



California's Fostering Connections to Success Act: Written Report Requirements for Probation Officers

A probation officer's written court report is integral to the court's oversight of a delinquent child and a nonminor dependent (NMD). The report informs the court about a multitude of issues regarding the child or NMD and serves as the basis of the court's findings and orders, helping the court make informed decisions regarding a child's or NMD's safety, permanency, well-being, and successful transition to living independently as an adult.

The Judicial Council approved a number of new and revised California Rules of Court¹ and Judicial Council forms to implement the statutory mandates of Assembly Bill 12 as amended by Assembly Bill 212 (California Fostering Connections to Success Act). The rules and forms also provide a uniform procedural framework to ensure compliance with the requirements for the federal funding needed to support the extension of foster-care services to NMDs. The rules also outline the information related to the extended foster care that must be discussed in court reports.

Last review hearing for child approaching majority and hearing to terminate jurisdiction over child who is in foster care as ward or who was in foster care when declared a ward (Rule 5.812)

The report requirements below apply to the following hearings:

- the last review hearing before a child turns 18;
- any review hearing for a child less than 18 when a recommendation to terminate jurisdiction will be considered;
- any hearing to terminate jurisdiction over a child less than 18 who is subject to an order for foster care placement; and
- any hearing to terminate jurisdiction over a child who is less than 18 who was a dependent of the court subject to a foster care placement order when declared a ward

In addition to complying with all other statutory and rule requirements applicable to the report prepared by the probation officer for a hearing listed above, the report must state whether the child was provided with the notices and information required under section 607.5 and include a description of:

1. The child's progress toward meeting the case plan goals that will enable him or her to be a law-abiding and productive member of his or her family and the community.

¹ All further rule references are to the California Rules of Court unless otherwise indicated.

2. If reunification services have not been previously terminated, the progress of each parent or legal guardian toward participating in case plan service activities and meeting the case plan goals developed to resolve his or her issues that were identified and contributed to the child's removal from his or her custody.
3. The current ability of each parent or legal guardian to provide the care, custody, supervision, and support the child requires in a safe and healthy environment.
4. For a child previously determined to be a dual status child for whom juvenile court jurisdiction as a dependent was suspended under section 241.1(e)(5)(A), a joint assessment by the probation department and the child welfare services agency under section 366.5 regarding the detriment, if any, to the child of a return to the home of his or her parents or legal guardian and a recommendation on the resumption of dependency jurisdiction. The facts in support of the opinions expressed and the recommendations made must be included in the joint assessment section of the report. If the probation department and the child welfare services agency do not agree, the child welfare services agency must file a separate report with facts in support of its opinions and recommendations.
5. For a child previously determined to be a dual status child for whom the probation department was designated the lead agency under section 241.1(e)(5)(B), the detriment, if any, to the child of a return to the home of his or her parents or legal guardian and the probation officer's recommendation regarding the modification of the court's jurisdiction over the child from that of a dual status child to that of a dependent under section 300 and the facts in support of the opinion expressed and the recommendation made.
6. For a child other than a dual status child, the probation officer's recommendation regarding the modification of the juvenile court's jurisdiction over the child from that of a ward under section 601 or 602 to that of a dependent under section 300 or to that of a transition dependent under section 450 and the facts in support of his or her recommendation.

There are additional requirements for the following hearings:

- the last review hearing before a child turns 18;
- any review hearing for a child more than 17 years, 5 months and less than 18 when a recommendation to terminate jurisdiction will be considered; and
- any hearing to terminate jurisdiction over a child more than 17 years, 5 months and less than 18 who is subject to an order for foster care placement.

