

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

W19-07

Title	Action Requested
Juvenile Law: Guardianship Information	Review and submit comments by February 12, 2019
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise form JV-330; revise and renumber form JV-350 as JV-350-INFO	September 1, 2019
Proposed by	Contact
Family and Juvenile Law Advisory Committee Hon. Jerilyn L. Borack, Cochair Hon. Mark A. Juhas, Cochair	Corby Sturges, Attorney 415-865-4507 phone corby.sturges@jud.ca.gov

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes revising one form and revising and renumbering another form to update legal information for prospective guardians of children in juvenile court proceedings, in language and a format easily understood by a person not trained in law. The proposal is needed to comply with an ongoing statutory mandate. Revisions were suggested both informally and through the spring 2018 comment cycle by child welfare departments, county counsel's offices, juvenile courts, and the Judicial Council's Probate and Mental Health Advisory Committee.

The Proposal

The Family and Juvenile Law Advisory Committee proposes revising two Judicial Council forms to update legal information for prospective guardians of children in juvenile court proceedings. The information addresses the establishment, conduct, modification, and termination of juvenile court guardianships. Much of the information in form JV-350 is out of date because the pamphlet was last revised in 2001.

Revisions to form JV-350 are needed to conform to the continuing mandate in section 68511.1 of the Government Code, which requires the council to develop "a pamphlet explaining the nature of a guardianship of a minor and the rights, duties, and obligations of a person serving as guardian of a minor." (Gov. Code, § 68511.1.) The revisions are also intended to fulfill the statutory mandate to use "language easily understood by a lay person not trained in law." (*Ibid.*) The proposed revisions will help persons not trained in law to understand the process of

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

appointing a guardian in a juvenile court proceeding, the court's role in overseeing the guardianship, and the duties of a guardian. Better-informed guardians will reduce the need for court intervention after appointment.¹

Specifically, the committee proposes, effective September 1, 2019, to:

1. Revise *Letters of Guardianship (Juvenile)* (form JV-330) to:
 - Indicate that the form applies to all guardianships established by the juvenile court, whether in child welfare proceedings, under Welfare and Institutions Code² sections 360 and 366.26, or in juvenile justice proceedings, under section 728.
 - Clarify that the guardian's legal powers and duties are specified by the Probate Code even though the guardian is appointed by the juvenile court;
 - Indicate clearly that the juvenile court, not the probate court, retains jurisdiction to regulate, modify, and terminate the guardianship, and specify that this includes the authority to appoint a successor guardian and to approve moving the child's residence out of California;
 - Separate the guardian's affirmation from the clerk's witness;
 - Separate the clerk's issuance, which must be completed on the original Letters of Guardianship, from the clerk's certification of a true copy, which must be completed only when the clerk issues a certified copy of the form; and
 - Expand and clarify the notice of the purpose and intended use of the Letters.
2. Revise *Guardianship Pamphlet (Juvenile)* (form JV-350) to:
 - Reformat the pamphlet as an informational form, and rename it *Becoming a Child's Guardian in Juvenile Court* (form JV-350-INFO);
 - Clarify and update legal information, including information about eligibility for financial support and other benefits;
 - Expand the form's scope to include juvenile justice proceedings;
 - Inform a prospective guardian of the authority, added by Senate Bill 438 (Stats. 2017, ch. 307), of the social worker or probation officer to name a successor guardian in the assessment for appointment of an initial guardian; and
 - Use plain language and user-friendly formatting to convey information to prospective guardians.

Alternatives Considered

The committee considered recommending that the council adopt revisions to these forms as proposed and circulated for comment in spring 2018, with only minor modifications in response to comments received. After reformatting and additional legal analysis, however, the committee

¹ In addition, the revisions to form JV-350-INFO would partly fulfill the council's commitment to promote case closure by providing information to attorneys and judges about the funding available to guardians after juvenile court jurisdiction is terminated.

² All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

determined that the scope of the changes made after comment was sufficient to warrant recirculation for a second round of public comment.³

Fiscal and Operational Impacts

The proposal would require courts to provide copies of the updated forms. Courts that issue paper copies of the guardianship information form would incur more costs than courts that distribute the form electronically. All courts would incur costs to produce hard copies of the revised *Letters of Guardianship*, but, because that form is issued on a case-by-case basis, there may be no additional printing costs imposed. Courts would also need to integrate the revised Letters into their electronic case management systems. The revisions should make the process clearer and more accessible for guardians and prospective guardians, thereby reducing the overall time and cost of the process for courts, justice partners, and attorneys.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Forms JV-330 and JV-350-INFO, at pages 4–10
2. Chart of spring 2018 comments and committee responses, at pages 11–23
3. Gov. Code, § 68511.1,
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=68511.1
4. Sen. Bill 438,
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB438

³ A chart of comments received in spring 2018 with committee responses is attached at pages 11–23.

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
LETTERS OF GUARDIANSHIP (JUVENILE)	CASE NUMBER:

LETTERS

1. (Name): _____ is appointed guardian of the person
 of (child's name): _____ (date of birth): _____
 with the authority and responsibility to make decisions and provide for the child's care, custody, control, education, residence, and medical treatment as set forth in sections 2351–2358 of the Probate Code.
2. Other powers granted or conditions imposed (specify):

continued on Attachment 2.

