

Detention Hearing/Arraignment

First Court Appearance if you are not in Juvenile Hall

If you are not in juvenile hall, your first court appearance is called the arraignment. There, you will meet your lawyer for the first time. If you can't afford a lawyer, the court will provide you one for free.¹ You will be advised of your constitutional rights, learn of the charges (called a petition) filed against you, and get your next court date.

If you are in custody your first time in court is called a detention hearing

If you are in juvenile hall, a detention hearing is the first time you will go to court. There, you will meet your lawyer for the first time. If you can't afford a lawyer, the judge will provide you one for free.² You will be advised of your constitutional rights, learn of the charges (called a petition) filed against you, and get your next court date. Your lawyer has the opportunity to argue for your release from juvenile hall at this hearing.

Detention until Adjudication

A judge can order that you continue to stay in juvenile hall if there are certain factors present.³ These factors include:

- a) That a "prima facie" showing has been made that there is evidence to believe that you committed the charged criminal offense;⁴
- b) That continuance in the home is contrary to the your welfare;⁵ AND
- c) That one of the following grounds for detention exists:⁶
 - i) You violated an order of the court;
 - ii) You escaped from a commitment of the court;
 - iii) You are likely to flee the jurisdiction of the court;
 - iv) Detention is a matter of immediate and urgent necessity for your protection; or
 - v) Detention is reasonably necessary for the protection of the person or property of another.

To require further detention all of the factors must be present, and even then a judge can still release you.⁷

¹ Cal. Welf. & Inst. Code § 634.

² Cal. Welf. & Inst. Code § 634.

³ *Id.*

⁴ Cal. Welf. & Inst. Code § 635(c)(1); Cal. R. Ct. 5.758(a)(1).

⁵ Cal. Welf. & Inst. Code § 636(a); Cal. R. Ct. 5.758(a)(2).

⁶ Cal. Welf. & Inst. Code § 636(a); Cal. R. Ct. 5.760(c).

⁷ Cal. Welf. & Inst. Code § 636(a).

If you have been previously placed in foster care (are a dependent), the court cannot detain you based on that status, or based on the child welfare department's inability to provide you a placement.⁸

You also have the right to have your parent or guardian present at the detention hearing.⁹

How long will I be in juvenile hall until I go to court?

If you are in juvenile hall, the District Attorney's office has 48 hours after the time of your arrest to file a petition against you, after which a detention hearing must happen as soon as possible. If you do not have a detention hearing within 24 hours after a petition has been filed against you, you should be released from custody.

However, for certain misdemeanor cases, the time period for the detention hearing is slightly shorter: if you are not on probation at the time of a warrantless arrest for a misdemeanor charge (that does not involve violence/threats of violence, and does not involve possession/use of a weapon), you must have a detention hearing within 48 hours of arrest, but, again holidays and weekends do not count. If the detention hearing does not occur within the specified timeframes, you must be released.

What if I Lost my Detention Hearing?

If you are still in juvenile hall after your first court date, ask your lawyer if there's anything you can do to get the judge to reconsider. There are two hearings your lawyer could consider:

1. William M. Hearing

If there are people that can testify or evidence that is now available that might not have been available at the detention hearing, or if your circumstances have changed, your lawyer might ask for a "William M." hearing. This is a chance to present the court with evidence that was not available at the initial detention hearing, such as proof of employment, report cards with good grades, another relative who will let you stay with them, etc. The judge must consider the specific facts for your release.¹⁰

2. "Dennis H." Hearing

If you lose a detention hearing, your lawyer can ask the judge for a re-hearing to have the judge consider the facts of your case.¹¹ This is called a "Dennis H." hearing (also

⁸ Cal. Welf. & Inst. Code § 635(b)(2).

⁹ Cal. Welf. & Inst. Code § 637.

¹⁰ *In re William M.*, 3 Cal. 3d 16, 30-31 (1970).

¹¹ *In re Dennis H.*, 19 Cal.App.3d 350, 355 (1971).

known as contested detention hearings and prima facie hearings). The prosecutor must show “probable cause” that you committed the offense. To meet this standard, the prosecutor must show evidence that would make a reasonable person believe that you committed a crime. If the prosecutor cannot show this “probable cause,” then you will be released. This does not mean your case is dismissed. You will have another court date after your release. At this hearing, your lawyer can question the police officers or anyone else who created the reports that the judge relied on in making his or decision regarding detention.¹² The rehearing must be held within 3 days (or if a witness is unavailable, within five court days) of the request.¹³

Last updated on November 22, 2022

¹² *Id.*

¹³ Cal. Welf. & Inst. Code § 637.