In addition to complying with the report requirements set forth above, the report prepared by the probation officer must include:

1. The child's plans to remain under juvenile court jurisdiction as a nonminor dependent including the criteria in section 11403(b) that he or she plans to meet;
2. The efforts made by the probation officer to help the child meet one or more of the criteria in section 11403(b);

3. For an Indian child, his or her plans to continue to be considered an Indian child for the purposes of the ongoing application of the Indian Child Welfare Act to him or her as a nonminor dependent;
4. Whether the child has applied for and, if so, the status of any in- progress application pending for title XVI Supplemental Security Income benefits and, if such an application is pending, whether it is in the child's best interest to continue juvenile court jurisdiction until a final decision has been issued to ensure that the child receives continued assistance with the application process;
5. Whether the child has an in-progress application pending for Special Immigrant Juvenile Status or other applicable application for legal residency and whether an active juvenile court case is required for that application;
6. The efforts made by the probation officer toward providing the child with the written information, documents, and services described in section 391 and, to the extent that the child has not yet been provided with them, the barriers to providing the information, documents or services and the steps that will be taken to overcome those barriers by the date the child attains 18 years of age;
7. When and how the child was informed that upon reaching 18 years of age he or she may request the dismissal of juvenile court jurisdiction over him or her under section 778;
8. When and how the child was provided with information regarding the potential benefits of remaining under juvenile court jurisdiction as a nonminor dependent and the probation officer's assessment of the child's understanding of those benefits; and
9. When and how the child was informed that if juvenile court jurisdiction is terminated after he or she attains 18 years of age, he or she has the right to file a request to return to foster care and have the juvenile court assume or resume transition jurisdiction over him or her as a nonminor dependent.

The probation officer must also submit the child's Transitional Independent Living Case Plan (TILCP) which must include (1) the individualized plan for the child to satisfy one or more of the criteria in section 11403(b) and the child's anticipated placement as specified in section 11402, and (2) the child's alternate plan for his or her transition to independence, including housing, education, employment, and a support system in the event the child does not remain under juvenile court jurisdiction after attaining 18 years of age.

NMD Status Review (Rule 5.903)

A status review hearing for an NMD must occur at least once every six months. The probation officer must submit a report to the court that includes information regarding:

1. The continuing necessity for the NMD's placement and the facts supporting the conclusion reached;
2. The appropriateness of the NMD's current foster-care placement;
3. The NMD's plans to remain under juvenile court jurisdiction, including the section 11403(b) eligibility criteria that he or she meets for status as an NMD;

4. The efforts made by the probation officer to help the nonminor meet the section 11403(b) eligibility criteria for status as an NMD;
5. Verification that the NMD was provided with the information, documents, and services as required under section 391(e);
6. How and when the TILCP was developed, including the nature and extent of the NMD's participation in its development, and for the NMD who has elected to have ICWA continue to apply, the extent of consultation with the tribal representative;
7. The efforts made by the probation officer to comply with the NMD's TILCP, including efforts to finalize the permanent plan and prepare him or her for independence;
8. Progress made toward meeting the TILCP goals and the need for any modifications to help the NMD attain the goals;
9. The efforts made by the probation officer to maintain relationships between the NMD and individuals who are important to him or her, including the efforts made to establish and maintain relationships with caring and committed adults who can serve as a lifelong connection; and
10. The efforts made by the probation officer to establish or maintain the NMD's relationship with his or her siblings who are under the juvenile court's jurisdiction as required in section 366(a)(1)(D).

The probation officer must also submit with his or her report with the TILCP. At least 10 calendar days before the hearing, the probation officer must file with the court the report prepared for the hearing and the TILCP and provide copies of the report and other documents to the NMD, all attorneys of record, and, for the NMD who has elected to have ICWA apply, the tribal representative.

Termination of Jurisdiction (Rule 5.555)

At any hearing to terminate the jurisdiction of the juvenile court over an NMD or a dependent of the court who is a nonminor and subject to an order for a foster-care placement, in addition to all other statutory and rule requirements applicable to the report prepared for any hearing during which the termination of the court's jurisdiction will be considered, the probation officer must include the following:

1. Whether remaining under juvenile court jurisdiction is in the nonminor's best interests and the facts supporting that conclusion;
2. The specific criteria in section 11403(b) met by the nonminor that make him or her eligible to remain under juvenile court jurisdiction as an NMD;
3. For a child to whom ICWA applies, when and how the nonminor was provided with information about the right to continue to be considered an Indian child for the purposes of applying ICWA to him or her as a nonminor;
4. Whether the nonminor has applied for and, if so, the status of any in-progress application pending for SSI benefits and whether remaining under juvenile court jurisdiction until a final decision has been issued is in the nonminor's best interests;