AFFIRMATION

3. I solemnly affirm that I will perform the duties of a guardian according to law. I have received a copy of *Duties of Guardian* (form GC-248).
- Signed on (date): _____ at (place): _____, California.

_____ (TYPE OR PRINT NAME) ▶ _____ (SIGNATURE OF APPOINTEE)

ISSUED, clerk of the court, with seal of the court affixed:

(SEAL)	Date: _____ Clerk, by _____, Deputy
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NOTICE

The juvenile court named above has jurisdiction over this guardianship. Any request to change or end the guardianship, including a request to move the child's residence out of California, to change a visitation order, or to appoint a successor guardian, must be filed in the juvenile court using *Request to Change Court Order* (form JV-180).

(Continued on the next page)

CHILD'S NAME:	CASE NUMBER:
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**IMPORTANT NOTICE
TO GUARDIAN OF CHILD**

This form, called *Letters of Guardianship*, is evidence of your appointment as guardian of the child. The *Letters* stay in effect until the guardianship ends. A guardianship ends when the child reaches 18 years of age unless any of the following events happens before then: the child dies; the child is adopted; the child is emancipated by getting married, entering active military duty, or receiving a declaration of emancipation; or the court orders the guardianship to end.

To verify your appointment to school personnel, medical personnel, and other service providers, you will need to show them a certified copy of the *Letters*. Be sure to keep this form in a safe place. If you misplace the form, you will need to request a new, certified copy from the clerk of the juvenile court. You may be charged a fee for the certified copy.

CERTIFICATION

I certify that this is a correct copy of the original form on file in my office and that the *Letters* issued to the person named on page one have not been revoked, annulled, or set aside, and are still in full force and effect.

(SEAL)

Date:

Clerk, by _____, Deputy

JV-350-INFO Becoming a Child's Guardian in Juvenile Court

This form is about becoming the guardian of a child at the end of the child's juvenile court case if the child cannot return home or be adopted.

The form explains:

- Who can become a guardian;
- How to ask to become a guardian in juvenile court;
- The differences between foster parents, guardians, and adoptive parents; and
- A guardian's legal rights and duties.

To become the guardian of a child who does **not** have a juvenile court case, you must ask the *probate* court. Read Judicial Council forms GC-205, GC-505, and GC-510 to learn more about probate guardianships.

For more information, visit the California Courts website at www.courts.ca.gov/1206.htm or talk to a lawyer with experience in juvenile court. Learn how to find a lawyer on the website at www.courts.ca.gov/selfhelp-findlawyer.htm.

1 What is a guardian?

A guardian is a person, other than a parent, who has legal and physical custody of a child and can make the same decisions that a parent can about the child's care and control, residence, education, and medical treatment.

2 Who can become a guardian in juvenile court?

To become a child's court-appointed guardian, you must:

- Be an adult (18 years old or older);
- Not be the child's parent;
- Be approved by the county child welfare agency or juvenile probation department; and
- Be appointed by the court as "guardian of the person" and get *Letters of Guardianship*.

3 Can a relative be appointed guardian?

Yes. The juvenile court can appoint any approved adult, including a relative, except for the child's parent.

4 How does a juvenile court case start?

A social worker or prosecuting attorney files a petition asking the court to make orders to keep the child and the community safe. Sometimes, the court decides that a child cannot live safely in a parent's home. And the court cannot let the child go home unless the home is safe.

5 If the child cannot live safely at home, what happens?

If the court cannot let a child go home, the social worker or probation officer will find a safe home where the child can live temporarily. They will try to find a relative who is approved as a resource family to be the child's foster parent. If they can't find an approved relative, they will look for an approved nonrelative to be the foster parent.

If you want to be a child's foster parent, tell the child's social worker or probation officer as soon as you can. Ask how you can get approved as a resource family.

6 Are foster parents the same as guardians?

No. Foster parents are *not* guardians, but the court can, and often will, appoint them to be guardians. Foster parents have some legal rights, including:

- The right to get notice of their foster child's court hearings and go to the hearings; and
- The right to give the court information about their foster child's needs.

7 Who else can be involved in the child's court case?

The child's relatives can. If you are a relative, even if you are not the child's foster parent, you can still give the court important information in writing.

8 Will the child be returned to the parent?

In most cases, the social worker or probation officer works with the family by giving them services so that the child can return to live at home.

Sometimes the court decides the child cannot return home safely. If that happens, the court will deny or stop services for the parent. The social worker or

probation officer will recommend to the court a permanent plan for the child in a written report.

9 Is guardianship a permanent plan?

Yes. A guardianship is one of several possible permanent plans, intended to last until the child turns 18. If the child cannot return home, adoption is the preferred permanent plan because it is more secure. (Later, this form talks more about adoption.) But if adoption is not possible, the court will try to appoint a guardian for the child.

