

PROPOSED REGULATION TEXT

Chapter 1.6 Commitment to the ~~Youth Authority~~Division of Juvenile Justice (DJJ)

Article 1. General Provisions

§ 4166. General Standards & Premises:

The following standards, requirements, and premises will be applied by the ~~Department~~Division in making decisions on acceptance of ~~persons-youth~~ committed from criminal and juvenile courts:

- (a) ~~(a)~~—There must be sufficient information submitted about the ~~person-youth~~ to enable an informed decision to be made.
- (b) ~~(b)~~ ~~(Reserved)~~ Youth committed from a juvenile court will be accepted if they can be materially benefited, provided that necessary facilities, staff and rehabilitative services are available.
- (c) ~~(c)~~ ~~(e)~~ Persons-Youth must be available for delivery to a ~~Departmental~~Division of Juvenile Justice reception center- clinic.
- (d) ~~(d)~~ ~~(e)~~ Persons-Youth committed to the ~~Youth Authority~~Division of Juvenile Justice will be accepted, unless it is concluded they are clearly inappropriate.
- (e) ~~(e)~~ ~~(e)~~ Persons-Youth are committed to the ~~Youth Authority~~Division of Juvenile Justice for disposition. Intake and Court Services (ICS) ~~Unit~~ staff will not base their decision on acceptance on anticipated actions the staff or Juvenile Parole Board may take in the future regarding the case. It is presumed such actions to be taken will be appropriate for each case.
- (f) The Chief Deputy Secretary of Division of Juvenile Justice and the Director of State Department of Mental Health shall, at least annually, confer and establish policy with respect to the types of cases which should be the responsibility of each department.

NOTE: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Sections 1730, 736 (a), (b), 1731.5 (a), (b), Welfare and Institutions Code.

Article 2. Criminal Court Commitment

§ 4168. Decision to Accept or Reject on Material Benefit.

A ~~person-youth~~ will be materially benefited when there is a reasonable possibility that his likelihood to commit criminal behavior can be significantly reduced or eliminated within the confinement time and jurisdiction time available. Factors to be considered include:

- (a) ~~(a)~~—Capacity. Does the ~~person-youth~~ have the capacity to change? Considerations in making this determination include:
 - (1) ~~(1)~~—The ~~person's-youth's~~ intelligence.
 - (2) The ~~person's-youth's~~ ability to communicate.
 - (3) The absence or presence of a pronounced psychosis.
- (b) Tractability. Is the ~~person's-youth's~~ criminal behavior so firmly established that there is little likelihood that it can be changed by commitment to the ~~Youth~~

Authority Division of Juvenile Justice? Considerations in making this determination include:

- (1) The ~~person's~~ youth's history of criminal/delinquent behavior.
- (2) The ~~person's~~ youth's degree of criminal sophistication.
- (3) The success of prior efforts to help the ~~person~~ youth change his behavior.
- (4) Whether the ~~person~~ youth has demonstrated willingness to participate in programs designed to result in correction of unacceptable behavior.

NOTE: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Section 1731.5, Welfare & Institutions Code.

§ 4168.5. Requirement to Provide Information.

~~(a) (Reserved)~~

~~(b)~~(a) At the time of commitment to the ~~Youth Authority~~ Division of Juvenile Justice, the committing court and/or probation department shall provide the following for each ~~person~~ youth: (1) Three copies of court order(s) (one of which must be certified) showing that the ~~person~~ youth was committed to the ~~Youth Authority~~ Division of Juvenile Justice in accordance with the law, which orders shall include the following determinations~~:-~~:

(A) Public offense(s) sustained by the court, including enhancements~~:-~~.

(B) Aggravating or mitigating circumstances, when applicable~~:-~~.

(C) Confinement time from any charge that is to run consecutively or concurrently with the confinement time from any other charge, when applicable~~:-~~.

(D) Confinement time remaining from a previous court action that is to run concurrently or consecutively with the confinement time from the current court action, when applicable~~:-~~.

(E) Amount of time already spent in physical confinement that has been credited to the amount of time the ~~person~~ youth may be confined by the ~~Youth Authority~~ Division of Juvenile Justice, when applicable~~:-~~.

(F) Amount of time the ~~person~~ youth may be held in physical confinement by the ~~Youth Authority~~ Division of Juvenile Justice, ~~for example~~~~:-~~, years, months and days~~:-~~.

(2) Completed ~~Youth Authority~~ Division of Juvenile Justice Referral Document, ~~YA-DJJ~~ 1.411 (Rev. 12/07) (form supplied by the ~~Department~~ Division)~~:-~~.

(3) Completed Division of Juvenile Justice Mental Health Assessment Form, DJJ 1.205 (Rev. 9/08) (form supplied by the Division).

~~(3)~~(4) Three copies of reports containing the following case information, unless it is already in possession of the ~~Department~~ Division~~:-~~:

(A) Current description and diagnostic information concerning any evidence that the ~~person-youth~~ may be developmentally disabled (~~i.e. for example~~, I.Q. of 70 or less); is unable to communicate (~~e.g., for example~~, speech or hearing defect); is psychotic or has another psychiatric disorder; or has a serious physical disability.

