Filed 10/28/25 In re J.D. CA6

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

In re J.D., a Person Coming Under the Juvenile Court Law.	H052477 (Santa Clara County Super. Ct. No. 24JV46511A)
THE PEOPLE, Plaintiff and Respondent, v. J.D., Defendant and Appellant.	

The juvenile court sustained the allegation in a wardship petition against minor J.D. that she assaulted another minor, A.M.,[1] by means of force likely to inflict great bodily injury (Pen. Code, § 245, subd. (a)(4)). The juvenile court declared J.D. a ward of the court and placed her on probation. Following a hearing, the juvenile court ordered victim restitution in the amount of $5,323.00.

[1] We refer to the victim by her initials to protect her privacy interests. (Cal. Rules of Court, rule 8.90(b)(4).)

On appeal, J.D. argues that the matter must be remanded so that the juvenile court can apply the amended version of Welfare and Institutions Code section 730.6,[2] which now requires that minor offenders be held severally liable for victim restitution.

The parties waived oral argument, and the case was submitted by order filed on May 16, 2025. On July 7, 2025, we vacated submission on our own motion and, by separate letter, requested supplemental briefing from the parties on the following issue: "The relevance, if any, of principles relating to 'several' liability in the tort context (i.e., Civil Code section 1431.2) as interpreted by the California Supreme Court in, e.g., *DaFonte v. Up-Right, Inc.* (1992) 2 Cal.4th 593 (*DaFonte*), to this court's interpretation of the amendments to Welfare & Institutions Code section 730.6, effective January 1, 2025, in this appeal. The parties should also note, as discussed in the Restatement Third of Torts: Apportionment of Liability, § B19 & com. d, a minority of jurisdictions preclude assignment of comparative responsibility to non-parties."

For the reasons explained below, we find no merit to J.D.'s claim and affirm the dispositional order.

I. FACTUAL AND PROCEDURAL BACKGROUND

A. Factual background

On June 11, 2023, A.M. went to a house party in Gilroy. A.M. arrived around 9:30 p.m. and the party was crowded. About 25 minutes after she arrived at the party, A.M. was talking to her friends in the backyard when J.D. grabbed her by the hair from

[2] Undesignated statutory references are to the Welfare & Institutions Code.

behind and yelled, " 'Bitch.' "[3] J.D. asked A.M. where A.H. was[4] and pulled A.M.'s hood over her eyes. J.D. and A.M. fell. J.D. began hitting A.M., calling her names, and yelling, " '[A.H. is] going to be next.' " Approximately a minute and a half later, five of J.D.'s friends joined in the attack, hitting and kicking A.M. as she lay on the ground. J.D. continued hitting A.M. with one hand as she recorded the attack on her phone, putting the phone camera in A.M.'s face as she yelled that A.M. "should be dead." After another minute and a half, other people intervened, pulling the attackers away from A.M. and helping A.M. to her feet. A.M. went home and her mother called the police that night.

A.M. suffered a cut on her face, along with bumps on her head and bruises on her stomach, legs, and arms. When her headaches worsened, A.M. went to the hospital on June 13, 2023, and was diagnosed with a concussion. A.M. had headaches for about two weeks and stomach pain for approximately 10 days. She missed two days of work.

A.M.'s clothing was torn in the attack, and she also lost a necklace and her AirPods. A.M. testified at the jurisdictional hearing that the necklace and AirPods "must have gotten pulled off or fell" during the altercation.

J.D. admitted assaulting A.M. but denied asking any of her friends to join in.

According to the probation report, only one of the other minors who attacked A.M. at the party, a girl named D.K., was cited by police for assault likely to produce great bodily injury. The probation report also notes that the district attorney declined to file charges against D.K.

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[3] J.D. and A.M. had previously been friends but had a falling out a few months prior after A.M. sided with another friend, A.H., over J.D. in a dispute involving A.H.'s ex-boyfriend. On March 30, 2023, A.H. attacked J.D. at a house party and A.M. encouraged A.H. to hit J.D. J.D. testified that A.M. even pulled her down to the ground so that A.H. could get on top of her and continue hitting her.

[4] A.H. was not at this party.

B. Procedural background

On February 1, 2024, the Santa Clara County District Attorney's Office filed a wardship petition against J.D. under section 602, subdivision (a). The petition alleged that on or about June 11, 2023, J.D. committed assault on A.M. by means of force likely to inflict great bodily injury, in violation of Penal Code section 245, subdivision (a)(4).

At the conclusion of the June 25, 2024 jurisdictional hearing, the court found the allegations true and sustained the petition. At the July 10, 2024 disposition hearing, the juvenile court declared J.D. to be a ward of the court and placed her on probation. The court also scheduled a contested restitution hearing for August 21, 2024.

After the restitution hearing, the juvenile court ordered J.D. and her parent to pay $5,323 in victim restitution and found that J.D. and her parent "have the ability to pay this restitution."[5]

J.D. timely appealed.

II. DISCUSSION

J.D. argues that the matter must be remanded so that the juvenile court can apply the amended version of section 730.6, which became effective January 1, 2025, and amend the disposition order to hold J.D. severally liable based upon her percentage of responsibility or fault for A.M.'s losses. The Attorney General argues that the disposition order should be affirmed because even under the amended version of the statute[6] J.D.

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[5] Section 730.7, subdivision (a), provides: "In a case in which a minor is ordered to make restitution to the victim or victims, … a parent or guardian who has joint or sole legal and physical custody and control of the minor shall be rebuttably presumed to be jointly and severally liable with the minor … for the amount of restitution … so ordered, up to the limits provided in those sections, subject to the court's consideration of the parent's or guardian's inability to pay."

[6] The Attorney General acknowledges that, pursuant to *In re Estrada* (1965) 63 Cal.2d 740, ameliorative changes to the law are applied retroactively but takes no

would be liable for the entire amount owed to A.M. because there were no co-offenders the juvenile court could order severally liable for victim restitution.

A. Additional background

A.M. requested victim restitution totaling $5,323, consisting of a lost gold chain necklace and pendant ($3,480 for the necklace and $839 for the pendant), a damaged hooded sweatshirt ($85), lost AirPods ($271), lost wages for A.M. (3 hours at $16/hour for a total of $48), and lost wages for A.M.'s mother (24 hours at $25/hour for a total of $600). At the outset of the restitution hearing, defense counsel confirmed that J.D. was only contesting restitution for the necklace and pendant.

A.M.'s mother testified that, in the video of the assault, A.M. is holding her AirPods in her hand and one of J.D.'s "friends goes and picks [A.M.'s AirPods] up from the floor." When the juvenile court asked if there was "any video footage of anyone taking the [necklace and pendant] off of [A.M.]," A.M.'s mother responded, "No. My daughter was on the floor, hitting by [*sic*] five or six girls." A.M.'s mother testified that she asked the police and the district attorney to ask J.D.'s friends who may have the necklace to "please give it back." She continued, "I'm not saying [J.D.] took [the necklace and pendant]; I'm saying maybe her friends did."

At the conclusion of the hearing, the trial court found "credible evidence" that the items A.M. claimed were missing after the attack "are in fact missing, even if [J.D. was not] the specific [person] who took [them] during the fight." The court adopted the recommendations of the probation report and ordered that J.D., and her parent or guardian pay $5,323 in victim restitution to A.M.

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position on whether the amendments to section 730.6 fall within the *Estrada* rule. We will assume without deciding that the amended version of section 730.6 applies to J.D.

