



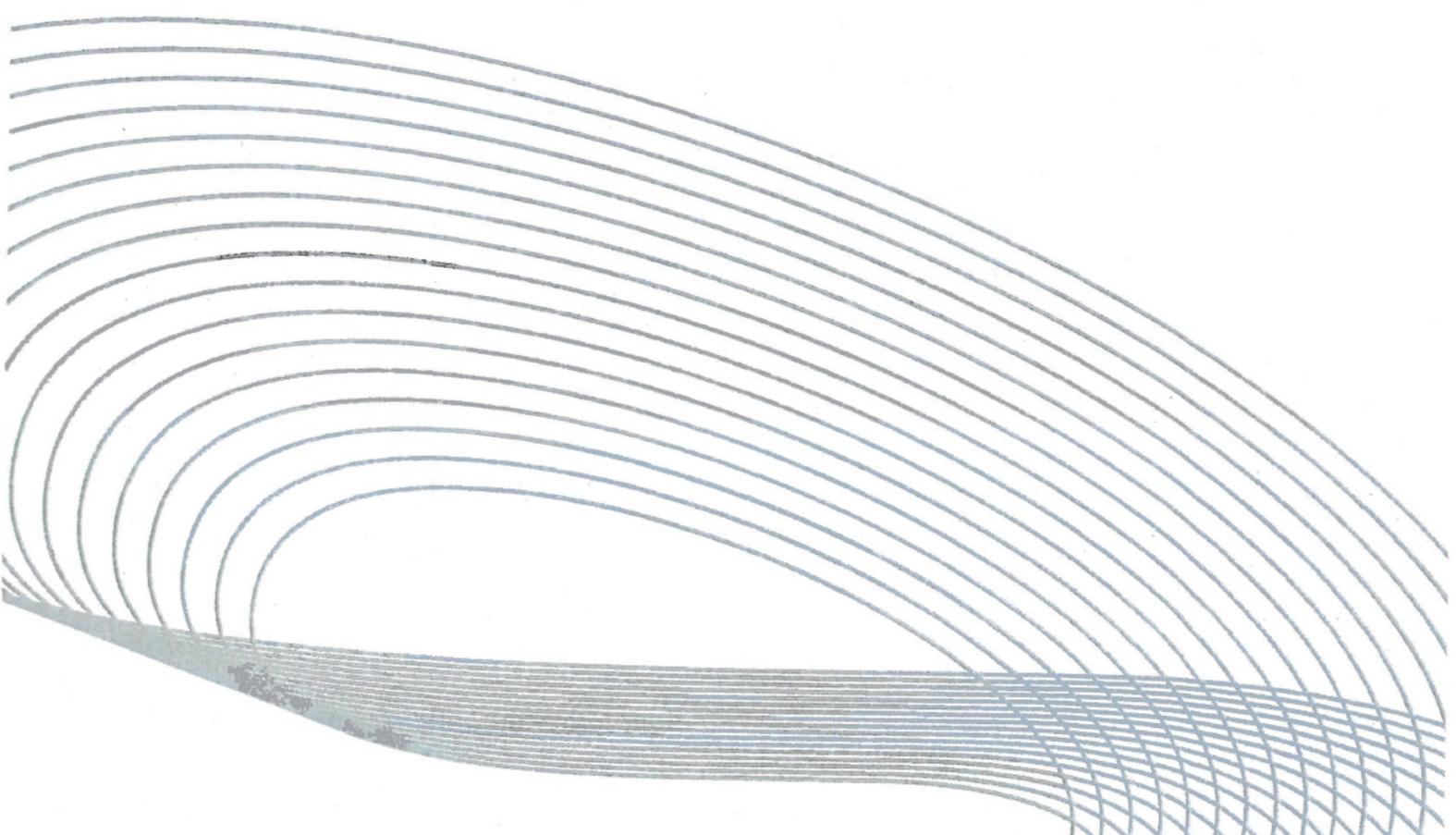
CHIEF PROBATION OFFICERS
OF CALIFORNIA

DECEMBER 2024

LESS RESTRICTIVE PROGRAMS

Outlining Statutes, Practices and Recommendations to Consider

This document is intended to be a resource to probation departments to support the development, operation and contracting specific to less restrictive programs. Periodically, CPOC will endeavor to update the document to reflect changes in law, rules of court and/or practice.



WHAT IS A LESS RESTRICTIVE PROGRAM (LRP)?

Less restrictive programs are not explicitly defined in statute; however, Welfare and Institutions Code Section 875(f)(1) describes a less restrictive program (LRP) as a program "such as a halfway house, a camp or ranch, or a community residential or nonresidential service program" with a purpose to "facilitate the safe and successful reintegration of the ward into the community." Therefore, it is not necessarily a specific place but a program to be individualized for each youth as the court determines their readiness. A transition from a secure youth treatment facility to an LRP is based upon either a court order or court approval of a LRP request as noted in (WIC (f)(1)). A less restrictive program is still part of the court established baseline/modified baseline term within the WIC 875 continuum (see Figure 1 on last page).

