

## Understanding the Juvenile Delinquency System





## WHO SHOULD READ THIS?

The Juvenile Delinquency System is a complicated web of people, agencies, and laws. This pamphlet was written especially for young people in the system, to help them better understand what is going on. It is important to understand what is happening at every step and what everything means so that you can make good choices and take some control over the process. The more you know, the more power you have to reach an outcome you will be satisfied with.

This booklet was intended only to provide basic information about the way the juvenile delinquency system works. If you have more questions along the way, or need legal advice, you should contact your defense attorney.

## THE PLAYERS

The following describes the different people who play a significant role in the juvenile delinquency system and briefly explains what they do.

**Juvenile/Minor/Ward:** Someone under 18 years of age. In court, the judge and lawyers often refer to you as the juvenile/minor/ward instead of actually saying your name.

**Defense Attorney:** A defense attorney is the person who is supposed to help you with your case. The defense attorney can help you decide whether or not to admit to the petition (charge). If your case goes to an adjudication (trial), your attorney will put on the evidence and defend you. An “attorney” and a “lawyer” are two names for the exact same person. There are other names that you may hear your defense attorney being called, such as “Public Defender” or “Panel Attorney.” Whatever the name, they play the same role. Everything you tell your defense attorney is confidential (secret). Remember, you are the client and the defense attorney works for you. Make sure you know your defense attorney’s name and how to get in touch with him or her.

**Probation Officer:** A probation officer may be assigned to you by the court. The probation officer is supposed to check up on you after disposition (sentencing) and make sure you are following the rules that the judge has placed on you. Probation officers make reports to the court about your behavior and your progress with your court-ordered program or placement. Probation officers can also help you connect with services that you need, like counseling, drug treatment, or getting extra help in school.

**Judge:** The judge is the boss or top person in the courtroom. He/she is like a referee in a game. His/her job is to 1) make sure your rights are protected, 2) make sure the defense attorney and prosecutor follow the law, and 3) if you decide to go to adjudication (trial), the judge will decide if the petition filed against you is true or not true based on the evidence presented. Sometimes a Judge is called a “Commissioner,” “Referee,” or “Bench Officer”.

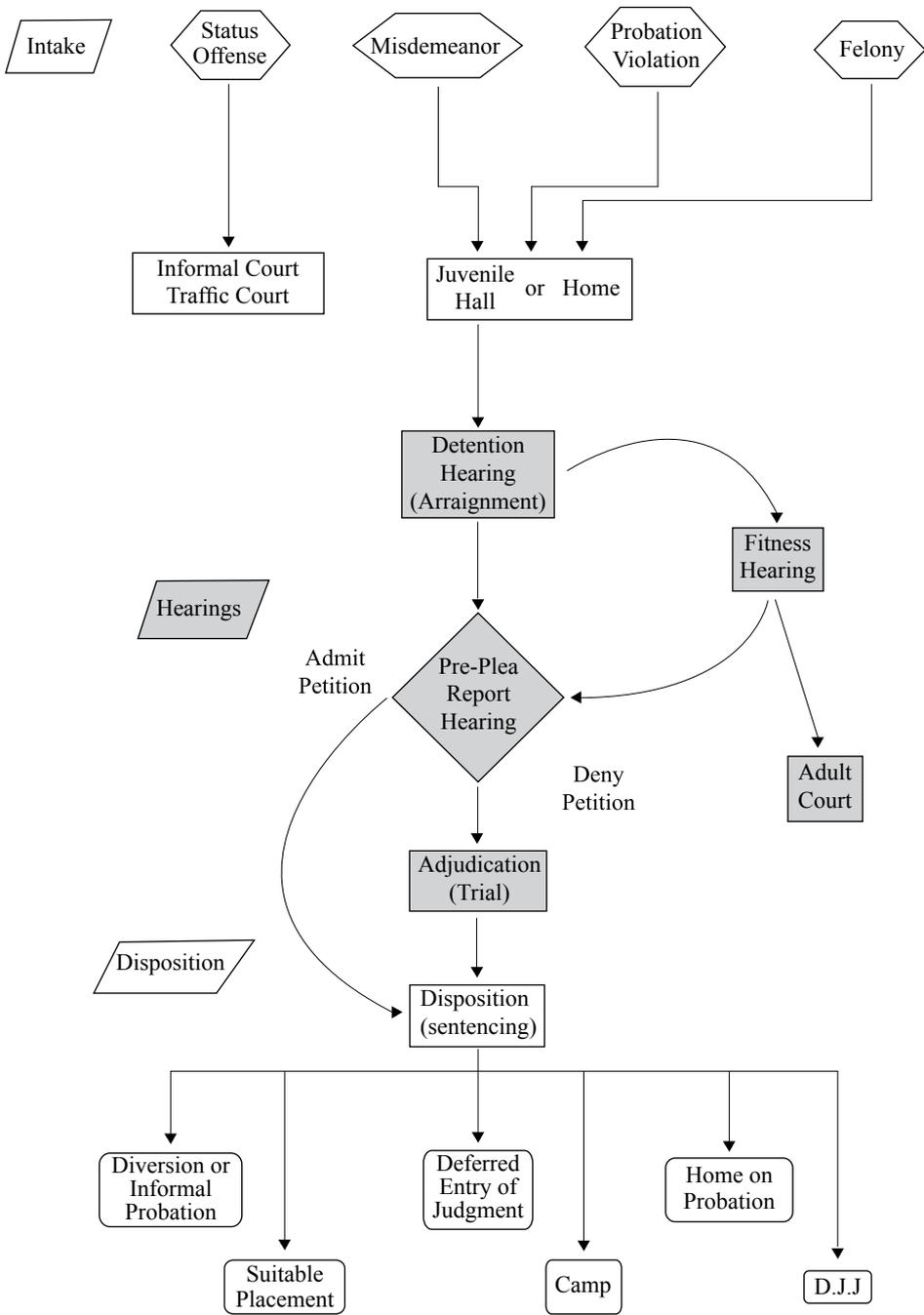
**Prosecutor/District Attorney (“D.A.”):** This is the attorney working for the county or state. The prosecutor’s office decides whether to file a juvenile delinquency petition (criminal charges), what charges to file, and, later, whether or not to dismiss charges as part of a plea bargain. In an adjudication hearing (trial), the prosecutor’s job is to present evidence to the judge to prove that the petition is true (you are guilty of the crime).

