

LEXSTAT CAL WEL & INST CODE § 725

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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 18. Wards-Judgments and Orders

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*Cal Wel & Inst Code § 725 (2007)*

**§ 725. Judgment as to disposition of minor found to be ward of court**

After receiving and considering the evidence on the proper disposition of the case, the court may enter judgment as follows:

(a) If the court has found that the minor is a person described by Section 601 or 602, by reason of the commission of an offense other than any of the offenses set forth in Section 654.3, it may, without adjudging the minor a ward of the court, place the minor on probation, under the supervision of the probation officer, for a period not to exceed six months. The minor's probation shall include the conditions required in Section 729.2 except in any case in which the court makes a finding and states on the record its reasons that any of those conditions would be inappropriate. If the offense involved the unlawful possession, use, or furnishing of a controlled substance, as defined in Chapter 2 (commencing with *Section 11053*) of *Division 10 of the Health and Safety Code*, a violation of subdivision (f) of *Section 647 of the Penal Code*, or a violation of *Section 25662 of the Business and Professions Code*, the minor's probation shall include the conditions required by Section 729.10. If the minor fails to comply with the conditions of probation imposed, the court may order and adjudge the minor to be a ward of the court.

(b) If the court has found that the minor is a person described by Section 601 or 602, it may order and adjudge the minor to be a ward of the court.

**HISTORY:**

Added Stats 1961 ch 1616 § 2. Amended Stats 1963 ch 1761 § 5; Stats 1976 ch 1068 § 52; Stats 1989 ch 936 § 2, ch 1117 § 14.

**NOTES:**

**Former Sections:**

Former § 725, relating to notice to be given probation officer upon filing of petition, was added 1937, and repealed Stats 1961 ch 1616 § 1.

**Amendments:****1963 Amendment:**

Added "under the supervision of the probation officer" in subd (a).

**1976 Amendment:**

(1) Substituted "Section" for "Sections" in subds (a) and (b); and (2) deleted former subd (c) which read: "(c) If the court has found that the minor is a person described by Section 600, it may order and adjudge the minor to be a dependent child of the court."

**1989 Amendment:**

(1) Amended the first sentence of subd (a) by (a) adding "by reason of the commission of an offense other than any of the offenses set forth in Section 654.3,"; (b) substituting "the" for "such" after "without adjudging"; and (c) deleting the comma after "place"; and (2) added the second through fourth sentences. (As amended Stats 1989, ch 1117, compared to the section as it read prior to 1989. This section was also amended by an earlier chapter, ch 936. See *Gov C § 9605*.)

**Editor's Notes**

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

**Historical Derivation:**

(a) Former W & I C § 740, as amended Stats 1941 ch 653 § 1, Stats 1943 ch 481 § 5, Stats 1945 ch 779 § 4, ch 983 § 1, Stats 1957 ch 2364 § 1, Stats 1959 ch 1047 § 1.

(b) Stats 1915 ch 631 § 8, as amended Stats 1921 ch 512 § 2, Stats 1929 ch 645 § 2, Stats 1933 ch 842 § 1.

(c) Stats 1909 ch 133 § 20, as amended Stats 1911 ch 369 § 1, renumbered § 22 and amended by Stats 1913 ch 673 § 1.

**Cross References:**

Order adjudging minor to be ward of court not deemed conviction of crime: *W & I C § 203*.

Willful disobedience or interference with juvenile court order or order of judge or referee thereof as contempt of court: *W & I C § 213*.

Similar provision as to dependent children: *W & I C § 360*.

Finding that minor is person described by *W & I C § 601* or § 602: § 702.

Authority of court to retain jurisdiction over person found to be ward or dependent child of court: *W & I C § 607*.

Program of supervision: *W & I C § 654*.

Determination of disposition to be made of minor after entry finding judgment: *W & I C §§ 702, 706*.

Modification of judgments and orders: *W & I C §§ 775 et seq.*

Supplemental petition: *W & I C § 777*.

Appeals: *W & I C § 800*.

Entry of order in book or other form of written record: *W & I C § 825*.