HOW TO BECOME THE CHILD'S GUARDIAN**10 How do I ask to become the guardian?**

If you want the court to appoint you the child's guardian, you should:

- Tell the social worker or probation officer; and
- Ask in the courtroom at a hearing.

Think carefully! If the court appoints you, the guardianship will last until the child turns 18. The court will not "undo" or end a guardianship unless:

- Something really important has changed; and
- It is in the child's best interests to end it.

11 What are the steps to becoming a guardian?

There are several steps to becoming a child's guardian in juvenile court:

- A. The social worker or probation officer will interview you and visit your home to make sure you and your home are safe for the child.
- B. The social worker or probation officer will write a report to the court to recommend a permanent plan for the child.

Note: If the report does not recommend you as guardian, ask the social worker or probation officer if they will name you as a prospective successor guardian. Then you might be assessed and appointed if the first appointed guardian can no longer serve.

- C. There will be a court hearing to decide the child's permanent plan. You will get a notice that tells you when and where the hearing will happen.
- D. Go to the hearing and talk to the judge. The child's parents and other people interested in the case can also go to the hearing and tell the judge

what they think about you being the child's guardian.

12 How does the court decide whether to appoint me as guardian?

The court will consider:

- Whether the child can be adopted;
- The recommendation in the agency's report;
- What you and other people say at the hearing; and
- Any other reasons for or against appointing you as guardian.

The court will appoint you as guardian if it decides that:

- A guardianship is best for the child; *and*
- You would be a good guardian.

13 What if the court appoints me as guardian?

If the court appoints you as guardian, take the order to the clerk and ask for a certified copy of *Letters of Guardianship* (form JV-330). This form is proof that you are the child's guardian. Make copies of the Letters and keep the certified copy in a safe place. Take a copy of the Letters with you whenever you:

- Take the child to a doctor, dentist, or therapist;
- Sign the child up for school or go to school meetings; or
- Travel with the child.

14 Will the court oversee me as guardian?

When it appoints you, the court can give you other orders, such as to notify the court if you move or to allow the parents or siblings to visit and spend time with the child. You must obey the court's orders.

After it appoints you, the juvenile court may oversee the guardianship to make sure you perform your duties. You won't usually have to go to court unless the court keeps the juvenile case open or someone asks the court to change its orders or make new orders. Even after the juvenile case is closed, anyone, *including you*, can use form JV-180 to ask the juvenile court to give you directions, review your plans or actions as guardian, change its previous orders, or end the guardianship.

The social worker or probation officer might also offer permanent placement services to help you and the child get used to the new living arrangement.

They might also ask you to do certain things for the child. If you don't do what they ask, they might then ask the court to order you to do it.

15 When will the guardianship end?

A guardianship lasts until the child turns 18 unless:

- The child dies;
- The child is adopted (by you or another adult); or
- The child is emancipated (or freed from your control) by getting married, entering on active military duty, or getting a court order.

The court can also order a guardianship to end before the child turns 18, but only if it is in the child's best interests—even if the parent asks for custody and their home is safe.

Note: If the child keeps living with you after turning 18, you can get financial help if the child is eligible for KinGAP or extended foster care and you meet other conditions. See page 5 for more information.

16 Can the court replace me as guardian?

Yes. The court will consider replacing you as guardian if asked by:

- You, the guardian;
- Any other interested adult; or
- The child, if 14 years old or older.

The judge will only replace you if something has changed and it is in the child's best interests.

17 How is guardianship different from adoption?

Both a guardian and an adoptive parent, in place of the birth parents, have legal and physical custody of the child. But there are many differences.

Permanence. In a guardianship, the parent's rights are only *suspended*. The court can end a guardianship and give the parents back their rights if it decides that would be in the child's best interests. In an adoption, parental rights are *permanently ended*. The adoptive parent is the child's legal parent. The birth parents cannot get their rights back.

Important! If guardianship and adoption are both possible, the court is legally required to choose adoption because it is more stable.

Visitation. In a guardianship, the court can make an order allowing the parents or other relatives to visit a child. The guardian must obey the visitation order, as well as all other court orders. In an adoption, parents and other relatives lose their rights to visit the child unless the court says they can have contact after adoption.

Duration. A guardianship lasts until the child turns 18 unless something happens to end the guardianship before then. A court can order a guardianship to end only if that is in the child's best interests. An adoption is intended to last forever. A court can only end an adoption by terminating parental rights in a new juvenile or family law case.

Court oversight. The court controls a guardianship and can make orders, including to replace the guardian or end the guardianship, if someone asks and the request is in the child's best interests. The court does not oversee an adoption once it is final.

Inheritance. A child in a guardianship can still inherit property from a parent. If the court knows the child has or might inherit property, the judge may also appoint a "guardian of the estate" to manage the property. An adopted child usually cannot inherit from a birth parent.

18 How is a guardian different from a foster parent?

Foster parents and guardians are both responsible for taking care of other people's children. But there are important differences.

Permanence. Foster care is intended to be temporary; it can end at any time. A guardianship gives a child a stable, lasting home and relationship.

Court supervision. The court holds review hearings every six months for a child in foster care. A social worker or probation officer visits a foster placement regularly. In a guardianship, no regular hearings or visits are required unless the court keeps the juvenile case open.

