



## California's Fostering Connections to Success Act: Court Procedures<sup>1</sup>

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The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub.L. No. 110-351 (Oct. 7, 2008) 122 Stat. 3949), which amended various sections of title IV-B and title IV-E of the Social Security Act, made extensive policy and program changes to improve the well-being of and outcomes for children involved with the foster care system. The changes included provisions for:

- Federal funding of kinship guardianship assistance (Kin-GAP) payments and
- The extension of eligibility for eligible nonminors up to 19, 20, or 21 years of age of the following federally funded programs:
  - Aid to Families with Dependent Children–Foster Care (AFDC-FC) payments,
  - Adoption assistance payments, and
  - Kin-GAP payments.

Participation by a state in these programs is optional and requires the alignment of state laws and regulations with the applicable provisions of the federal act.

California chose to participate, and Assembly Bill 12 (Beall; Stats. 2010, ch. 559), the California Fostering Connections to Success Act, as amended by Assembly Bill 212 (Beall; Stats. 2011, ch.459)<sup>2</sup> enacted changes to California statutes to comply with the applicable provisions for these optional federal programs. The Judicial Council of California adopted rules and forms to provide the procedural framework for the new and amended hearing requirements included in the Fostering Connections Act.<sup>3</sup>

This article memorandum focuses on the court procedures related to the extended foster care (EFC) program for nonminors under juvenile court jurisdiction. There is a limited discussion of several other aspects of the federal act and the state Fostering Connections Act, including the Kin-GAP programs and the extension for nonminors of Adoption Assistance Program (AAP) and Kin-GAP payments.

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<sup>1</sup> The information in this memorandum is based on laws in effect at the time of publication, September 2012. The introduction of additional cleanup legislation to the California Fostering Connections to Success Act (Assem. Bill 1712) during the current session of the California Legislature is pending.

<sup>2</sup> AB 12 and AB 212 are referred to as the Fostering Connections Act in this article.

<sup>3</sup> All rule references are to the California Rules of Court unless otherwise indicated. All form references are to the juvenile forms approved by the Judicial Council unless otherwise indicate. All code references are to the Welfare and Institutions Code unless otherwise indicated.

## Extended Foster Care

The enactment of the Fostering Connections Act makes extended foster care available to an eligible dependent or ward who is in a foster care placement on his or her 18th birthday because a plan of family reunification, adoption, or guardianship has not been achieved. This extension provides the additional time and support needed for these youth to become fully independent adults.

The legislature, in recognition of the importance of this additional support and guidance, has made EFC available to nonminors remaining in foster care after their 18th birthday who are eligible for federal AFDC-FC, as well as those who are funded through the state AFDC-FC program and the California Work Opportunities and Responsibility to Kids (CalWORKs) program. The state foster care funds previously used to support children and young adults in California's Kin-GAP program will be used to support EFC because many of those children and young adults will now be eligible for funding through the federal Kin-GAP program.

### **Nonminor Dependent Eligibility Criteria**

*Nonminor dependent* (NMD), the term used for a dependent or ward eligible for EFC, is defined as a nonminor within the eligible age range who was under a foster care placement order on his or her 18th birthday and is currently under juvenile court jurisdiction with a foster care placement order and meeting at least one of the EFC participation conditions. (Welf. & Inst. Code, § 11400(v).) A dependent or ward who falls within the definition of an NMD on his or her 18th birthday is deemed an NMD. No formal action is required by the juvenile court.

**Eligible age range.** The extension of foster care services to eligible nonminors is being phased in over a three-year period. During calendar year 2012, the provisions will apply to a nonminor under age 19 as of January 1, 2012; during calendar year 2013, the nonminor must be under age 20 as of January 1, 2013; and during calendar year 2014—the final year of implementation—and thereafter, the nonminor must be under 21 years of age as of January 1, 2014.<sup>4</sup>