B. Legal principles and standard of review

The California Constitution provides that crime victims have a right to receive "restitution from the persons convicted of the crimes causing the losses they suffer." (Cal. Const., art. I, § 28, subd. (b)(13)(A).)[7] This constitutional mandate is implemented in juvenile proceedings by section 730.6. (*Luis M. v. Superior Court* (2014) 59 Cal.4th 300, 304 (*Luis M.*).)

As relevant here, section 730.6 authorizes restitution to a victim "who incurs an economic loss *as a result of the minor's conduct*." (§ 730.6, subd. (a)(1), italics added.) The restitution order must "be of a dollar amount sufficient to fully reimburse the victim or victims for all determined economic losses incurred *as the result of the minor's conduct* ..., including all of the following: [¶] (A) Full or partial payment for the value of stolen or damaged property. The value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of repairing the property when repair is possible, whichever is less." (*Id.*, subd. (b)(1)(A), italics added.) Effective January 1, 2025, "each minor shall be held severally liable, and shall not be held jointly and severally liable as co-offenders. The court shall apportion liability based on each minor's percentage of responsibility or fault for all economic losses included in the order of restitution." (§ 730.6, subd. (b)(3).)

"An order of direct victim restitution acts to make the victim whole, rehabilitate the minor, and deter future delinquent behavior [citations], and is reviewed for abuse of discretion [citations]." (*Luis M.*, *supra*, 59 Cal.4th at p. 305.) The abuse of discretion standard " 'asks in substance whether the ruling in question "falls outside the bounds of

[7] California Constitution, article I, section 28, subdivision (e) provides: "As used in this section, a 'victim' is a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime *or delinquent act*." (Italics added.)

reason" under the applicable law and the relevant facts [citations].' [Citation.]" (*People v. Giordano* (2007) 42 Cal.4th 644, 663.)

"However, where the specific issue is whether a court has the authority to issue restitution, we review that question of law independently. [Citation.] And where the specific issue is whether the court's factual findings support restitution, we review those findings for substantial evidence. [Citations.]" (*In re S.O.* (2018) 24 Cal.App.5th 1094, 1098.) Regarding factual findings, "the ' "power of the appellate court begins and ends with a determination as to whether there is any substantial evidence, contradicted or uncontradicted," to support the trial court's findings.' [Citations.] ... We do not reweigh or reinterpret the evidence; rather, we determine whether there is sufficient evidence to support the inference drawn by the trier of fact. [Citations.]" (*People v. Baker* (2005) 126 Cal.App.4th 463, 468–469.)

C. Supplemental briefing on relevance of Civil Code section 1431.2

In her supplemental brief, J.D. argues that section 730.6 should be applied in the same way as Civil Code section 1431.2 as both sections address how, and on whom, liability may be imposed. In her view, the Legislature amended section 730.6 for the same reasons as the electorate adopted Proposition 51, i.e., to ensure that a party is only held liable for their percentage share of wrongdoing.

The Attorney General argues in his supplemental brief that Civil Code section 1431.2 is inapplicable to juvenile cases, because the California Constitution expressly provides that crime victims—unlike tort victims—are entitled to reimbursement for their losses. (Cal. Const., art. I, § 28, subd. (b)(13)(A).) Because no other co-offenders were adjudicated in this case, J.D. is responsible for the full amount of victim restitution.

We agree with the Attorney General.

Civil Code section 1431.2, which was enacted in 1986 via passage of Proposition 51, provides that in any tort action for personal injury or property damage, each

defendant's liability for "non-economic" damages shall be several only, not joint, and that each defendant is liable only for the percentage of "non-economic" damages corresponding to that defendant's proportionate share of fault. (*DaFonte, supra,* 2 Cal.4th at p. 596.) The express purpose of Proposition 51 was to eliminate the perceived unfairness of imposing "all the damage" on defendants who were "found to share [only] a fraction of the fault." (Civ. Code § 1431.1, subd. (b).) In *DaFonte*, *supra,* at p. 604, the California Supreme Court held that Civil Code section 1431.2 "limits a defendant's share of noneconomic damages to his or her own proportionate share of comparative fault." Consequently, a defendant may not be held jointly and severally liable for unpaid damages attributable to the fault of a party that is immune from suit. (*Id*. at p. 596.) *DaFonte* explained that Proposition 51 sought to prevent "relatively blameless" defendants in tort actions from being "saddled with large damage awards" simply because they are perceived to have a greater ability to pay. (*Id.* at p. 599).[8]

We see no reason why section 730.6, as amended, should be interpreted in the same manner as Civil Code section 1431.2. Under the California Constitution, "all persons who suffer losses" resulting from criminal conduct have the right to recover "restitution from the persons convicted of the crimes causing the losses." (Cal. Const., art. I, § 28, subd. (b)(13)(A).) A "victim" includes a person who suffers direct physical, psychological, or financial harm as a result of the commission or attempted commission

[8] There is yet another, more fundamental reason, why Civil Code section 1431.2 is inapposite to this type of juvenile delinquency proceeding. The California Supreme Court has expressly held that "[Civil Code] section 1431.2, subdivision (a), does not authorize a reduction in the liability of *intentional tortfeasors* for noneconomic damages based on the extent to which the negligence of other actors—including the plaintiffs, any codefendants, injured parties, and nonparties—contributed to the injuries in question." (*B.B. v. County of Los Angeles* (2020) 10 Cal.5th 1, 29, italics added.) Therefore, even if we were to conclude that there was an applicable parallel with section 730.6 as amended, J.D. is more akin to an intentional tortfeasor than someone who has negligently injured another.

of a crime or delinquent act. (Cal. Const., art. I, § 28, subd. (e).) There is no equivalent constitutional provision providing that civil litigants are entitled to recover restitution from those responsible for their losses. In fact, the California Supreme Court stated that Proposition 51's "principal effect is precisely that intended by the initiative: defendants no longer have to pay an injured employee's noneconomic damages caused by the fault of another, *and the employee, like any other tort victim, bears the resulting risk of loss*." (*DaFonte*, *supra*, 2 Cal.4th at p. 603, italics added.)

"In California, courts must order full restitution to victims of crimes for all economic losses except where compelling and extraordinary reasons exist. (Art. 1, § 28, subd. (b).)" (*In re M.W.* (2008) 169 Cal.App.4th 1, 6.) Pursuant to section 730.6, "the juvenile court is vested with discretion to order restitution to further the legislative objectives of making the victim whole, rehabilitating the minor, and deterring future delinquent behavior. [Citation.]" (*Ibid*.) " ' "In keeping with the [voters'] 'unequivocal intention' that victim restitution be made, statutory provisions implementing the constitutional directive have been broadly and liberally construed." ' [Citation.]" (*Luis M., supra,* 59 Cal.4th at p. 305.)

D. Analysis

Under the amended version of section 730.6, juvenile offenders and co-offenders, if any, must be held severally liable for victim restitution, and that liability must be apportioned among the co-offenders "based on each minor's percentage of responsibility or fault for all economic losses included in the order of restitution." (§ 730.6, subd. (b)(3).) In the instant case, however, there were no co-offenders who were adjudicated for participating in the assault on A.M. and therefore no co-offenders that the juvenile court could find severally liable for A.M.'s losses.[9] J.D. was the only person—aside

[9] In her briefing, J.D. states: "Arguably, the court could have found the video evidence supported an identification of a person who did take the AirPods, and the court

from her parent—subject to the juvenile court's jurisdiction to order payment of victim restitution and therefore her "percentage of responsibility or fault for [A.M.'s] economic losses" (§ 730.6, subd. (b)(3)) was necessarily 100 percent. While the video evidence showed that a different person may have taken A.M.'s AirPods during the assault, that loss was a direct consequence of J.D. attacking A.M., as was the loss of A.M.'s necklace and pendant.[10] Accordingly, even under the amended version of section 730.6, J.D. was properly held severally liable for the full amount of A.M.'s economic losses.

