

**California Codified Laws
and Case Law
Regarding Confidential Information
in Juvenile Court**

December 2006

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Confidential Information in Juvenile Court**

1. Status of dependents and wards			
	WIC 300	Persons subject to jurisdiction of juvenile court: Any minor who has been abused or neglected as therein described comes within the jurisdiction of the juvenile court as a dependent child of the court	
	WIC 602	Persons subject to jurisdiction of juvenile court and to adjudication as ward for violation of law or ordinance defining crime; Persons subject to prosecution in criminal court: Any minor who commits a crime or a status offense comes within the jurisdiction of the juvenile court as a ward of the court	
Prohibition on dual status, Exception	WIC 241.1	Determination of a minor's status: Requires probation department and welfare department to assess the minor to determine which status will serve the best interests of the minor and society; both departments' recommendations must be presented to the juvenile court for its determination of the status appropriate for the minor; 1998 amendment requires that when another juvenile court has already acquired jurisdiction over the minor, that court must receive notice of the presentation of the recommendations of the probation and welfare departments. A minor cannot simultaneously be both a ward and a dependent unless the County Board of Supervisors has approved a protocol pursuant to 241.1(e).	
Criminal law and procedure	In <u>re Henry S.</u> (2006) SOS 2927	Minor does not have a due process right to a full evidentiary hearing on a Welfare and Institutions Code Sec. 241.1 determination of whether he should be treated as dependent child or delinquent ward of court.	
	Rules of Court Rule 1403.5 Juvenile Court Rules	Commencement of Juvenile Court Proceedings; Joint Assessment procedure (as required by 241.1)	
	Los Angeles Superior Courts and the Administratively Unified Courts, Court Rules 17.1	Defines the procedures to be used within Los Angeles County for handling confidential juvenile case files, including files maintained by the Department of Children and Family Services, under WIC section 827. The rule also provides procedures for accessing and disseminating records contained in confidential files.	Defines the procedures to be used within Los Angeles County for handling confidential juvenile case files, including files maintained by the Department of Children and Family Services, under WIC section 827. The rule also provides procedures for accessing and disseminating records contained in confidential files.

	Los Angeles Superior Courts and the Administratively Unified Courts, Court Rules 17.2(c)	Court permission is required to interview, photograph, videotape or voice record dependant youth.
2. Right to privacy		
	Cal. Const. Article I § 1 Right to privacy	All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.
	Civil Code Section 1798 - 1798.82	Legislative intent to protect right to privacy and penalties for violation
	<u>Susan S. v. Israels</u> (1997) 55 Cal.App.4 th 1290	Court of Appeals held that plaintiff had a cause of action for invasion of her constitutional right to privacy. Plaintiff had a legally protected privacy interest in her mental health records and a reasonable expectation of privacy in them, subject to court determination, prior to disclosure, whether subpoenaed records should be disclosed.
	<u>Mansell v. Otto</u> (2003) 108 Cal.App.4 th 265	A plaintiff alleging an invasion of privacy in violation of the state constitutional right to privacy must establish each of the following: (1) a legally protected privacy interest (2) a reasonable expectation of privacy in the circumstances; and (3) conduct by defendant constituting a serious invasion of privacy. Cal. Evid. Code 1014 provides a statutory privilege of privacy which provides a patient the privilege to disclose, and to prevent another from disclosing a confidential communication between herself and her psychotherapist.
3. Information in the juvenile court file		
Confidentiality of juvenile court records in general	WIC 827 Limited dissemination of records; Misdemeanor violation of confidentiality provisions	Rule prohibits the dissemination of any records or reports relative to a matter within the jurisdiction of the court prepared or released by the court, the probation department or the county child welfare agency except to the child's school district, child protection agencies, persons or agencies providing treatment or supervision of the minor, members of children's multidisciplinary teams, or any other agency or person designated by court order. Agencies or persons receiving this information are prohibited from further disseminating or attaching the records or reports to any other document without court order except to other agencies or persons authorized by this statute to receive the information.
	Rule of Court Rule 1423	Confidentiality of records: juvenile court records may not be obtained or

