

AMENDMENTS TO THE CALIFORNIA RULES OF COURT

Adopted by the Judicial Council on October 28, 2011,

effective on January 1, 2012

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1 **Rule 2.503. Public access**

2  
3 **(a)–(b) \*\*\***

4  
5 **(c) Courthouse electronic access only**

6  
7 A court that maintains the following records in electronic form must provide  
8 electronic access to them at the courthouse, to the extent it is feasible to do so, but  
9 may provide remote electronic access only to the records governed by (b):

10  
11 ~~(1)–(7)~~ \*\*\*

12  
13 (8) Records in a private postsecondary school violence prevention proceeding  
14 under Code of Civil Procedure section 527.85;

15  
16 ~~(8)~~(9) Records in an elder or dependent adult abuse prevention proceeding under  
17 Welfare and Institutions Code section 15657.03; and

18  
19 ~~(9)~~(10) Records in proceedings to compromise the claims of a minor or a person  
20 with a disability.

21  
22 *(Subd (c) amended effective January 1, 2012; previously amended effective July 1, 2004,*  
23 *January 1, 2007, January 1, 2008, and January 1, 2010.)*

24  
25 **(d)–(i) \*\*\***

26  
27 *Rule 2.503 amended effective January 1, 2012; adopted as rule 2073 effective July 1, 2002;*  
28 *previously amended and renumbered effective January 1, 2007; previously amended effective*  
29 *July 1, 2004, January 1, 2005, January 1, 2008, and January 1, 2010.*

30  
31  
32 **Rule 3.826. Trial after arbitration**

33  
34 **(a) Request for trial; deadline**

35  
36 Within ~~30~~ 60 days after the arbitration award is filed with the clerk of the court, a  
37 party may request a trial by filing with the clerk a request for trial, with proof of  
38 service of a copy upon all other parties appearing in the case. A request for trial  
39 filed after the parties have been served with a copy of the award by the arbitrator,  
40 but before the award has been filed with the clerk, is valid and timely filed. The ~~30~~  
41 60-day period within which to request trial may not be extended.  
42

1 (Subd (a) amended effective January 1, 2012; previously amended effective January 1,  
2 1985, July 1, 1990, January 1, 2004, and January 1, 2007.)

3  
4 **(b)–(d) \*\*\***

5  
6 *Rule 3.826 amended effective January 1, 2012; adopted as rule 1616 effective July 1, 1976;*  
7 *previously amended effective July 1, 1979, July 1, 1990, and January 1, 2004; previously*  
8 *amended and renumbered effective January 1, 2007.*

9  
10  
11 **Rule 3.827. Entry of award as judgment**

12  
13 **(a) Entry of award as judgment by clerk**

14  
15 The clerk must enter the award as a judgment immediately upon the expiration of  
16 ~~30~~ 60 days after the award is filed if no party has, during that period, served and  
17 filed either:

18  
19 (1) A request for trial as provided in these rules; or

20  
21 (2) A Request for Dismissal (form CIV-110) of the entire case or as to all parties  
22 to the arbitration. The Request for Dismissal must be fully completed and  
23 must include the signatures of all those whose consent is required for  
24 dismissal.

25  
26 (Subd (a) amended effective January 1, 2012.)

27  
28 **(b)–(c) \*\*\***

29  
30 *Rule 3.827 amended effective January 1, 2012; adopted effective January 1, 2007.*

31  
32 **Rule 3.1152. Requests for protective orders to prevent civil harassment, and**  
33 **workplace violence, private postsecondary school violence, and elder or**  
34 **dependent adult abuse**

35  
36 **(a) Scheduling of hearing**

37  
38 ~~On the filing of a petition for an injunction under Code of Civil Procedure section~~  
39 ~~527.6 or 527.8, a hearing must be set in accordance with the requirements of~~  
40 ~~subdivision (d) of section 527.6 or subdivision (f) of section 527.8.~~

41  
42 **(a) Application**

1 This rule applies to requests for protective orders under Code of Civil Procedure  
2 sections 527.6, 527.8, and 527.85, and Welfare and Institutions Code section  
3 15657.03.

