as the Floor for Informal or Expedited Procedures for Adjudicating Youth

SB 1484's amendments to sections 256, 257, and 660.5 clarify that SB 439's limitations regarding youth under the age of 12 apply to informal or expedited procedures for adjudicating youth for nonviolent crimes. Specifically, SB 1484 amends sections 256 and 257 to establish that only youth between the ages of 12 and 17 may be required to appear before, or be subject to the jurisdiction of, the Informal Juvenile and Traffic Court. (SB 1484, §§ 2-3.) Similarly, SB 1484 amends section 660.5 to establish that only youth between the ages of 12 and 17 may be required to appear before, or be subject to the jurisdiction of, the juvenile court as part of a county Expedited Youth Accountability Program. (SB 1484, § 4.)

OTHER EXISTING LAW

Several existing laws currently govern juvenile court jurisdiction, and the arrest and detention of youth.

1. Penal Code Section 26

Under Penal Code section 26, youth under 14 years of age are presumed to lack criminal capacity. Police officers are to administer a *Gladys R.* questionnaire to all youth under age 14 that they apprehend to assess whether each child has the capacity to understand the wrongfulness of the alleged crime. (See *In re Gladys R.* (1970) 1 Cal.3d 855.)

SB 1484 and SB 439 did not amend section 26, but by excluding youth under age 12 from juvenile court jurisdiction, capacity under section 26 would only be implicated for (1) youth between the ages of 12 and 14 and (2) youth under the age of 12 who are alleged to have committed any of the crimes enumerated in Welfare and Institutions Code section 602, subdivision (b).

2. Welfare and Institutions Code Section 709

Youth under the age of 18 are presumed competent to stand trial. (See *In re R.V.* (2015) 61 Cal.4th 68, 70 [“the most straightforward reading of [Wel. & Inst. Code § 709] text is that the provision contains an implied presumption of competency”].)

SB 1484 and SB 439 did not amend section 709, but by excluding youth under age 12 from juvenile court jurisdiction, competency under section 709 would only be implicated for youth age 12 and older, instead of all youth under the age of 18.

3. Welfare and Institutions Code Section 707

As a general matter, adult criminal court has no original jurisdiction over a case involving an individual under the age of 18, because transfer of a youth to adult criminal court may only occur after the approval of a judge in juvenile court.² Welfare and Institutions Code section 707 provides for two circumstances when the case of a youth under the age of 18 may be transferred to adult criminal court.

A district attorney or other prosecuting officer may make a motion to transfer a youth from juvenile court to adult criminal court: (1) when a youth is alleged to have committed a felony when they were 16 years of age or older; or (2) when a youth is alleged to have committed a serious offense specified under section 707, subdivision (b), when they were 14 or 15 years of age, but were not apprehended prior to the end of juvenile court jurisdiction. Following a motion to transfer, the juvenile court shall order the probation officer to submit a report on the youth, and the court will subsequently hold a fitness hearing to consider the factors enumerated in section 707, subdivision (a)(3).

Thus, under section 707, a youth under the age of 14 may not be transferred to adult criminal court, even if

² Adult criminal court does have original jurisdiction over a youth if the youth has been previously tried in adult criminal court. (Welf. & Inst. Code, § 707.01, subd. (a)(3).)

the youth has committed one of the offenses enumerated under section 602, subdivision (b). SB 1484 and SB 439 did not amend section 707.

4. Arrests and Reporting Requirements

Penal Code sections 13010, 13010.5, and 13020 require law enforcement agencies to report arrests to the California Department of Justice, as prescribed by the 2014 Criminal Statistics Reporting Requirements.³ SB 1484 and SB 439 did not affect existing juvenile arrest reporting requirements.

5. Welfare and Institutions Code Sections 300, 305, and 340

Welfare and Institutions Code section 300 defines youth who may be adjudged a dependent of the juvenile court under certain circumstances that place the youth in danger or at risk of harm if left in the custody of their parent or guardian. Section 340 provides for circumstances under which the juvenile court may file for protective custody of a youth who comes within section 300. Section 305 provides for circumstances under which an officer may refer a youth to temporary custody, including when a youth is a person who comes within section 300.

SB 1484 and SB 439 did not amend sections 300, 305, or 340. Youth under the age of 18 may be adjudged a dependent of the juvenile court and/or placed in temporary or protective custody when deemed necessary by an officer or juvenile court, respectively.⁴

SUGGESTED PROTOCOL TO COMPLY WITH SB 439 and SB 1484

In light of SB 439, and as clarified by SB 1484, below are suggested law enforcement protocols for engaging with youth under the age of 12 who could otherwise be subject to juvenile court jurisdiction pursuant to Welfare and Institutions Code sections 601, 602, subdivision (a), 256, 257, and 660.5, and have not allegedly committed one of the enumerated crimes under Welfare and Institutions Code section 602, subdivision (b). Law enforcement officers should consider the below suggestions in conjunction with any existing county protocol, including consultation with the District Attorney.

1. An officer may release, or counsel and release, the youth.
2. An officer may attempt to contact the youth's parent, guardian, or caregiver for the purposes of releasing the youth to an adult.
3. An officer may direct the youth to the child welfare department or other county program or agency that engages with youth under 12.
4. An officer may issue the youth a citation or referral to the probation department. However, the probation department is limited in the subsequent action that it may take:

³ Criminal Statistics Reporting Requirements (April 2014) California Department of Justice, pp. 2, 6, <https://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/rptreq.pdf> (as of Oct. 30, 2024).

⁴ For additional information regarding the implementation of SB 1484 and SB 439 in the dependency context, refer to California Department of Social Services' Permanency Policy Bureau, at (916) 657-1858.

- a. A probation department may not recommend that the youth be detained pursuant to Welfare and Institutions Code section 636, subdivision (c).
 - b. A probation department need not commence an investigation pursuant to Welfare and Institutions Code section 652.
5. An officer may take the child or youth into temporary custody if they have reasonable cause to believe that the child or youth would be adjudged a dependent child of the court pursuant to Welfare and Institutions Code section 300 and the child or youth:
 - a. Has an immediate need for medical care;
 - b. Is in immediate danger of physical or sexual abuse; or
 - c. The child's environment poses an immediate threat to the child's health and safety. (Welf. & Inst. Code, § 305, subd. (a).)
6. An officer may not book into custody or detain the youth in a juvenile detention center on suspicion of a crime, and should attempt to release the youth to a parent, guardian, or caregiver, unless the officer has determined the youth has committed an offense under Welfare and Institutions Code section 602, subdivision (b). To make this determination, the officer should have reasonable cause for believing the youth is a person subject to juvenile court jurisdiction as defined in Welfare and Institutions Code sections 601 or 602. (Welf. & Inst. Code, § 625, subd. (a).)
7. An officer may not issue a citation directing the youth to appear before an informal or expedited juvenile court proceeding, including the Informal Juvenile and Traffic Court or Expedited Youth Accountability Program.
8. A law enforcement agency should adhere to county-established processes for youth, such as locating existing county programs, agencies, shelters, or other resources that address or engage with youth under the age of 12, including research- and evidence-based, trauma-informed, and community-based programs, and identify county-established processes for youth under the age of 12 whose behavior would otherwise subject them to juvenile court jurisdiction pursuant to Welfare and Institutions Code sections 601, 602, subdivision (a), 256, 257, or 660.5.