**Under a foster care placement order on 18th birthday.** A nonminor under a foster care placement order on his or her 18th birthday is in compliance with this requirement (Welf. & Inst. Code, § 11400(v)(1).) California law does not require the nonminor to be physically in a foster care placement on the date of his or her 18<sup>th</sup> birthday. For example, a ward or dependent under a foster care placement order meets this eligibility requirement under California law even though he or she is on runaway status or temporarily placed in a nontitle IV-E facility such as a locked psychiatric ward or a juvenile hall detention facility. The Administration for Children and Families (ACF), the federal agency overseeing California's implementation of the Fostering Connections Act, has notified the

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<sup>4</sup> The extension of benefits for nonminors up to 19 years of age during 2012 and for nonminors up to 20 years of age during 2013 is fully provided for in AB 12; however, extension of those benefits to youth between 20 and 21 years of age was contingent on an appropriation by the Legislature. (Welf. & Inst. Code, § 11403(k).) That appropriation was made in Senate Bill 1013 (Stats. 2012, ch. 35), the budget trailer bill, and effective January 1, 2014, extended foster care benefits will be available to nonminors up to 21 years of age.

California Department of Social Services (CDSS) that ACF does not consider a ward within the court's delinquency jurisdiction and under an order for a foster care placement who is not physically in a title IV-E eligible facility on the date of his or her 18<sup>th</sup> birthday to meet this requirement. CDSS is in communication with ACF about the interpretation of this requirement. If the ACF's interpretation prevails and these nonminors are not eligible as nonminor dependents for federal funding, they meet the California eligibility requirements, and are eligible to participate in extended foster care with funding from state AFDC-FC funds.

**Under juvenile court jurisdiction.** The nonminor must be under the jurisdiction of the juvenile court. The nonminor can have either remained under the juvenile court's jurisdiction when he or she turned 18 years of age or reentered the court's jurisdiction following a termination of court jurisdiction.

**In a foster care placement.** The nonminor must be in a foster care placement under the placement and care responsibility of a child welfare agency, probation department, or tribal agency.

The foster care placements for an NMD are those currently available including licensed or certified foster homes, approved relative homes, and group home placements; however, a group home placement for an NMD may be considered only if the placement allows the NMD to finish high school or the NMD's medical condition requires it. (Welf. & Inst. Code, § 16501.1(c)(1).)

Two additional NMD foster care placements were created by the Fostering Connections Act:

- *Transitional Housing Program-Plus-Foster Care (THP-Plus-FC).* This foster care housing program is for NMDs who are not ready for a highly independent living situation and is similar to the housing models and supportive services available in the current THP-Plus Program for former foster youth who are not currently under juvenile court jurisdiction.
- *Supervised Independent Living Placement (SILP).* This new and flexible placement type will provide NMDs who are developmentally ready with the opportunity to experience independent living while receiving financial support and continuing guidance from the placing agency. SILP placements include apartments (alone or with roommates), single-room occupancy hotels with shared bathrooms and/or kitchens, rooms for rent in a house or apartment, and college dormitories. There is no caregiver or provider, as other placement types provide, and the monthly AFDC-FC funds may be paid directly to the NMD.

An NMD may live in an out-of-state placement such as a college dormitory. The placing agency must comply with all monthly face-to-face visitation and services requirements. If the state in which the NMD is living does not accept an Interstate Compact on the Placement of Children request to provide courtesy supervision of the NMD, the placing agency must ensure that all visitation and services are provided by an employee of the placing agency or through a private agency located in the other state.

All County Letter (ACL) No. 11-77, issued by the California Department of Social Services (CDSS) on November 18, 2011, provides detailed information about the foster care placements available for the NMD. ACL No. 11-77 is available at [www.dss.ca.gov/lettersnotices/entres/getinfo/acl/2011/11-77.pdf](http://www.dss.ca.gov/lettersnotices/entres/getinfo/acl/2011/11-77.pdf).

**EFC participation conditions.** The nonminor must be participating in at least one of the five conditions described below.

