

Assembly Bill No. 901

CHAPTER 323

An act to amend Sections 48263, 48267, 48268, and 48269 of the Education Code, and to amend Sections 236, 601, 601.3, 653.5, and 654 of, and to add Section 651.5 to, the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor September 30, 2020. Filed with
Secretary of State September 30, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 901, Gipson. Juveniles.

(1) Existing law authorizes a pupil to be referred to a school attendance review board, or to the probation department for services if the probation department has elected to receive these referrals, if the pupil is habitually truant, a chronic absentee, or is habitually insubordinate or disorderly at school. Existing law requires the school attendance review board or probation officer to direct those pupils or their parents or guardians to make use of community services, if available. Upon a determination that available community services cannot resolve the problem of truancy or insubordination, existing law authorizes the school attendance review board or probation officer to notify the district attorney in a county that has elected to participate in a truancy mediation program. In a county that has not elected to participate in a truancy mediation program, existing law authorizes the county superintendent of schools to petition the juvenile court on behalf of a pupil for proper disposition of a case. In a county that has not established a school attendance review board, existing law authorizes the school district to notify the district attorney or probation officer, as specified, that available community resources cannot resolve the problem of truancy or insubordination.

This bill would eliminate the authority of the county superintendent of schools to petition the juvenile court on behalf of a pupil, as described above, in a county that has not elected to participate in a truancy mediation program.

(2) Existing law requires a pupil who has once been adjudged an habitual truant or habitually insubordinate or disorderly during attendance at school by the juvenile court who is reported as truant, as specified, to be brought to the attention of the juvenile court and the pupil's probation or parole officer. Existing law authorizes the court to render judgment that a parent or guardian of an insubordinate or disorderly pupil deliver the pupil to school daily, as specified. Existing law authorizes the suspension of that judgment upon the execution of a bond in the amount of \$200.

This bill would revise and recast those provisions to repeal the requirements that those habitually truant, insubordinate, or disorderly pupils

be brought to the attention of the juvenile court and the pupil's probation or parole officer. The bill would repeal the authority of the court to require the delivery of a pupil who is insubordinate or disorderly to school daily and the respective bond provisions.

(3) Existing law permits a probation department to engage in activities designed to prevent juvenile delinquency, including rendering direct and indirect services to persons in the community. Under existing law, a probation department is not limited to providing services only to those persons who are on probation and under supervision, but is authorized to provide these services to any juveniles in the community.

This bill would clarify that these services or programs that are offered to minors or minors' parents or guardians who are not on probation are voluntary, as specified, and would prohibit a probation department from taking specified actions as part of providing those services or programs to minors not on probation, including, among other things, maintaining a formal or informal caseload or creating mandated probation conditions.

(4) Existing law places a person who is between 12 and 17 years of age within the jurisdiction of the juvenile court for certain offenses, including, among others, that the person habitually refuses to obey the reasonable and proper orders or directions of their parents or is habitually truant, as specified. Existing law authorizes a juvenile court to adjudge a person under these circumstances to be a ward of the court. Existing law authorizes a peace officer or school administrator to issue a notice to appear to a minor who is within the jurisdiction of the juvenile court pursuant to this provision.

This bill would delete the authority of the juvenile court to adjudge a minor to be a ward of the court on the basis that the minor habitually refuses to obey the reasonable and proper orders or directions of school authorities. Prior to issuing a notice to appear under these provisions, the bill would instead require a peace officer to refer a minor under their jurisdiction to a community-based resource, the probation department, a health agency, a local educational agency, or other governmental entities that may provide services. To the extent the bill would impose new duties on peace officers, the bill would impose a state-mandated local program.

Existing law also authorizes a probation officer or district attorney to petition the court to make a truant minor a ward of the court after the conclusion of certain meetings with the minor's parents or guardians. Existing law authorizes truancy mediation programs to be established by the district attorney or the probation officer.

The bill would require the district attorney and the probation officer to cooperate in determining whether another public agency, a community-based organization, the probation department, or the district attorney is best able to operate those truancy mediation programs, as specified. By imposing new duties on local entities, the bill would impose a state-mandated local program.