4  
5 *(Subd (a) adopted effective January 1, 2012.)*

6  
7 **(b) No memorandum required ~~Temporary restraining order~~**

8  
9 Unless ordered by the court, no memorandum is required in support of or in  
10 opposition to a request for a protective order. ~~A temporary restraining order may be~~  
11 ~~granted in accordance with the provisions of Code of Civil Procedure section~~  
12 ~~527.6(c) or 527.8(e), but unless otherwise ordered no memorandum is required.~~

13  
14 *(Subd (b) amended effective January 1, 2012; previously amended effective July 1, 1995,*  
15 *January 1, 2002, and January 1, 2007.)*

16  
17 **(c) Service of petition requests, notices, and orders**

18  
19 The ~~petition and order to show cause,~~ request for a protective order, notice of  
20 hearing, and any temporary restraining order, must be personally served on the  
21 defendant respondent at least five days before the hearing, unless the court for good  
22 cause orders a shorter time. Service must be made in the manner provided by law  
23 for personal service of summons in civil actions.

24  
25 *(Subd (c) amended effective January 1, 2012; previously amended effective January 1,*  
26 *1993, and January 1, 2007.)*

27  
28 **(d) Response by defendant**

29  
30 The response to a request for a protective order may be written or oral, or both. If A  
31 a written response by defendant must be filed and delivered to plaintiff or  
32 plaintiff's is served on the petitioner or, if the petitioner is represented, on the  
33 petitioner's attorney no later than 48 hours at least two days before the hearing-, the  
34 petitioner is not entitled to a continuance on account of the response.

35  
36 *(Subd (d) amended effective January 1, 2012; previously amended effective January 1,*  
37 *2007.)*

38  
39 **(e) Continuance**

40  
41 A respondent may request continuance of the hearing upon a showing of good  
42 cause. If the court in its discretion grants the continuance, any temporary

1 restraining order that has been granted remains in effect until the end of the  
2 continued hearing unless otherwise ordered by the court.

3  
4 *(Subd (e) adopted effective January 1, 2012.)*

5  
6 *Rule 3.1152 amended effective January 1, 2012; adopted as rule 363 effective January 1, 1984;*  
7 *previously amended effective January 1, 1993, July 1, 1995, January 1, 2000, and January 1,*  
8 *2002; previously amended and renumbered effective January 1, 2007.*

9  
10  
11 **Rule 3.1153. Minors may appear without counsel to seek specified restraining**  
12 **orders**

13  
14 ~~A minor, accompanied by a duly appointed and acting guardian ad litem, may be~~  
15 ~~permitted to appear in court without counsel for the limited purpose of obtaining or~~  
16 ~~opposing:~~

- 17  
18 ~~(1) An injunction or temporary restraining order or both to prohibit harassment under~~  
19 ~~Code of Civil Procedure section 527.6;~~  
20  
21 ~~(2) An injunction or temporary restraining order or both against violence or a credible~~  
22 ~~threat of violence in the workplace under Code of Civil Procedure section 527.8;~~  
23  
24 ~~(3) A protective order under Family Code section 6200 et seq.; or~~  
25  
26 ~~(4) A protective order under Family Code sections 7710 and 7720.~~

27  
28 ~~In making the determination concerning allowing appearance without counsel, the court~~  
29 ~~should consider whether the minor and the guardian have divergent interests.~~

30  
31 *Rule 3.1153 repealed effective January 1, 2012; adopted as rule 364 effective July 1, 1995;*  
32 *previously amended and renumbered effective January 1, 2007.*

33  
34 **Chapter 8. Other Civil Petitions**

35  
36 **Rule 3.1372. Petitions for relief from financial obligations during military service**

37  
38 **(a) Application**

39  
40 This rule applies to petitions for relief from financial obligations made by a  
41 servicemember under Military and Veterans Code section 409.3.  
42

1 **(b) Service of petition**

2  
3 Service of the petition for relief and all supporting papers must be made in the  
4 manner provided by law for service of summons in civil actions.

5  
6 **(c) No memorandum required**

7  
8 Unless ordered by the court, no memorandum is required in support of or  
9 opposition to a petition for relief.

10  
11 *Rule 3.1372 adopted effective January 1, 2012.*

12  
13 **Rule 4.552. Habeas corpus jurisdiction**

14  
15 **(a) Proper court to hear petition**

16  
17 Except as stated in (b) ~~and (c)~~, the petition ~~must~~ should be heard and resolved in the  
18 court in which it is filed.

19  
20 *(Subd (a) amended effective January 1, 2012; previously amended effective January 1,*  
21 *2006, and January 1, 2007.)*

22  
23 **(b) Transfer of petition—~~discretionary~~**

24  
25 (1) \*\*\*

26  
27 (2) If the superior court in which the petition is filed determines that the matter  
28 may be more properly heard by the superior court of another county, it may  
29 nonetheless retain jurisdiction in the matter or, without first determining  
30 whether a prima facie case for relief exists, order the matter transferred to the  
31 other county. Transfer may be ordered in the following circumstances:

32  
33 (A)–(B) \*\*\*

34  
35 (C) If the petition challenges the denial of parole or the petitioner's  
36 suitability for parole and is filed in a superior court other than the court  
37 that rendered the underlying judgment, the court in which the petition is  
38 filed should transfer the petition to the superior court in which the  
39 underlying judgment was rendered.