Duties. A foster parent provides food, clothing, housing, and emotional support to the child under the supervision of a social worker or probation officer. A guardian has more rights and duties to the child, but receives fewer services and less personal support.

GUARDIAN'S RIGHTS AND RESPONSIBILITIES

Subject to the court's orders, a court-appointed guardian has the same rights to legal and physical custody of the child as a parent does. In general, you must care for and control the child the same way a parent would.

Specifically, that means you must:

19 Arrange a place for the child to live

If you move the child to a new address in California, you must notify the court in writing. To move the child out of California, you must get court approval first. Use form JV-180 to ask the court to approve. Other states have different guardianship laws. If you plan to move to another state, find out about your legal rights and duties in that state.

20 Arrange for the child's health care

You can allow (*consent*) to most medical or dental treatment for the child. But if the child is at least 14 years old and does not want to have a non-emergency surgery, you must get permission from the court first.

The law also allows older and more mature children to get some medical treatment on their own without your approval, including:

- Outpatient mental health treatment;
- Reproductive health care; and
- Drug and alcohol treatment.

21 Provide for the child's education

You can choose the child's school and learning programs just as a parent can. In special situations, the court may also be involved in these decisions. Pay attention to how the child does in school and meet with the child's teachers. If the child needs special education or other specialized services, you can also ask the school or other providers for these services.

22 Access social services

You can get help for the child from other programs, such as:

- Head Start;
- Regional centers for persons with developmental delays or disabilities;
- Health care services; and
- After-school care.

23 Give consent to the child's marriage

You can allow the child to marry, but you must get the court's permission first. Once the child gets married, the guardianship will end.

24 Give consent to the child's military service

You can allow the child to enlist in the U.S. military. Once the child enters on active duty, the guardianship will end.

25 Give consent for the child's driver's license

You must give your permission for the child to get a driver's license. (See responsibilities listed below.)

26 Pay for harm caused by child's driving

You will have to pay for any damage the child causes when driving. The law limits how much money you can be forced to pay. If you're concerned about this responsibility, you should talk to a lawyer.

You must get insurance to cover the child when driving. (The child cannot get a license without your written permission.) If you change your mind later, you can sign a form at the DMV to cancel the child's driver's license.

27 Pay for harm caused by child's other acts

Willful misconduct. In most cases, a guardian could be made to pay only for harm to another person caused by the child's willful misconduct. There is usually a limit about how much you could be made to pay.

Negligent conduct. You could be made to pay for harm caused by the child's negligent conduct. If you're concerned about this responsibility, you should talk to a lawyer.

28 Pay for the child's needs

The parents are still legally responsible for child support, but you can accept this responsibility. You can get money to help you support the child. See page 5 for more information.

29 Obey all court orders

The court may require you to accept other duties. For example, the judge may order you to take the child to visit a parent or other relative. You must do what the court orders.

FINANCIAL HELP

You may be able to get financial help from the government. The type of help can depend on the child’s eligibility for aid and relationship to you.

Important! Before you become the child’s guardian, ask the child’s social worker or probation officer or a lawyer if you will qualify for financial help. Be sure to ask whether you qualify as a relative. The law treats more people as relatives than you might think!

If the Child Is Related to You

If you become the guardian of a child who is a relative, you may qualify for financial help from these programs:

- **KinGAP program:** If the juvenile case is closed and you sign a written agreement, you can qualify for KinGAP payments. KinGAP gives you the same monthly payments as a foster parent caring for a foster child. You can receive KinGAP in any county or state, but the amount may change from state to state. In California, the payments are the same amount as foster care payments.
- **Approved Relative Caregiver (ARC) program:** If the court keeps the juvenile case open after appointing you guardian, you may be eligible to receive ARC or foster care payments instead of KinGAP.
- **CalWORKS (cash assistance):** A relative guardian who does not qualify for KinGAP may qualify for CalWORKS payments. If you have low income, you may get a full CalWORKS grant. If your income is too high to qualify for a full grant, you can still receive a “child-only” CalWORKS grant.
- **Health care:** Children who qualify for KinGAP can get health care through Medi-Cal.
- **Independent living services (ILP):** Beginning at age 16, most children can get ILP money and services to help them become successful adults. The services available depend on the child’s age when KinGAP payments started.

If the Child Is NOT Related to You

In California, guardians who are not related to the child can get foster care payments from the state. However, if the child moves to another state, those payments will end. The other state might not offer the same payments.

- **Foster care payments:** Foster care payments and other services give you more money than CalWORKS payments. The state will check continuing eligibility every 6 months.
- **Health care:** Children who qualify for foster care payments can get health care through Medi-Cal.
- **Independent living services (ILP):** Beginning at age 16, most children can get ILP money and services to help them become successful adults.

If the child keeps living with you after turning 18

KinGAP or extended foster care payments can continue after the child turns 18 if the young adult continues to live with you and is otherwise eligible, and you both sign agreements with the department. Generally, payments must end when a person turns 21. But if KinGAP payments started before the child turned 16, they must end when the child turns 18 unless the child is in high school or has a disability. Medi-Cal coverage can continue until age 26.

