

AB 1376 (BONTA) :

LIMITING TIME ON PROBATION:

Frequently Asked Questions (FAQ)

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Q: What does California law say about how long youth can remain on probation?

A: California does not have a statutory limitation on the time young people spend under court ordered, “non-custodial wardship probation” supervision. Typically, when youth are sentenced to probation they are not told when it will end and there is no requirement or timeline for them to be brought back for any sort of formal review or reassessment.

Q: Does AB 1376 cap probation time at six months or create any maximum amount of time on probation?

A: No. One defining characteristic of AB 1376 is that it does not create a one size fits all response. There is no maximum or minimum time on probation required. A youth could spend 3 months or 3 years (or more) on probation if the judge determined that was in the best interest of that youth and the community.

Q: What does it mean that AB 1376 applies to youth on “non-custodial wardship probation”?

A: Non-custodial wardship probation refers to youth on formal probation that are not in custody at juvenile hall, camps, ranches, or Secure Youth Treatment Facilities. A judge has sentenced these youth to probation in the community, meaning the judge has already determined the youth impacted by AB 1376 are not a threat to their community.

Q: How are probation conditions determined for youth on probation?

A: Every county probation department has different standard probation conditions. There is no statutory limit on the number of probation conditions that may be imposed, and the number varies greatly from jurisdiction to jurisdiction. While the National Council of Juvenile and Family Court Judges recommends that probation conditions should be limited to ideally four or fewer conditions, Los Angeles County has 56 probation conditions in their standard form, and several other counties have more than 30. The more choices offered to simply check a box and assign a condition, the more likely that the conditions assigned to youth will be excessive and boilerplate. It is often the case that these conditions are unrelated to what brought a young person into contact with the system, and fail to address or acknowledge the youth’s individual needs, making it harder for the youth to understand and abide by them.

Q: How long do youth in California stay on probation?

A: There is no state mandate to report on how long youth spend on non-custodial wardship probation and few counties regularly track or report the average length of time youth spend on probation. Based on a public records act request (PRA), out of 58 counties, only 18 counties provided data. Data showed that young people were on wardship probation for an average of close to two years in 2019, with youth of color spending significantly longer periods of time on probation than white youth. White youth spent an average of 19.7 months on probation, whereas Latino youth spent an average of 25.1 months, Asian youth spent 22.2 months and Black youth spent 20.9 months.¹

Q: How does AB 1376 address the lack of guidance for counties around how long youth should spend on probation and what conditions should be assigned?

A: AB 1376 addresses these problems with youth probation by:

- **Providing Guidelines for Review Hearings for Youth on Probation in the Community.** AB 1376 sets six-month timelines for review hearings for youth on non-custodial wardship probation. At those review hearings, the judge can determine, by a preponderance of the evidence, that extending probation is in the best interest of public safety and the young person; and
- **Requiring Individualized Probation Conditions.** AB 1376 requires probation conditions be individually tailored, developmentally appropriate, and not excessive.

Q: How many youth will AB 1376 affect?

A: In 2023, 6,025 young people were declared a ward of the court and placed under probation supervision in the community. The vast majority (86%) of these young Californians were youth of color.

Q: Who determines how long a young person stays on probation?

A: A judge determines how long a young person stays on probation; however, there is no standard practice in California to ensure that youth are brought to the attention of the court to review whether probation termination is advisable. Under AB 1376, the judge will still be the decision-maker in determining how long a youth stays on probation.

Q: What are other examples of required court oversight every six months in the Welfare and Institutions Code?

A: There is precedent for six-month timelines for mandated court check-ins in other parts of the Welfare and Institutions Code. In addition, Federal law requires a status review hearing every six months for youth that are in placements, whether through dependency or delinquency.

¹ Records received through Public Records Act Request to all California counties by the W. Haywood Burns Institute (BI) and the National Center for Youth Law (NCYL) in 2020 (on file). Data were requested on average and median length of stay for youth exiting probation between January 1, 2018 and the date of the request (July 2020). In some cases, counties provided average length on probation by race and ethnicity, including the number of youth that were included in the sample. If lengths of probation were not provided directly by the counties, data were analyzed by BI and NCYL based on de-identified raw data provided by the counties.