5. Whether the nonminor has applied for and, if so, the status of any in-progress application pending for SIJS or other application for legal residency and whether an active juvenile court case is required for that application;
6. When and how the nonminor was provided with information about the potential benefits of remaining under juvenile court jurisdiction as an NMD, and the probation officer's assessment of the nonminor's understanding of those benefits;
7. When and how the nonminor was informed that if juvenile court jurisdiction is terminated, the court maintains general jurisdiction over him or her, and the nonminor has the right to file a request to return to foster care and the juvenile court jurisdiction as an NMD until the nonminor's 21st birthday or 20th birthday if the Legislature does not appropriate funding for extended foster care to the age of 21 years;
8. When and how the nonminor was informed that if juvenile transition jurisdiction is continued, he or she has the right to have that jurisdiction terminated;
9. For a nonminor who is not present for the hearing:
 - a. Documentation of the nonminor's statement that the nonminor did not wish to appear in court for the scheduled hearing; or
 - b. Documentation of the reasonable efforts made to locate the nonminor whose current location is unknown; and
10. Verification that the nonminor was provided with the information, documents, and services as required under section 391(e).
11. When and how the nonminor who is under delinquency jurisdiction was provided with the notices and information required under section 607.5

The probation officer must file with the report a completed *Termination of Juvenile Court Jurisdiction—Nonminor* (form JV-365). The probation officer must also file with the report the nonminor's TILCP (when recommending continuation of juvenile court jurisdiction), most recent Transitional Independent Living Plan (TILP), and completed 90-day Transition Plan.

At least 10 calendar days before the hearing, the probation officer must file the report and all documents with the court and must provide copies of the report and other documents to the nonminor, the nonminor's parents, and all attorneys of record. If the nonminor is an NMD, the probation officer is not required to provide copies of the report and other documents to the NMD's parents.

Resumption of Juvenile Court Jurisdiction (Rule 5.906)

At least two court days before the hearing on a nonminor's *Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-466), the probation officer or Indian tribal agency case worker must file the report and any supporting documentation with the court and provide a copy to the nonminor and to his or her attorney of record. The probation officer or tribal case worker must submit a report to the court that includes:

1. Confirmation that the nonminor was previously under juvenile court jurisdiction subject to an order for foster-care placement when he or she turned 18 years old, and that on and after January 1, 2012, the nonminor will not have turned 19 years old; or commencing on January 1, 2013, he or she will not have turned 20 years old; or commencing on January 1, 2014, he or she will not have turned 21 years old;
2. The condition or conditions under section 11403(b) that the nonminor intends to satisfy;
3. The probation officer or tribal case worker's opinion about whether continuing in a foster-care placement is in the nonminor's best interests and a recommendation about the resumption of juvenile court jurisdiction over the nonminor as an NMD;
4. Whether the nonminor and the placing agency have entered into a reentry agreement for placement in a supervised setting under the placement and care responsibility of the placing agency;
5. The type of placement recommended if the request to return to juvenile court jurisdiction and foster care is granted; and
6. If the type of placement recommended is in a setting where minor dependents also reside, the results of the background check of the nonminor under section 16504.5.
 - a. The background check under section 16504.5 is required only if a minor dependent resides in the placement under consideration for the nonminor.
 - b. A criminal conviction is not a bar to a return to foster care and the resumption of juvenile court jurisdiction over the nonminor as an NMD.

Conclusion

The California Fostering Connections to Success Act made extensive policy and program changes to improve the well-being of and outcomes for children in the delinquency and foster-care systems. The successful transition of a young person from foster care to independent living is difficult and complex. It must be carefully planned and closely monitored. Thorough court reports are an essential component to this process and can help ensure that the nonminor dependent receives the array of services and support necessary for success.

For more information, please contact:
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