(5) Upon receipt of an application to commence proceedings in the juvenile court, as specified, existing law requires a probation officer to make any investigation the officer deems necessary to determine whether

proceedings in the juvenile court should be commenced. Existing law requires the probation officer to make a referral for family services, if determined appropriate.

This bill would require the probation officer to refer the youth to services provided by a community-based resource, the probation department, a health agency, a local educational agency, or other governmental entities that may provide services. By imposing new duties on probation officers, the bill would impose a state-mandated local program.

(6) Existing law requires a probation officer to cause an affidavit to be taken within 48 hours to a prosecuting attorney in certain cases, including, but not limited to, when the minor has previously been placed in informal probation.

This bill would repeal the requirement that the probation officer cause an affidavit to be filed under that circumstance.

(7) Existing law authorizes a probation officer who, after investigation of an application for a petition or any other investigation the probation officer is authorized to make, concludes that a minor is within the jurisdiction of the juvenile court, or will probably soon be within that jurisdiction, to, in lieu of filing a petition to declare a minor a dependent child of the court or a ward of the court, or requesting that a petition be filed by the prosecuting attorney to declare a minor a ward of the court, as specified, with consent of the minor and the minor's parent or guardian, delineate specific programs of supervision for the minor, not to exceed 6 months, and attempt to adjust the situation that brings the minor within the jurisdiction of the court or creates the probability that the minor will soon be within that jurisdiction. Existing law requires the probation officer to immediately file a petition or request the filing of a petition upon the failure of a minor to participate in those programs, as specified. Existing law requires the program of supervision to require the parents or guardians of the minor to participate with the minor in counseling or education programs and specifies that the minor's parents may be required to reimburse the county for the cost of services rendered to the minor's family. Existing law also authorizes the probation officer to maintain and operate counseling and education centers, and requires the probation officer to prepare followup reports with respect to programs of supervision undertaken pursuant to these provisions.

This bill would instead authorize a probation officer who concludes that a minor is within the jurisdiction of the juvenile court or would come within the jurisdiction of the court if a petition was filed, in lieu of filing a petition to declare a minor a ward of the court or requesting that a petition be filed by the prosecuting attorney to declare a minor a ward of the court, as specified, to refer the minor to services provided by a health agency, community-based organization, local educational agency, an appropriate non-law-enforcement agency, or the probation department. The bill would authorize, instead of require, the filing of a petition for the failure of a minor to participate in those programs, as specified. The bill would instead require the program of supervision under these provisions to encourage the parents or guardians of the minor to participate with the minor in counseling or

education programs and delete the authority for the minor's parents to be required to reimburse the county for the cost of services rendered to the minor's family.

The bill would also revise and recast the provision that authorizes counseling and education centers, and would further authorize the probation officer to contract with certain entities to provide vocational training or skills, counseling and mental health resources, educational supports, and arts, recreation, and other youth development services.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. (a) In enacting this act, it is the intent of the Legislature that cities and counties work closely with minors, parents or guardians of minors, local educational agencies, community partners, and system officials to create coordinated diversion opportunities in their counties.

(b) It is further the intent of the Legislature that cities and counties work closely with youth, parents or guardians, local educational agencies, community partners, and system officials to serve and protect youth only as needed, avoiding any contact with the juvenile justice system.

(c) Truancy charges can lead to more serious contact with court and probation, including long-term probation supervision or detention. It is the intent of the Legislature that truancy and other status offenses be diverted from citation, arrest, and court.

(d) It is further intended that probation officers serve to intervene in the lives of young people to prevent further involvement in the justice system and recidivism, including prioritizing pre-arrest diversion when a minor is brought by law enforcement to probation custody, serving youth who are already in court as an alternative to further court involvement, serving as an alternative to court for youth who receive citations, serving as an alternative to detention or incarceration, providing a noncustodial alternative to incarceration for a violation of probation, or providing a county-based alternative to state custody within the Division of Juvenile Facilities.