On this record, there is substantial evidence to support the juvenile court's factual findings that A.M. was entitled to $5,323 in victim restitution for the items taken from her during the attack. Further, the juvenile court did not abuse its discretion in ordering that J.D. and her parent were liable for the entire amount of A.M.'s losses.

III. DISPOSITION

The dispositional order is affirmed.

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could have held that person liable for restitution of the AirPods." Obviously, even if the juvenile court could make any such identification from the video, any order purporting to impose liability against that person would be void ab initio since the person in question was not subject to the juvenile court's jurisdiction.

[10] A.M.'s mother testified that the video of the assault does not show who took A.M.'s necklace and pendant, only that those items must have been stolen as A.M. was "on the floor" as J.D. and the other girls attacked her. The testimony of A.M.'s mother does not, as J.D. asserts, demonstrate that "other parties were likely responsible for taking A.M.'s … necklace." The video in question was not included in the record, but as described by A.M.'s mother, it does not appear to either support or contradict a conclusion that J.D. was the person who took A.M.'s necklace during the attack.

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WILSON, J.

I CONCUR:

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DANNER, ACTING P. J.

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Bromberg, J., Dissenting.

In Assembly Bill No. 1186 (2023–2024 Reg. Sess.), which became effective at the beginning of the year, the Legislature amended the rule governing restitution in juvenile delinquency proceedings under Welfare & Institutions Code section 730.6 (Section 730.6). (Subsequent undesignated references are to the Welfare & Institutions Code.) It replaced the joint-and-several liability formerly imposed by the section (former Welf. & Inst. Code, § 730.6, subd. (h) (Stats. 2015, ch. 131, § 1)) with several liability (*id*. § 730.6, subd. (b)(3)). This appeal appears to be the first to consider how to calculate several liability under this new provision. Unfortunately, the majority's opinion gets the provision off on the wrong foot.

The majority interprets several liability under Section 730.6 to apply only if another minor (or, presumably, an adult) has been adjudicated guilty of participating in the offense causing the victim's loss. The majority does not derive this adjudication requirement from the text of the statute, the general understanding of several liability, or the policies that led the Legislature to eliminate joint-and-several liability. Instead, the majority implies an adjudication requirement into Section 730.6 based on the right to restitution in the Victims' Bill of Rights.

This interpretation is mistaken. Although statutes raising serious constitutional questions, if ambiguous, should be interpreted to avoid constitutional problems, the Victims' Bill of Rights does not raise serious questions concerning Section 730.6's new juvenile restitution provision. As the Legislature specifically recognized in the provision's legislative history, the right to restitution in the Victims' Bill of Rights applies to persons "convicted of . . . crimes." (Cal. Const., art. I, § 28, subd. (b)(13)(A).) In juvenile adjudications, minors are not convicted of crimes; instead, as the Welfare and Institutions Code expressly states, in juvenile adjudications minors are adjudged wards of the court. (§ 203 ["An order adjudging a minor to be a ward of the juvenile court shall not be deemed a conviction of a crime for any purpose, nor shall a proceeding in the

juvenile court be deemed a criminal proceeding."].) In addition, while some provisions in the Victims' Bill of Rights expressly extend to juveniles and delinquent acts, the right to restitution in the Bill does not. As a consequence, the Victims' Bill of Rights does not justify implying an adjudication requirement into Section 730.6's new several liability provision.

That provision should be interpreted instead in light of the general understanding of several liability, about which we must presume that the Legislature was aware when it amended Section 730.6 to add several liability. Several liability is designed to ensure fairness when there are multiple wrongdoers by making the liability of each proportionate to his or her share of responsibility. Consequently, in apportioning several liability, courts in California and elsewhere normally consider the fault of all identifiable wrongdoers, not just those who have been made parties and adjudicated responsible. Far from suggesting any intent to depart from this general understanding and adopt an adjudication requirement, Section 730.6's new restitution provision largely tracks the language used in the existing several liability provision in Civil Code section 1431.2. Accordingly, under established principles of statutory interpretation, this new provision should be interpreted to follow the general understanding of several liability and require consideration of all identifiable wrongdoers in apportioning several liability. Moreover, interpreting Section 730.6 in this manner serves the policy concerns that led the Legislature to reject joint-and-several liability. By contrast, the majority's interpretation effectively reinstates joint-and-several liability in many cases including this one where only one of the wrongdoers involved in an incident is tried, thereby turning the recent amendment of Section 730.6 on its head in those cases.

Consequently, rather than implying a restriction on several liability based on a constitutional provision that the Legislature recognized does not apply to it, Section 730.6's new restitution provision should be interpreted to follow the general

understanding of several liability and require consideration of the responsibility of all identifiable wrongdoers. Accordingly, I respectfully dissent.

I. DISCUSSION

A. Principles of Statutory Interpretation

In interpreting statutes, the primary objective is to " 'ascertain the intent of the lawmakers so as to effectuate the purpose of the statute.' " (*Carmack v. Reynolds* (2017) 2 Cal.5th 844, 849 (*Carmack*).) To determine the Legislature's intent, courts "look first to ' "the language of the statute, affording the words their ordinary and usual meaning and viewing them in their statutory context." ' " (*People v. Jimenez* (2020) 9 Cal.5th 53, 61.) In interpreting the language of a statute, courts also " 'keep[] in mind the statutory purpose' " and seek to harmonize statutory provisions concerning the same subject " ' "to the extent possible." ' " (*Carmack*, at p. 850.)

The Legislature also is presumed to be aware of the legal background against which it is legislating. For example, when the Legislature uses a legal term of art, courts " 'must assume that the Legislature was aware of the ramification of its choice of language' " and used the term in the manner normally understood in the law. (*Ruiz v. Podolsky* (2010) 50 Cal.4th 838, 850, fn. 3 (*Ruiz*).) Similarly, "[t]he Legislature is presumed to be aware of ' "judicial decisions already in existence and to have enacted or amended a statute in light thereof." ' " (*People v. Giordano* (2007) 42 Cal.4th 644, 659 (*Giordano*).) Finally, and most pertinently here, "[w]hen legislation has been judicially construed and subsequent statutes on a similar subject use . . . substantially similar language, the usual presumption is that the Legislature intended the same construction, unless a contrary intent clearly appears." (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1135 (*Ketchum*).)

If, after applying these principles and presumptions, a statute's meaning remains unclear, " 'courts may consider other aids such as the statute's purpose, legislative history, and public policy.' " (*Bruns v. E-Commerce Exchange, Inc*. (2011) 51 Cal.4th

717, 724.) In addition, " ' "when faced with an ambiguous statute that raises constitutional questions," ' " courts " ' "should endeavor to construe the statute in a manner which avoids any doubt concerning constitutional validity." ' " (*People v. Levia* (2013) 56 Cal.4th 498, 506–507.) When a statute is ambiguous, courts also may consider " 'the consequences that will flow from a particular interpretation.' " (*People v. Valencia* (2017) 3 Cal.5th 347, 358.) However, absent ambiguity, it is improper to construe a statute to avoid the burden that statutory duties impose because " ' "[c]ourts do not sit as super-legislatures to determine the wisdom, desirability, or propriety of statutes enacted by the Legislature." ' " (*In re K.H.* (2022) 84 Cal.App.5th 566, 591, fn. 6 (*K.H.*).)