		inspected by civil or criminal subpoena	
	Revised Local Rule 17.1 and 17.2	Judge Nash's blanket order re: juvenile court confidentiality	Judge Nash's "Blanket "BLANKET ORDER RE J CONFIDENTIALITY (RE 17.2).
	In <u>re Gina S.</u> (2005) 133 Cal. App. 4 th 1074	Right of inspection does not include automatic right to copy; must have court order to authorize copying. The juvenile court, not the recipient, had the authority to decide to whom juvenile court records may be released (<u>Keisha T.</u> (1995) 38 Cal.App.4 th 200, 234)	
	California Attorney General Opinions 85 Op. Atty Gen. Cal 194 (Sept 10, 2002)	D.A. not authorized to copy file without first obtaining court order	
	<u>Navajo Express v. The Superior Court of San Mateo County</u> , 186 Cal.App.3d 981 (1986)	In a personal injury action, defendants sought the plaintiff's juvenile court records. The plaintiff had alleged that as a result of the accident, he sustained brain damage manifested by violent behavior and emotional outbursts and had had no prior history of emotional problems or substance abuse. The trial court denied defendants' access to the juvenile court records. The court of appeal directed the trial court to permit discovery if specified guidelines were met, holding that the juvenile court had the power to allow third person to inspect the file upon a showing of good cause and the relevancy to an issue raised by a plaintiff ordinarily constitutes good cause for discovery.	
Information from family law and probate guardianship court files	WIC 204	Providing all available information to the court regarding best interest of child. Any information released pursuant to this section that is confidential pursuant to any other provisions of the law shall remain confidential and may not be released, except to the extent necessary to comply with this section. No records shared pursuant to this section may be disclosed to any party in a case unless the party request requests the agency or court that originates the record to release these records and the request is granted.	
4. Sealing of juvenile records			
	WIC 781	Sealing of records; Admission of records in defamation actions; Exception for DMV records; Destruction of records; Use of records to prove alleged enhancements	
	WIC 781.5	Relief for minors; Destruction or sealing of records	

	WIC 389	18 year olds can petition to have their juvenile records sealed.
5. Drug Testing		
	WIC 359	When a child appears a danger to himself or others because of narcotics use, a juvenile court may order the child taken to a approved facility for a 72-hour evaluation. The child may thereafter be held for a 14-day intensive treatment, if needed, or if the services are determined to be unnecessary the child will be returned to the juvenile court for any further proceedings.
	In re Carmen M. (2006). B189792	The Juvenile court has the authority to order dependent child to submit to drug test pursuant to Welfare and Institutions Code Secs. 362(a) and 202(a), which empower courts to make wide variety of orders intended to protect dependent children's well-being and safety. The court is very clear to distinguish therapeutic testing in the context of on-going counseling from that which would subject someone to penal consequences(citing 729.3 which allows testing in probation cases under certain circumstances.) The court also emphasizes the privacy interests at stake, and cautions that the court must fashion an order that protects the misuse or dissemination of this information.
MEDICAL CONSENT		
Person taken into temporary under WIC 305	WIC 369	Social worker can authorize remedial care and shall notify the parent before Custody care provided, if parent objects court order needed <ul style="list-style-type: none"> • if no parent or guardian, court can make order after notice to parent • if dependant , after notice to parent, court can make order for social worker to consent • if emergency, care can be provided by physician without court order and upon authorization of social worker • court can also make order authorizing release of information to social workers, parole officers, or agencies caring for or acting in the interest and welfare of the child
Person taken into temporary under WIC 625	WIC 739	Probation Officer can authorize remedial care and shall notify the parent before Custody care provided, if parent objects court order needed <ul style="list-style-type: none"> • if no parent or guardian, court can make order after notice to parent