Notice of minor's rights regarding sealing or destruction of juvenile court record following dismissal, release, or termination of case: *W & I C § 826.6*.

Effect of judgments and orders generally: *CCP §§ 1908, 1909*.

Workmen's compensation benefits for juvenile probationers engaged in rehabilitative work without pay: *Lab C § 3364.6*.

Inducing person to fail to conform to juvenile court order as constituting contributing to delinquency of minor: *Pen C § 272*.

Disposition hearing; judgment of court: *CRC Rule 1493*.

#### **Collateral References:**

Cal Jur 3d (Rev) Delinquent and Dependent Children § 163.

Calif Juvenile Court Practice (CEB, 1981) §§ 9.1 et seq.

Calif Juvenile Court Desk Book (CEB, 1984) §§ 9.1 et seq.

Special education and the juvenile court, delinquency. 23 CACJ Forum No. 3-4, p. 58.

#### **Law Review Articles:**

Adjudication under Juvenile Court Law. 51 *Cal LR* 432.

725(a) of the California Welfare & Institutions Code: In re Trevor W. 23 *J. Juv. L.* 210.

Due process of law in juvenile court proceedings. 3 *Loyola U of LA LR* 431.

Review of 1989 Legislation. 21 Pacific LJ 529.

Disposition of cases after apprehension of juvenile offenders. 10 *Stan LR* 480.

Multiplicity of child custody proceedings. 23 *Stan LR* 703.

State intervention on behalf of "neglected" children: A search for realistic standards. 27 *Stan LR* 985.

### **Attorney General's Opinions:**

Requirement that persons in charge of detention home accept minors for confinement imposed by courts-marshal of California national guard; authority of officials having charge of detention home to accept minors pursuant to order of courts-marshal, though juvenile court does not participate in proceedings leading to confinement. 29 *Ops. Cal. Atty. Gen.* 20.

### **Annotations:**

Interference with enforcement of judgment in criminal or juvenile delinquent case as contempt. 8 ALR3d 657.

Use of judgment in prior juvenile court proceeding to impeach credibility of witness. 63 ALR3d 1112.

Consideration of accused's juvenile court record in sentencing for offense committed as adult. 64 ALR3d 1291.

Validity, construction, and application of provisions of Federal Youth Corrections Act (18 USCS § 5010) governing sentencing and rehabilitative treatment of youth offenders. 11 ALR Fed 499.

### **Hierarchy Notes:**

Div. 2, Pt. 1, Ch. 2, Art. 18 Note

NOTES OF DECISIONS 1. Generally 2. Due Process 3. Jurisdiction 4. Evidence 5. Findings, Orders, and Judgments-Generally 6. Findings, Orders, and Judgments-Corrections 7. Findings, Orders, and Judgments-Parental Control 8. Findings, Orders, and Judgments-Nature and Effect 9. Findings, Orders, and Judgments-Particular Actions 10. Appellate Review 11. Habeas Corpus 12. Double Jeopardy 13. Judicial Immunity

### **1. Generally**

Juvenile court proceedings are not designed to punish, especially when they concern minors not accused of crime; primary consideration is minor's welfare. *In re Florance* (1956) 47 Cal 2d 25, 300 P2d 825, 1956 Cal LEXIS 247.

In a juvenile delinquency proceeding, the juvenile court erred in ordering wardship (*W & I C* § 602) and suitable placement for the minor, and denying the minor's request for a contested disposition hearing, where the minor had been placed on probation for burglary and had violated probation. The minor was entitled to a disposition hearing to present other alternatives for suitable placement. (*W & I C* §§ 706, 706.5, 725, 725.5; *Cal. Rules of Court*, rule 1492). However, the juvenile court properly denied the minor's request for proceedings under *W & I C* § 777, in that the proceedings involved the reinstatement of the original wardship proceedings (*W & I C* § 602) and not an order changing or modifying

a previous order removing a minor from custody of his parents and placing the minor (*W & I C § 777*). *In re Deon W.* (1998, *Cal App 2d Dist*) 64 *Cal App 4th* 143, 74 *Cal Rptr 2d* 802, 1998 *Cal App LEXIS* 461.