## TRANSLATING TERMS

*Even though a minor is being charged with a crime, the juvenile delinquency court uses different words than the adult court. However, these, different legal terms pretty much mean the same thing. Below is a chart comparing the words used in juvenile court with terms with similar meanings in adult court.*

JUVENILE COURT	ADULT COURT
Petition	Charge (Offense)
Minor/ Juvenile/Ward	Defendant
Admit Petition	Plead guilty to charge
Deny petition	Plead <i>not</i> guilty to charge
Petition is found <i>true</i>	Found Guilty
Petition is found <i>not true</i>	Found <i>not</i> Guilty
Detention Hearing	Arrestment
Adjudication	Trial
Disposition	Sentencing
Record Sealed	Record Expunged

# Juvenile Delinquency System



# HOW THE SYSTEM WORKS

## How can I end up in juvenile court?

If you are accused of committing an offense you could end up in court in two ways.

### Status Offense—Informal Court/Traffic Court

The first way is through a “status offense.” A status offense is a crime that you could not get in trouble for if you were an adult, like truancy, curfew violation, running away from home, or similar offenses. These cases are usually heard in “informal courts” which operate the same as traffic courts (they are often in the same court as traffic cases).

There is usually no prosecutor; there will only be a judge who will decide the case. It is important to remember that you may bring an attorney in informal court, but the state is not required to appoint one.

### Misdemeanor and Felony –Delinquency Court

The second way is through a delinquency case. If you are charged with a misdemeanor or a felony, you will end up under the jurisdiction (authority) of the delinquency system and your case will be heard in a more formal delinquency court.

A police or peace officer may “arrest” you (i.e. take you into temporary custody) without a warrant when he has reasonable cause to believe that you have broken the law or violated a juvenile court order. A youth who is arrested by the police or other peace officer may be counseled and released or detained by Probation in a juvenile hall. In determining what to do, the police or peace officer must choose the least restrictive alternative, while taking into account the best interest of the youth and community.

## After I am arrested when will I get to go home?

After you are arrested, one of two things will happen: you will be either **taken to juvenile hall** and detained until the first court appearance or **booked and released** to a parent or guardian.