		<ul style="list-style-type: none"> • if ward , after notice to parent, court can make order for probation officer to consent • if emergency, care can be provided by physician without court order and upon authorization of probation officer <p>court can also make order authorizing release of information to probation officers, parole officers, or agencies caring for or acting in the interest and welfare of the child</p>
	Super Ct. Rule 17-3	DCFS/Probation need to obtain parental consent or court order unless emergency
6. Medical and mental health records		
HIPPA	45 CFR 164.502 (a) (Health Insurance Portability and Accountability Act, Public Law 104-191)	Summary: Covered entities, which include health care providers and health plans, may not use or disclose protected health information except as HIPAA permits or requires. HIPAA regulations distinguish three circumstances in which disclosure is allowed: by patient authorization, by allowing the individual the opportunity to agree or object to disclosure when dealing with “directory information,” and in certain circumstances without patient authorization. Patient authorization can be from the subject of the records or the individual’s personal representative. Generally, the parent or guardian will be the personal representative of a child. However, when the parent is not considered the personal representative, HIPAA defers to State law to determine the rights of parents regarding the protected health information of their child (45 CFR 164.502 (g)).
California Medical Information Act (CMIA)	Civ. Code 56.10 - 56.16	No provider of health care .. shall disclose medical information ... unless compelled by ... order of .. court , etc. May be disclosed for purposes of diagnosis or treatment Includes any information in possession of or derived from a provider of health care regarding a patient’s medical history, mental or physical condition or treatment.
	Civ Code 56.11	Provides standards necessary for an authorization for the release of medical information to be valid.
	Civ Code 56.35	Damages for unlawful disclosure of medical information.
Confidential Nature of Records	Title 22 Section 51009	All individual medical records ...shall be confidential and shall not be released without the written consent of the beneficiary or his personal representative ... This shall not preclude ... exchange of information between individual or

		institutions providing care ... and state or local official agencies...
On-Site Health Services	Title 15 Section 1407	Each juvenile facility that provides on-site health services shall establish policy and procedures for the multidisciplinary sharing of health information. See also Title 15 2003 Guidelines
Sharing of Information	Title 15 Section 1413 (c)	Medical and mental health information shall be shared with child supervision staff for the purposes of treatment planning and implementation
Patients' access to records	Section 123100 – 123149.5	Patients entitled to copies or a summary of their records unless the release would entail “a substantial risk of significant adverse or detrimental consequences to the patient.”
Information regarding AIDS	Health and Safety 120975 et seq.	Privacy rights of persons subject to AIDS blood tests
	Health and Safety 120980	Civil and criminal liability for wrongful disclosure of AIDS test results
	Health and Safety 120985	Disclosure to health care providers
	Health and Safety 120990	Written consent to test; Exceptions
	Health & Safety Code 121020	Requires written consent by authorized representatives for child under the age of 12 for HIV testing.
Abortion: Females detained in a local juvenile facility	WIC 220	<p>Abortions; conditions and restrictions; eligibility: No condition or restriction upon the obtaining of an abortion by a female detained in any local juvenile facility, pursuant to the Therapeutic Abortion Act (Article 2 (commencing with Section 123400) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code), other than those contained in that act, shall be imposed. Females found to be pregnant and desiring abortions, shall be permitted to determine their eligibility for an abortion pursuant to law, and if determined to be eligible, shall be permitted to obtain an abortion.</p> <p>For the purposes of this section, "local juvenile facility" means any city, county, or regional facility used for the confinement of female juveniles for more than 24 hours.</p> <p>The rights provided for females by this section shall be posted in at least one conspicuous place to which all females have access."</p>
Abortion: Females committed	WIC 1773	Abortions; conditions and restrictions; eligibility: No condition or restriction upon the obtaining of an abortion by a female committed to the authority, pursuant to the Therapeutic Abortion Act (Article 2 (commencing with

		<p>Section 123400) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code), other than those contained in that act, shall be imposed. Females found to be pregnant and desiring abortions, shall be permitted to determine their eligibility for an abortion pursuant to law, and if determined to be eligible, shall be permitted to obtain an abortion.</p> <p>The rights provided for females by this section shall be posted in at least one conspicuous place to which all females have access."</p>
Consent of minors re: medical/mental health evaluation and treatment	87 Op. Atty Gen. Cal 168	Minors have the right to keep the existence of sensitive medical treatment confidential, even from their parents. Legislature is aware that the threat of disclosure might deter persons needing treatment from seeking it.
Caregiver's Authorization Affidavit	Family Code 6550 -6552	Caregiver who meets criteria can enroll minor in school and consent to school-related medical care, relative caretaker shall have the same rights to authorize medical care and dental care as that given to guardians under Probate Code 2353.
	Family Code 6910-6911	Person authorized under 6550 may authorize in writing an adult into whose care a minor has been entrusted to consent to medical care ; court may also grant consent to minor if 16 years or older and no parent or guardian available to give consent
	Family Code 6924	<p>Consent by minor to mental health treatment or counseling or residential shelter services :</p> <p>(b) Minor who is 12 or older may consent if:</p> <p>(b)(1) minor is mature enough to participate intelligently in the services AND minor (b)(2)(A) would present a danger of serious physical harm to self or to others without the treatment or (b)(2)(B) is the alleged victim of incest of child abuse.</p> <p>(d) The mental health treatment shall involve parent or guardian unless treating person thinks it is inappropriate</p> <p>(f) Minor not authorized to consent to convulsive therapy or psychosurgery or psychotropic drugs without the consent of parent or guardian</p>
	Family Code 6925	<p>Consent by minor to pregnancy treatment (H&S Code 123450 Consent of parent or petition for abortion):</p> <p>(a) Minor may consent</p>