Informal probation in California also has six-month terms (WIC 654 and WIC 725). Many youth who are sentenced to formal probation are eligible for informal probation. The law already envisions youth achieving "rehabilitation" in six months for youth on informal probation, and the same opportunity should be afforded for youth on formal probation to show that they have successfully met the terms of their probation.

It should be noted that the Chief Probation Officers in 2020 advocated for "termination of probation after six months when appropriate" through their support for the Elevate Justice Act.

Q: Don't long probation terms make our communities safer?

A: Long probation terms are in conflict with the fundamental principles of youth development and research demonstrating that youth probation terms longer than six months are not likely to result in public safety gains.²

Q: What are the harms of long probation terms?

A: The longer young people spend on probation, entangled in a complex web of confusing rules, the greater their risk of deeper system involvement and poorer outcomes. According to national experts, "(p)robation often pulls young people deeper into the system without offering the support and guidance that would put them on the right path and reduce the likelihood of reoffending." Long probation terms increase the likelihood that youth will be charged with probation violations, creating a "gotcha" dynamic that sometimes results in incarceration and often for minor offenses and non-criminal behavior. Guided by this research, juvenile justice experts in the Pew Charitable Trusts' Public Safety Performance Project have recommended shorter periods of probation for youth in several states.

Q: Does AB 1376 have a fiscal component?

A: No. As noted by Senate Public Safety units analysis of the adult version of limiting time on probation (AB 1950), the implementation of legislation limiting time on probation "should significantly reduce probation workloads and costs."³

Q: Does AB 1376 differentiate the amount of time on probation based on offense?

A: No. Research shows that offense does not automatically equate to risk to the community. Ultimately, the judge will be the decisionmaker utilizing the preponderance of the evidence standard. If additional time for rehabilitation under probation supervision past six months is needed, it would be in the child's best interest to extend probation. The bill accounts for complex crimes by not creating a cap on the number of times probation could be extended. Additionally, because AB 1376 takes an individualistic approach, it avoids the unintended consequence of youth being

² Joint Ad-Hoc Tennessee Blue Ribbon Task Force on Juvenile Justice. (2017, December).

³ March 4, 2021 Senate Committee on Budget and Fiscal Review, Subcommittee No. 5, at 15-16 analyzing AB 1950 (2020).

“up-charged” as we have seen in other states that differentiate the amount of time on probation based on offense.⁴

Q: Does AB 1376 limit judicial discretion?

A: No. AB 1376 upholds judicial discretion. It creates a presumption that probation be terminated at the initial six-month marker, but there also may be a petition for extension, and there is no cap on the number of times probation may be extended. The judge is the ultimate decision maker. At the hearing, the judge may extend a youth’s probation if they find by a preponderance of the evidence that it is in the youth’s best interest.

The previous version of this bill [AB 503(2021-2022)] was amended as a result of helpful input from the California Judges Association. Specifically, the bill was amended to

- include a reference to WIC 202 to ensure that the courts are providing for the best interest of the youth and the public when determining whether to extend probation,
- change the evidence standard by which a court can extend probation from “clear and convincing” to “a preponderance of” the evidence,
- preserve judicial discretion in admitting different forms of evidence.

The current bill language, as amended based on input from the judges, also:

- maintains protections for foster youth who cannot return home after they have completed their time on probation,
- maintains procedural flexibility to transition youth to the child welfare system,
- and provides protections to guarantee youth are not at risk of probation violations during the transition period.

Q: Under AB 1376, if a judge extends probation, for how long can probation be extended?

A: There is no maximum time imposed by AB 1376. A judge may extend probation supervision for six months after each review hearing. If the court finds evidence to extend probation beyond the initial six-month period, they will state in the minute order the reason and set another hearing for no later than six months after the granting of the extension of probation supervision. A judge could use their discretion to set a hearing earlier than the six-month time period.

Q: What if a young person needs more than six months on probation to complete services?

A: If it is shown to be in the youth’s best interest to extend probation by a preponderance of the evidence, a judge has the discretion to extend probation. Additionally, effective services can be provided to youth in the community and the need for services should not result in a young person spending their childhood on probation.