B. Section 730.6's Several Liability Provision

Under the principles governing statutory interpretation, Section 730.6's new several liability should be interpreted to follow the ordinary approach to determining several liability and, in particular, to permit consideration of the responsibility of all identifiable wrongdoers, whether or not they have been charged with, and adjudicated responsible for, an offense.

Section 730.6 does not expressly address what other individuals should be considered in determining the several liability of a minor. The section imposes several liability—rather than joint-and-several liability—on minors for restitution: "For the purpose of victim restitution, each minor shall be held severally liable, and shall not be jointly and severally liable as co-offenders." (§ 730.6, subd. (b)(3).) The section also requires that liability for economic losses be apportioned based on a minor's "percentage of responsibility or fault" and that the aggregate liability "for all minors involved shall not exceed 100 percent." (*Ibid*. ["The court shall apportion liability based on each minor's percentage of responsibility or fault for all economic losses included in the order of restitution. The aggregate amount of apportioned liability for all minors involved shall not exceed 100 percent in total."].) But the section does not specify how to determine a

minor's percentage of responsibility, much less what other individuals may be considered in doing so.

However, in enacting Section 730.6's several liability provision, the Legislature was not writing on a blank slate. To the contrary, it is generally understood, both in general and in California, that in determining several liability, courts should consider all identifiable wrongdoers, whether or not they are parties, and their responsibility has been adjudicated. The Legislature presumably was aware of this general understanding when it included several liability in Section 730.6 (*Ruiz*, *supra*, 50 Cal.4th at p.850, fn. 3), and nothing in the section's new several liability provision suggests an intent to depart from that understanding. To the contrary, this approach serves the policy concerns that led the Legislature to eliminate joint-and-several liability for minors.

1. The General Understanding

In most jurisdictions, absent specific statutory direction to the contrary, all identifiable wrongdoers, whether parties or non-parties, are considered in apportioning several liability.

This approach reflects the nature and purpose of several liability, a tort concept that developed out of concerns about the fairness of the traditional rule of joint-and several liability. Under joint-and-several liability, if a defendant has any responsibility for a loss, "regardless of how minimal[]," the defendant is "responsible for the full damages sustained." (*Evangelatos v. Superior Court* (1988) 44 Cal.3d 1188, 1196 (*Evangelatos*); but see *American Motorcycle Assn. v. Superior Court* (1978) 20 Cal.3d 578, 591–598 [noting that under joint-and-several liability equitable indemnity may be sought from other tortfeasors].) This rule creates a danger that "defendants who bore only a small share of fault for an accident could be left with the obligation to pay all or a large share of the plaintiffs' damages." (*Evangelatos*, at p. 1189.) Recognizing the unfairness of this, most states have replaced joint-and-several liability in certain cases or for certain kinds of damages with several liability, under which "a non-settling tortfeasor

is held [liable] only for his [or her] comparative responsibility share." (3 Dobbs et al. (2d ed. 2011) The Law of Torts, § 489, p. 79; see also *id*. § 493, pp. 86–88 [discussing adoption of several liability].) However, if responsibility for loss is apportioned without considering all the wrongdoers involved, "a distorted picture of the fault fairly attributable to each person" is created, and the unfair, disproportionate liability that the several liability doctrine seeks to avoid may at least in part be imposed. (*Id*. § 495, p. 95.)

Consequently, in apportioning responsibility and assessing several liability, all identifiable wrongdoers, whether or not parties, are ordinarily considered. According to one leading torts treatise, "most courts in several liability systems appear to consider the fault of any tortfeasor, whether or not joined as a party." (3 Dobbs, *supra*, § 495, at p. 96; but see *ibid*. [noting the lack of consensus over immune parties].) Indeed, by one count, more than two-thirds of states applying several liability consider non-parties in apportioning liability. (1 Comparative Negligence Manual (3d ed. 2025), § 14:9, pp. 14–14 to 14–16, fn. 1 [listing 26 states considering non-parties]; *id*. § 14:9, pp. 14–19, fn. 7 [listing 11 states that do not consider non-parties].)

The Restatement of Torts follows the majority approach. It provides that, "[i]f one or more defendants may be held severally liable for an indivisible injury, . . . each . . . party, settling tortfeasor, *and other identified person* is submitted to the factfinder for an assignment of percentage or comparative responsibility." (Rest.3d, Torts: Apportionment of Liability, § B19, italics added; see also *id*. § B19, com. c. ["Other identified persons may be assigned a percentage of responsibility for the plaintiff's injury."].) Under the Restatement, "[t]he term 'person' refers to someone who is *not* a party to the suit" but contributed to the plaintiff's injury, and an " 'identified person' " refers to a non-party who "has been sufficiently identified to permit service of process or discovery from that person." (*Id*. § B19, com. b, italics added.) Thus, under several liability, responsibility is

ordinarily apportioned by considering all identifiable wrongdoers, not just those who are parties and have been adjudicated liable.

As noted above, in a minority of jurisdictions—approximately a dozen—courts do not consider non-party wrongdoers in determining comparative responsibility. However, in most of these states, statutes expressly exclude consideration of such non-parties. In six states, statutes either now instruct or in the past instructed courts to consider only the fault of the "parties" or the "persons against whom recovery is sought."[11] In four states, statutes specify the persons to be considered in apportioning responsibility and thus, implicitly exclude consideration of non-parties.[12] Two states have held consideration of

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[11] Mass. Gen. Law Ann., ch. 231, § 85 (West 2025) [requiring consideration of the negligence "of all *persons against whom recovery is sought*" (italics added)]; Nev. Rev. Stat., § 41,141(2)(b)(2) (West 2025) [apportioning fault among "*parties remaining* in the action" (italics added)]; N.J. Stat. Ann., § 2A:15-5.2(a)(2) (West 2025) ["The percentage of negligence or fault of each party shall be based on 100% and the total of all percentages of negligence or fault of all the *parties to a suit* shall be 100%." (Italics added)]; W. Va. Code Ann., § 55-7B-9(b) (West 2025) [requiring consideration of "the fault of all *alleged parties*" (italics added)]; see also *Benner v. Wichman* (Ala. 1994) 874 P.2d 949, 958 [ignoring non-parties in apportioning several liability under statute requiring consideration of the "percentage of fault of all of the parties to each claim"]); *Roberts-Robertson v. Lombardi* (R.I. 1991) 598 A.2d 1380, 1381 [noting statute permitting consideration of "only the negligence of *the parties involved in the action* before them" (italics added)].

[12] Conn. Gen. Stat., § 52-572h, subd. (d) (2010) [apportioning liability based on the fault of "all parties . . . including settled or released persons"]; Iowa Code Ann., § 668.3(2)(b) (West 2025) [requiring consideration of "[t]he percentage of total fault allocated to each claimant, defendant, third-party defendant, person who has been released from liability . . . , and injured or deceased person whose injury or death provides a basis for a claim"]; Ky. Rev. Stat. Ann., § 411.182(1)(b) (West 2025) ["The percentage of the total fault of all the parties to each claim that is allocated to each claimant, defendant, third-party defendant, and person who has been released from liability under subsection (4) of this section."]; Ore. Rev. Stat., § 31.600, subd. (2) (2023) ["The trier of fact shall compare the fault of the claimant with the fault of any party against whom recovery is sought, the fault of third party defendants who are liable in tort to the claimant, and the fault of any person with whom the claimant has settled."]; S.C.

non-parties unconstitutional.[13] Finally, one state appears to have barred consideration of non-parties based solely on judicial decision.[14]

Thus, absent contrary statutory direction, several liability is ordinarily determined by considering the comparative responsibility of all identifiable wrongdoers, whether or not they are parties to the proceeding in question and have been found responsible.