		(b) Minor may not consent to: (b)(1) be sterilized without parent's or guardian's consent, (b)(2) receive an abortion without parent's or guardian's consent.
	Family Code	6926 Consent by minor to treatment for communicable disease: (a) 12 or older may consent if the disease or condition is one required by law to be reported or is a sexually transmitted disease.
	Family Code 6927	Consent by rape victim to treatment: 12 or older may consent.
	Family Code 6928	Consent by assault victim to treatment (Penal Code 13823.11 Treatment of sexual assault victims, suspected child abuse DPS or law enforcement consent to exam is permitted): (b) Related to the diagnosis and treatment of the condition
	Family Code 6929	Consent by minor to drug or alcohol treatment; Involvement, liability and rights or parent or guardian: (b) Minor who is 12 or older may consent. (c) Treatment shall involve parent or guardian unless treating person thinks it is inappropriate.
	Family Code 7050	Minors who have been emancipated may consent to treatment without parental consent or knowledge.
	Family Code 6922	Minors age 15 years or older, who have not been emancipated, may consent to medical care if they are living separate and apart from their parents or guardian and are managing their own financial affairs, regardless of the source of their income.
	Family Code 6911	Minors who are 16 years of age and older can petition (submit a written request to) the court for consent when no parent or guardian is available.
Legal rights re: evaluation and treatment	WIC 5325 – 5326.95	Enumeration; Posting: List of rights given to a person who is involuntarily detained for evaluation or treatment.
	WIC 5325.1	Protection of legal rights and responsibilities
	WIC 5325.2	Right of specified persons to refuse antipsychotic medication
Records of service provision in the public mental health system or in a psychiatric facility	WIC 5328	All information and records obtained in the course of providing services under Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), to either voluntary or

		involuntary recipients of services shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases: (detail of permissible disclosures).
Mental Health Treatment Program	Title 9 Section 1104 (e)	Release of medical records or Mental health treatment information concerning any inmate-patient shall only be authorized under Section 5328 of the Welfare and Institutions Code
Access to health records by persons having responsibility for decisions respecting the health care of others	Health and Safety 123100	Establish policies for providing access to health care records or summaries of those records by patients and by those persons having responsibility for decisions respecting the health care of others.
Inspection of medical and mental health records	Health and Safety Code 123110	Inspection of records; Copying of records; Violations; construction of section
	Health and Safety Code 123115	Representatives of minors; Risks of adverse consequences to patient in inspecting records: Representatives of minors are not entitled to inspect or obtain copies of minor patient records where (1) Minor has right of inspection under § 123110 (2) Where HCP determines that access to the records requested would have a detrimental effect on the provider's professional relationship with the minor patient or the minor's physical safety or psychological well-being (patient retains right to authorize and require provider to allow access).
	WIC 5328	Confidentiality of records; Authorized disclosures: Lists when information and records shall be disclosed and designate in writing person s to whom records or information may be disclosed.
	WIC 5328.01	Disclosure of records of mentally disordered sex offender or of specified commitments
	WIC 5328.02	Disclosure of records to youth authority and adult correctional agency
Confidentiality of Mental Health Records	WIC 5540-5546	Specific authorization required for county patients' rights advocates to have access
7. Drug and alcohol treatment		
	WIC 359	When a child appears a danger to himself or others because of narcotics use, a