WHAT IS THE PROCESS FOR YOUTH TO ENTER LRP?

A motion is made by the probation department or youth/young adult to initiate the process for the court to consider ordering the youth/young adult to an LRP. Upon receiving the motion, the court is to consider the request at the youth/young adult's next scheduled status review hearing or schedule a separate hearing to consider. The court needs to consider the recommendation of probation on the change in placement type as well as determine that: 1) the youth/young adult has made substantial progress toward the goals of their individual rehabilitation program; and 2) placement in the LRP is consistent with the goals of the youth/young adult's rehabilitation and community safety.

The court is to consider the following factors when making its determination:

1. The overall progress the youth/young adult has made on their individual rehabilitation plan during the time they have been in the SYTF.
 - a. California Rule of Court 5.807(d)(2)(A) further notes the court is to determine the youth/young adult's "overall progress in relation to the rehabilitation plan in light of the programming made available to the youth during the period of confinement in a SYTF."
2. The programming and community transition services to be provided, or coordinated by the LRP, including but not limited to any educational, vocational, counseling, housing, or other services to be made available through the LRP.

The court must also set a length of time that a youth/young adult will be in an LRP which cannot exceed the remainder of the baseline term, or modified base line term, for the youth/young adult. Further, the court may require the ward to observe any conditions of performance or compliance with the program that are reasonable and appropriate to their case and within the individual's capacity to perform.

WHAT OPTIONS ARE BEING UTILIZED TO DATE FOR A LESS RESTRICTIVE PROGRAM?

Below is a non-exhaustive list of types of LRPs currently known to be utilized by the courts and probation. Regardless of the type of LRP or LRPs your department may be utilizing and/or developing, any placement in an LRP is initiated by a court order or court approval. For LRPs in the community, the court may choose to require the youth/young adult to have an electronic monitor.

LRP within a secure juvenile facility and/or facility subject to Title 15

This would be a dedicated unit or portion of unit within a camp, ranch, juvenile hall or secure youth treatment facility. This may include some services provided via contract(s) with a community-based organization(s) for services and may involve furloughs for school, work, internships, volunteering, home passes, etc. Programming provided is individualized and targeted at transitioning youth to an LRP in the community and/or release to community supervision.

LRP in unsecured setting (not subject to Title 15)

Options known to be in-use, or under development include:

1. Residential program operated in the community by a contract probation awards to a nongovernmental organization (NGO) which may include community-based agencies. This may take the form of a home/apartment a NGO owns or rents whereby supportive services as outlined by the court are provided to the youth/young adult and monitored by county probation.
2. Residential program operated out of a county owned/rented home or apartment. Services may be directly provided by the county probation department or delivered by a combination of the county and NGO or CBO via a contract.
 - a. *Consideration:* May need to review your local zoning requirements to determine if you have any restrictions on who can operate a residential program within your county.
3. Familial home of the youth/young adult which may include electronic monitoring if ordered by the court as a condition of performance or compliance with the program per WIC 875(f)(2). The youth/young adult may be receiving other supportive services while in an "at-home" LRP model.
4. Pine Grove. Pine Grove is a residential fire camp training site located in Amador County and operated by the California Department of Corrections and Rehabilitation (CDCR). It is available to serve male youth/young adults ages 18 to 25 years old who meet the specified criteria and found to be eligible by the CDCR. More information on Pine Grove can be found [here](#).
5. California Conservation Corps (CCC). CCC is a department within the California Natural Resources Agency. It operates both residential and non-residential programs focusing on environmental projects. It serves both male and female youth/young adults ages 18-25 with various locations across the state. More information on CCC can be found [here](#).

Probation departments may implement one of the above models or several of the above models depending upon the needs of youth/young adult and goals developed in partnership with the youth/young adults, courts and other members of the youth/young adult's multidisciplinary team and positive support network, in addition to your Juvenile Justice Coordinating Council SB 823 Subcommittee.

WHAT HAPPENS WHEN A YOUTH/YOUNG ADULT IS IN A LESS RESTRICTIVE PROGRAM?

While in a less restrictive program, the youth/young person will:

1. Continue to work on their individual rehabilitation plan; and
2. Receive progress review hearings at a minimum of once every six months.

During the progress review hearing, the court will evaluate the youth/young adult's progress on their LRP and determine if the baseline term of confinement should be modified. In making this decision, the court is to consider recommendations from counsel, probation, and any educational, behavioral or other specialists. The court will determine if the youth/young adult should continue with the LRP and/or if their baseline term or modified baseline term should be reduced for a period up to six months.