Important! Talk to the child’s social worker or probation officer or a lawyer a few months before the child turns 18 to make sure the child doesn’t miss any payments.

Other Financial Help

If you do not qualify for KinGAP or foster care payments, you may be able to get Social Security, Supplemental Income (SSI), Medi-Cal, or other financial help.

You can also get help and information from: *[Add local agencies and contact information]*



SPR18-29

Juvenile Law: Guardianship Information (revise forms JV-330 and JV-350)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
1.	Hon. Tari L. Cody, Judge Superior Court of Ventura County	AM	The pamphlet should also mention that the guardian is required to follow any visitation orders the court makes and that a JV-180 would be required to change those orders also.	The committee agrees with the suggestions and has modified its recommendation to clarify the effect of visitation orders and the process for seeking to modify them.
2.	County of Los Angeles Department of Children and Family Services by Ruena Borja, Children Services Administrator I	AM	<p>Will this pamphlet be translated in other languages, e.g., Spanish?</p> <p>Can it be available in electronic form for dissemination?</p> <p>Perhaps it can start with a more strengths-based tone, such as acknowledging and conveying their important role in caring and providing permanency for a child. We suggest that this tone is reflected throughout the document.</p> <p>‘supervise’ might imply that the court will continue to be actively involved in the same manner as when it had/will have when jurisdiction was/remains open.</p>	<p>Yes, the committee intends for the form to be translated into Spanish.</p> <p>Yes, the committee intends for the form to be available electronically on the California Courts public website, where anyone can view, download, or print it. Local courts and agencies can link their websites to the state court website’s forms page.</p> <p>The committee has reformatted the form to use plain language and a user-friendly presentation. The changes are intended, in part, to affirm the importance of the guardian’s role in the care and custody of the child, to highlight the nature and extent of the guardian’s responsibilities, and to promote the long-term stability of these relationships. No disrespect to guardians or other caregivers is intended.</p> <p>The committee acknowledges that, although the juvenile court retains jurisdiction over the guardianship even if dependency or delinquency jurisdiction is terminated (Welf. & Inst. Code, §§ 366.4, 728(f)), and the guardian is subject to “the regulation and control of the court” (Prob. Code, § 2102 (applied to juvenile court guardianships by Welf. & Inst. Code, § 366.4)), the juvenile court does not supervise a</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

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All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>Add information to state that, although the guardianship ends at 18, they may be able to receive extended foster care benefits (for non-relatives) or KinGAP if they meet certain criteria.</p> <p>Not sure what this sentence is referring to since federal and state Kin-GAP rates should be whatever the child should have received in foster care.</p> <p>It is not clear if the Guardianship Information Pamphlet is for Juvenile Dependency guardianships. The pamphlet includes the use of the GC forms and refers to the Probate Code which was confusing. For example, page 9 indicates that if the LG wishes to move out of state, the LG must provide notice via the GC-079 and GC-080; however, these are probate forms.</p>	<p>guardianship as actively as it does a dependency or wardship. No regular review hearings are required after the court terminates dependency or wardship. The court’s exercise of its oversight authority depends on the filing of a request to change a court order under section 388. The committee has replaced “supervise” with other terms to indicated this lower level of oversight.</p> <p>The committee agrees and has added information about benefits available to nonminor former dependents and wards living with former guardians.</p> <p>The committee has revised this sentence to remove the distinction.</p> <p>The committee agrees that the references to forms GC-079 and GC-080 are unnecessary. The committee intends this form to provide information about guardianships established and overseen by the juvenile court. The court has authority to establish a guardianship in a child welfare proceeding, under Welfare and Institutions Code sections 360(a) and 366.26, and in a juvenile justice proceeding, under section 728. Under section 366.4 of the Welfare and Institutions Code, juvenile court guardianships are governed by part 4 (beginning with section 2100) of division 4 of the Probate Code to the extent</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

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	Commentator	Position	Comment	Committee Response
			<p>Remove 'for developmentally disabled children' to be inclusive of regional center services such as Early Start for children with developmental <i>delay</i>.</p> <p>It may be better to separate information related to KinGAP extended benefits from foster care extended benefits. For KinGAP, it can mention the 2 requirements, i.e., 16 or older at the time child entered KinGAP or having a disability.</p> <p>This section should include information about the Approved Relative Caregiver (ARC) program, and reflect that relative guardians may be eligible to receive foster care or ARC payments if jurisdiction has to remain open.</p>	<p>that that part applies and is not preempted by provisions of the Welfare and Institutions Code or the juvenile rules of court. Part 4 includes statutes that establish the powers and duties of guardian. The Judicial Council probate forms that implement the requirements of part 4 could therefore apply to juvenile court guardianships. In addition to the forms mentioned by the commentator, a newly appointed guardian would benefit from receiving and reading a copy of form GC-248, <i>Duties of Guardian</i>, regardless of jurisdiction of the court of appointment. Nevertheless, the committee has replaced the references to forms GC-079, GC-080, and GC-085 with a reference to form JV-180.</p> <p>The committee has replaced “for developmentally disabled children” with “developmental delays or disabilities.”</p> <p>The committee has added a section about extended benefits to the end of the form, including separate information about eligibility for extended KinGAP. See also the committee’s response to this commentator’s last comment, below.</p> <p>The committee has revised its recommendation to add a paragraph about the ARC program. See the committee’s response to this commentator’s last comment, below.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