		juvenile court may order the child taken to a approved facility for a 72-hour evaluation. The child may thereafter be held for a 14-day intensive treatment, if needed, or if the services are determined to be unnecessary the child will be returned to the juvenile court for any further proceedings.
	42 CFR, Part 2	The primary source of confidentiality rules in the area of Drug and Alcohol treatment is the Code of Federal Regulations (CFR). The section entitled, Confidentiality of Alcohol and Drug Abuse Patient Records is found at 42 CFR, Part 2. These rules apply to records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any alcohol or drug abuse prevention or treatment program conducted, regulated, or directly or indirectly assisted by any federal department or agency. See also 42 USCS Section 290dd-2 and Health and Safety Section 123125.
8. Juvenile police records		
	WIC 827.9	Confidentiality of records/information gathered by law enforcement re: taking a minor into custody; who is entitled to copy of juvenile police record
	WIC 828	Disclosure of information re: taking minor into custody
	WIC 828.1	Exception to confidentiality re: serious acts of violence
	WIC 830-830.1	Sharing of information with multidisciplinary team engaged in child abuse issues
Disclosure of health care facility records to law enforcement	Penal Code 1543 -1545	Shall on be disclosed to law enforcement with 1) written consent of the patient; 2. authorized by an appropriative order of court; 3) search warrant
9. Statements made to probation officer		
Fifth Amendment protections	WIC 627.5	Duty to advise of Miranda
	<u>United States v. Saechoo</u> (9 th Cir. 2005)	
	<u>Minnesota v. Murphy</u> (1984) 465 US 420	Probationer has right to refuse to respond to a question the answer to which might expose him to criminal liability unless he is granted immunity from the use of his answer against him in a subsequent criminal prosecution.
	<u>People v. Scheller</u> (2006) 136 Cal.App.4 th 1143	Fifth Amendment protections not lost after plea.
Sixth amendment		Government officials may not initiate questioning or the equivalent thereto

protections		when minor asserts Sixth Amendment right to counsel.
10. Statements made in course of plea negotiations		
	Evid. Code 1153 Offer to plead guilty or withdraw plea of guilty by criminal defendant	
	<u>People v. Scheller</u> (2006) 136 Cal.App.4 th 1143	Fifth Amendment protections not lost after plea.
11. Child abuse records		
	WIC 105	Confidential records and information acquired by CASA shall remain confidential and disclosed only pursuant to court order
	WIC 830	Disclosure of confidential records relating to child abuse: Members of a multidisciplinary personnel team engaged in the prevention, identification and treatment of child abuse may disclose and exchange information with one another relating to incidents of abuse that may be a part of a juvenile court records or designated as confidential under state law if the member reasonably believes it is generally relevant to the treatment of child abuse. All discussions are confidential and notwithstanding any other provision of law, testimony concerning any such discussion is not admissible in any criminal, civil or juvenile court proceeding. MDT defined as specified in WIC 18951.
	WIC 830.1 Disclosure and exchange of nonprivileged information by members of multidisciplinary team; Criminal street gang	Members of a juvenile justice multidisciplinary team engaged in the prevention, identification and control of crime may disclose and exchange <u>nonprivileged</u> information (i.e. not subject to a privilege pursuant to Division 8 of the Evidence Code) to and with one another relating to any incidents of juvenile crime, including criminal street gang activity, that may also be part of a juvenile court record if the member having that information or writing reasonably believes it is generally relevant to the prevention, identification or control of juvenile crime or criminal street gang activity. Every member of said team receiving such information shall be under the same privacy and confidentiality obligation and subject to the same penalties for violating those obligations as the person disclosing. The information shall be maintained in a manner which ensures the protections of confidentiality.
	Penal Code 11167(d), 11167.5	Identity of reporting party of child abuse is confidential unless waived by reporting party.
12. Child custody evaluations		