A minor who was placed on probation under *W & I C § 725(a)* following a finding that he had committed grand theft was improperly ordered to serve 210 days in juvenile hall as a condition of probation, since the minor had not been adjudged to be a ward of the court. A court that wishes to condition probation on juvenile hall time should adjudge the minor a ward of the court and proceed under *W & I C §§ 725(b), 726* and 730. *In re Trevor W.* (2001, *Cal App 4th Dist*) 88 *Cal App 4th* 833, 106 *Cal Rptr 2d* 169, 2001 *Cal App LEXIS* 318.

"Judgment" in a juvenile court proceeding is the order made after the trial court has found facts establishing juvenile court jurisdiction and has conducted a hearing into the proper disposition to be made. *In re Mario C.* (2004, *Cal App 6th Dist*) 124 *Cal App 4th* 1303, 21 *Cal Rptr 3d* 891, 2004 *Cal App LEXIS* 2140, review denied (2005) 2005 *Cal. LEXIS* 3176.

## 2. Due Process

Statutory procedure of former Juvenile Court Law for declaring minor a ward of juvenile court satisfied constitutional requirement of due process, though no express provision was made for notifying minor of reason for proceedings. *In re Florance* (1956) 47 *Cal 2d* 25, 300 *P2d* 825, 1956 *Cal LEXIS* 247.

Trial court's statement that if defendant, a juvenile, inconvenienced witnesses by having them come to court for an adjudication hearing, the option of a disposition under *W & I C § 725(a)* was no longer be available to defendant, revealed that the trial court gave consideration to defendant's election to exercise the right to an adjudication; because the statement indicated that the trial court based the disposition of defendant at least in part on the fact that defendant declined the disposition prior to the adjudication, the court agreed that defendant's due process rights were violated, and thus the disposition declaring defendant a ward of the court under *W & I C § 602* was reversed and the matter was remanded. *In re Edy D.* (2004, *Cal App 2d Dist*) 120 *Cal App 4th* 1199, 16 *Cal Rptr 3d* 293, 2004 *Cal App LEXIS* 1203.

## 3. Jurisdiction

Objection that no report was filed by probation officer does not affect jurisdiction of court to declare minor ward of court. *In re Application of Spiers on behalf of Spiers* (1936, *Cal App*) 15 *Cal App 2d* 487, 59 *P2d* 838, 1936 *Cal App LEXIS* 83.

Where person is declared ward of juvenile court, no other department of superior court acting in general capacity has jurisdictional authority to act in matter, jurisdiction of juvenile court being exclusive. *People v. Sanchez* (1942) 21 *Cal 2d* 466, 132 *P2d* 810, 1942 *Cal LEXIS* 469.

Fact that guardian of minor was appointed in one county did not affect jurisdiction of juvenile court of another county obtained by prior order declaring minor ward of court. *In re Carr* (1944, *Cal App*) 65 *Cal App 2d* 681, 151 *P2d* 164, 1944 *Cal App LEXIS* 761.

## 4. Evidence

Evidence sustains judgment declaring ten-year-old girl to be ward of juvenile court where it is definitely shown by testimony of girl's stepfather that he was granted probation in prosecution for offense committed against girl, and where it appears from circumstances that welfare of child requires that she be taken from custody of her mother in order to protect her from possible repetitions of prior acts of stepfather. *In re Van Vlack* (1947, *Cal App*) 81 *Cal App 2d* 838, 185 *P2d* 346, 1947 *Cal App LEXIS* 1145.

Orders adjudging minor to be ward of juvenile court and placing him on probation in custody of parents, were supported by evidence that minor, armed with firearms, banded together with others and fired in general direction of

trespasser in vicinity of orchard belonging to minor's father, and that in so doing one of the group killed a boy, and it was not necessary for court specifically to find minor guilty of manslaughter as charged, since it might have believed, as found, that he was person coming within provision of this section, in that he had committed either manslaughter or assault with deadly weapon and required supervision. *In re Hartman* (1949, Cal App) 93 Cal App 2d 801, 210 P2d 53, 1949 Cal App LEXIS 1465.