40  
41 (3)–(4) \*\*\*

1 (Subd (b) amended effective January 1, 2012; previously amended effective January 1,  
2 2006.)

3  
4 **(e) — Transfer of petition — mandatory**

5  
6 If the petition challenges the denial of parole or the petitioner’s suitability for  
7 parole and is filed in a superior court other than the court that rendered the  
8 underlying judgment, the court in which the petition is filed must transfer the  
9 petition to the superior court in which the underlying judgment was rendered. The  
10 court must transfer the case before determining whether the petition states a prima  
11 facie case for relief and specify in the order of transfer the reason for the transfer.  
12

13 **(d)(c) Single judge must decide petition**

14  
15 \*\*\*

16 (Subd (c) relettered effective January 1, 2012; adopted as subd (c) effective January 1,  
17 2002; previously relettered as subd. (d) effective January 1, 2006.)

18  
19 Rule 4.552 amended effective January 1, 2012; adopted effective January 1, 2002; previously  
20 amended effective January 1, 2006, and January 1, 2007.

21  
22 **Advisory Committee Comment**

23  
24 **Subdivision (e)(b)(2)(C).** This subdivision is based on the California Supreme Court decision in  
25 *In re Roberts* (2005) 36 Cal.4th 575, which provides that petitions for writ of habeas corpus  
26 challenging denial or suitability for parole ~~are to~~ should first be adjudicated in the trial court that  
27 rendered the underlying judgment.  
28

29  
30 **Rule 5.83. Family Centered Case Resolution**

31  
32 **(a) Purpose**

33  
34 This rule establishes processes and procedures for courts to manage cases from  
35 initial filing to final disposition in an effective and timely manner. It is intended to  
36 advance the goals of Family Code section 2450(a) and Standards of Judicial  
37 Administration, standard 5.30.  
38

39 **(b) Definitions**

40  
41 (1) “Family centered case resolution process” refers to the process employed by  
42 the court to ensure that family law cases move through the court process from  
43 filing to final disposition in a timely, fair, and effective manner.

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- (2) “Disposition” refers to final judgment, dismissal, change of venue, or consolidation of the case into a lead case. Courts may continue a case in, or return a case to, the family centered case resolution process after disposition.
- (3) “Status conference” refers to court events scheduled with the parties and attorneys for the purpose of identifying the current status of the case and determining the next steps required to reach disposition.
- (4) “Family centered case resolution conference” refers to a conference scheduled with parties, attorneys, and a judicial officer to develop and implement a family centered case resolution plan under Family Code section 2451.

**(c) Family centered case resolution process**

- (1) Beginning January 1, 2012, courts must develop a family centered case resolution process which must be fully implemented by January 1, 2013. The family centered case resolution process must identify and assist all dissolution, legal separation, nullity, and parentage cases to progress through the court process toward disposition effectively in a timely manner. The court may identify other family law case types to include in the family centered case resolution process.
- (2) For cases filed on or after January 1, 2013, the court must include as part of the family centered case resolution process a review of all dissolution, legal separation, nullity, and parentage cases within at least 180 days from the date of the initial filing and at a minimum, at least every 180 days thereafter until disposition in order to determine the most appropriate next steps to help ensure an effective, fair, and timely resolution. Unless the court determines that procedural milestones are being met, the review must include at least one of the following: (1) a status conference or (2) a family centered case resolution conference. Nothing in this section prohibits courts from setting more frequent review dates.
- (3) If, after 18 months from the date the petition was filed, both parties have failed to participate in the case resolution process as determined by the court, the court’s obligation for further review of the case is relieved until the case qualifies for dismissal under Code of Civil Procedure section 583.210 or 583.310, or until the parties reactivate participation in the case, and the case is not counted toward the goals for disposition set out in (c)(5).