	WIC 827(k)	WIC 827 (k) provides that the following persons are entitled to inspect a juvenile case file: a hearing officer assigned to a family law case with issues concerning custody and/or visitation; a family court mediator; a court-appointed evaluator conducting a court-connected child custody evaluation/investigation/assessment; and counsel appointed for the child in the family law case pursuant to FC 3150.
	Family Code 3111	Appointment of child custody evaluator; Evaluation and report; Availability; Use in evidence.
13. Educational records		
	Family Educational Rights and Privacy Act, 20 U.S.C. section 1232g; 34 C.F.R. Part 99	Federal law governing access to pupil record information.
	<i>Rim of the World Unified School District v. Superior Court</i> , 2003 Cal. App. LEXIS 136; <i>Rim of the World Unified School District v. Superior Court</i> , 104 Cal. App. 4th 1393	Court held that the Family Educational Rights and Privacy Act (FERPA) preempted § 48918, because § 48918 was a direct obstacle to the school district's receipt of federal funds, as § 48918 required disclosure of student expulsion records while FERPA conditioned the receipt of federal funds on protecting students and their parents from such disclosure.
	Education Code 49069	Parents of currently enrolled or former pupils have an absolute right to access to any and all pupil records related to their children which are maintained by school districts or private schools. The editing or withholding of any such records, except as provided for in this chapter, is prohibited. Each school district shall adopt procedures for the granting of requests by parents for copies of all pupil records pursuant to Section 49065, or to inspect and review records during regular school hours, provided that the requested access shall be granted no later than five days following the date of the request. Procedures shall include the notification to the parent of the location of all official pupil records if not centrally located and the availability of qualified certificated personnel to interpret records when requested.
	Education Code 49076 (a)(11)	County placing agency has the right to access student records without parental consent for case planning and reporting to the court
	Education Code 49076 (b)(6)	Since education records are confidential, county placing agencies may not release or share them with unauthorized persons or agencies. NOTE: THIS STATUTORY AMENDMENT DOES NOT MEET THE REQUIREMENTS FOR AN EXEMPTION UNDER FERPA, WHICH PREEMPTS STATE

		LAW IN THIS AREA (SEE ABOVE).
	Blanket order re: release of education records of children subject to juvenile court proceedings (6/19/06) –STATUS BEING VERIFIED; NOTE THAT THE FAMILY POLICY COMPLIANCE OFFICE OF THE U.S. DEPT. OF EDUCATION HAS ISSUED WRITTEN GUIDANCE STATING THAT THEIR BLANKET ORDER DOES NOT MEET THE REQUIREMENTS OF FERPA	Any public or non public school that provides educational services to a child subject to LA juvenile court proceedings is authorized and directed to release any and all pupil records upon the request of a child's social worker, probation officer, CASA or attorney representing the child. The records shall be released without the requirement of parental consent. Records received shall remain confidential and shall only be disclosed within the framework of the juvenile court proceedings or in the course of advocating for the child's educational interests. The information regarding a child's juvenile court involvement shall be kept strictly confidential.
14. Developmental disability records		
	WIC 4514	Confidentiality and release of information and records obtained in the course of providing intake, assessment, and services to persons with developmental disabilities
	WIC 4744	Regional Center disclosure of "dangerous propensity " prior to placement in facility but cannot disclose confidential consumer information without consent of consumer
15. Public social records		
	WIC 10850	Confidentiality of public social service records/eligibility for grants-in-aid
	WIC 10850.1	Release of information to multidisciplinary team re: child/elder abuse
	WIC 10850.2	Release upon written authorization
	WIC 10850.3	Release to law enforcement
	WIC 10850.5	Release to housing authority
	WIC 10851	Record retention
Access to service agency records	WIC 4725-4731	Access to records for purpose of appeal
16. Multi-disciplinary teams (MDT)		
	WIC 827	
	WIC 710	Applicability of 711, 712, 713; Resolution
	WIC 711	Referral of minor for evaluation; Right to decline: (a) On request of the prosecutor or counsel for the minor, who comes to the court under § 602 and has a serious mental disorder, the court may order the minor to be referred for evaluation as described under § 712.

