

LEXSTAT CAL WEL & INST CODE § 654.2

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THROUGH 2007-2008 THIRD EXTRAORDINARY SESSION CH. 6 AND
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WELFARE AND INSTITUTIONS CODE
Division 2. Children
Part 1. Delinquents and Wards of the Juvenile Court
Chapter 2. Juvenile Court Law
Article 16. Wards-Commencement of Proceedings

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

Cal Wel & Inst Code § 654.2 (2007)

§ 654.2. Order that minor participate in program of supervision; Informal supervision

(a) If a petition has been filed by the prosecuting attorney to declare a minor a ward of the court under Section 602, the court may, without adjudging the minor a ward of the court and with the consent of the minor and the minor's parents or guardian, continue any hearing on a petition for six months and order the minor to participate in a program of supervision as set forth in Section 654. If the probation officer recommends additional time to enable the minor to complete the program, the court at its discretion may order an extension. Fifteen days prior to the final conclusion of the program of supervision undertaken pursuant to this section, the probation officer shall submit to the court a followup report of the minor's participation in the program. The minor and the minor's parents or guardian shall be ordered to appear at the conclusion of the six-month period and at the conclusion of each additional three-month period. If the minor successfully completes the program of supervision, the court shall order the petition be dismissed. If the minor has not successfully completed the program of supervision, proceedings on the petition shall proceed no later than 12 months from the date the petition was filed.

(b) If the minor is eligible for Section 654 supervision, and the probation officer believes the minor would benefit from a program of supervision pursuant to this section, the probation officer may, in referring the affidavit described in Section 653.5 to the prosecuting attorney, recommend informal supervision as provided in this section.

HISTORY:

Added Stats 1989 ch 1117 § 11. Amended Stats 1994 ch 213 § 1 (AB 3691).

NOTES:

Editor's Notes

For legislative findings and declarations, see the 1989 note following *W & I C § 601.4*.

Amendments:**1994 Amendment:**

Amended subd (a) by adding (1) the second sentence; (2) "final" after "prior to the" in the third sentence; (3) "and at the conclusion of each additional three-month period" after "six-month period in the fourth sentence"; and (4) "no later than 12 months from the date the petition was filed" after "petition shall proceed" in the last sentence.

Cross References:

Supervised programs for eligible minors: *W & I C* § 654.

Collateral References:

10 Witkin Summary (10th ed) Parent and Child §§ 767, 768, 770, 890.

Law Review Articles:

Review of 1989 Legislation. 21 Pacific LJ 529.

Hierarchy Notes:

Div. 2, Pt. 1, Ch. 2, Art. 16 Note

NOTES OF DECISIONS 1. Generally 2. Due Process 3. Petition Dismissal 4. Informal Supervision 5. One Year Anniversary Proceedings Resumption 6. Appellate Review

1. Generally

In juvenile court proceedings in which a *Welf. & Inst. Code*, § 602, petition has been filed, there is no procedure for converting a *Welf. & Inst. Code*, § 725, subd. (a), formal probation disposition into a *Welf. & Inst. Code*, § 654.2, informal supervision program; they are two separate, mutually exclusive programs. The *Welf. & Inst. Code*, § 654.2, informal supervision alternative is selected prior to adjudication of the petition allegations and the jurisdictional hearing is continued for at least six months, at which time the petition is dismissed if the supervision was successfully completed. The *Welf. & Inst. Code*, § 725, subd. (a), alternative is selected at the dispositional hearing after adjudication of the petition allegations in which a finding is made that the minor is a person described in *Welf. & Inst. Code*, § 602, and probation is ordered. Accordingly, in *Welf. & Inst. Code*, § 602, proceedings against a minor in which no motion to select the *Welf. & Inst. Code*, § 654.2, alternative was made prior to the jurisdictional hearing at which the petition allegations were adjudicated and found true, and the minor was placed on formal probation, the court had no authority

to grant the minor's motion on completion of probation to dismiss the petition pursuant to *Welf. & Inst. Code*, § 654.2. *In re Adam D.* (1997, Cal App 4th Dist) 56 Cal App 4th 100, 65 Cal Rptr 2d 15, 1997 Cal App LEXIS 531.

In a juvenile proceeding, the minute order indicated that the court adjudged appellant a ward of the court, but it was clear from the transcript of oral proceedings that no such adjudication was contemplated or attempted. The juvenile court could not make true findings on the petition and then order an informal supervision program under *Cal. Welf. & Inst. Code* § 654.2. *In re Anthony B.* (2002, Cal App 1st Dist) 104 Cal App 4th 677, 128 Cal Rptr 2d 349, 2002 Cal App LEXIS 5184.