Order of juvenile court redeclaring boy ward of court, ordering him committed to Youth Authority, and releasing him to his parents under program of probation and supervision was sustained by evidence that he was present at shooting scrape with other boys, and that after shooting he ran away and helped dispose of deadly weapon. *In re Schubert* (1957, Cal App 2d Dist) 153 Cal App 2d 138, 313 P2d 968, 1957 Cal App LEXIS 1471.

Order adjudging minor ward of juvenile court, giving minor's custody to county probation officer, and directing that child be placed with his father (who was outside state) subject to supervision of probation officer and further orders of court, was sustained by evidence that parents were divorced, that mother who had legal custody had been mentally and physically ill over period of years, was suffering from severe emotional disturbance, was handicapped psychologically, had ambivalent attitudes towards her son, ranging from oversolicitude to signs of hostility and resentment towards him, and that child suffered physically and emotionally from his associations with his mother. *In re Farley* (1958, Cal App 4th Dist) 162 Cal App 2d 474, 328 P2d 230, 1958 Cal App LEXIS 1899.

### **5. Findings, Orders, and Judgments-Generally**

Where defendant has been declared ward of juvenile court, superior court cannot perform in single capacity functions as juvenile court and as superior court acting under general law, and by single formal order vacate commitment to house of correction and sentence defendant to state penitentiary, and such order is void and should be set aside on motion. *People v. Sanchez* (1942) 21 Cal 2d 466, 132 P2d 810, 1942 Cal LEXIS 469.

Although *Welf & Inst Code*, § 725, providing for disposition of juvenile court proceedings, does not list dismissal as a form of disposition, the court, by virtue of its inherent power, may reject the alternatives set forth in the statute, as not in the minor's best interests, and may dismiss the case. *In re W.R.W.* (1971, Cal App 2d Dist) 17 Cal App 3d 1029, 95 Cal Rptr 354, 1971 Cal App LEXIS 1550.

### **6. Findings, Orders, and Judgments-Corrections**

In proceeding to have minor adjudged ward of juvenile court, finding that child was person coming within provisions of subd 13 of § 1 of former Juvenile Court Law (Stats 1915 p 1225), whereas evidence disclosed that it came within provisions of subd (4), amounted to obvious clerical error which court had jurisdiction to correct after notice and hearing, even though appeal had been perfected. *In re Schultz* (1929, Cal App) 99 Cal App 134, 277 P 1049, 1929 Cal App LEXIS 561.

### **7. Findings, Orders, and Judgments-Parental Control**

Although petition of probation officer to have petitioner's daughter adjudged ward of juvenile court referred to certain subdivisions of former statute as being ones under which proceedings were instituted, and juvenile court found violations of other subdivisions of statute relating to minor who had no parent or guardian actually exercising proper parental control, and who was in danger of leading idle, dissolute, lewd, or immoral life, there was no real variance between allegations of probation officer's petition and findings, where in ascertaining true meaning and purport of petition court was to look to allegations of fact therein, rather than to mere reference to certain subdivisions, and, so construing petition, findings followed allegations of fact. *In re Spiers* (1939, Cal App) 32 Cal App 2d 124, 89 P2d 456, 1939 Cal App LEXIS 326.

It is abuse of discretion to award custody of children to their mother, where award is not in accordance with

findings, made pursuant to statute, which recite that she is one who created conditions necessitating that children be declared wards of juvenile court. *People ex rel. O.* (1952, Cal App) 110 Cal App 2d 453, 243 P2d 110, 1952 Cal App LEXIS 1554.

Notwithstanding petition by probation officer, alleging eight-month-old child to be without parent or legally appointed guardian exercising parental control, fails to allege, and court fails specifically to find, need for such control, subsequent decree adjudging child ward of court is not void for want of jurisdiction, since under facts alleged and found need for such control may, pursuant to doctrine of judicial notice, be inferred. *Marr v. Superior Court of Siskiyou County* (1952, Cal App) 114 Cal App 2d 527, 250 P2d 739, 1952 Cal App LEXIS 1204.