2. California Law

California has followed the general understanding and apportioned several liability in light of the comparative responsibility of all identifiable wrongdoers.

In 1986, California voters approved Proposition 51 and enacted Civil Code section 1431.2. (*Evangelatos*, *supra*, 44 Cal.3d at pp. 1192; see also *id.* at p. 1244 [reprinting law enacted by Proposition 51].) This section provides that, in certain actions based on principles of comparative fault, liability for non-economic damages "shall be several only and shall not be joint." (Civ. Code, § 1431.2, subd. (a).)[15] In applying this provision, California courts have followed the general understanding of several liability and interpreted section 1431.2 to " 'permit[] a tort defendant to apportion "fault" among

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Stat., ch. 39, § 15-38-15 (C)(3) (2025) [requiring that the "total . . . percentages of fault attributed to the plaintiff and to the defendants shall be one hundred percent"].

[13] *Johnson v. Rockwell Automation, Inc*. (Ark. 2009) 308 S.W.3d 135; *Plumb v. Fourth Judicial District Court, Missoula County* (Mont. 1996) 927 P.2d 1101, 1021.

[14] See, e.g., *Jensen v. ARA Services, Inc*. (Mo. 1987) 736 S.W.2d 374, 377.

[15] Civil Code section 1431.2, subdivision (a) provides in full: "In any action for personal injury, property damage, or wrongful death, based upon principles of comparative fault, the liability of each defendant for non-economic damages shall be several only and shall not be joint. Each defendant shall be liable only for the non-economic damages allocated to that defendant in direct proportion to that defendant's percentage of fault, and a separate judgment shall be rendered against the defendant for that amount."

all "tortfeasors" responsible for the injury, whether or not present in the action . . . .' " (*Ovando v. County of Los Angeles* (2008) 159 Cal.App.4th 42, 72 (*Ovando*).)

For example, in apportioning several liability for non-economic damages, California courts have considered the responsibility of settling parties not found liable (*Roslan v. Permea, Inc*. (1993) 17 Cal.App.4th 110, 113), doctors not sued (*Scott v. CR Bard, Inc.* (2014) 231 Cal.App.4th 763, 787; *Henry v. Superior Court* (2008) 160 Cal.App.4th 440, 446), government agencies not sued because of sovereign immunity (*Collins v. Plant Insulation Co*. (2010) 185 Cal.App.4th 260, 276; *Taylor v. John Crane, Inc*. (2003) 113 Cal.App.4th 1063, 1071), and individuals not sued because of statutory immunity (*Ovando*, *supra*, 159 Cal.App.4th at p. 72). In addition, the Supreme Court has indicated that in apportioning several liability, parties not sued because of insolvency may be considered. (*Evangelatos*, *supra*, 44 Cal.3d at pp. 1204.)

The leading California case on apportioning several liability is *DaFonte v. Up-Right, Inc*. (1992) 2 Cal.4th 593 (*DaFonte*). In *DaFonte*, the Supreme Court considered whether an employer immune from suit under the worker's compensation law should be considered in apportioning several liability under Civil Code section 1431.2. (*DaFonte*, at pp 596, 598.) The Supreme Court concluded that, even though the employer was not a party to the suit and its liability had not been adjudicated, its fault should be considered. (*Id*. at pp. 596, 604.) In reaching this conclusion, the Court began by noting that section 1431.2 "limits the joint liability of every 'defendant' to economic damages" and "shields every 'defendant' from any share of noneconomic damages beyond that attributable to his or her own comparative fault." (*DaFonte*, at p. 602.) Next, the Court observed that section 1431.2 "contains no hint that a 'defendant' escapes joint liability only for noneconomic damages attributable to fellow 'defendants' . . . ." (*DaFonte*, at p. 602.) Finally, the Court concluded that "the only reasonable construction of section 1431.2 is that a 'defendant['s]' liability for noneconomic damages cannot exceed his or her proportionate share of fault *as compared with all fault responsible for the*

plaintiff's injuries, not merely that of 'defendant[s]' present in the lawsuit." (*DaFonte,* at p. 603.) In other words, *DaFonte* reasoned that, absent any indication that section 1431.2 was intended to exclude non-parties from consideration, the section should be interpreted to require consideration of non-party wrongdoers in apportioning several liability.

3. Section 730.6

Section 730.6's several liability provision should be interpreted similarly. As noted above, in enacting legislation, the Legislature is presumably aware of the legal doctrines that it incorporates into statutes as well as the judicial decisions concerning those doctrines. (*Ruiz*, *supra*, 50 Cal.4th at p. 850, fn. 3; *Giordano*, *supra*, 42 Cal.4th at p. 659.) In addition, when a statute has been judicially construed, and a subsequent statute on the same subject uses substantially similar language, "the usual presumption is that the Legislature intended the same construction, unless a contrary intent clearly appears." (*Ketchum*, *supra*, 24 Cal.4th at p. 1135.) Accordingly, the Legislature presumable was aware of the general understanding of how to apportion several liability as well as the adoption of that understanding in *DaFonte* and other cases applying Civil Code section 1431.2. Moreover, because Section 730.6's new several liability provision addresses the same subject as section 1431.2 and, in doing so, uses similar language, under established principles of statutory interpretation the Legislature must be presumed to have followed the general understanding of several liability absent clear intent to the contrary. There is no such intent.

Unlike the statutes in most states that have not followed the general understanding of several liability, Section 730.6's several liability provision does not specify that, in apportioning liability, courts should consider only the "parties" or the persons against whom a juvenile petition has been brought. Nor does Section 730.6 enumerate the persons that should be considered in apportioning several liability without mentioning non-parties and thereby implicitly exclude them from consideration. Instead, Section 730.6 is silent on who should be considered in apportioning several liability—

which suggests that the Legislature intended to follow the general understanding of several liability and consider all identifiable wrongdoers, whether or not they are parties and have been adjudicated responsible, in apportioning liability.

This conclusion is reinforced by Section 730.6's use of language similar to the language in Civil Code section 1431.2. Section 1431.2 states that, in certain actions based on principles of comparative fault, liability for non-economic damages "shall be several only and shall not be joint," and each defendant shall be held liable "in direct proportion to that defendant's percentage of fault." (Civ. Code, § 1431.2, subd. (a).) Section 730.6 similarly provides that, for purposes of victim restitution, each minor shall be "severally liable" and "shall not be held joint and severally liable." (§ 730.6, subd. (b)(3).) In addition, like section 1431.2, section 730.6 states that liability shall be apportioned "based on each minor's percentage of responsibility or fault." (§ 730.6, subd. (b)(3).) Thus, Section 730.6 addresses the same subject (several liability) and uses similar language ("severally" and "percentage of . . . fault") as section 1431.2, and therefore the Legislature presumably intended it to be construed similarly to section 1431.2 "unless a contrary intent clearly appears." (*Ketchum*, *supra*, 24 Cal.4th at p. 1135.) As no such intent appears, under established principles of statutory interpretation, section 730.6 should be interpreted to follow the general understanding of several liability and consider all identifiable wrongdoers in apportioning several liability.

