



Montclair Police Department

PROTOCOL FOR YOUTH UNDER THE AGE OF 12

Senate Bill 439/WIC 602.1

October 2021

SENATE BILL 439

Senate Bill (SB) 439 amended Welfare and Institutions Code sections 601 and 602 and added section 602.1

(operative January 1, 2020).

The purpose of this bill is to protect youth under the age of 12 from the negative impacts of formal involvement with the Justice System through alternative youth-oriented services.

The amendments establish age 12 as the minimum age whereby a Juvenile Court may exercise jurisdiction over a youth unless they have committed a Serious Criminal Offense as defined in WIC section 602(b).

Section 602.1 directs counties to create alternative services for youth under the age of 12 who would otherwise be subject to the Juvenile Court's jurisdiction and requires counties to release youth under the age of 12, whose behavior brings them into contact with law enforcement to their parent, guardian, caregivers, or other County-established alternative programs.

WIC 602.1 REVIEW

THIS SECTION
BECAME
OPERATIVE ON
JANUARY 1,
2020.

602.1. (a) In order to ensure the safety and well-being of minors who are under 12 years of age and whose behavior would otherwise bring them within the jurisdiction of the juvenile court pursuant to **Section 601 or 602**, it is the intent of the Legislature that counties pursue appropriate measures to serve and protect a child only as needed, avoiding any intervention whenever possible, and using the least restrictive alternatives through available school-, health-, and community-based services. It is the intent of the Legislature that counties use existing funding for behavioral health, mental health, or other available existing funding sources to provide the alternative services required by this section.

(b) Except as provided in subdivision (b) of Section 602, when a minor under 12 years of age comes to the attention of law enforcement because his or her behavior or actions are as described in **Section 601 or 602**, the response of the county shall be to release the minor to his or her parent, guardian, or caregiver. Counties shall develop a process for determining the least restrictive responses that may be used instead of, or in addition to, the release of the minor to his or her parent, guardian, or caregiver.

MONTCLAIR
POLICE
DEPARTMENT

WIC 602(b)

Youth under the age of 12 that come into contact with law enforcement, must be released to the care of their parents or guardians with no criminal charges or citations, with the exception of the following **Serious Criminal Offenses** as defined in WIC section 602(b):

- Murder
- Rape by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.
- Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.
- Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.
- Sexual penetration by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.

For those serious criminal offenses defined by WIC 602(b) where an arrest is made, refer to the procedures under MPD Policy section 311, "Temporary Custody of Juveniles."

MONTCLAIR POLICE DEPARTMENT PROCEDURE

Sworn personnel shall adhere to the following Montclair Police Department (MPD) procedure. When contacting a minor under the age of 12 that alleged to have committed a crime, which does not meet the criteria defined by WIC 602(b), the officer shall:

1. Ascertain the age of the minor using department procedures.
2. Advise the Watch Commander of circumstances.
3. Counsel the juvenile and parent, guardian, or caregiver, and provide an MPD Information for Victims of Crime Brochure and explain services available.
4. Create notes in the call stating: Who (i.e., parent or guardians name, dob, etc.) the juvenile was released to, and when, and that a MPD Brochure with resources was provided.
5. Notes in the call should be limited.

MONTCLAIR POLICE DEPARTMENT PROCEDURE

REPORTS

A report should not be taken, which should be explained to the victim. However, if the victim requires a report, or based on the totality of the circumstances, a report is deemed necessary:

1. DO NOT issue a citation to the juvenile or parent/guardian for the alleged offense.
2. DO NOT add the juveniles name or any identifiers in any portion of the report.
3. DO NOT refer to the juvenile as a suspect in the report.
4. When completing the report in Mark 43, select the field marked "Confidential Juvenile per WIC 602.1"
5. In the report narrative, reference that the juvenile was contacted and protected under WIC 602.1. You can refer to the juvenile as Confidential Juvenile (#1, #2, etc.) in the remainder of the report.