- *Completing high school or an equivalency program.* To meet this condition, the NMD has to be enrolled in a high school program such as a public high school, charter high school, alternative high school, continuation school, nonpublic school, adult education classes, or course of study leading to a high school diploma, GED test credential, California High School Proficiency Examination Certificate of Proficiency, or High School Certification of Completion. Participation in special education activities described in the NMD's Individualized Education Plan satisfies this condition. The NMD's enrollment is considered continuous during any summer or other scheduled break in the school program.
- *Enrolled in postsecondary education or vocational education.* To meet this condition, the NMD has to be enrolled at least half time in an institution licensed to operate in California or at a comparable institution located or licensed to operate in another state. Formal admission to the educational institution is not required and includes situations where a student is enrolled in individual courses without being enrolled in the institution. Course work taken at more than one institution during a semester or quarter can be used to achieve half-time enrollment. The NMD remains in compliance with this participation condition during official school breaks such as a summer or semester break.
- *Participating in a program or activity that promotes or removes barriers to employment.* This participation condition can be met through a wide range of programs and activities, including job skill classes or training, career exploration classes or training, social skills classes or training, substance abuse treatment, mental health treatment, teen parenting classes or programs, unpaid employment, and volunteer activities. The NMD's individualized programs or activities must be specific to his or her skills and needs, developed by the NMD with input from the social worker or probation officer and others providing support and guidance to the NMD, and designed to assist the NMD in his or her efforts to advance to participation in one of the education or employment conditions.
- *Employed for at least 80 hours per month.* To meet this condition, the NMD must be engaged in paid employment activities for a minimum of 80 hours per month. Paid employment by one or more employers during a month can be combined to reach the 80-hours-per-month minimum. The NMD remains in compliance with this participation condition so long as he or she is *scheduled* to work at least 80 hours per month, even if the NMD does not do so due to

holidays, illness, authorized vacation, or circumstances beyond the NMD's control.

- *Incapable of doing any of the activities described above due to a documented medical condition.* The NMD must have a medical condition—a physical or mental state—and the medical condition must make the NMD incapable of doing any of the activities of the other participation conditions described above. Written verification is required by a health-care practitioner that one of the reasons an individual is unable to meet any of the other participation conditions is due to his or her medical condition.

Attachment A to ACL No. 11-61, issued by the California Department of Social Services on November 4, 2011, provides a detailed definition of each of the five participation conditions. ACL No. 11-61 is available at [www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acl/2011/11-61.pdf](http://www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acl/2011/11-61.pdf).

A nonminor may still continue under juvenile court jurisdiction as a ward or dependent until his or her 21st birthday without meeting the requirements for status as an NMD. (Welf. & Inst. Code, §§ 303, 607.) However, the nonminor who remains under juvenile court jurisdiction without attaining the status as an NMD is ineligible to receive federal AFDC-FC funding.

### **Additional Requirement for Participation in EFC**

Because remaining in foster care under juvenile court jurisdiction with the placing agency maintaining placement and care responsibility is voluntary after one turns 18 years old, the NMD and the placing agency must sign CDSS form SOC 162, *Mutual Agreement for Extended Foster Care* (mutual agreement), within six months of the NMD's 18th birthday.<sup>5</sup> By signing the agreement, the NMD agrees to remain under juvenile court jurisdiction in a supervised foster care placement.<sup>6</sup> This requirement is a condition for ongoing participation in EFC, and an NMD's failure to sign the mutual agreement could cause the placing agency to file a request with the court to terminate its jurisdiction over the NMD. However, the completion of the mutual agreement is not a condition for payment of foster care funds, and the NMD would remain eligible for funding until the court terminated its jurisdiction.

### **Nonminor Dependent as Legal Adult**

As an individual over the age of 18 years, the NMD is a legal adult and holds the rights and privileges of that status. (Welf. & Inst. Code, § 303(d).)<sup>7</sup> Protective custody warrants may not issue because the placing agency does not hold legal custody. Permission for access to medical,

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<sup>5</sup> Form SOC 162 is available at [www.dss.cahwnet.gov/cdssweb/entres/forms/English/SOC162.pdf](http://www.dss.cahwnet.gov/cdssweb/entres/forms/English/SOC162.pdf).

<sup>6</sup> An NMD who continues under the juvenile court's delinquency jurisdiction because he or she has not completed his or her rehabilitative goals and remains subject to the terms and conditions of probation is not remaining in foster care on a voluntary basis, and entering into a mutual agreement is not required.