(e) Finally, the Legislature has recognized and is committed to addressing the fact that disproportionate contact with law enforcement, higher rates of criminalization, and harsher sanctions for African American and Latinx youth also lead to alarming racial and gender disparities across the state. Youth of color are disproportionately represented at every stage of the juvenile justice system. Youth of color are disproportionately referred to probation.

SEC. 2. Section 48263 of the Education Code is amended to read:

48263. (a) If a minor pupil in a school district of a county is a habitual truant, or is a chronic absentee, as defined in Section 60901, or is habitually insubordinate or disorderly during attendance at school, the pupil may be referred to a school attendance review board, or to the probation department for services if the probation department has elected to receive these referrals. The school district supervisor of attendance, or any other persons the governing board of the school district or county may designate, making the referral shall provide documentation of the interventions undertaken at the school to the pupil, the pupil's parents or guardians, and the school attendance review board or probation department and shall notify the pupil and parents or guardians of the pupil, in writing, of the name and address of the school attendance review board or probation department to which the matter has been referred and of the reason for the referral. The notice shall indicate that the pupil and parents or guardians of the pupil will be required, along with the referring person, to meet with the school attendance review board or probation officer to consider a proper disposition of the referral.

(b) (1) If the school attendance review board or probation officer determines that available community services can resolve the problem of the truant or insubordinate pupil, then the school attendance review board or probation officer shall direct the pupil or the pupil's parents or guardians, or both, to make use of those community services. The school attendance review board or probation officer may require, at any time that it determines proper, the pupil or parents or guardians of the pupil, or both, to furnish satisfactory evidence of participation in the available community services.

(2) If the school attendance review board or probation officer determines that available community services cannot resolve the problem of the truant or insubordinate pupil or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or probation officer or to services provided, the school attendance review board may, pursuant to Section 48263.5, notify the district attorney or the probation officer, or both, of the county in which the school district is located, or the probation officer may, pursuant to Section 48263.5, notify the district attorney, if the district attorney or the probation officer has elected to participate in the truancy mediation program described in that section.

(c) In any county that has not established a school attendance review board, if the school district determines that available community resources cannot resolve the problem of the truant or insubordinate pupil, or if the pupil or the pupil's parents or guardians, or both, have failed to respond to the directives of the school district or the services provided, the school district, pursuant to Section 48260.6, may notify the district attorney or the probation officer, or both, of the county in which the school district is located, if the district attorney or the probation officer has elected to participate in the truancy mediation program described in Section 48260.6.

SEC. 3. Section 48267 of the Education Code is amended to read:

48267. Any pupil who has been found to be a person described in Section 602 and as a condition of probation is required to attend a school program approved by a probation officer, who is reported as a truant from school one or more days or tardy on one or more days without valid excuse, in the same school year or in a succeeding year, shall be brought to the attention of the juvenile court and the pupil's probation or parole officer within 10 days of the reported violation.

Notwithstanding Section 827 of the Welfare and Institutions Code, written notice that a minor enrolled in a public school in any of grades 7 to 12, inclusive, has been found by a court to be a person described in Section 602 and as a condition of probation is required to attend a school program approved by a probation officer shall be provided by the juvenile court, within seven days of the entry of the dispositional order, to the superintendent of the school district of attendance, which information shall be expeditiously transmitted to the principal or to one person designated by the principal of the school that the minor is attending. The principal or the principal's designee shall not disclose this information to any other person except as otherwise required by law.

SEC. 4. Section 48268 of the Education Code is amended to read:

48268. The court may render judgment that the parent, guardian, or person having the control or charge of the pupil shall deliver the pupil at the beginning of each schoolday, for the remainder of the school term, at the school from which the pupil is a truant or to a school designated by school authorities.

SEC. 5. Section 48269 of the Education Code is amended to read:

48269. If the parent, guardian, or other person having control or charge of the pupil, within three days after the rendition of the judgment executes a bond to the governing board of the school district in the sum of two hundred dollars (\$200), conditioned that the pupil will, during the remainder of the current school year, regularly attend a public or private school in the city, or city and county, or school district, the court may make an order suspending the execution of the judgment so long as the condition of the bond is complied with. The bond shall be filed with the secretary of the board of education, or clerk of the board of trustees. All money paid or collected on the bond shall be paid into the county treasury as provided in Section 41001.