2. Due Process

In juvenile proceedings in which the court must make an independent determination pursuant to *Welf. & Inst. Code*, § 654.2, of whether informal probation is appropriate, due process does not require a formal hearing with confrontation and cross-examination. The court must consider all relevant evidence as presented by the probation officer, with the minor having the opportunity to present all evidence relevant to this determination to the probation officer for inclusion in its report to the court. *In re Armondo A.* (1992, Cal App 4th Dist) 3 Cal App 4th 1185, 5 Cal Rptr 2d 101, 1992 Cal App LEXIS 250.

3. Petition Dismissal

If a program of informal supervision under *Welf. & Inst. Code*, § 654.2, is satisfactorily completed by a minor against whom a *Welf. & Inst. Code*, § 602, petition was filed, the petition must be dismissed; if the program of informal supervision is not satisfactorily completed, the jurisdictional hearing on the petition is held and the petition can then be dismissed only if the court finds the minor is not a person described by *Welf. & Inst. Code*, §§ 601 or 602. The court has no discretion to exercise to dismiss the petition under *Welf. & Inst. Code*, § 654.2. *In re Adam D.* (1997, Cal App 4th Dist) 56 Cal App 4th 100, 65 Cal Rptr 2d 15, 1997 Cal App LEXIS 531.

4. Informal Supervision

In *Welf. & Inst. Code*, § 602, proceeding in which the juvenile court ordered informal supervision under *Welf. & Inst. Code*, §§ 654 et seq., the court erred in also finding true allegations that the minor had committed two counts of residential burglary. The purpose of the informal supervision program is to avoid a true finding on criminal culpability that would result in a criminal record for the minor. If the informal supervision program is satisfactorily completed by the minor, the petition must be dismissed. In this case, it was clear that the trial court intended to and did order a program. Under these circumstances, § 654.2 mandated that the petition be dismissed. The court, however, apparently misunderstanding the 654.2 procedure, also made true findings on two allegations in the petition. A court cannot make true findings on allegations in a petition and then order an informal supervision program under § 654.2; the findings and the order are inherently inconsistent. Only after the minor does not satisfactorily complete the informal supervision program can the court adjudicate the allegations in the petition. *In re Adam R.* (1997, Cal App 4th Dist) 57 Cal App 4th 348, 67 Cal Rptr 2d 76, 1997 Cal App LEXIS 678.

In enacting the informal supervision program, the Legislature intended to address juvenile delinquency at its inception and at the earliest signs of delinquency with a less structured program. To meet this objective, it gave the courts more authority to deal with minors before they become habitual criminals. *Welf. & Inst. Code*, § 654.2, created a new power in the juvenile courts by allowing them to order informal supervision after a petition had been filed. This power is in addition to the probation officer's already existing prepetition discretion. *Welf. & Inst. Code*, § 654.2, creates a new power in the court to grant informal supervision in a postpetition setting independently of the probation officer's prepetition discretion. However, the § 654.2 informal supervision program is preadjudication of the charges alleged in the petition. The court does have discretion to order informal supervision, rather than continuing with the petition proceedings. The order for a program of informal supervision, however, is appropriate prior to a court finding that the minor is within the jurisdiction of the juvenile court. If the court orders the minor to participate in a program of informal

supervision and the minor satisfactorily completes that program, the petition must be dismissed. If the minor does not satisfactorily complete the program, there is not statutory provision for dismissal of the petition must be dismissed. If the minor does not satisfactorily complete the program, there is not statutory provision for dismissal of the petition; rather, the proceeding on the petition continue. *In re Adam R.* (1997, Cal App 4th Dist) 57 Cal App 4th 348, 67 Cal Rptr 2d 76, 1997 Cal App LEXIS 678.

In a delinquency proceeding in which the juvenile court found that a minor had committed an assault and placed the minor on probation, the court did not err in failing to make an independent determination at the disposition hearing of the minor's eligibility for informal supervision under *Welf. & Inst. Code*, § 654.2, subd. (a), and instead relying solely upon the probation officer's formal probation recommendation. First, the minor waived the issue by failing to raise it in the juvenile court. In any event, while a *Welf. & Inst. Code*, § 654.2, informal supervision program is available after the filing of a petition, it is to be implemented before adjudication of the charges alleged in the petition. The purpose of the *Welf. & Inst. Code*, § 654, informal supervision program is to avoid a true finding on criminal culpability that would result in a criminal record for the minor. The court cannot make true findings on allegations in the petition and then order an informal supervision program under *Welf. & Inst. Code*, § 654.2; the findings and the order are inherently inconsistent. In this case, since the minor failed to request informal supervision before adjudication, the court was not required to consider the issue at the disposition hearing. *In re Abdurahman S.* (1997, Cal App 4th Dist) 58 Cal App 4th 963, 68 Cal Rptr 2d 402, 1997 Cal App LEXIS 864.