<sup>7</sup> A nonminor under juvenile court jurisdiction who is ineligible for status as an NMD is also a legal adult with the rights and privileges of an adult; however, a nonminor or NMD under the juvenile court's delinquency jurisdiction who has not achieved his rehabilitative goals is still subject to the terms and conditions of probation.

dental, mental health, educational, and all other confidential information and records must be obtained from the NMD, and consent must be obtained from the NMD for medical, dental, mental health, and educational testing or treatment. The placing agency may obtain this information only if the NMD consents, and as set forth in the CDSS placement agreement forms, the information obtained by the placing agency may be provided, with the NMD's consent, to the NMD's foster care provider.<sup>8</sup> The NMD's personal rights require that caregivers keep all medical information confidential and not release information to another party without written consent from the NMD. The NMD's Court Appointed Special Advocate (CASA) must also obtain the NMD's consent for access to confidential records and information and cannot release records and information to another party without the written consent of the NMD.

An NMD does retain all the personal rights of a foster child enumerated in section 16001.9.

### **Responsibilities**

The goal of extended foster care is to provide each NMD with the opportunity to make decisions regarding his or her housing, education, employment, and leisure activities while ensuring the availability of ongoing support and assistance when difficulties arise. Achieving this goal requires a change in the responsibilities of the NMD and the other participants in the juvenile court process.

As an adult, the NMD is voluntarily remaining in foster care and enters into a mutual agreement with the placing agency in which both parties agree to fulfill their respective responsibilities. The purpose of the mutual agreement is to ensure that the NMD's status as a legal adult is recognized and to provide clear expectations to both the NMD and the case manager of what the responsibilities are for each party. The mutual agreement further specifies what services and assistance the NMD will receive from the agency.

The NMD's responsibilities include participating in a face-to-face monthly visit with the placing agency caseworker; reporting changes in income, placement and meeting eligibility conditions; working collaboratively with the caseworker to resolve any problems he or she is experiencing with placement or in meeting eligibility conditions; demonstrating a gradual increase in his or her level of individual responsibility; and participating in the regularly scheduled six-month status review hearings either in person, telephonically, or through his or her attorney.

The caseworker's responsibilities include meeting with the NMD for a face-to-face monthly visit; certifying the NMD's initial and ongoing eligibility for EFC; providing the NMD with contact information for his or her attorney and notification of the regular six-month status review hearings; preparing reports for those hearings; and providing the NMD with the services, guidance, and

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<sup>8</sup> The CDSS placement agreement forms, *Agency– Foster Family Agency Agreement* (SOC 153), *Agency– Group Home Agreement* (SOC 154B ) and *Agency – Foster Parents Placement Agreement* (SOC 156A), are available at [www.dss.cahwnet.gov/cdssweb/PG168.htm#soc](http://www.dss.cahwnet.gov/cdssweb/PG168.htm#soc)

assistance necessary for the NMD's gradual increase in individual responsibility and successful transition to independence.

The NMD and the caseworker share responsibility for participating in ongoing collaborative case planning to develop, implement, and update the NMD's Transitional Independent Living Case Plan (TILCP) and Transitional Independent Living Plan (TILP).

The NMD who remains in foster care after his or her 18th birthday will continue to be represented by an attorney. In addition, an attorney will be appointed for a nonminor who files a request to return to the jurisdiction of the juvenile court and foster care when the court determines there is a prima facie showing of eligibility to return and grants the request for a hearing. If the request is granted, the appointed attorney will continue to represent the NMD. However, the role of an attorney representing an NMD shifts from representing the child's best interest under section 317 to representing the stated interests of the adult client, the NMD. The NMD may designate the attorney to appear at the status review hearing on his or her behalf. Representation of an NMD by a court-appointed attorney is at no cost to the nonminor.

The child's caretaker and the caseworker have a responsibility to discuss with the child as part of the development of the child's TILP the extended foster care options available and the benefits of those options. The caretaker for an NMD must continue to support the NMD in his or her efforts to maintain a stable housing environment, to participate in the activities and achieve the goals of the TILP, and to demonstrate an incremental increase in the exercise of adult responsibility. The caretaker must recognize that the NMD is an adult and treat him or her as an adult by respecting the NMD's rights to privacy and autonomy.