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			<p>It should be noted, however, that state KinGAP is an option when a child does not qualify for federal KinGAP. KinGAP allows a family to close their case, which should offer a better sense of normalcy for children/families when it is otherwise safe and appropriate to do so.</p> <p>You may want to add how to obtain the services and whom to contact.</p> <p>Related guardianships are not eligible for transitional housing services if less than 16 years when entered KinGAP.</p> <p>In some situations, they may receive both, or Social Security/SSI may be the first option.</p> <p>There are many information left out that may be important for a prospective legal guardian to know such as tax implications, name change, required RFA reassessments for foster care, etc. However, it is a delicate balance between providing comprehensive advisements and the length of the Pamphlet, as an outside person may find it overwhelming to have all that information. An option would be to hyperlink some of the information and direct them to go to appropriate materials/websites such as ILP,</p>	<p>The information on the form does not foreclose this option. For more detail, please see the committee’s response to this commentator’s last comment, below.</p> <p>The committee believes that the appropriate agencies and contact information will vary by county. The committee has therefore inserted blank space at the end of the form where each county can identify the appropriate local agencies and provide their contact information.</p> <p>See the committee’s response to this commentator’s last comment, below.</p> <p>See the committee’s response to this commentator’s last comment, below.</p> <p>The committee recognizes that this form does not provide exhaustive information to a prospective guardian. As the commentator suggests, the requirements applying to funding eligibility, resource family approval, etc., are too complex and voluminous to explain properly in a short form of this type. The committee has attempted to provide enough information to make a prospective guardian aware of the issues to be considered, and has advised the prospective guardian to contact the child’s social worker or probation officer, a</p>

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			etc. Another example: LA County has recently updated the DCFS 5620 that has comparisons of the different permanency plans. If CDSS or Judicial Council wants to adopt a version of it, commits to regularly updating the information, and post in a public website, perhaps they can then hyperlink and be able to shorten this pamphlet.	lawyer, or the appropriate local agency, as identified at the end of the form, to find out what kind of benefits might be available in their specific circumstances.
3.	County of Santa Clara Office of the County Counsel by Hilary Kerrigan, Deputy County Counsel	AM	On page 9 of the guardianship pamphlet, it advises that the guardian will need to use form GC-085 to seek the court’s permission to move the child out of state. This is in conflict with the advisement at the bottom of the JV-330 form, which states that the guardian must use form JV-180 to request that the child be allowed to move out of state.	The committee appreciates the suggestion and has modified its recommendation to remove the reference to form GC-085.
4.	Executive Committee, Family Law Section (FLEXCOM) California Lawyers Association by Stephen D. Hamilton, Arroyo Grande & Saul Bercovitch, San Francisco	A	The Executive Committee of the Family Law Section of the California Lawyers Association agrees with this proposal. Providing current and prospective guardians with clarity in both the Letters of Guardianship and the Information Pamphlet is important for long-term stability of the guardianship. We also offer some comments below with an eye toward strengthening an already sound proposal. a. On page 6, in the first paragraph under the heading “How to Become the Legal Guardian of a Child in a Juvenile Court Case,” we recommend the first sentence be rewritten to state: “The juvenile court decides petitions, filed by social workers or probation officers,	The committee appreciates FLEXCOM’s comments. The committee agrees with the commentator’s analysis of the law and has modified its recommendation to clarify that removal is not always the agency’s goal. Nevertheless, the committee believes that keeping the form focused on the consequences of removal is appropriate.

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			<p>asking the court to adjudge a child a victim of abuse, neglect, or abandonment.” The language proposed in the Invitation to Comment is potentially confusing, given the nature of the juvenile court proceedings. That language suggests the petition is filed in order to remove a child. This language should be changed for two reasons. First, the child welfare agency does not always want a child removed when it files a petition. Second, the petition is not what causes removal. A removal can occur only during a disposition hearing, which happens after a court sustains a petition.</p> <p>b. The section headers at the bottom of page 7 and the top of page 8 should not be changed. In the current version of the JV-350 they read “Difference Between Guardianship and Adoption” and “Difference Between Guardianship and Long-Term Foster Care.” We believe the current phrasing is easier for proposed guardians to understand.</p> <p>c. Near the bottom of page 11, in the paragraph that starts with the word NOTE in bold font, a quotation mark is needed after the phrase “permanent connection.”</p> <p>d. On Page 12, a proposed section header reads “If the Child is not related to you.” We believe this proposed header can be confusing for guardians that are not considered relatives, under a commonly held definition of the term.</p>	<p>This form is directed to prospective guardians. Absent parental consent, the court will only consider appointing a guardian if the child has been removed from the parent’s physical custody and the court determines that the child cannot return home.</p> <p>The committee has revised these headings to make them easier to understand.</p> <p>The committee has addressed this concern through the reformatting process.</p> <p>The committee recognizes that the legal definition of “relative” for purposes of juvenile court guardianships is confusing. The committee has removed the extensive definition of “relative.” It has added an advisement to prospective guardians</p>