### **8. Findings, Orders, and Judgments-Nature and Effect**

Order of juvenile court by which minor was made ward of court, of necessity had effect of transferring matter of guardianship from parents to court itself, and it became discretionary with court whether to permit minor to return to home of parents or to be placed within care and custody of state institution. *In re McDermott* (1926, Cal App) 77 Cal App 109, 246 P 89, 1926 Cal App LEXIS 330.

Former CCP § 2051, limiting impeachment of witness because of prior conviction or convictions of felony, did not include order of juvenile court declaring minor ward of that court, since such order was not deemed a "conviction of crime." *People v. Gomez* (1957, Cal App 1st Dist) 152 Cal App 2d 139, 313 P2d 58, 1957 Cal App LEXIS 1865.

Proceedings in juvenile court are not criminal, and order adjudging boy or girl ward of that court is not conviction of crime; it is more in nature of guardianship. *In re Schubert* (1957, Cal App 2d Dist) 153 Cal App 2d 138, 313 P2d 968, 1957 Cal App LEXIS 1471.

Though juvenile court law provides that adjudication of minor to be ward of court shall not be deemed to be conviction of crimes, for all practical purposes this is legal fiction. *In re Mikkelsen* (1964, Cal App 1st Dist) 226 Cal App 2d 467, 38 Cal Rptr 106, 1964 Cal App LEXIS 1299.

It is common knowledge that adjudication of minor to be ward of juvenile court, when based on charge of committing act that amounts to felony, is blight on character of, and is serious impediment to, minor's future. *In re Mikkelsen* (1964, Cal App 1st Dist) 226 Cal App 2d 467, 38 Cal Rptr 106, 1964 Cal App LEXIS 1299.

Though juvenile court law provides that adjudication of a minor as a ward of the court shall not be deemed to be a conviction of crime, for all practical purposes, this is a legal fiction, presenting a challenge to credulity and violating reason. *County of Alameda v. Espinoza* (1966, Cal App 1st Dist) 243 Cal App 2d 534, 52 Cal Rptr 480, 1966 Cal App LEXIS 1707.

### **9. Findings, Orders, and Judgments-Particular Actions**

If juvenile court finds that minor has violated the law, its duty is to make him ward of court and to provide for his custody and welfare during minority, and no authority is vested in juvenile court to place minor on probation or to administer punishment, if it finds that he has violated the law. *In re Hulbert* (1932, Cal App) 123 Cal App 362, 11 P2d 50, 1932 Cal App LEXIS 825.

In proceeding to have two and one-half-year-old child declared ward of juvenile court, such court did not err in failing to designate with particularity home in which child was to be placed, where it in effect adopted recommendation of probation officer that child remain with his paternal aunt. *In re Holt* (1953, Cal App) 121 Cal App 2d 276, 263 P2d 50, 1953 Cal App LEXIS 1347.

Where minor is found to be person described by §§ 601, 602, who is beyond control of his parents, guardian, or school authorities or who has committed crime, but is not made ward of juvenile court, court is limited under § 725

subd (a) to order placing minor on probation under probation officer's supervision for not more than six months, in which case court may impose terms to bring home to minor realization of seriousness of his delinquency. *In re Bacon* (1966, Cal App 1st Dist) 240 Cal App 2d 34, 49 Cal Rptr 322, 1966 Cal App LEXIS 1313.

Though order placing minors on probation without wardship to spend four weekends at probation department's training academy was ambiguous, where judge remarked that minors would attend academy during daytime on specified Saturdays and Sundays and then return to their homes, order could be construed as requiring only daytime attendance at academy without violation of their parents' custodial rights involved in concept of physical custody. *In re Bacon* (1966, Cal App 1st Dist) 240 Cal App 2d 34, 49 Cal Rptr 322, 1966 Cal App LEXIS 1313.

Though, in placing minor on probation without wardship, trial judge said that minor was to spend four weekends in probation department's training academy commencing on certain weekend, where minor's case arose out of same incident involving others who had previously been given the same probation conditions, it was reasonable to assume that judge intended, as his remarks indicated at time he issued orders for others, that detention at academy was to be temporary daytime detention without violence to custodial rights of minor's parents. *In re Bacon* (1966, Cal App 1st Dist) 240 Cal App 2d 34, 49 Cal Rptr 322, 1966 Cal App LEXIS 1313.