The Attorney General contends that Section 730.6 should be interpreted differently based on two references. One reference is to "each minor's" percentage of responsibility or fault. (§ 730.6, subd. (b)(3).) However, this reference does not distinguish Civil Code section 1431.2 because that section similarly refers to "[e]ach defendant." (Civ. Code, § 1431.2, subd. (a).) In addition, the Attorney General does not explain why Section 730.6's reference to "each minor[]" refers to the persons considered in apportioning several liability rather than the persons upon which restitution may be imposed. The Attorney General also notes that Section 730.6 refers to "co-offenders."

But the Attorney General does not explain why the term "co-offenders" refers only to those charged and adjudicated responsible rather than all wrongdoers, whether charged or not. In short, the Attorney General fails to show any legislative intent, much less a clear one, to depart from Civil Code section 1431.2 and the general understanding of how to apportion several liability.

4. Underlying Policy Concerns

The conclusion that the Legislature intended Section 730.6 to follow the general understanding of several liability is also supported by the policy concerns that led the Legislature to amend the section's restitution provision.

The Legislature amended Section 730.6 to eliminate joint-and-several liability for juvenile restitution orders because such liability is both ineffective and burdensome. Reports in both the Assembly and the Senate recognized that crime victims rarely recover any actual restitution. According to one recent survey, only 2 percent of crime victims recover any restitution, and only half of those receive full restitution. (Assem. Com. on Public Safety, Rep. on Assem. Bill No. 1186 (2023–2024 Reg. Sess.) as introduced Mar. 28, 2023, p. 8; Sen. Com. on Public Safety, Rep. on Assem. Bill No. 1186 (2023–2024 Reg. Sess.), as amended June 19, 2023, p. 8.) Indeed, even where restitution is ordered, less than one-third of victims receive any payment (*ibid.*), and it is even harder to receive compensation from minors, who generally are either too young to work at all or unable to work enough hours to satisfy the restitution liability imposed on them. (Assem. Com. on Public Safety, Rep. on Assem. Bill No. 1186 (2023–2024 Reg. Sess.) as introduced Mar. 28, 2023, pp. 6, 9; Sen. Com. on Public Safety, Rep. on Assem. Bill No. 1186 (2023–2024 Reg. Sess.), as amended June 19, 2023, pp. 8–9, 11.)

Although juvenile restitution orders provide little benefit to victims, they often impose great hardship, " 'driv[ing] already struggling families into cycles of poverty and incarceration.' " (Assem. Com. on Public Safety, Rep. on Assem. Bill No. 1186 (2023–2024 Reg. Sess.) as introduced Mar. 28, 2023, p. 9; Sen. Com. on Public Safety, Rep. on

Assem. Bill No. 1186 (2023–2024 Reg. Sess.), as amended June 19, 2023, p. 11.) Restitution orders can easily reach into the tens of thousands of dollars. (Assem. Com. on Public Safety, Rep. on Assem. Bill No. 1186 (2023–2024 Reg. Sess.) as introduced Mar. 28, 2023, p. 7.) Restitution orders also accrue interest and cannot be discharged. (*Ibid*.) As a consequence, juvenile restitution orders can impose significant long-term financial burdens, which create barriers to economic mobility and deepen poverty. (*Ibid*; Sen. Com. on Public Safety, Rep. on Assem. Bill No. 1186 (2023–2024 Reg. Sess.), as amended June 24, 2023, p. 7.) Among other things, juvenile restitution orders may cause families to spend less on education and preventative healthcare, which in turn undermines the economic stability of youths as they enter into the pivotal years of young adulthood. (Sen. Com. on Public Safety, Rep. on Assem. Bill No. 1186 (2023–2024 Reg. Sess.), as amended June 19, 2023, p. 11; Sen. Com. on Public Safety, Rep. on Assem. Bill No. 1186 (2023–2024 Reg. Sess.), as amended June 24, 2023, p. 7.) In addition, juvenile restitution orders heighten racial and economic disparities because they are disproportionately imposed upon low-income youths, whose mistakes are more likely to end up in the justice system than those of their wealthier counterparts. (Assem. Com. on Public Safety, Rep. on Assem. Bill No 1186 (2023–2024 Reg. Sess.) as introduced Mar. 28, 2023, p. 7; Sen. Com. on Public Safety, Rep. on Assem. Bill No. 1186 (2023–2024 Reg. Sess.), as amended June 24, 2023, p. 7.)

Indeed, the Legislature initially proposed to eliminate juvenile restitution orders altogether and instead provide victims restitution through the Victim Compensation Board. (Assem. Bill No. 1186 (2023–2024 Reg. Sess.) § 16, as introduced Feb. 16, 2023 [no minor or the minor's parent shall be ordered to pay restitution to a victim"]; Sen. Amend. to Assem. Bill No. 1186 (2023–2024 Reg. Sess.), June 19, 2024, § 16 [same].) While the Legislature eventually decided to impose several liability rather than eliminate juvenile restitution altogether or provide victims restitution through the Victim Compensation Board (Assem. Bill No. 1186 (2023–2024 Reg. Sess.), as amended

June 24, 2024, § 6), the motivation for amending Section 730.6's restitution provision remained the same: the disparate and often catastrophic impact of restitution orders on juveniles and their families. (Sen. Com. on Public Safety, Rep. on Assem. Bill No. 1186 (2023–2024 Reg. Sess.), as amended June 24, 2023, pp. 7–8.)

These policy concerns are served by interpreting Section 730.6's restitution provision to follow the general understanding of several liability and consider all identifiable wrongdoers in apportioning several liability. That approach ensures that the several liability imposed upon each juvenile reflects his or her proportionate responsibility among all wrongdoers, not just those that the prosecutor has managed to locate, chosen to charge, and prevailed against. In particular, the general understanding of several liability eliminates the danger that a minor will be forced to make restitution for all the loss suffered by a victim even though there indisputably were other wrongdoers—such as those involved in the incident in this case and in particular the youth who was initially charged, but against whom the prosecutor chose not to pursue those charges.

5. Conclusion

In light of the general understanding of how to apportion several liability, the adoption of that understanding in *DaFonte* and other cases applying Civil Code section 1431.2, the absence of any evidence that the Legislature intended Section 730.6's several liability provision to depart from this approach, and the concerns that led the Legislature to amend Section 730.6 to replace joint-and-several liability with several liability, the provision should be interpreted to require consideration of all identifiable wrongdoers—whether or not charged and adjudicated—in apportioning several liability.

C. The Majority's Interpretation

The majority interprets Section 730.6 differently. In adopting this different interpretation, the majority does not discuss the language of the section, the general understanding of several liability, or the policy concerns that led the Legislature to adopt

several liability. In addition, despite the Supreme Court's admonition that legislation that concerns the same subject as a prior statute and uses similar language presumably is intended to follow that statute (*Ketchum*, *supra*, 24 Cal.4th at p. 1135), the majority asserts that there is "no reason why section 730.6, as amended, should be interpreted in the same manner as Civil Code section 1431.2." (Maj. Opn., p. 8.) Instead, the majority interprets Section 730.6 to apportion several liability based only on the responsibility of co-offenders who have been charged and adjudicated to have participated in the same offense in reliance on the right to full restitution granted crime victims in the Victims' Bill of Rights. (Maj. Opn., pp. 8–9.)