**IMPORTANT: There is no right to bail in juvenile court. You cannot post a bond to be released from detention.**

**If You are Released After Arrest:** You will not be required to stay in the juvenile hall, but you must return to court at the next scheduled court date.

**If You are Detained at Juvenile Hall After Arrest:** If you are charged with a felony or violent misdemeanor, a case (called a “petition”) must be filed within 48 hours from your arrest (not including weekends and holidays). If it is not filed within 48 hours, you must be released. Even if you are released, the petition may still be filed at a later date. After the petition is filed, you must be brought to court within one day of the filing. If you are not brought into court one day after the filing, then you must be released. If you are charged with a non-violent misdemeanor, then the petition must be filed AND you must be brought to court within 48 hours. However, if you are arrested on a weekend, weekend days do not count within the 48 hours, and you may not be brought to court until Wednesday.

**IMPORTANT:** If you are already on probation and are charged with a new case you still must be brought to court one day after the filing, even if probation is revoked because of the new charge.

## What is a “petition”?

When you enter the juvenile delinquency system, the District Attorney files a petition against you. A “petition” in juvenile court is the same thing as a “charge” in the adult court.

The petition can be filed under one of three sections of the California Welfare and Institutions Code (also known as “WIC”). This is the juvenile system’s way of categorizing you by the offense you are accused of. This is important because the rules and requirements may be different depending on the offense. If you are accused of committing a status offense, the prosecutor files the petition under **WIC section 601**. If you commit a misdemeanor or a felony, the prosecutor files the petition under **WIC section 602**. If you commit a probation violation, the prosecutor files under **WIC section 777**.

## Is it possible for me to get tried in an adult court?

There are two ways that your case may be tried in the adult court: 1) direct file or 2) fitness hearing. If your case begins in the juvenile court system, you may move into the adult system through a fitness hearing.

In some cases, the prosecutor may ask the court to decide whether you are “fit” to stay in the juvenile court system or if you should instead be tried as an adult. A fitness hearing is also called an “Edsel P.” hearing. The fitness hearing will be held within 15 days of the detention hearing/ arraignment. However, defense attorneys often request continuances in order to obtain information to present on behalf of their clients. As a result of these continuances, these hearings may be delayed for weeks or even months.

When deciding whether or not to send you to the adult court system a judge will consider the following: 1) the sophistication of the crime, 2) whether there is enough time to rehabilitate the minor in the juvenile delinquency system, 3) any previous delinquency record, 4) whether previous attempts at rehabilitation have been successful, and 5) the seriousness of and the circumstances around the offense. To stay in the juvenile system you must be found “fit” on all five criteria.

If the judge decides that you are fit to be tried in the juvenile system, a trial date will be set. If the judge decides that you are unfit, the case will be sent back to the District Attorney’s office, which will file a petition in adult court within 3 days.

## **What are my rights in juvenile delinquency court?**

In delinquency court you will have many, but not all, of the same rights as adults in criminal courts. You have the following rights:

- 1) **The Right to an Attorney.** You have the right to be represented by an attorney at every court appearance. If you cannot afford an attorney, the court will appoint one.
- 2) **The Right to Remain Silent.** You cannot be forced to testify or make any incriminating statements in court or during a police or probation interview. Parents or guardians cannot waive this right for you.
- 3) **The Right to an Adjudication (trial).** In delinquency court, a trial is called an “adjudication.” At an adjudication, you have the right to call witnesses or cross-examine (ask questions) of any witnesses the prosecutor may call to testify against you. You do NOT have the right to a jury at an adjudication. The case will be heard by a judge, commissioner, or referee.

### **IF THE MINOR IS UNDER 14**

If you are under 14, then the prosecutor must also show that you “appreciated the wrongfulness of your action.” This is called a “Gladys R. waiver” or “Gladys R. hearing.”

This means that a child under 14 cannot be prosecuted unless the prosecutor can show that he/she understands what it means to commit a crime. They will do this by either having you fill out a form asking if you “know the difference between right and wrong” or the prosecutor will put your parents or guardian on the witness

stand and ask whether they taught you the difference between right and wrong. **Unless there is a good reason, a defense attorney will not put a minor on the witness stand at a Gladys R. hearing.**

## **What happens at the first court appearance?**

The first court appearance is an arraignment. This is when you will be officially told what you are charged with. The hearing is usually closed to the public, so no one else can be at the hearing except for you, your family, attorneys, and the court staff, unless you request that other people are present (for example, your counselor or therapist). If the alleged crime is a serious offense that falls under the WIC section 707(b) (such as robbery, murder, or carjacking), the hearing must be open to the public.