Under *W & IC* § 725(a), providing for the placement of a minor on probation without declaring him a ward of the court, a court may impose conditions of probation. Accordingly, in juvenile proceedings against a minor found to have committed a misdemeanor, an order declaring the minor a ward of the court and placing him on probation subject to certain conditions was reversible error, where the trial court acted under the erroneous belief that it could not impose conditions on probation unless the minor was declared a ward of the court. Thus, the exercise of judicial discretion under *W & IC* § 725(a), to which the minor was entitled, was not exercised. *In re Michael G.* (1977, Cal App 2d Dist) 76 Cal App 3d 872, 143 Cal Rptr 163, 1977 Cal App LEXIS 2127.

Because, in a negotiated disposition in which a minor admitted to a misdemeanor count of second-degree burglary, the minor had knowingly and willingly accepted a probation period exceeding the six-month maximum allowed by *W & IC* § 725(a) in exchange for an admission to a reduced charge and dismissal of a second charge, he was estopped from asserting his claim that the juvenile court improperly imposed a nine-month term. Because the minor received the benefit of his bargain by having one felony charge reduced to a misdemeanor and the other charge dismissed, his attempt to better the bargain through the appellate process had to fail. *In re Lino B.* (2006, Cal App 3d Dist) 138 Cal App 4th 1474, 42 Cal Rptr 3d 359, 2006 Cal App LEXIS 611, review gr, depublished (2006) 47 Cal. Rptr. 3d 778, 141 P.3d 134, 2006 Cal. LEXIS 9076, 2006 D.A.R. 9838, review dismissed (2006, Cal) 52 Cal Rptr 3d 86, 147 P3d 1013, 2006 Cal LEXIS 14219.

## 10. Appellate Review

Where superior court of one county adjudges minor to be ward of court and duly determines that minor is resident of another county, and orders case transferred to juvenile court of other county, latter court has no jurisdiction to find and determine that minor is resident of former county, and where it refuses to act because of its decision that residence of minor is in other county, appeal is not adequate or speedy remedy and mandamus will lie. *County of Los Angeles v. Superior Court of Alameda County* (1933, Cal App) 128 Cal App 522, 18 P2d 112, 1933 Cal App LEXIS 1242.

It could not be said on appeal that order committing child to convent was not for best interest of child, where father was given opportunity of choosing between Protestant school and Catholic convent and originally preferred convent. *In re Walker* (1958, Cal App 3d Dist) 159 Cal App 2d 463, 324 P2d 32, 1958 Cal App LEXIS 2021.

In imposing probation conditions, juvenile court is vested with broad discretion to best serve interests of minors within its jurisdiction. Its exercise of that discretion will not be disturbed absent manifest abuse of discretion. *In re Bacon* (1966, Cal App 1st Dist) 240 Cal App 2d 34, 49 Cal Rptr 322, 1966 Cal App LEXIS 1313.

Under *W & I C* § 725, provision is made for a judgment that the juvenile court may enter when it adjudges a minor to be a ward or dependent child of the court. It is from this judgment that an appeal may be taken pursuant to § 800. *In re Conley* (1966, *Cal App 1st Dist*) 244 *Cal App 2d* 755, 53 *Cal Rptr* 321, 1966 *Cal App LEXIS* 1625.

A finding of the juvenile court cannot be disturbed on appeal if there is substantial evidence to support it. *In re Raya* (1967, *Cal App 3d Dist*) 255 *Cal App 2d* 260, 63 *Cal Rptr* 252, 1967 *Cal App LEXIS* 1270, superseded by statute as stated in *In re Rocco M.* (1991, *1st Dist*) 1 *Cal App 4th* 814, 2 *Cal Rptr 2d* 429, 1991 *Cal App LEXIS* 1411.