		(b) Minor, with approval from his/her counsel, may decline the referral.
	WIC 712	Who may make evaluation ordered by court; Conduct of evaluation; Report; Referral under other provisions
	WIC 713	Dispositional procedures
	WIC 706.6	Information in case plan (MDT's involved in out-of-state placement): Provides information that should be included in a case plan. (g)(2) When an out-of-state group home placement is recommended documentation of the recommendation of the multidisciplinary team and rationale for placement shall be included. The case plan should state what in-state services were used or considered and why they were not recommended.
	WIC 18951	Limits multidisciplinary team membership to individuals who are trained in the prevention, identification, and treatment of child abuse and neglect cases and who are qualified to provide a broad range of services related to child abuse.
	WIC 830	Limits the information that can be exchanged to only information and writings related to incidents of child abuse which are believed to be generally relevant to the prevention, identification, or treatment of child abuse.
	WIC 830.1	Addresses juvenile justice MDTs and information sharing and exchange within team and to parties outside of team
	WIC 10850.1	Mirrors WIC 830 but applies to "activities performed in the administration of public social services"
	WIC 18986.1	Legislative findings and declarations
	WIC 18986.2	Legislative intent: The intent is to encourage the development of a comprehensive and collaborative system of services to children.
	WIC 18986.3	Definitions
	WIC 18986.10	Interagency children's services coordination council: The board of supervisors of any county may establish an interagency children's services coordination council.
	WIC 18986.11	Composition of council
	WIC 18986.15	Program for coordinated children's services system: Each county wishing to participate under this chapter shall develop a three-year program for phasing in a coordinated children's services system.
	WIC 18986.40	Definitions

	WIC 18986.46	Disclosure of records and information; Confidentiality
	WIC 18964	Permits an eligible person to participate on a particular multidisciplinary case and receive and disclose information regarding that case as though he was a member of the multidisciplinary team.
	PC 11167.5 and 11170(d)	Permits DOJ child abuse and neglect reports to be disclosed to multidisciplinary teams. Information in reports provided to out of state agencies may only be disclosed to law enforcement, prosecutorial entities or Multidisciplinary investigative teams
17. Privileges		
Doctor-patient privilege	Evid. Code 994	Physician-patient privilege
	Evid. Code 996	Patient-litigant exception
Patient-psychotherapist privilege	Evid. Code 1010	Definition of psychotherapist
	Evid. Code 1010.5	Communication between patient and educational psychologist
	Evid. Code 1011	Definition of patient
	Evid. Code 1012	Definition of confidential communication between patient and psychotherapist
	Evid. Code 1013	Definition of holder of privilege
	Evid. Code 1016	Patient-litigant exception
	Evid. Code 1024	Patient dangerous to self or others
	WIC 317 (f)	Either the child or the counsel for the child, with the informed consent of the child if the child is found by the court to be of sufficient age and maturity to so consent, may invoke the psychotherapist-client privilege, physician-patient privilege, and clergyman-penitent privilege; and if the child invokes the privilege, counsel may not waive it, but if counsel invokes the privilege, the child may waive it. Counsel shall be holder of these privileges if the child is found by the court not to be of sufficient age and maturity to so consent. . . .
	<u>In re Daniel C.H.</u> (1990) 220 Cal.App.3d 814	Court of Appeals noted that the purpose of the privilege is to protect the privacy of a patient's confidential communications to his psychotherapist. A minor child is entitled to the privacy granted by the privilege. Statutes deny the parent or guardian access to a child's medical records if the provider finds

		that access would be detrimental to the minor's physical or psychological well being.
	<u>In re Mark L.</u> (2001) 94 Cal. App. 4th 573	<p>It is established that the psychotherapist-patient privilege applies to the relationship between a dependent child and his or her therapist. (<u>In re Daniel C.H.</u> (1990) 220 Cal. App. 3d 814, 828-829, 269 Cal. Rptr. 624; <u>In re Eduardo A.</u> (1989) 209 Cal. App. 3d 1038, 1041-1043, 261 Cal. Rptr. 68; Evid. Code, " 1010 et seq.) "The purpose of the privilege is to protect the privacy of a patient's confidential communications to his [or her] psychotherapist. [Citations.]" (<u>In re Daniel C. H.</u>, supra, 220 Cal. App. 3d at p. 826.)</p> <p>Under Evidence Code section 1013, the holder of the psychotherapist-patient privilege is "the patient when he [or she] has no guardian or conservator" or a "guardian or conservator of the patient when the patient has a guardian or conservator." (Evid. Code, ' 1013, subs. (a), Evid. Code, ' 1013, subs. (b).) Historically, the social worker in a dependency case was the child's guardian ad litem. (Former ' 326, repealed July 1, 2001 [Stats. 2000, ch. 450, ' 2, p. 2644].) ...</p> <p>However, section 326 was repealed effective July 1, 2001. (Stats. 2000, ch. 450, ' 2, p. 2644.) The Legislature added Welf. & Inst. Code section 326.5, which provides that a dependent child's guardian ad litem "may be an attorney or a court-appointed special advocate. . . ."</p> <p>We conclude the psychotherapist-patient privilege protects Mark's confidential communications and details of the therapy, but does not preclude Dr. Keller from giving circumscribed information to accomplish the information-gathering goal of therapy. (Evid. Code, ' 1012; <u>In re Pedro M.</u>, supra, 81 Cal. App. 4th at pp. 554-555; <u>In re Daniel C. H.</u>, supra, 220 Cal. App. 3d at pp. 829-830.)</p>
	<u>In re Kristine W.</u> (2001) 94 Cal.App.4 th 521, 528 (accord in <u>re Mark L.</u> (2001) 94 Cal.App.4 th 573)	Court of Appeals held that the psychotherapist-patient privilege protected the minor's confidential communications and details of her therapy, but did not preclude the therapist from giving circumscribed information to accomplish the information-gathering goal of therapy.
	<u>In re Pedro M.</u> (2000) 81 Cal.App.4 th 550	Court of Appeals circumscribed information about minor's progress when no