Even focusing solely on the Victims' Bill of Rights, there are two problems with the majority's reasoning. First, the Bill's right to restitution does not apply to juvenile delinquency adjudications and thus does not cover juvenile restitution orders under Section 730.6. Second, in adopting Section 730.6's new restitution provision, the Legislature expressly recognized that the Bill's right to restitution does not apply to juvenile restitution and declined to follow the policy of full restitution underlying the Bill in eliminating joint-and-several liability. As a consequence, in construing Section 730.6's restitution provision to ensure that restitution for the full injury suffered by victims is imposed, the majority is not following the policy choices made by the Legislature in amending Section 730.6.

1. The Victims' Bill of Rights

The Victims' Bill of Rights was adopted in 1982 in Proposition 8. (*Brosnahan v. Brown*, (1982) 32 Cal.3d 236, 240, 242–245.) The Bill grants victims the right to restitution from any person convicted of a crime causing loss: "It is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to seek and secure restitution from the persons convicted of the crimes causing the losses they suffer." (Cal. Const., art. I, § 28, subd. (b)(13)(A).) The Bill also states that "[r]estitution shall be ordered from the

convicted wrongdoer" whenever a crime victim suffers a loss. (*Id*., art. I, § 28, subd. (b)(13)(B).)

The right to restitution under section 730.6 does not extend to juvenile adjudications. As the Supreme Court has long recognized, " 'adjudications of juvenile wrongdoing are *not* "criminal convictions." ' " (*In re Joseph B*. (1983) 34 Cal.3d 952, 955, italics added; see also *People v. Hayes* (1990) 52 Cal.3d 577, 633 ["Juvenile court adjudications . . . are not criminal convictions."].) Indeed, the Welfare and Institutions Code expressly states that "[a]n order adjudging a minor to be a ward of the juvenile court shall not be deemed a conviction of a crime for any purpose . . . ." (Welf. & Inst. Code, § 203.) The Victims' Bill of Rights does not confer a right to restitution from juveniles adjudicated wards, even for criminal misconduct, for the simple reason that the Bill confers a right to restitution from "the *convicted* wrongdoer" and "persons *convicted* of the crimes" causing losses to victims. (Cal. Const., art. I, § 28, subd. (b)(13)(A), (B), italics added.)

A similar restriction on the scope of the Victims' Bill of Rights previously has been recognized. *People v. West* (1984) 154 Cal.App.3d 100, 103 (*West*) considered whether the Bill requires juvenile adjudications of criminal misconduct to be considered in enhancing sentences in criminal proceedings. The Bill contains an enhancement provision, which states that "[a]ny prior felony conviction of any person in any criminal proceeding, whether adult or juvenile, shall subsequently be used without limitation for purposes of . . . enhancement of sentence in any criminal proceeding." (Cal. Const., art. I, § 28, subd. (f)(4).) Although this provision expressly references "juvenile" criminal proceedings, *West* nonetheless concluded that the provision does not apply to juvenile adjudications because " ' "adjudications of juvenile wrongdoing are not 'criminal convictions.' " ' " (*West*, at p. 107.) Instead, *West* reasoned, the enhancement provision's reference to juvenile proceedings concerns minors transferred to adult criminal court and convicted in a "criminal proceeding" rather than a wardship

adjudication. (*Id*. at p. 108). While the Victims' Bill of Rights has since been amended by Proposition 8, or "Marsy's Law" (see *People v. Runyan* (2012) 54 Cal.4th 849, 858–859), *West* remains good law. (See, e.g., *People v. Olay* (2023) 98 Cal.App.5th 60, 66; *People v. Pacheco* (2011) 194 Cal.App.4th 343, 346.)

The right to restitution under the Victims' Bill of Rights is even more clearly inapplicable. Just as the Bill's enhancement provision refers to "prior felony conviction[s]" (Cal. Const., art. I, § 28, subd. (f)(4)), the Bill's right to restitution refers to persons "convicted" of crimes and "convicted" wrongdoers. (*Id*., art. I, § 28, subd. (b)(13)(A), (B).) Moreover, in contrast to the enhancement provision and several other provisions that refer to "delinquency proceedings" or "delinquent act[s]" (*id*., art. I, § 28, subd. (b)(7) ["delinquency proceeding"]; *id*., art. I, § 28, subd. (b)(7) ["delinquent proceeding"]; *id*., art. I, § 28, subd. (e) ["delinquent act"]), the right to restitution does not reference juveniles or delinquency proceedings at all. Consequently, even more clearly than the enhancement provision considered in *West*, the right to restitution under the Victim's Bill of Rights does not extend to juvenile adjudications.

This is not to say that the Victims' Bill of Rights never confers rights relating to juvenile offenders or impacts restitution by juveniles. *In re Scott H*. (2013) 221 Cal.App.4th 515, 522–524 (*Scott H.*) held that, in light of the Bill, Section 730.6 should be interpreted to provide restitution to family members who are indirect victims of delinquent conduct. Although Section 730.6 does not define "victim" to include family members, an amendment to the Bill in Marsy's Law does, and *Scott H*. held that "[t]he constitutional language must prevail." (*Scott H.*, at p. 522.) However, the definition of victim considered by *Scott H.* expressly covers persons injured by delinquent acts: "[A] 'victim' is a person who suffers direct or threated physical, psychological, or financial harm as a result of the commission or attempted commission of a crime *or delinquent act.*" (Cal. Const., art. I, § 28, subd. (e), italics added.) By contrast, as noted above, the Bill's right to restitution contains no reference to delinquent acts or juvenile

adjudications. (Cal. Const., art. I, § 28, subd. (b)(13).) Consequently, far from suggesting that the Bill's right to restitution should be interpreted to extend to juvenile adjudications, *Scott H*. underscores that the voters who adopted and amended the Victims' Bill of Rights know how to apply its provisions to juvenile adjudications clearly and expressly. Their failure to do so in the right to restitution confirms that this right should not be interpreted to apply to juvenile adjudications. (See, e.g., *People v. Cole* (2006) 38 Cal.4th 964, 980; *Jarrow Formulas, Inc. v. LaMarche* (2003) 31 Cal.4th 728, 735.)

2. Legislative History

It is also clear that, in amending Section 730.6 to adopt several liability, the Legislature did not believe that the right to restitution under the Victims' Bill of Rights applies to juvenile adjudications, nor did they intend Section 730.6 to implement that right.

When Assembly Bill No. 1186 was introduced, the Assembly report recognized that the Victims' Bill of Rights requires restitution from convicted wrongdoers in every case. (Assem. Com. on Public Safety, Rep. on Assem. Bill No. 1186 (2023–2024 Reg. Sess.) as introduced Mar. 28, 2023, p. 7.) However, the report observed that juveniles are not convicted of crimes, and relying on *People v. West*, *supra*, 154 Cal.App.3d 103 and Welfare and Institutions Code section 203, it concluded that "repealing statutory authority to order victim restitution in juvenile cases does not implicate the California Constitution or any voter approved Victims' Bill of Rights initiatives . . . ." (Assem. Com. on Public Safety, Rep. on Assem. Bill No. 1186 (2023–2024 Reg. Sess.) as introduced Mar. 28, 2023, pp. 7–8.) When Assembly Bill No. 1186 reached the Senate, a Senate report similarly concluded that the right to restitution under the Victims' Bill of Rights does not apply to juvenile restitution orders because that right "specifically references those who are convicted, and juvenile adjudications are not convictions." (Sen. Com. on

Public Safety, Rep. on Assem. Bill No. 1186 (2023–2024 Reg. Sess.), as amended June 19, 2023, p. 7.)