### **Indian Child Welfare Act (ICWA)**

Effective January 1, 2011, the definition of an Indian child was revised for the purposes of the application of ICWA to include an unmarried person who is 18 to 20 years old. All ICWA requirements apply to an Indian child who remains in or returns to a foster care placement on or after his or her 18th birthday unless the nonminor elects not to be considered an Indian child for the purposes of the application of ICWA. (Welf. & Inst. Code, § 224.1.)

### **Court Procedures for Extended Foster Care**

The Fostering Connections Act created two new hearing types—one for a nonminor's request to return to foster care and the other for a nonminor dependent status review—and made extensive amendments to three existing hearing types—the last status review hearing before a court dependent or court ward in a foster care placement attains 18 years of age, the hearing to terminate juvenile court jurisdiction over a ward who is or was subject to an order for a foster care placement, and the hearing to terminate jurisdiction over a nonminor.

The rules and forms effective as of January 1, 2012, provide a uniform procedural framework to support the extension of foster care services to NMDs and help ensure the consistent application

of the Fostering Connections Act to dependents and wards throughout the state.

### **Planning for Transition from Foster Care to Independence**

Planning for a successful transition from foster care to independent living is a difficult and complex process that must begin before a child's 16th birthday and continue throughout his or her stay in foster care.

**Rule and form for dependents—Rule 5.707 and form JV-460.** To confirm that a dependent in a foster care placement has the information needed to make a thoughtful decision about remaining in foster care, the court must ensure that at the last status review hearing held before a dependent turns 18 years old, the child understands the options available, including the potential benefits of remaining in foster care and how that can be accomplished; the right to exit foster care and have juvenile court jurisdiction terminated; and the right to request to have that jurisdiction resumed and to return to foster care. Rule 5.707 of the California Rules of Court states the information that must be included in the social worker's report and the required findings and orders, which are found on an optional form: *Attachment: Additional Findings and Orders for Child Approaching Majority—Dependency* (form JV-460).

Chart A, *Review Hearing Requirements for Child Approaching Majority*, provides detailed information about the report requirements and the appropriate findings and order for this hearing type. The chart is available at [www.courts.ca.gov/7988.htm](http://www.courts.ca.gov/7988.htm).

**Rule and forms for wards—Rule 5.812 and forms JV-680, JV-681.** In addition to ensuring that a ward in a foster care placement has the information necessary to make a thoughtful decision about remaining in foster care at the last status review hearing, the juvenile court is required to consider at this hearing whether the court's jurisdiction should be modified from delinquency jurisdiction to transition or dependency jurisdiction. This requirement also applies to any other hearing during which the court will consider terminating its jurisdiction over a ward under a foster care order or a ward who was a juvenile court dependent under a foster care order when he or she was adjudged a ward.

Transition jurisdiction is described in section 450 and applies to a ward who meets the following criteria:

- Age and foster care status:
  - Older than 17 years and 5 months of age and younger than 18 years of age and in foster care placement; or
  - Subject to an order for foster care placement on his or her 18th birthday, and commencing January 1, 2012, has not attained 19 years of age; commencing January 1, 2013, has not attained 20 years of age; or commencing January 1, 2014, has not attained 21 years of age.
- Removal status:
  - Removed from the physical custody of a parent or legal guardian, adjudged to be a ward,



- and ordered into foster care placement as a ward; or
- Removed from the custody of his or her parent or legal guardian as a dependent of the court with an order for foster care placement as a dependent in effect at the time the court adjudged him or her to be a ward.
- Rehabilitative goals of the minor or nonminor have been met, and juvenile court jurisdiction over him or her as a ward is no longer required.
- If the ward is a minor:
  - Reunification services have been terminated;
  - Hearing for termination of parental rights or establishment of guardianship has not been set;
  - A return of the minor to the physical custody of the parents or legal guardian would create a substantial risk of detriment to the minor's safety, protection, or physical or emotional well-being; and
  - The minor has indicated an intent to sign a mutual agreement for placement in a supervised setting as a nonminor dependent.
- If the ward is a nonminor, he or she has signed a mutual agreement or a voluntary reentry agreement for placement in a supervised setting as a nonminor dependent.