		statements made by minor, no diagnosis made or advice given by therapist allowed.
	In <u>Story v. Superior Court of Santa Clara County</u> (2003) 109 Cal.App.4 th 1007	The court of appeals held that the trial court abused its discretion in ordering the release of the defendant's psychotherapy records as patient was within the meaning of Evid.Code 1011 (psychotherapist-patient privilege) since the purpose of psychotherapy was to treat defendant's emotional problems and aid his reformation and rehabilitation while on probation. The records were not subject to disclosure since they include privileged information such as the details of the therapy sessions, specific statements made by defendant to his psychotherapist, and the psychotherapist's diagnosis and advice.
	In <u>United States v. Chase</u> (2003) 340 F.3d 978	A jury convicted Chase after he made threats against FBI agents. The threat underlying the conviction was states to a telephone operator at a Kaiser Permanente clinic. The threats as to which Chase was acquitted were communicated during psychotherapy sessions to his psychiatrist who testified about them. The court held that the psychotherapist-patient applied and precluded the psychiatrist's testimony about what he was told during therapeutic sessions. The court declined to craft a "dangerous patient" exception to the testimonial privilege.
	In <u>San Diego Trolley v. The Superior Court of San Diego County</u> (2001) 87 Cal.App.4 th 1083	An individual who was injured in an incident involving a trolley sued the trolley company and others. During the deposition of the trolley driver disclosed prior psychiatric care for anxiety and further treatment for anxiety arising from the incident for which she had made a worker's compensation claim. The trial court granted the plaintiff's motion to compel the driver to provide her personnel file and her psychotherapist's records that had been disclosed during the worker's compensation proceedings. The court of appeals held that the psychotherapist-patient privilege under Evid. Code 1014 applied and the driver was entitled to prevent the disclosure of any confidential communication that she had had with her psychiatrist.
	In <u>Eduardo v. Los Angeles County Department of Children's Services</u> (1989) 209 Cal.App.3d 1038	In a case involving the county's effort to remove children for their mother's custody for allowing contact between the children and their father in violation of a court order, the court of appeal held that the trial court properly excluded the testimony of her court-referred psychotherapist involving confidential communications since this testimony did not fall under the exception to the

		psychotherapist-patient privilege of Evid. Code 1017. The court of appeal, however, held that it was reversible error to exclude the social study prepared by a social worker as it contained relevant information regarding the allegations and the social worker was present in court and available for cross-examination.
	In <u>People v. Wharton</u> (1991) 53 Cal.3d 522	The jury convicted the defendant of first degree murder. At trial, two psychotherapists testified as to the defendant's statements that led them to warn the victim that she was in danger. The Supreme Court held that the psychotherapist-patient privilege did not apply to defendant's statements that led the therapist to warn the eventual victim of the danger that the defendant posed to her. The therapist had a common law duty to warn the a potential victim of danger and once the confidential communications were disclosed to a third party (the victim), the statements lost their confidential status and were no longer privileged.
Attorney-client privilege		Attorney has duty to maintain inviolate client's confidences. Extends to persons working for or consulting with defense attorney.