Dismissal of an appeal from an order declaring a juvenile a ward of the court pursuant to *Welf. & Inst. Code*, § 602, and committing him to a camp program was not required by the fact that, subsequent to the filing of the appeal, the juvenile court entered an order reading: "Camp Community Placement Order Terminated. Case Dismissed." There is no provision for a "dismissal" under such circumstances, and the purported dismissal would therefore be treated as an order of "termination" under *Welf. & Inst. Code*, § 778. Such a termination does not render the appeal moot. *In re Richard D.* (1972, *Cal App 2d Dist*) 23 *Cal App 3d* 592, 100 *Cal Rptr* 351, 1972 *Cal App LEXIS* 1240.

A minor who was placed on probation without wardship (*W & I C* § 725) was not precluded from appealing the order by *W & I C* § 800(c), since this provision, read as a whole, was not intended to bar an appeal by a minor from an order of probation, but was only intended to preclude appeals by the People from probation orders. *In re Do Kyung K.* (2001, *Cal App 6th Dist*) 88 *Cal App 4th* 583, 106 *Cal Rptr 2d* 31, 2001 *Cal App LEXIS* 286, review denied (2001, *Cal*) 2001 *Cal LEXIS* 5228.

## 11. Habeas Corpus

Where petition filed in juvenile court avers that minor whom it was sought to have declared dependent child was resident of state, and court, in its order of commitment finds, as fact, that such allegation is true, its determination, however erroneous, was within its jurisdiction and cannot be reviewed on habeas corpus. *In re Maginnis* (1912) 162 *Cal* 200, 121 *P* 723, 1912 *Cal LEXIS* 516.

A minor who was removed by the juvenile court from the custody of her parents as a "dependent child", because the court found that she resided within a home which was an unfit place for her by reason of depravity, was entitled to be returned to the custody, control and care of her parents, by way of habeas corpus, there being no substantial evidence that depravity of a parent existed, where the only evidence on which the court relied for its finding was testimony by a police officer that the girl told him that her father had had sexual intercourse with her and had molested her sexually and evidence that the father was in custody awaiting trial on criminal charges, and particularly where the second "fact" no longer existed, in that the father was tried on whatever charges were laid against him and was acquitted. *In re Lockwood* (1968, *Cal App 1st Dist*) 260 *Cal App 2d* 725, 67 *Cal Rptr* 497, 1968 *Cal App LEXIS* 1907.

An order committing a minor to the California Youth Authority, based on his participation in a burglary, required vacation by writ of habeas corpus, where, after he had told a juvenile court probation officer that he would waive appointed counsel if his father had to reimburse the county for the cost of such representation, the juvenile court accepted his waiver without trying to determine if it was truly intelligent and voluntary, and where it was shown that the minor had been advised that the county was in fact entitled to such reimbursement from his father, who was an employed man but already indebted to the county for the cost of the minor's prior detentions. *In re H.* (1970) 2 *Cal 3d* 513, 86 *Cal Rptr* 76, 468 *P2d* 204, 1970 *Cal LEXIS* 288.

## 12. Double Jeopardy

Since proceedings in juvenile court making person a ward of court and committing him to Youth Authority as person who, by committing burglary, has violated law of this state do not constitute a criminal prosecution, rule against double jeopardy does not preclude subsequent prosecution of such person in superior court for same burglary. *People v. Silverstein* (1953, *Cal App*) 121 *Cal App 2d* 140, 262 *P2d* 656, 1953 *Cal App LEXIS* 1321.

Proceedings in juvenile court making person ward of court and committing him to Youth Authority as person who, by committing burglary, has violated state law, do not constitute criminal prosecution, and rule against double jeopardy does not preclude subsequent prosecution of such person in superior court for same burglary. *People v. Silverstein* (1953, Cal App) 121 Cal App 2d 140, 262 P2d 656, 1953 Cal App LEXIS 1321.

### **13. Judicial Immunity**

Judge of juvenile court sued in his official capacity as judge of superior court may not be held liable in damages for false imprisonment in ordering detention of minor child where there were merely procedural irregularities in that petition and citation were not timely filed and that grounds on which district attorney sought detention did not warrant it, and where judge had authority to entertain proceedings. *Singer v. Bogen* (1957, Cal App 2d Dist) 147 Cal App 2d 515, 305 P2d 893, 1957 Cal App LEXIS 2274.