If, while in the LRP, the court determines that a youth/young adult has materially failed to comply with the court-ordered conditions of placement in the program, the court has a few options to consider:

1. Modify the terms and conditions of placement in the LRP; or
2. Order the youth/young adult returned to the SYTF for the remainder of their baseline term or **modified based term**.

If the court chooses to have the youth/young adult return to the SYTF, the following would apply:

- Youth/young adult would continue to receive progress review hearings.
- The maximum confinement time outlined in WIC (c)(1)(b) would still apply.
- The period of time the youth/young adult was in the LRP is to be applied towards their baseline term or modified baseline term (applied as credit).

AGE OF JURISDICTION

Youth/young adults in an LRP are still subject to the age of jurisdiction specific to their SYTF commitment. WIC 607 (b), (c) and (d) apply for secure treatment facilities and thereby less restrictive programs, which are considered part of the SYTF commitment term. Depending upon the offense for which a youth or young adult has been committed to an SYTF, the court may retain jurisdiction through age 23, 25 or, in specified cases, pursuant to WIC 607(d), over the age of 25 for up to two years from the date of disposition (AB 1391 resentencing cases are most likely to be applicable to WIC 607 subsection (d)).

WHAT ARE SOME IMPORTANT CONSIDERATIONS TO REMEMBER?

County probation departments are involved in all parts of the juvenile continuum and have responsibility in serving youth and families from diversion, to working with youth in the community, to secure settings, and foster care. We work closely as a connector with other community, county, and state entities to coordinate and integrate youth and family supports. Access to strong behavioral health, education, skills development, and child welfare programs yield the benefit of reducing referrals to the juvenile and criminal justice systems.

Time in an LRP is part of the baseline/modified baseline term

The court may require the ward to observe any conditions of performance or compliance that are reasonable and appropriate for the individual case and within the capacity of the youth to perform. This is particularly important if the LRP is in the community. Probation supervision occurs after the court discharges a youth from their baseline/modified baseline term and orders the youth to a period of probation supervision per WIC 875(e)(3) and (4).

Youth/young adults in an LRP receive custody credits applied toward their baseline term, or modified baseline term

WIC 875 (f)(2) states:

- *In any order transferring the ward from a secure youth treatment facility to a less restrictive program, the court may require the ward to observe any conditions of performance or compliance with the program that are reasonable and appropriate in the individual case and that are within the capacity of the ward to perform. The court shall set the length of time the ward is to remain in a less restrictive program, not to exceed the remainder of the baseline or modified baseline term, prior to a probation discharge hearing described in subdivision (e). If, after placement in a less restrictive program, the court determines that the ward has materially failed to comply with the court-ordered conditions of placement in the program, the court may modify the terms and conditions of placement in the program or may order the ward to be returned to a secure youth treatment facility for the remainder of the baseline term, or modified baseline term, and subject to further periodic review hearings, as provided in subdivision (e) and to the maximum confinement provisions of subdivision (c). If the ward is returned to the secure youth treatment facility under the provisions of this paragraph, the ward's baseline or modified baseline term shall be adjusted to include credit for the time served by the ward in the less restrictive program.*

Youth/young adults in an LRP continue to receive progress review hearings every 6 months

For youth/young adults in an LRP, the court may order a reduction in the length of time the youth/young adult is to remain in the LRP. Additionally, if the court determines that a youth/young adult has not complied with their court-ordered conditions, the court may order the youth/young adult returned to the SYTF pursuant to WIC 875(f)(2).

If contracting with a NGO for operation of an LRP or for services provided while a youth is in a LRP at home, consider what information your county department and court would need provided and how often.

While in an LRP, youth/young adults are still under their baseline/modified baseline term and probation is still required to report to the court on the youth/young adult's progress. Do you want a monthly or quarterly report on the youth/young adult's progress? What are your expectations of the CBO? Do you expect an incident report to be written and submitted to you if something significant occurs and how do you define significant?

Role of reentry planning

Reentry planning is a core function of probation while youth/young adults are in an SYTF and continuing in the LRP. It is important to identify the supportive services that are needed in the LRP and beyond. Other linkages that are critical to maintain and/or create if they do not exist yet are in the areas around connections to Rising Scholars, Project Rebound, Underground Scholars, Department of Rehabilitation, trade associations, service providers, supportive family, friends and mentors etc. Connections and coordination with your county's CalAIM implementation efforts for enhanced care management will be important as well.

- Review other supports/services that may be needed for obtaining important documentation such as a state identification, driver's license, social security card and/or birth certificate; transportation passes or vouchers; establishing a bank account, ensuring victim restitution is addressed; and financial stipends to family to support visitation among others.

Linkage to AB 12 if a prior foster youth.

Youth/young adults who had an open or suspended foster care order prior to their commitment into an SYTF, if still under the age of 21, may be eligible, if they meet criteria, to receive extended foster care benefits.