SEC. 6. Section 236 of the Welfare and Institutions Code is amended to read:

236. Notwithstanding any other law, probation departments may engage in activities designed to prevent juvenile delinquency. These activities include rendering direct and indirect services to persons in the community. Probation departments shall not be limited to providing services only to those persons on probation being supervised under Section 330 or 654, but may provide services to any juveniles in the community. Services or programs offered to minors or minors' parents or guardians who are not on probation are voluntary and shall not include probation conditions or consequences as a result of not engaging in or completing those programs

or services. For minors not on probation, the provision of services or programs under this section shall not be construed to allow probation departments to maintain a formal or informal caseload, establish formal or informal contracts with minors or minors' parents or guardians, or create mandated-probation conditions.

SEC. 7. Section 601 of the Welfare and Institutions Code is amended to read:

601. (a) Any minor between 12 years of age and 17 years of age, inclusive, who persistently or habitually refuses to obey the reasonable and proper orders or directions of the minor's parents, guardian, or custodian, or who is beyond the control of that person, or who is a minor between 12 years of age and 17 years of age, inclusive, when the minor violated any ordinance of any city or county of this state establishing a curfew based solely on age is within the jurisdiction of the juvenile court which may adjudge the minor to be a ward of the court.

(b) If a minor between 12 years of age and 17 years of age, inclusive, has four or more trancies within one school year as defined in Section 48260 of the Education Code or a school attendance review board or probation officer determines that the available public and private services are insufficient or inappropriate to correct the habitual truancy of the minor, or if the minor fails to respond to directives of a school attendance review board or probation officer or to services provided, the minor is then within the jurisdiction of the juvenile court which may adjudge the minor to be a ward of the court pursuant to this section. However, it is the intent of the Legislature that a minor who is described in this subdivision, adjudged a ward of the court pursuant solely to this subdivision, or found in contempt of court for failure to comply with a court order pursuant to this subdivision, shall not be held in a secure facility and shall not be removed from the custody of the parent or guardian except for the purposes of school attendance.

(c) To the extent practically feasible, a minor who is adjudged a ward of the court pursuant to this section shall not be permitted to come into or remain in contact with any minor ordered to participate in a truancy program, or the equivalent thereof, pursuant to Section 602.

(d) Any peace officer may issue a notice to appear to a minor who is within the jurisdiction of the juvenile court pursuant to this section. Before issuing a notice to appear under this subdivision, a peace officer shall refer a minor who is within the jurisdiction of this section to a community-based resource, the probation department, a health agency, a local educational agency, or other governmental entities that may provide services.

SEC. 8. Section 601.3 of the Welfare and Institutions Code is amended to read:

601.3. (a) If the district attorney or the probation officer receives notice from the school district pursuant to subdivision (b) of Section 48260.6 of the Education Code that a minor continues to be classified as a truant after the parents or guardians have been notified pursuant to subdivision (a) of Section 48260.5 of the Education Code, or if the district attorney or the

probation officer receives notice from the school attendance review board, or the district attorney receives notice from the probation officer, pursuant to subdivision (a) of Section 48263.5 of the Education Code that a minor continues to be classified as a truant after review and counseling by the school attendance review board or probation officer, the district attorney or the probation officer, or both, may request the parents or guardians and the child to attend a meeting in the district attorney's office or at the probation department to discuss the possible legal consequences of the minor's truancy.

(b) Notice of a meeting to be held pursuant to this section shall contain all of the following:

- (1) The name and address of the person to whom the notice is directed.
- (2) The date, time, and place of the meeting.
- (3) The name of the minor classified as a truant.
- (4) The section pursuant to which the meeting is requested.
- (5) Notice that the district attorney may file a criminal complaint against

the parents or guardians pursuant to Section 48293 of the Education Code for failure to compel the attendance of the minor at school.