Rule 5.812 includes alternative court procedures, depending on the minor ward's specific circumstances, for when a determination is made that the rehabilitative goals were achieved and the minor ward cannot be returned to a safe home.

Rule 5.812 also sets out the additional information that must be included in the probation officer's report and the required findings and orders for:

- The last review hearing held before the minor attains 18 years of age; and
- Any hearing to terminate jurisdiction over a ward of any age who is under a foster care placement order, or was under a foster care placement order as a dependent when adjudged a ward.

Findings and orders after a hearing for a ward approaching majority, including those related to modification of jurisdiction, may be made on the optional *Attachment: Additional Findings and Orders for Minor Approaching Majority—Delinquency* (form JV-680). The findings and orders after a hearing to consider terminating jurisdiction held for a ward of 17 years and 5 months or younger may be made on the optional *Attachment: Hearing for Dismissal—Additional Findings and Orders—Foster Care Placement—Delinquency* (form JV-681).

Chart E, *Additional requirements for (1) any hearing to terminate jurisdiction over child who is in foster care as ward or who was in foster care as dependent when declared a ward and (2) last review hearing for child approaching majority—Delinquency*, and the flowchart, *Modification from Delinquency Jurisdiction to Transition or Dependency Jurisdiction*, provide detailed information about when the court can modify delinquency jurisdiction, report requirements and

the appropriate findings and order for a rule 5.812 hearing. The charts are available at [www.courts.ca.gov/7988.htm](http://www.courts.ca.gov/7988.htm).

### **Termination of Juvenile Court Jurisdiction**

Rule 5.555 provides the procedures for the hearing under section 391 or 607.3, which must be held to consider the termination of juvenile court jurisdiction over a nonminor who is a ward, dependent, or nonminor dependent subject to an order for a foster care placement. The rule addresses the procedures for calendaring a hearing, the information that the social worker or probation officer must include in the report prepared for the hearing, and the related findings and orders.

*Findings and Orders After Hearing to Consider Termination of Juvenile Court Jurisdiction Over a Nonminor* (form JV-367) is a mandatory form for use in a hearing under section 391 or section 607.3 held on behalf of a nonminor who is appearing before a judicial officer exercising juvenile court jurisdiction under section 300, 450, 601, or 602.

The revised and renamed, mandatory *Termination of Juvenile Court Jurisdiction—Nonminor* (form JV-365) incorporates several new requirements related to the documentation that must be provided to the nonminor.

Chart C, *Hearing to Consider Termination of Juvenile Court Jurisdiction Over a Dependent or Ward Age 18 or Older in a Foster Care Placement or Over a Nonminor Dependent*, provides detailed information about report requirements and the appropriate findings and order for a rule 5.555 hearing. The chart is available at [www.courts.ca.gov/7988.htm](http://www.courts.ca.gov/7988.htm).

### **Nonminor Dependent**

Chapter 14 of Title 5 of the California Rules of Court includes three rules related to a nonminor in a foster care placement under juvenile court jurisdiction as a nonminor dependent and to the resumption of juvenile court jurisdiction over nonminors.

#### **General Provisions: Rule 5.900**

This rule states the general provisions related to this group of nonminors, including a nonminor's status as an adult, the general conduct of hearings, and the nonminor's appearance at a court hearing by telephone. (Welf. & Inst. Code, §§ 303, 366(f), 366.3(m), 388(e)(3).)

#### **Nonminor Dependent Status Review Hearing: Rule 5.903**

This rule sets out the purpose of the hearing that must be held every six months to review the status of an NMD who has chosen to remain under juvenile court jurisdiction upon reaching majority or to return to foster care and have juvenile court jurisdiction resumed. This hearing is focused on the goals and services in the NMD's Transitional Independent Living Case Plan, including efforts to maintain or obtain permanent connections with caring and committed adults. The hearing is intended to be a collaborative effort involving the NMD, the social worker or

probation officer, the judicial officer, and other participants whom the NMD may have invited. The rule includes the procedures for setting, noticing, and conducting the hearing; the contents and filing of the report prepared by the child welfare agency or probation department; and the related findings and orders. The use of the mandatory *Findings and Orders After Nonminor Dependent Review Hearing* (form JV-462) will ensure compliance with the requirements related to the findings and orders at the review hearing for a nonminor dependent.