A defense attorney will also be appointed at this first appearance. Very often the defense attorney will come from the Office of the Public Defender. Other times the defense attorney will be a private “panel attorney” who is also provided at no charge. You also have the right to get a private attorney if you can afford one.

With the help of an attorney you will then either admit or deny the petition. This is usually just a formality, so almost everyone denies the petition until they can talk more with an attorney. Another court date will then be set to either resolve the case or set the case for trial.

If you are already in custody, the first court appearance will be **both an arraignment and a detention hearing**. A detention hearing is similar to a bail hearing in adult court (but remember, there is no bail in delinquency court).

The detention hearing is the first opportunity for your attorney to argue for release from juvenile hall. Before you can be released, the court will want answers to these questions:

- 1) Is it likely you will run away and not return to court?
- 2) If released, will you be in any danger?
- 3) Are you potentially a danger to yourself, other people, or other people’s property?

If the judge believes that the answer to any of these questions is yes, then he or she will probably decide not to release you.

**IMPORTANT:** You have the right not to testify against yourself at a detention hearing, and you must be represented by counsel at the hearing.

## What is a probation report?

At this first court appearance, the court will likely order the probation department to prepare a probation report. In preparing the report, a probation officer may interview you and your family and ask questions about home life, family, health, and school. A probation officer should not ask questions about the facts of the case. Also, you are not required to answer any questions which would require you to admit your guilt. **You should consult with your attorney before the probation interview.**

## When is the next court appearance?

This depends. If you are detained, your attorney can request to have a rehearing (second hearing) on the issue of detention, but it is not automatic or required. This is called a “Dennis H.” or “William M.” hearing. At this hearing, the prosecutor must show “probable cause” that you committed the offense. To meet this standard, the prosecutor must produce evidence that would make a reasonable person believe that you committed a crime. If the prosecutor cannot show this “probable cause,” then you will be released.

If an attorney asks for this rehearing on detention, it takes place 3-5 days after the initial detention hearing. A Dennis H. or William M. hearing may be appropriate if there are people that can testify or evidence that is now available that might not have been available at the detention hearing, or if your circumstances have changed. **If you are released after this hearing, it does not mean that the charges have been dropped; it just means you are out of custody until the case is over.**

If there is not a rehearing on the issue of detention, the next court appearance is called a **Pre-Plea Report Hearing**. The Probation Report ordered after the first court appearance is turned in at this hearing. At the Pre-Plea Report Hearing, you will have to decide whether to enter a plea or whether to go to an adjudication (trial). Your attorney can help you make this decision.

## What happens at the Pre-Plea Report Hearing?

The prosecutor and the defense attorney will try to negotiate a settlement or “disposition” of the case. The defense attorney will tell you what the settlement offer is. The settlement offer will depend on how strong the prosecutor’s case is, the strength of any defenses that may be raised, any previous delinquency record, and the probation report.

**You are not required to accept the settlement offer.** Your attorney must present the offer and tell you what he or she thinks of the offer. Your attorney should explain the pros and cons of the offer. It is important to remember that the decision to accept or reject the offer is **only your decision**. The defense attorney cannot make the decision for you, your parent or guardian cannot make the decision, and the court cannot force you to take a settlement.

If you admit the charges in the petition, there will be no adjudication (trial) because that right has been given up. The next thing that will happen is disposition (sentencing).

**IMPORTANT:** If you reject an offer, then the prosecutor can cancel or change the offer.

### **What happens if I don't want to admit the petition and I want the case adjudicated (to go to trial) instead?**

If you reject the offer and decide to have your case adjudicated, the judge will set a date for the adjudication to begin. You have the **absolute right to have an adjudication** (trial) if you would like one. The adjudication will be in front of a judge, not a jury, and there is a right to be represented by an attorney at this trial. There is also a right to subpoena witnesses (which means that the witness is legally required to appear at your trial) and present your side of the case to the court.

If you are in custody (juvenile hall), the trial must begin within 15 “judicial days” (generally the same as “business days”) from the arraignment/detention hearing. If you are not in custody, the trial must begin within 30 calendar days after the arraignment.