Examine the characteristics of the youth/young adult to create the most appropriate LRP for the individual as well as understanding the characteristics of any other youth/young adult who they may be in the LRP with.

Assessing the individual needs of each youth/young adult as LRPs are considered as well as any other youth/young adult they may be co-located with, is important to setting youth/young adults up for success. Understanding the age, gender needs, physical and/or medical limitations and the strengths of each youth/young adult and the LRP itself are important steps in the LRP consideration process.

Utilizing LRPs located in other counties and what to consider.

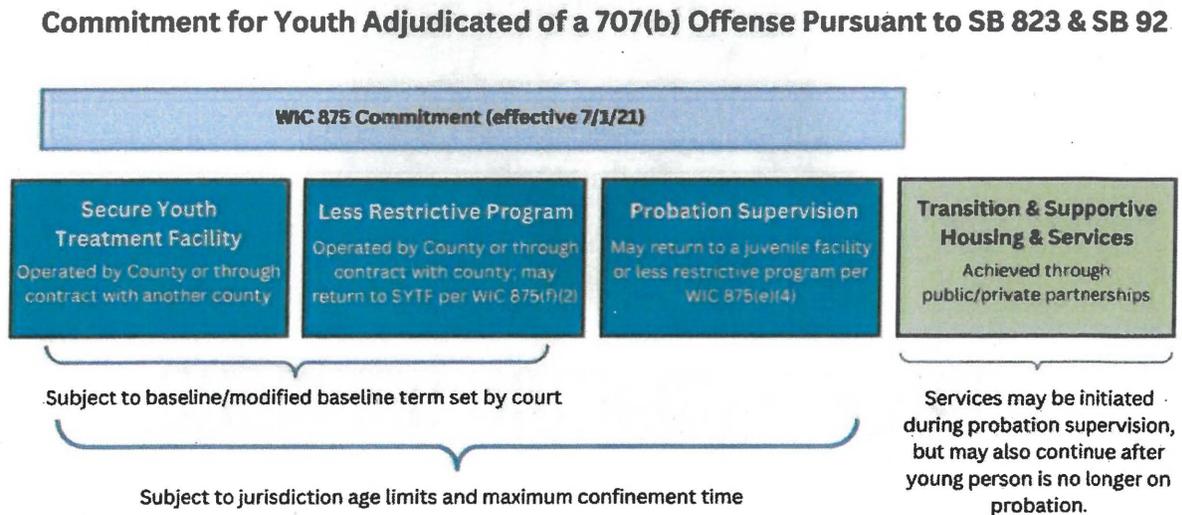
It is recommended that departments review potential LRP locations and ask about other youth and young adults whom the LRP is serving as well as seek to understand what services are provided or nearby that are important to the youth/young adult whom you are considering for the LRP.

- Supervision remains with the county probation department with jurisdiction of origin when a youth/young adult is in an LRP in another county and continuing to complete their baseline, or modified baseline, term.
- As a courtesy, notify the county probation department where the LRP is located that your department is supervising a youth in an LRP located in their county.

SB 823 CONTINUUM

Figure 1 below shows LRPs as the second stage within the four stages of the SB 823 Continuum. While in the SYTF, prior to the court determining that a youth has made substantial progress on their IRP and is ready for an LRP, a youth/young adult receives treatment and services pursuant to their individual goals as defined within their IRP. The IRP may be informed by a multidisciplinary team as well as the prosecutor and counsel. It is required that the youth/young adult and their family are included in the IRP process and be afforded the opportunity to provide input as well. Once a court makes the order to LRP, the youth/young adult transitions to the LRP stage within the continuum advancing through their rehabilitation process. Should a youth/young adult be ordered by the court to return to an SYTF due to failure to comply with the court-ordered conditions, the IRP would continue to be reviewed at future progress review hearings. Once a court discharges a youth/young adult from their baseline/modified baseline term, they are placed on probation supervision and given probation terms and conditions to follow during this stage until their probation supervision term concludes and their jurisdiction is closed by the juvenile court. These two stages are reflected in the last two boxes in the figure titled "Probation Supervision" and "Transition and Supportive Housing and Services". If a youth fails to comply with the terms of probation supervision, the court can return the youth to a juvenile facility or LRP for the remainder of their baseline term or six months, whichever is longer.

Figure 1. Stages of SB 823 Continuum



Note: Blue boxes = youth under court and probation jurisdiction

CONCLUSION

The intent of this document is to compile information available via statute and rules of court regarding the requirements, processes and considerations for less restrictive programs. The document captures key factors to consider and highlights types of less restrictive programs to support county probation's implementation of the SB 823 Juvenile Justice Realignment specific to LRPs. The document will be reviewed periodically to reflect updates in law and county practices.



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