Chart B, *Status Review Hearing for Nonminor Dependent*, provides detailed information about report requirements and the appropriate findings and order for a rule 5.903 hearing. The chart is available at [www.courts.ca.gov/7988.htm](http://www.courts.ca.gov/7988.htm).

### **Request to Return to Juvenile Court Jurisdiction: Rule 5.906**

A nonminor who has not yet reached 21 years of age is able to return to foster care if he or she meets the eligibility requirements for status as a nonminor dependent.<sup>9</sup> There is no limitation on the number of times a nonminor may exit and subsequently return to juvenile court jurisdiction and foster care. This flexibility is important because the NMD's circumstances and needs may change several times between the ages of 18 and 21 years.

Rule 5.906 states the procedures for the juvenile court to resume jurisdiction over a nonminor, including those related to the contents of the request; the filing and, if necessary when submitted to the court in the county where the nonminor resides, the forwarding of the request for filing to the juvenile court that retained general jurisdiction; providing notice; appointment of an attorney for the nonminor; the contents of the report; and related findings and orders. The rule also includes provisions to provide additional information for the nonminor whose petition was denied.

The following are mandatory forms that will ensure that information needed for the juvenile court to resume jurisdiction is presented in a concise and simple fashion and that the nonminor's contact information will be able to remain confidential when desired: *How to Ask to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-464-INFO), *Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-466), and *Confidential Information—Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-468).

Chart D, *Request by Nonminor for the Juvenile Court to Resume Jurisdiction*, provides detailed information about report requirements and the appropriate findings and order for a rule 5.906 hearing. The chart is available at [www.courts.ca.gov/7988.htm](http://www.courts.ca.gov/7988.htm).

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<sup>9</sup> Under section 303, when the court terminates dependency, transition, or delinquency jurisdiction, the nonminor dependent automatically remains under the general jurisdiction of the court in order to allow the nonminor to petition under section 388(e) for a hearing to resume the dependency or transition jurisdiction of the court.

## Kin-GAP Programs

State-funded Kin-GAP payments have been available in California for children exiting the juvenile court's *dependency* jurisdiction to live with a relative legal guardian since January 1, 2000, and for those children exiting the juvenile court's *delinquency* jurisdiction to live with a relative legal guardian since October 1, 2006. The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 included provisions for the creation of a new optional program of federal funding for kinship guardianship assistance payments to children eligible for title IV-E AFDC-FC payments who exit the jurisdiction of the juvenile court and the foster care system to live with a relative legal guardian.

California has chosen to participate in the optional federal Kin-GAP program, and with the enactment of the Fostering Connections Act, effective January 1, 2011, established the federal Kin-GAP program funded through title IV-E for foster children placed with a relative guardian who meet the title IV-E eligibility requirements. (Welf. & Inst. Code, § 11386.) The California Legislature, recognizing the importance of providing all children with permanent, stable homes, also created a parallel state-funded Kin-GAP program for foster children placed in a relative guardianship through the juvenile court who do not meet the title IV-E eligibility requirements. (Welf. & Inst. Code, § 11360.)

As of January 1, 2011, placing agencies began to convert existing Kin-GAP cases to the new state or federally funded Kin-GAP programs, and new Kin-GAP cases are now placed in the appropriate Kin-GAP program.

The enactment of the Fostering Connections Act and the establishment of the new state or federally funded Kin-GAP programs have resulted in numerous improvements in the programs now available for relative guardianship, including:

- Reduction—from 12 consecutive months to 6 consecutive months—in the length of time a child must reside in the prospective guardian's home while under the jurisdiction of the juvenile court or a voluntary placement agreement;
- Continued eligibility for Kin-GAP regardless of the state of residence of the relative guardian and child;
- Requirement for the placing agency to enter into a binding written agreement with the relative guardian;
- Authorization of the renegotiation of the payment amount based on the changing needs of the child and the circumstances of the relative; and
- Allowing for entry into the Kin-GAP program of a relative guardianship established under section 360 that began with a voluntary placement agreement with an approved relative.