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			<p>As noted on page 11, California law defines “relative”—for purposes of legal guardianships—broadly to include non-related caregivers that have developed a substantial connection with the child. A relative meeting this standard might be confused about the disparate language on pages 11 and 12. To remedy this problem, we recommend adding a sentence at the beginning of the paragraph that reads: “This section applies if you do not meet the definition of a ‘relative’ found on page 11.”</p> <p>e. On Page 12, we believe the information on Independent Living Services eligibility should be modified. It says that a child living with a non-related guardian may qualify for independent living services beginning at age 16. This is true, but only if the guardianship was ordered on or after the child’s 18th birthday. See Welfare and Institutions Code section 10609.45. The language in this paragraph should be amended to include that caveat.</p>	<p>that the law defines more people than they might think as relatives and suggests that they ask the child’s social worker or probation officer or a lawyer whether they qualify as a relative.</p> <p>The committee understands section 10609.45(b) to restrict eligibility for ILP services to children whose guardianships were ordered after their <i>eighth</i> birthdays. Section 10609.45(a) appears to include additional restrictions on eligibility. The committee has modified its recommendation to indicate that <i>most</i> children in nonrelative guardianships can receive ILP funding and services.</p>
5.	Orange County Bar Association Newport Beach by Nikki P. Miliband, President	AM	<p>The proposal sufficiently meets the purpose to provide information to proposed legal guardians, in language easily understood, about the nature of a legal guardianship and the rights and obligations of a legal guardian.</p> <p>The Important Notice on page 2 of the JV-330 should be clarified by rewording it to read “...or adoption by you or adoption by another person. The present wording could be interpreted to mean the guardianship could be</p>	<p>The committee appreciates the bar association’s comments.</p> <p>The committee has revised the language of the notice to avoid this possible confusion.</p>

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			<p>ended “by you or by another person.”</p> <p>The section in the Guardianship Pamphlet (Juvenile Court) entitled “Medical Care” should be clarified to indicate the need to get court approval may vary depending upon whether or not the legal guardianship is part of an open dependency case, as opposed to those cases in which dependency jurisdiction has been terminated.</p>	<p>The committee understands that many factors (e.g., the child’s age and maturity, the nature of the procedure or treatment) and statutory provisions (see, e.g., Fam. Code, §§ 6920–6929; Prob. Code, §§ 2353, 2356, 2357) govern a child’s authority to consent to medical care and the parent’s or guardian’s authority to compel medical treatment against the child’s wishes. The committee has used the term “older and more mature children” to capture the law’s general tendency to afford those children more autonomy with respect to medical decisions.</p>
6.	Superior Court of Los Angeles County (no name provided)	AM	<p>We propose that an order be created and implemented, similar to Probate GC-240, in conjunction with the proposed forms JV 330 and JV 350. This will allow for a judicial officer to review and order appointing guardianship.</p>	<p>The committee recognizes the potential benefit of the suggested form, but believes that it is beyond the scope of this proposal. Currently, the court may use forms JV-415, <i>Findings and Orders After Dispositional Hearing</i>, and form JV-418, <i>Dispositional Attachment: Appointment of Guardian</i>, to appoint a guardian under Welfare and Institutions Code section 360(a). The court must use form JV-320, <i>Orders Under Welfare and Institutions Code Sections 366.24, 366.26, 727.3, 727.31</i>, to make the findings and orders required to select a permanent plan, including guardianship. The development of the suggested form would require parallel revisions to those forms.</p>
7.	Superior Court of Orange County (no name provided)	A	<p><i>Does the proposal appropriately address the stated purpose?</i> Yes, it also informs a party in lay terms of their</p>	<p>The committee appreciates the court’s comments. No specific response is required.</p>

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			<p>rights and responsibilities.</p> <p><i>Would proposal provide cost savings?</i> There would be minimal cost savings for the court. The savings forecasted would be in Self-Help Center resources. This lay term document and revised pamphlet would give parties more information and may reduce the need for a party to access the Self-Help Services with questions regarding juvenile guardianship.</p> <p><i>What would the implementation requirements be for courts?</i> The court would need to replace any pre-printed forms. As for the court’s case management system, codes do not need to be revised as they are already utilized in the system. Procedures would need to be revised to show the new document review requirements.</p> <p>No additional comments.</p>	<p>No specific response is required.</p> <p>No specific response is required.</p> <p>No response is required.</p>
8.	Superior Court of Riverside County by Susan Ryan, Chief Deputy of Legal Services	A	<p><i>Does the proposal appropriately address the stated purpose?</i> Yes.</p> <p><i>Would the proposal provide cost savings?</i> No.</p> <p><i>What would the implementation requirements be for courts?</i> Judicial officers and staff would need to be notified of the changes. Minimal additional training would be needed. If updates to minute codes were required for the updates to the Letters of Guardianship it would be minimal.</p>	<p>The committee appreciates the court’s comments. No specific response is required.</p> <p>No specific response is required.</p> <p>No specific response is required.</p>