⁴ Lindsay Rosenthal, Vera Institute for Criminal Justice. “The Impact of Previous National Status Offense Reform Efforts for Our Girls” (July 2018).

Q: Are probation services necessary to help some youth “get back on track”?

A: Although in some cases, probation may provide youth access to services, historical reliance on probation for this purpose hinders the development of non-punitive, community-based options. For youth that need long-term services, for example a youth that needs mental health treatment to address a disability, limiting their access to such services through the probation system is incredibly detrimental. Youth should not have to “fail up” to get the help they need. Community members and service providers, not probation, should be the ones providing long-term support to youth to ensure continuity of care.

Q: Are there any collateral consequences to spending time on probation?

A: Probation can have long-lasting collateral consequences on school mobility, school pushout, and reduced access to post-secondary college and career options. Additionally, the “stigma of a criminal label may... damage social relationships, thereby leading to rejection from teachers, parents, and prosocial students” and that the “educational repercussions of early exposure to the criminal justice system do not stop at high school.”⁵ Probation terms can also put stress on a young person’s family and support system, make it difficult to gain and maintain employment, and create other burdens that negatively impact their opportunities to succeed in their community.

Q: How are conditions different from 2022 when this bill was passed and was vetoed?

A: To justify vetoing AB 503 in 2022, Governor Newsom stated in his [veto letter](#) that he could not sign the bill because probation and the courts were, at the time, facing increased workload due to the realignment of juvenile justice and the closure of the Division of Juvenile Justice. Governor Newsom cited the workload burden of the realignment transition on probation departments as the primary reason for [vetoing AB 503](#). The final youth left the Division of Juvenile Justice (DJJ) in 2023, and realignment has since concluded.

Now that the realignment transition is complete, AB 1376 is the perfect next step towards providing an individualized approach for all system-impacted young people in California. By terminating probation for young people who no longer need supervision, this bill will allow probation agencies to focus on their remaining caseloads.

Cost concerns were also cited in the 2022 veto letter. Specifically, Governor Newsom expressed concerns “about costs driven by the increased number of hearings, the courts estimate that this increased workload will cost millions of dollars.” AB 503 (2021-2022) was a non-fiscal bill and did not need to go through appropriations, as is AB 1376. The bill would reduce the number of youth who are on probation unnecessarily and has massive cost savings implications. Even considering the highest end estimate of hearing workload costs for the entire year, the estimated net cost saving created by the bill could exceed 80 million dollars after implementation.

⁵ David S. Kirk and Robert J. Sampson. “Juvenile Arrest and Collateral Educational Damage in the Transition to Adulthood.” *Sociology of Education* 86(1), 2013.

While court hearings come with an initial cost, the cost of keeping kids on probation unnecessarily is much higher, to both the State and impacted families. Any costs associated with these court hearings will be more than offset by the reduction in probation caseloads, as each court hearing has a high chance of removing a kid from the probation supervision workload. By significantly reducing the caseloads of probation departments across the state, this bill will reduce both costs and workload for probation departments. Additionally, the significant reduction in their caseloads will allow probation officers to dedicate more time to the youth remaining under their supervision and will ensure the officers have time to attend check-in hearings every six months for each youth remaining under their supervision without increasing their workload.

Notably, while the Division of Juvenile Justice has closed, and the probation population has nearly been cut in half, the average amount of time youth spends on probation in the community has failed to improve for at least the past five years,⁶ clearly evidencing the need for legislative intervention to limit this harmful, wasteful, and dangerous practice.

⁶ Records received through Public Records Act Request to all California counties by the W. Haywood Burns Institute (BI) and the National Center for Youth Law (NCYL) in 2020 and 2024 (on file). Data were requested on average and median length of stay for youth exiting probation between January 1, 2018, and the date of the request (July 2020) and subsequently January 1, 2021, and July 1, 2024. In some cases, counties provided average length of stay on probation broken down by race and ethnicity, including the number of youth that were included in the sample. If lengths of stay were not provided directly by the counties, data were analyzed by BI and NCYL based on de-identified raw data provided by the counties.