ACL No. 11-15, issued by the CDSS on January 31, 2011, provides detailed information about the Kin-GAP programs. The letter is available at [www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acl/2011/11\\_15.pdf](http://www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acl/2011/11_15.pdf).

## Extension of AAP, Kin-GAP, and Nonrelated Legal Guardianship AFDC-FC Payments for Nonminors

Extended eligibility for Adoption Assistance Program payments, Kin-GAP payments, or nonrelated legal guardianship AFDC-FC payments is available to a young adult who was removed from the home under a voluntary placement agreement or by order of the juvenile court as a dependent or as a ward subject to an order for foster care if the young adult:

- Resides with his or her adoptive parent and attained 16 years of age before the adoptive parent and the placing agency signed the adoption assistance agreement (Welf. & Inst. Code, § 16120(d)(3)); or
- Resides with a relative legal guardian and attained 16 years of age before the guardian began receiving the state-funded or federally funded Kin-GAP payments (Welf. & Inst. Code, §§ 11363(d), 11386(h)); or
- Resides with a nonrelated legal guardian in a guardianship that was ordered by the juvenile court under section 360(a) or 366.26, regardless of his or her age when the guardianship was created (Welf. & Inst. Code, § 11405(e)).

## References

This memorandum is based on information included in the following:

- Assembly Bill 12 (Beall; Stats. 2010, ch. 559), available at [www.leginfo.ca.gov/pub/09-10/bill/asm/ab\\_0001-0050/ab\\_12\\_bill\\_20100930\\_chaptered.html](http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0001-0050/ab_12_bill_20100930_chaptered.html)
- Assembly Bill 212 (Beall; Stats. 2011, ch.459), available at [www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_0201-0250/ab\\_212\\_bill\\_20111004\\_chaptered.html](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0201-0250/ab_212_bill_20111004_chaptered.html)
- California Rules of Court, rules 5.555, 5.707, 5.812, 5.900, 5.903, and 5.906, available at [www.courts.ca.gov/rules.htm](http://www.courts.ca.gov/rules.htm).
- California Judicial Council forms, JV-365, JV-367, JV-460, JV-462, JV-464-INFO, JV-466, JV-468, JV-680, and JV-681, available at [www.courts.ca.gov/forms.htm?filter=JV](http://www.courts.ca.gov/forms.htm?filter=JV).
- California Department of Social Services All County Information Notice I-40-11 (July 1, 2011) Program Information Regarding Assembly Bill (AB) 12 and the Extension of Foster Care to Age 20, available at [www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acin/2011/I-40\\_11.pdf](http://www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acin/2011/I-40_11.pdf).
  
- The following California Department of Social Services All County Letters, which are available at [www.dss.cahwnet.gov/lettersnotices/PG2438.htm](http://www.dss.cahwnet.gov/lettersnotices/PG2438.htm):
  - ACL No. 11-15 New Kinship Guardianship Assistance Payment (Kin-Gap) Program Requirements
  - ACL No. 11-61 Extended Foster Care (EFC)
  - ACL No. 11-69 Extension Of Foster Care Beyond Age 18: Part One
  - ACL No. 11-77 Extension Of Foster Care Beyond Age 18: Part Two (Placement)
  - ACL No. 11-85 Extension Of Foster Care Beyond Age 18: Part Three (Probation)
  - ACL No. 11-86 Extension of Kingship Guardianship Assistance Payment (KIN-GAP) Program Benefits and Adoption Assistance Payments (AAP) to Age 21
  - ACL No. 12-12 Re-entry Into Extended Foster Care (EFC)

Additional information about the California Fostering Connections to Success Act is available at:

- California Fostering Connections to Success  
[www.cafosteringconnections.org/index.html](http://www.cafosteringconnections.org/index.html)
- California Social Work Education Center  
[http://calswec.berkeley.edu/CalSWEC/OtherTraining\\_AB12.html](http://calswec.berkeley.edu/CalSWEC/OtherTraining_AB12.html)
- California Dependency Online Guide (CalDOG)  
[www.courts.ca.gov/dependencyonlineguide](http://www.courts.ca.gov/dependencyonlineguide).

For more information, please contact the  
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