If your attorney needs time to investigate the case, he or she may ask for more time. This is called “waiving time.” You must agree to waiving time. However, if you have not waived time and the prosecutor is not ready at the 15 or 30 day deadline, the case is dismissed. **But even if the case is dismissed, the prosecutor can still re-file the case.**

### **What must be proven at trial?**

If the prosecutor filed charges under WIC section 602, he or she must prove the petition (charges) against you “beyond a reasonable doubt.” If the prosecutor filed under WIC section 601, he or she must prove the petition by a “preponderance of the evidence.” Proof beyond a reasonable doubt is like requiring the court to be 90-95% sure that you did what you are being accused of. Proof by a preponderance

of the evidence is similar to requiring the court to believe it is more likely than not (51% sure) that you did what you are accused of. If you are under 14 years old, the prosecutor must also prove that you knew the conduct was wrong. The judge will make his or her ruling at the end of the adjudication by deciding whether the petition is true or not true (guilty or not guilty).

## **What happens if I admit the petition (plead guilty) or the petition is found true (found guilty)?**

If you admit to the petition or the petition is found to be true, you will go into court for “disposition.” In juvenile court, sentencing is called disposition. Dispositions fall into two general categories:

- 1) “**Non-Wardship**”, where the court puts you on informal probation
- 2) “**Wardship**”, where you are declared “ a ward of the court” and are under the court’s strict supervision

No matter which category of disposition, there will be “terms and conditions” of probation. You can improve your chances of receiving a non-wardship disposition by doing well in school and having a good attendance record, participating in your community, having strong support from your parents, and, if necessary, receiving the mental health care that you need.

### **Non-Wardship Dispositions**

#### **Informal Diversion – (WIC 626, 652.5, and 654.2)**

- No petition is ever filed.
- You may be required to do informal community service or informal conflict resolution

#### **Informal Probation (WIC 654)**

- A petition is filed, but no conviction or judgment is ever entered.
- Court can extend probation up to one year from date of offense.
- **Limitation:** You are ineligible if you were placed on 654 at an earlier time (but the court has the ability to make exceptions in some circumstances).

#### **Deferred Entry of Judgment – Misdemeanors (WIC 725)**

- YOU MUST ADMIT charges (equivalent of guilty plea).
- Only applies to misdemeanors
- Court imposes terms and conditions of probation which must be completed within 6 months.
- After 6 months, you must show proof that you have complied with the terms and conditions of probation. If you have complied, then the court dismisses the case. If you have not complied, the court may extend for another 6 months, but it also has the power to declare you a ward of the court.

### **Deferred Entry of Judgment – Felony (WIC 790)**

- Same as WIC 725 but applies to felonies and the time period for completing terms and conditions of probation is longer (12-36 months).
- You must be at least 14 years old.

### **Wardship Dispositions – WIC 602**

#### **Home on Probation (“H.O.P.”)**

- You are declared a ward of the court and placed in the home of your parent or legal guardian with probation conditions.

#### **Suitable Placement**

- If the court finds that home with parent or guardian is not suitable, then the court can place you on a Suitable Placement Order.
- Minors on a Suitable Placement Order may be placed in a variety of settings, including the home of someone who is not the minor’s parent or legal guardian (for example, the home of a relative), a group home, or a therapeutic facility designed for children with specific mental health issues.

#### **Camps**

- Military style boot-camps.
- Not therapeutic environments. Spread out throughout Los Angeles County.
- Sentencing range is anywhere from 0 to 12 months, but because it is handled locally the sentence cannot exceed 1 year. In L.A. County, the most common times are 3, 6, and 9 months.

#### **Division of Juvenile Justice (DJJ) (formerly known as California Youth Authority or CYA)**

- Most restrictive of all dispositions.
- Intended for youth who are serious offenders or determined by the court to be very dangerous (the Court must have found that the youth committed a 707(b) violation or the youth must have pled to a 707(b) charge)
- Most similar to a prison for youth.
- Placements can last until the age of 25.

## **What kind of probation terms and conditions can the court order?**

A court may order whatever probation conditions they think are necessary as long as they relate to the offense. Depending on the offense, probation conditions can include things like drug or alcohol education classes, anger management classes, sex offender classes, and payment of restitution to the victim. No matter what the offense, probation conditions almost always include curfew restrictions, community service, regular school attendance, not associating with anyone involved in the offense, and checking in with a probation officer as directed.