MONTCLAIR POLICE DEPARTMENT PROCEDURE

The officer shall release the child to a parent, guardian, or caregiver, unless:

- a. *The child presents harm to themselves or others. In this case, the officer will follow MPD Policy to have the youth evaluated for temporary involuntary commitment (WIC 5585). This could include contacting the Department of Behavior Health's (DBH) Community Crisis Response Team (CCRT).*
- b. *The child is a victim of abuse or neglect, and there is an immediate danger of physical and/or sexual abuse or the physical environment in which the child is in poses an immediate threat to the child's health or safety.*
- c. *The child has an immediate need of medical care.*
- d. *The child is a reported missing person from another jurisdiction.*

The officer will follow Department Policy if they encounter any of the above criteria.

MONTCLAIR POLICE DEPARTMENT PROCEDURE

In all cases when the child appears to suffer from mental health or substance use/abuse issues or the family needs resources, the officer shall give the youth and their parent, guardian, or caregiver an MPD Information for Victims of Crime Brochure containing a listing of services throughout the County.

If the child or family member is in crisis but does not meet the descriptions in the paragraph above, the family can contact:

- a) *The DBH Access and Referral Line at: (888) 843-1478, 24 hours a day, seven (7) days a week. (**Medi-Cal beneficiaries only**) – Included in MPD Information for Victims of Crime Brochure.*
- b) *Private medical insurance.*

MONTCLAIR POLICE DEPARTMENT PROCEDURE

- ✓ Children who do not fall within the Juvenile Court Jurisdiction shall not be fingerprinted for purposes of entry into the Criminal Justice Information Control (CJIC) database
- ✓ No information regarding the child's contact with law enforcement should be shared with anyone outside of the parent, guardian, caregiver, or service provider.
- ✓ Children under the age 12 should only be transported in a Montclair Police Department vehicle:
 - a. To protect the safety of the child; or*
 - b. When no alternative transportation is available.*
- ✓ Unless necessary for officer or public safety (combative or threatening), officers should not securely detain or handcuff children under age 12.
- ✓ If no parent, guardian, or caregiver is available or willing to accept the child, the officer may make arrangements to transport the child to a local CFS office with Watch Commander approval.



Local Resources for Parents, Guardians, and Children

MPD Information for Victims of Crime Brochure / Spanish and English

LEGAL SERVICES

San Bernardino County District Attorney (909)989-0056
www.sbcounty.gov/da
Inland Counties Legal Service (909)980-0982
www.inlandlegal.org
Victims of Crime Resource Center 1(800)842-8467
www.1800victims.org

RESTRAINING ORDERS

San Bernardino County Superior Court (909)285-3559
8303 Haven Avenue, Rancho Cucamonga
www.sb-court.org

SHELTER

House of Ruth (24-hr hotline – battered women) | 1(877)988-5559
www.houseofruthinc.org (909)623-4364
Salvation Army (909)986-6748

COUNSELING

House of Ruth (24-hr hotline - battered women) (877)988-5559
www.houseofruthinc.org
Project Sister (24-hr hotline - sexual assault) (909)626-4357
www.projectsister.org
West End Family Counseling (909)983-2020
www.wefcs.org
Bilingual Family Counseling (909)986-7111

FINANCIAL ASSISTANCE

San Bernardino Co. Transitional Assistance (909)388-0245
www.sbcounty.gov/hss/tad

RESOURCES FOR PARENTS, GUARDIANS, AND CHILDREN (SB439)

San Bernardino County Department of Behavioral Health
24/7 Access and Referral Helpline 1(888)743-1478
& (909)386-8256
Substance Abuse: Screening, 1(800)968-2636
Assessment & Referral Center (SARC) & (909)421-4601
Crisis Stabilization Unit (909) 386-8256 (East Valley)
(951)643-2340 (West Valley)
Community Crisis Response (909)421-9233 (East Valley)
Team (909)458-1517 (West Valley)
(760)956-2345 (High Desert)

Acute Psychiatric Hospitals

Loma Linda Behavioral Medicine Center (BMC) (909)558-9275
Canyon Ridge Hospital (909)590-3700
Probation (Day Reporting Center) (909)361-6470

Suicide Prevention

National Suicide Prevention Lifeline 1(800)273-8255

Mental Health Resources

National Alliance on Mental Illness (NAMI) (909)654-4134
(San Bernardino Area)

Child Abuse and Neglect

Children and Family Services (CFS) 1(800) 827-8724

Legal

Inland Counties Legal Services, Inc. (ICLS) 1(888)245-4257

Additional Resources

Inland Regional Center (IRC) (909)890-3000
Other 211



Montclair Police Department

Questions?