(B) Current description of any condition requiring medical care, ~~e.g. for example~~, disease, pregnancy, etc.

(C) Description and evaluation of the ~~person's-youth's~~ social background, ~~i.e. for example~~, developmental history, family background, peer associations, school and work history, leisure-time activities and community environment.

(D) History of all of the ~~person's-youth's~~ criminal/delinquent behavior which resulted in a finding of guilt, ~~i.e. for example~~, date of arrest, sustained criminal charges, circumstances surrounding the offense and degree of involvement, which is often included in the Probation report.

(E) Description of prior efforts to help the ~~person-youth~~ change his behavior, ~~i.e. for example~~, programs used (~~e.g. for example~~, probation, county camp, etc.), length of participation, degree and willingness to participate, and evaluation of results.

(F) Evaluation of why the ~~person-youth~~ is criminal/delinquent and what action should be taken.

~~(4)(5)~~ Evaluation of whether it would be dangerous to co-mingle the ~~person-youth~~ with other identified ~~persons-youth~~ in a Youth Authority Division of Juvenile Justice institution facility, when relevant.

(6) Pursuant Welfare and Institutions Code 1742, when the juvenile court commits a youth to the Division of Juvenile Justice who is identified as an individual with exceptional needs, as defined by Section 56026 of the Education Code, the juvenile court shall not order the juvenile conveyed to the physical custody o the Division until the youth's previously developed individualized education program previously developed has been furnished to the Division.

In order to enforce this requirement, the court shall indicate on the court commitment documents whether:

- The youth is an individual with exceptional needs
- The youth is not an individual with exceptional needs or
- Education records do not indicate that a determination has been made regarding any exceptional needs that the youth may have

NOTE: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Sections 1740, 1741 and 1742 Welfare and Institutions Code.

§ 4168.7. Acceptance and Rejection Criteria for Youth with Medical or Mental Health Conditions

(A) The Division of Juvenile Justice (DJJ) shall accept or reject a youth committed to it based on whether the youth can be materially benefited by the DJJ’s rehabilitation model and educational programs, and if the DJJ has adequate facilities and staff to provide such care.

DJJ is responsible for performing an individualized review of all youth committed by the courts for determination of whether the youth will materially benefit from DJJ’s rehabilitative and educational programs and whether adequate facilities, staff and programs exist to provide for the youth. As part of that determination, Intake and Court Services staff shall review the youth’s records for medical and mental health conditions that interfere with the youth’s ability to materially benefit from DJJ’s programs or for which DJJ does not have adequate facilities, staff or programs to provide care—and for which DJJ cannot otherwise reasonable accommodate through modified programming or facilities.

(B) DJJ does not accept youth who are seriously ill or have health impairments whose commitment would involve serious risk of permanent disability or long-term detriment to health status, or whose medical conditions are so extreme as to interfere with the youth’s ability to materially benefit from DJJ’s programs (including regular attendance at school and rehabilitative programs) or for which DJJ does not have adequate facilities, staff or programs to provide care—and for which DJJ cannot otherwise reasonably accommodate through modified programming or facilities.

(C) DJJ does not accept youth with mental health conditions and associated limitations that are sufficiently severe to interfere with the youth’s ability to materially benefit from DJJ’s programs (including regular attendance at school and rehabilitative programs) or for which DJJ does not have adequate facilities, staff or programs to provide care—and for which DJJ cannot otherwise reasonably accommodate through modified programming or facilities.

In cases where the Division of Juvenile Justice notifies the county that a committed youth will not be accepted by DJJ, the county may request that an Inter-disciplinary Team Review be held to discuss other placement options for the youth.

The Inter-disciplinary Team’s recommendations will be forwarded to the Director of the Division of Juvenile Facilities (DJF). The Director shall review the Inter-disciplinary Team’s recommendations and provide input prior to referring case to the Chief Deputy Secretary of DJJ. The Chief Deputy Secretary or designee will make the final decision regarding rejection of commitment.

NOTE: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Sections 733, 734, 735, 736 and 1741, Welfare and Institutions Code.

§ 4169. Optional Information.

The committing court, probation department, district attorney, defense attorney and law enforcement agencies are requested to provide the ~~Youth Authority~~Division of Juvenile Justice with additional information or recommendations they deem necessary or desirable to assist the ~~Authority~~Division in carrying out its functions.

NOTE: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Section 1741, Welfare and Institutions Code.

§ 4169.5. Acceptance or Rejection Action.

The ~~Department~~Division shall make a decision to accept or reject a committed ~~person~~youth within 16 work-hours, or as soon thereafter as possible, after receipt of the information and documents described in Sections ~~4176-4168.5~~ and ~~4176.54169~~ of these regulations.

NOTE: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Section 1731.5, Welfare and Institutions Code.

§ 4169.9. Time Limit on Acceptance.

Notice that a case has been accepted shall become void 90 days from the date it was issued unless the ~~person~~youth has been delivered to a ~~Department~~Division reception center-clinic. If not delivered within 90 days, the case may be resubmitted for acceptance action as provided by Section ~~41674168~~. Required and optional information as provided by Sections 4168.5 and 4169 shall be current to the date of resubmission.

NOTE: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Section 1731.5, Welfare and Institutions Code.