## After the Disposition Hearing do I ever have to go to court again?

If you are put into a “suitable placement” or sent home on probation, you will have to go into court for a review as directed by the judge. The judge will want to see how you are doing and whether or not the disposition is working out. If you are placed in a residential facility or group home, the court routinely receives reports about your progress, and the staff will bring you to court as directed for progress reports. You may also go back to court if the terms of probation are violated, or if a new disposition is needed because the current one is not working. The court may also order a more restrictive disposition if it finds that the current one is not effective.

### COMMON JUVENILE COURT TERMS

*Sometimes when you are in court or talking to your Attorney or Probation Officer you might hear them refer to numbers instead of words. These numbers represent code sections from the Penal Code or the Welfare and Institutions Code (WIC). These numbers are like nicknames that are used instead of actually saying the term. It is important for you to know what these numbers mean so that you can better understand what is going on. If you ever don't understand what is being said you should ask for someone to explain it to you in real words.*

- **241.1:** A “241.1” is a joint assessment that is done by the dependency system and the delinquency system to see which system will better serve your needs. This assessment usually occurs if you are in foster care and are accused of committing a crime, so there is a possibility that your supervision will be transferred from the foster care system to the delinquency system. A 241.1 can also be used the other way around. In other words, if you are in the delinquency system and have completed your program, but you cannot go home because it is unsafe or you have been abandoned, a judge can order a 241.1 to evaluate whether you should enter the dependency system (foster care).
- **300:** If you are called a “300” it means you are a dependent (under the supervision) of the dependency court. This means that you are a foster child.
- **601:** “601” refers to the section of the Penal Code about status offenses. A status offense is a crime that you could not get in trouble for as an adult, but can as a minor (under 18 years old). Two common status offenses are skipping school (truancy) and repeatedly failing to obey your parents or guardian and doing harmful conduct (incurribility). If you repeatedly

commit a status offense, a teacher, parent, or police officer may refer you to the Probation Department, and they may file a petition (charges) against you in juvenile court. If you admit to the status offense or if a petition is found true (found guilty) you will be a ward (under the supervision) of the juvenile delinquency court and may be called a “601”.

- **602:** If you are called a “602” you are a ward (under the supervision) of the juvenile delinquency court. A “602” is a person who has admitted to a misdemeanor or a felony crime, or who has gone through an adjudication (trial) for a misdemeanor or felony and the petition (charge) has been found true. By law, 602s and 300s must be kept apart at all times.
- **707(b):** Certain crimes are listed under section 707(b) of the Welfare and Institutions Code (for example murder, rape, robbery, etc.). These crimes are serious crimes. If you are accused of a 707(b) offense, your hearings and adjudication (trial) may be open to the public, and the District Attorney may file a petition for a fitness hearing to try to move you into adult court. If you admit to a 707(b) offense or if the petition is found true after an adjudication, it may count as a strike (depends on your age), and your juvenile court record cannot be sealed.
- **730:** A “730” is the term used for a psychological assessment report. If the judge asks for a 730 you will be visited by a psychologist or a psychiatrist who will evaluate you and see if you have any special needs because of mental health issues. The judge may take into account the results of the 730 when deciding what is the best placement option for you after juvenile hall. The 730 assessment may also be requested if you will go to a Fitness Hearing to determine whether you are unfit to be tried in juvenile court and should be tried in adult court instead.
- **777:** If you break the terms of your probation your Probation Officer (P.O.) may file a violation report called a “777” (sometimes called a “Triple-7”). You can either admit the violation, or have a hearing. If you admit or are found to be in violation, you can be sent to juvenile hall or a more restrictive placement, the judge can add new terms to your probation and send you home or to your placement, or the judge could reprimand you and give you a second chance.
- **778:** If a “778” petition is filed, it is in order to change your disposition (placement). Usually, this means you are doing well and it might be time to move you into a less restrictive setting. Once you are done with your program and have successfully completed your probation, a 778 may be filed in order to terminate the court’s jurisdiction over you.

My Attorney's Name: \_\_\_\_\_

Phone Numbers: \_\_\_\_\_

My Probation Officer's Name: \_\_\_\_\_

Phone Numbers: \_\_\_\_\_

Notes:

Notes:

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