Welf. & Inst. Code, § 654, authorizes an informal supervision program for a minor who in the opinion of a probation officer is, or will probably soon be, within the jurisdiction of the juvenile court. The purpose of the informal supervision program is to provide assistance and services to the minor and the minor's family to adjust the situation and avoid further involvement in the formal juvenile criminal justice system. If the minor satisfactorily completes the informal supervision program designed by the probation officer, no *Welf. & Inst. Code*, § 602, petition is filed. If the minor does not satisfactorily complete the program, the probation officer or the prosecuting attorney may file the *Welf. & Inst. Code*, § 602, petition. In 1989, *Welf. & Inst. Code*, § 654.2, was enacted to permit the court to order a *Welf. & Inst. Code*, § 654, informal supervision program for a minor after a *Welf. & Inst. Code*, § 602, petition has been filed. *In re Abdurahman S.* (1997, Cal App 4th Dist) 58 Cal App 4th 963, 68 Cal Rptr 2d 402, 1997 Cal App LEXIS 864.

Juvenile court exceeded its jurisdiction when, after accepting a minor's admission to possession of marijuana, *Cal. Health & Safety Code* § 11357(b), the court placed the minor on informal probation; *Cal. Welf. Inst. Code* § 654.2 requires an informal supervision program to be implemented before adjudication of the charges. However, the minor was estopped from raising the irregularity on appeal, because the minor benefitted from the error. *In re Omar R.* (2003, Cal App 3d Dist) 105 Cal App 4th 1434, 129 Cal Rptr 2d 912, 2003 Cal App LEXIS 169, review denied (2003, Cal) 2003 Cal LEXIS 2695.

Although a juvenile court order of informal supervision was not an appealable judgment or order under *W & I C* § 800(a), vacation of the minor's admission of alleged petty theft was appropriate. The juvenile court clearly erred in taking the admission prior to placing the minor on informal supervision under *W & I C* § 654.2 and by allowing her to condition her admission on preservation of her speedy trial claims. *Ricki J. v. Superior Court* (2005, Cal App 3d Dist) 128 Cal App 4th 783, 27 Cal Rptr 3d 494, 2005 Cal App LEXIS 624.

5. One Year Anniversary Proceedings Resumption

Where proceedings under *Cal. Welf. & Inst. Code* § 654.2 are resumed on the one-year anniversary of the filing date of the petition, the resumption occurs 12 months from the date the petition was filed. *In re Anthony B.* (2002, Cal App 1st Dist) 104 Cal App 4th 677, 128 Cal Rptr 2d 349, 2002 Cal App LEXIS 5184.

Where a juvenile proceeding under *Cal. Welf. & Inst. Code* § 654.2 was resumed on the one-year anniversary of the filing date of the petition upon the court's discovery that the juvenile had not fulfilled the conditions of the probation, the resumption occurred "12 months from the date the petition was filed," and was thus timely. *In re Anthony B.* (2002,

Cal App 1st Dist) 104 Cal App 4th 677, 128 Cal Rptr 2d 349, 2002 Cal App LEXIS 5184.

Where the juvenile court continues informal probation beyond *W & I C § 654.2*'s 12-month limitation period, the juvenile court has, at most, acted in excess of its jurisdiction rather than beyond its fundamental jurisdiction. *In re C.W. (2007, 3d Dist) 2007 Cal App LEXIS 1194.*

W & I C § 654.2's time limitation is directory, and its violation does not result in the juvenile court's loss of fundamental jurisdiction over the case. *In re C.W. (2007, 3d Dist) 2007 Cal App LEXIS 1194.*

Juvenile court did not lose its fundamental jurisdiction over defendant minor's case because of its error in continuing informal probation over defendant beyond the one-year time limitation set forth in *W & I C § 654.2* where defendant did not suffer any penalty or adverse consequence from the continuation of her informal probation beyond the statute's time limitation. Had defendant acted within the 12-month time period, defendant would simply have been declared a ward of the court earlier. *In re C.W. (2007, 3d Dist) 2007 Cal App LEXIS 1194.*

6. Appellate Review

Order of informal supervision under *W & I C § 654.2* is not an appealable judgment or order after judgment under *W & I C § 800(a)*. *Ricki J. v. Superior Court (2005, Cal App 3d Dist) 128 Cal App 4th 783, 27 Cal Rptr 3d 494, 2005 Cal App LEXIS 624.*