(c) Notice of a meeting to be held pursuant to this section shall be served at least five days prior to the meeting on each person required to attend the meeting. Service shall be made personally or by certified mail with return receipt requested.

(d) At the commencement of the meeting authorized by this section, the district attorney or the probation officer shall advise the parents or guardians and the child that any statements they make could be used against them in subsequent court proceedings.

(e) Upon completion of the meeting authorized by this section, the probation officer or the district attorney, after consultation with the probation officer, may file a petition pursuant to Section 601 if the district attorney or the probation officer determines that available community resources cannot resolve the truancy problem, or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to services provided or to the directives of the school, the school attendance review board, the probation officer, or the district attorney.

(f) The truancy mediation program authorized by this section may be established by the district attorney or by the probation officer. The district attorney and the probation officer shall coordinate their efforts and shall cooperate in determining whether another public agency, a community-based organization, the probation department, or the district attorney is best able to operate a truancy mediation program in their county pursuant to this section.

SEC. 9. Section 651.5 is added to the Welfare and Institutions Code, to read:

651.5. For purposes of this article, "community-based organization" means a public or private nonprofit organization of demonstrated effectiveness that is representative of a community or significant segments of a community and provides educational, physical, or mental health,

recreational, arts, and other youth development or related services to individuals in the community.

SEC. 10. Section 653.5 of the Welfare and Institutions Code is amended to read:

653.5. (a) Whenever any person applies to the probation officer to commence proceedings in the juvenile court, the application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor within the provisions of Section 602, or that a minor committed an offense described in Section 602 within the county, and setting forth facts in support thereof. The probation officer shall immediately make any investigation the probation officer deems necessary to determine whether proceedings in the juvenile court shall be commenced. If the probation officer determines that it is appropriate to recommend services to the family to prevent or eliminate the need for removal of the minor from the minor's home, the probation officer shall make a referral to those services. The probation officer shall refer the youth to services provided by a health agency, community-based organization, local educational agency, an appropriate non-law-enforcement agency, or the probation department.

(b) Except as provided in subdivision (c), if the probation officer determines that proceedings pursuant to Section 650 should be commenced to declare a person to be a ward of the juvenile court on the basis that the minor is a person described in Section 602, the probation officer shall cause the affidavit to be taken to the prosecuting attorney.

(c) Notwithstanding subdivision (b), the probation officer shall cause the affidavit to be taken within 48 hours to the prosecuting attorney in all of the following cases:

(1) If it appears to the probation officer that the minor has been referred to the probation officer for any violation of an offense listed in subdivision (b), paragraph (2) of subdivision (d), or subdivision (e) of Section 707.

(2) If it appears to the probation officer that the minor is under 14 years of age at the date of the offense and that the offense constitutes a second felony referral to the probation officer.

(3) If it appears to the probation officer that the minor was 14 years of age or older at the date of the offense and that the offense constitutes a felony referral to the probation officer.

(4) If it appears to the probation officer that the minor has been referred to the probation officer for the sale or possession for sale of a controlled substance as defined in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(5) If it appears to the probation officer that the minor has been referred to the probation officer for a violation of Section 11350 or 11377 of the Health and Safety Code where the violation takes place at a public or private elementary, vocational, junior high school, or high school, or a violation of Section 245.5, 626.9, or 626.10 of the Penal Code.

(6) If it appears to the probation officer that the minor has been referred to the probation officer for a violation of Section 186.22 of the Penal Code.

(7) If it appears to the probation officer that the minor has committed an offense in which the restitution owed to the victim exceeds one thousand dollars (\$1,000). For purposes of this paragraph, the definition of “victim” in paragraph (1) of subdivision (a) of Section 730.6 and “restitution” in subdivision (h) of Section 730.6 shall apply.

Except for offenses listed in paragraph (5), subdivision (c) shall not apply to a narcotics and drug offense set forth in Section 1000 of the Penal Code.