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			<p><i>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i> Yes.</p> <p><i>How well would this proposal work in courts of different sizes?</i> The proposal should work well for courts of any size.</p>	<p>No specific response is required.</p> <p>No specific response is required.</p>
9.	Superior Court of San Bernardino County (no name provided)	AM	<p>Currently, the Department of Children and Family Services/County Counsel prepares and submits the “Letters of Guardianship” to the court sometimes weeks after the hearing, and the “Affirmation” by the guardian is signed. This will require County Counsel to prepare the Letters of Guardianship prior to the court hearing, and require the guardian to appear at the court hearing to sign the “letters.” CFS should also ensure that the Duties of Guardian Form GC-248 are provided to the guardian at the hearing.</p> <p>The guardian will now be required to appear at the court hearing or in person for the “Court Clerk” to witness the signing of the “Letters of Guardianship & Duties of Guardian Form GC-248.”</p> <p>The impact to the court staff would be that the “court clerk” is required to “witness” that the guardian signed the “Affirmation Portion of the</p>	<p>The committee has modified its recommendation in response to the comment by removing the requirement that the clerk witness the oath or affirmation. This will allow the prospective guardian to take the oath and acknowledge receipt of form GC-248 (<i>Duties of Guardian</i>) without attending the hearing. Because the guardian’s appointment is not effective until the oath is taken and letters are issued (Prob. Code, §§ 2300 & 2310), however, any delay in submitting the letters for issuance will postpone the guardian’s ability to act on behalf of the child and the court’s authority to dismiss the juvenile court case.</p> <p>See response above.</p> <p>See response above. The committee intends the revisions to form JV-330 to clarify existing law. To the extent the revisions modify the duties of</p>

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			<p>Letters of Guardianship” and that they were provided the “Letters of Guardianship & Duties of Guardian Form GC-248 by the Department of Children & Families Services/County Counsel.</p> <p>Additional Procedure changes and staff training would be required, as the parties are required to submit any requests to change or end the guardianship, including requests to move the child’s residence to the court on the JV-180 Request to Change Court Order along with “Notice” to the appropriate parties.</p> <ul style="list-style-type: none"> • Address changes must be submitted with the JV-180 form 15 days before the move is planned on Guardianship Form GC-079 Pre-Move Notice of Proposed Change of Personal Residence of Conservatee or Ward. • Notice of Address change within 30 days after the move on Guardianship Form GC-080 Change of Residence Notice and Attachment to Post Move Notice of Change of Residence of Conservatee or Ward GC-080(MA) • Address changes that are “Out of State” require the juvenile courts permission and must be submitted on Guardianship form GC-085 Petition to Fix Residence Outside the State of California and Order Fixing Residence Outside the State of California. 	<p>the department, county counsel, or the clerk of the court, the committee believes that the modifications would affect the time and place of the performance of the duties, but would not impose any new substantive duties.</p> <p>The committee has revised the forms to remove references to forms GC-079, GC-080, and GC-085. To the extent that those forms solicit information necessary to monitor changes to the child’s residence, courts may wish to develop local attachments to form JV-180 to solicit similar information.</p>
10.	Superior Court of San Diego County	AM	<i>Q: Does the proposal appropriately address the</i>	The committee appreciates the court’s comments.

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	by Mike Roddy, Executive Officer		<p><i>stated purpose?</i> A: Yes. Should have a form number on it.</p> <p><i>Q: Would the proposal provide cost savings?</i> A: Unknown.</p> <p><i>Q: What would the implementation requirements be for courts?</i> A: Replacing old versions of the Guardianship Pamphlet and training staff to use the new version.</p> <p><i>Q: Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i> A: Yes.</p> <p><i>Q: How well would this proposal work in courts of different sizes?</i> A: It should work well no matter what the size of the court.</p> <p><i>General Comments:</i> Form JV-330 *Add reference to Probate Code sections 2351–2358 to the footer.</p> <p>Form JV-350 *Correction of typos, grammatical and technical errors. One suggestion of note: Replace “they” with “he or she” or “him or her,” as appropriate, when referring to a child.</p>	<p>The revised form is numbered JV-350-INFO.</p> <p>No specific response is required.</p> <p>The committee agrees and has added the suggested reference to form JV-330.</p> <p>The committee has tried to correct all typos and grammatical or technical errors in this form. many of these were addressed in the reformatting process. The committee does not, however, recommend replacing “they” with “he or she.”</p>

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				The committee has intentionally used gender-neutral language to implement SB 179 (Stats. 2017, ch. 853), which recognizes that persons may identify their genders as male, female, or nonbinary.
11.	Trial Court Presiding Judges Advisory Committee (TCPJAC) & Court Executives Advisory Committee (CEAC) Joint Rules Subcommittee (JRS)	A	Revising the forms is necessary to comply with an ongoing statutory mandate, and the new form and pamphlet will give interested persons a much greater understanding of guardianships in juvenile court.	The committee appreciates the JRS's comments. No specific response is required.

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