Nor does anything in the legislative history of Assembly Bill No. 1186 suggest that the Legislature intended the amendment to Section 730.6 to follow the policy underlying the right to restitution in the Victims' Bill of Rights. To the contrary, as noted above, when Assembly Bill No. 1186 was introduced and passed by the Assembly, it proposed to eliminate juvenile restitution altogether. (Assem. Bill No. 1186 (2023–2024 Reg. Sess.) § 6; Sen. Amend. to Assem. Bill No. 1186 (2023–2024 Reg. Sess.) § 6.) Although Assembly Bill No. 1186 eventually was amended to impose several liability rather than eliminate juvenile restitution altogether, there is no indication in the legislative history that this change was intended to implement the right to full restitution under the Victims' Bill of Rights. To the contrary, as noted above, the Legislature continued to recognize the disparate and unfair hardship imposed by juvenile restitution orders and therefore eliminated joint-and-several liability, even though that doctrine provides greater assurance of full restitution than several liability. (Sen. Com. on Public Safety, Rep. on Assem. Bill No. 1186 (2023–2024 Reg. Sess.), as amended June 24, 2023, p. 7.)

Indeed, even before the recent amendment, the Legislature did not intend section 730.6 to ensure full restitution in every case. Although Section 730.6 states that "[t]he court shall order full restitution," it also contains an exception for situations where the court "finds compelling and extraordinary reasons for not doing so." (§ 730.6, subd. (b)(1); but see *ibid*. ["A minor's inability to pay shall not be considered a compelling or extraordinary reason not to impose restitution, nor shall inability to pay be a consideration in determining the amount of the restitution order."]) This exception cannot be reconciled with the right under the Victims' Bill of Rights to restitution "in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss." (Cal. Const., art. I, § 28, subd. (b)(13)(B).)

In short, there is no basis for concluding that the Legislature intended Section 730.6, much less the recent amendment adopting several liability, to implement a policy of full restitution. To the contrary, in amending the section, the Legislature recognized that crime victims rarely actually receive restitution but that nonetheless restitution orders often impose great hardship on already struggling families. Consequently, whatever the wisdom of a policy of full restitution for victims, it is not one that the Legislature intended to implement in amending Section 730.6 and therefore does not justify implying an adjudication requirement into the statute. (See *K.H.*, *supra*, 84 Cal.App.4th at p. 591, fn. 6.)

D. Practical Considerations

It might be thought that the adjudication requirement implied by the majority will spare juvenile courts from conducting extended and difficult hearings concerning the responsibility of parties whose guilt has not yet been adjudicated. However, absent some ground for the adjudication requirement in the language of the statute or applicable principles of statutory interpretation, such a requirement should not be implied into Section 730.6 simply because of the perceived difficulty of the inquiry otherwise demanded. (See, e.g., *In re K.H.*, *supra*, 84 Cal.App.4th at p. 591, fn. 6.)

In any event, concern over the ability of juvenile courts to consider the responsibility of unadjudicated parties is misplaced. There are "no rigid guidelines for apportionment" in juvenile delinquency cases (*In re Brian S.* (1982) 130 Cal.App.3d 523, 533), and under Section 730.6 juvenile courts may use "any rational method of fixing the amount of restitution." (*In re Brittany L.* (2002) 99 Cal.App.4th 1381, 1391; see also *People v. Kelly* (2020) 59 Cal.App.5th 1172, 1181 ["A ' "hearing to establish the amount of restitution does not require the formalities of other phases of a criminal prosecution." ' "].) In addition, where, as here, the probation officer has recommended the restitution that should be imposed, juveniles bear the burden of proving that a different amount should be imposed. (*In re S.S.* (1995) 37 Cal.App.4th 543, 546.)

Consequently, juvenile courts are more than capable of determining the responsibility of parties who have not yet been adjudicated and apportioning responsibility in a reasonably efficient fashion.

For example, in this case, although J.D. was the only individual against whom the prosecutor filed a wardship petition, another minor, D.K., was issued a citation for assaulting A.M., and a video showed four other girls who punched or kicked A.M. Based on the video, the testimony at trial, and the testimony at the restitution hearing, the trial court readily could have determined J.D.'s percentage of responsibility or fault for A.M.'s losses and apportioned liability without undue difficulty.

Other cases may be more challenging. For example, in a smash-and-grab case numerous individuals, including some minors, may be involved. In addition, it is likely that some of the individuals involved may not be identified or caught, and therefore at least some of the co-offenders will not be adjudicated responsible. However, these are precisely the types of cases in which a fair apportionment of liability is most needed. In smash-and-grab cases and other matters involving large, sophisticated criminal operations, the victim's losses may be quite substantial, which means imposing on a minor a disproportionate share of responsibility in those cases will have the correspondingly greatest and most disastrous impact on minors and their families. Section 730.6 should not be interpreted to create such a result. Nor is this necessary as a practical matter: Even in a smash-and-grab case involving many wrongdoers who have not been charged and found responsible, a juvenile court should be able to arrive at a rational method of estimating a minor's responsibility and apportioning liability.

In addition, confining several liability to cases in which other wrongdoers have been charged and found responsible would create a serious danger of unfairness. As this case shows, a prosecutor may decide not to file criminal charges or a wardship petition against some person who bears responsibility for a victim's loss, and there is no reason to think that such decisions will be made only where such persons bear no responsibility for

the loss. In addition, wardship petitions are typically, if not exclusively, brought against a single minor, and while hearings for "co-minors" involved in the same offense may be combined (§ 675, subd. (b)), they are not always because, among other reasons, of the stringent time limits imposed on juvenile delinquency proceedings. (See *A.A. v. Superior Court* (2003) 115 Cal.App.4th 1, 5-6 [ordering release of juvenile detained to facilitate joint hearings with co-minors].) As a consequence, it is not unusual for one minor's culpability for an offense to be adjudicated before adjudications concerning others involved in the same offense. Thus, if Section 730.6 is interpreted to permit apportionment only for wrongdoers who have been adjudicated responsible, a minor who happens to be the first one adjudicated may be left holding the bag and restitution for the full amount of injury may be imposed on him or her. Such a result cannot be squared with the Legislature's concerns about " 'driv[ing] already struggling families into cycles of poverty and incarceration.' " (Assem. Com. on Public Safety, Rep. on Assem. Bill No. 1186 (2023–2024 Reg. Sess.) as introduced Mar. 28, 2023, p. 9)

Indeed, in cases such as this one, the majority's interpretation effectively turns the recent amendment to Section 730.6 on its head. Under the joint-and-several liability rules formerly used in Section 730.6, a juvenile ordered to pay restitution was obligated to provide restitution to the victim for the entire loss suffered even though other wrongdoers were responsible for some or most of the victim's loss, though the juvenile could seek contribution from those other wrongdoers. In this case, although there appear to be others who were responsible for A.M.'s loss, under the majority's interpretation J.D. is responsible for providing restitution for A.M.'s entire loss without regard to her proportional responsibility for that loss—just as she would have been under the joint-and-several liability rule that the recent amendment to Section 730.6 sought to eliminate. In addition, even if D.K. or other wrongdoers were charged and found responsible in subsequent proceedings, J.D. would bear the burden of learning of those findings and seeking reconsideration of the restitution order imposed on her—much as she would have

been under the former joint-and-several liability rule. Thus, in this case and an untold number of other cases, the majority's interpretation effectively will reinstate the rule that Legislature sought to change.

Because the principles of statutory interpretation applicable to Section 730.6 dictate a different interpretation that furthers the Legislature's objectives, I respectfully disagree with the majority's interpretation and would interpret Section 730.6 to require consideration of any identifiable wrongdoer in apportioning several liability.

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BROMBERG, J.

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