The prosecuting attorney shall within their discretionary power institute proceedings in accordance with their role as public prosecutor pursuant to subdivision (b) of Section 650 and Section 26500 of the Government Code. However, if it appears to the prosecuting attorney that the affidavit was not properly referred, that the offense for which the minor was referred should be charged as a misdemeanor, or that the minor may benefit from a program of informal supervision, they shall refer the matter to the probation officer for whatever action the probation officer may deem appropriate.

(d) In all matters where the minor is not in custody and is already a ward of the court or a probationer under Section 602, the prosecuting attorney, within five judicial days of receipt of the affidavit from the probation officer, shall institute proceedings in accordance with their role as public prosecutor pursuant to subdivision (b) of Section 650 of this code and Section 26500 of the Government Code, unless it appears to the prosecuting attorney that the affidavit was not properly referred or that the offense for which the minor was referred requires additional substantiating information, in which case they shall immediately notify the probation officer of what further action they are taking.

(e) This section shall become operative on January 1, 1997.

SEC. 11. Section 654 of the Welfare and Institutions Code is amended to read:

654. (a) In any case in which a probation officer, after investigation of an application for a petition or any other investigation the probation officer is authorized to make, concludes that a minor is within the jurisdiction of the juvenile court, or would come within the jurisdiction of the court if a petition were filed, the probation officer may, in lieu of filing a petition to declare a minor a ward of the court under Section 601 or requesting that a petition be filed by the prosecuting attorney to declare a minor a ward of the court under subdivision (e) of Section 601.3 or Section 602 and with consent of the minor and the minor’s parent or guardian, refer the minor to services provided by a health agency, community-based organization, local educational agency, an appropriate non-law-enforcement agency, or the probation department. If the services are provided by the probation department, the probation officer may delineate specific programs of supervision for the minor, not to exceed six months, and attempt thereby to adjust the situation that brings the minor within the jurisdiction of the court. This section does not prevent the probation officer from requesting the prosecuting attorney to file a petition at any time within the six-month period or a 90-day period thereafter. If the probation officer determines that the minor has not participated in the specific programs within 60 days, the

probation officer may file a petition or request that a petition be filed by the prosecuting attorney. However, when in the judgment of the probation officer the interest of the minor and the community can be protected, the probation officer shall make a diligent effort to proceed under this section.

(b) The program of supervision of the minor undertaken pursuant to this section may call for the minor to obtain care and treatment for the misuse of, or addiction to, controlled substances from a county mental health service or other appropriate community agency.

(c) The program of supervision shall encourage the parents or guardians of the minor to participate with the minor in counseling or education programs, including, but not limited to, parent education and parenting programs operated by community colleges, school districts, or other appropriate agencies designated by the court if the program of supervision is pursuant to the procedure prescribed in Section 654.2.

(d) Further, a probation officer with consent of the minor and the minor's parent or guardian may provide the following services in lieu of filing a petition:

(1) Maintain and operate sheltered-care facilities, or contract with private or public agencies to provide these services. The placement shall be limited to a maximum of 90 days. Counseling services shall be extended to the sheltered minor and the minor's family during this period of diversion services. Referrals for sheltered-care diversion may be made by the minor, the minor's family, schools, any law enforcement agency, or any other private or public social service agency.

(2) Maintain and operate crisis resolution homes, or contract with private or public agencies offering these services. Residence at these facilities shall be limited to 20 days during which period individual and family counseling shall be extended to the minor and the minor's family. Failure to resolve the crisis within the 20-day period may result in the minor's referral to a sheltered-care facility for a period not to exceed 90 days. Referrals shall be accepted from the minor, the minor's family, schools, law enforcement, or any other private or public social service agency.

(3) Maintain and operate counseling and educational centers, or contract with community-based organizations or public agencies to provide vocational training or skills, counseling and mental health resources, educational supports, and arts, recreation, and other youth development services. These services may be provided separately or in conjunction with crisis resolution homes to be operated by the probation officer. The probation officer shall be authorized to make referrals to those organizations when available.

At the conclusion of the program of supervision undertaken pursuant to this section, the probation officer shall prepare and maintain a followup report of the actual program measures taken.

SEC. 12. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and

school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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