- 1           (4) In deciding whether a case is progressing in an effective and timely manner,  
2 the court should consider procedural milestones including the following:  
3
- 4           (A) A proof of service of summons and petition should be filed within 60  
5 days of case initiation;  
6
- 7           (B) If no response has been filed, and the parties have not agreed on an  
8 extension of time to respond, a request to enter default should be  
9 submitted within 60 days after the date the response was due;  
10
- 11          (C) The petitioner’s preliminary declaration of disclosure should be served  
12 within 60 days of the filing of the petition;  
13
- 14          (D) When a default has been entered, a judgment should be submitted  
15 within 60 days of the entry of default;  
16
- 17          (E) Whether a trial date has been requested or scheduled; and  
18
- 19          (F) When the parties have notified the court that they are actively  
20 negotiating or mediating their case, a written agreement for judgment is  
21 submitted within six months of the date the petition was filed, or a  
22 request for trial date is submitted.  
23
- 24          (5) For dissolution, legal separation, and nullity cases initially filed on or after  
25 January 1, 2014, the goals of any family centered case resolution process  
26 should be to finalize dispositions as follows:  
27
- 28          (A) At least 20 percent are disposed within 6 months from the date the  
29 petition was filed;  
30
- 31          (B) At least 75 percent are disposed within 12 months from the date the  
32 petition was filed; and  
33
- 34          (C) At least 90 percent are disposed within 18 months from the date the  
35 petition was filed.  
36
- 37          (6) The court may select various procedural milestones at which to assist cases in  
38 moving toward disposition in an effective and timely manner. Types of  
39 assistance that can be provided include the following:  
40
- 41          (A) Notifying the parties and attorneys by mail, telephone, e-mail, or other  
42 electronic method of communication of the current status of the case  
43 and the next procedural steps required to reach disposition;

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- (B) Implementing a schedule of status conferences for cases to identify the status of the case and determine the next steps required to progress toward disposition;
  - (C) Providing assistance to the parties at the time scheduled for hearings on requests for orders to identify the status of the case and determine the next steps required to reach disposition;
  - (D) Providing financial and property settlement opportunities to the parties and their attorneys with judicial officers or qualified attorney settlement officers;
  - (E) Scheduling a family centered case resolution conference to develop and implement a family centered case resolution plan under Family Code section 2451.
- (7) In deciding that a case requires a family centered case resolution conference, the court should consider, in addition to procedural milestones, factors including the following:
- (A) Difficulty in locating and serving the respondent;
  - (B) Complexity of issues;
  - (C) Nature and extent of anticipated discovery;
  - (D) Number and locations of percipient and expert witnesses;
  - (E) Estimated length of trial;
  - (F) Statutory priority for issues such as custody and visitation of minor children;
  - (G) Extent of property and support issues in controversy;
  - (H) Existence of issues of domestic violence, child abuse, or substance abuse;
  - (I) Pendency of other actions or proceedings that may affect the case; and
  - (J) Any other factor that would affect the time for disposition.

1 **(d) Family centered case resolution conferences**

- 2
- 3 (1) The court may hold an initial family centered case resolution conference to  
4 develop a specific case resolution plan. The conference is not intended to be  
5 an evidentiary hearing.
- 6
- 7 (2) Family centered case resolution conferences must be heard by a judicial  
8 officer. On the court’s initiative or at the request of the parties, to enhance  
9 access to the court, the conference may be held in person, by telephone, by  
10 videoconferencing, or by other appropriate means of communication.
- 11
- 12 (3) At the conference, counsel for each party and each self-represented litigant  
13 must be familiar with the case and must be prepared to discuss the party’s  
14 positions on the issues.
- 15
- 16 (4) With the exception of mandatory child custody mediation and mandatory  
17 settlement conferences, before alternative dispute resolution (ADR) is  
18 included in a family centered case resolution plan under Family Code section  
19 2451(a)(2), the court must inform the parties that their participation in any  
20 court recommended ADR services is voluntary and that ADR services can be  
21 part of a plan only if both parties voluntarily opt to use these services.  
22 Additionally, the court must:
- 23
- 24 (A) Inform the parties that ADR may not be appropriate in cases involving  
25 domestic violence and provide information about separate sessions; and
- 26
- 27 (B) Ensure that all court-connected providers of ADR services that are part  
28 of a family centered case resolution plan have been trained in assessing  
29 and handling cases that may involve domestic violence.
- 30
- 31 (5) Nothing in this rule prohibits an employee of the court from reviewing the  
32 file and notifying the parties of any deficiencies in their paperwork before the  
33 parties appear in front of a judicial officer at a family centered case resolution  
34 conference. This type of assistance can occur by telephone, in person, or in  
35 writing, on or before each scheduled family centered case resolution  
36 conference. However, this type of procedural assistance is not intended to  
37 replace family centered case resolution plan management or to create a  
38 barrier to litigants’ access to a judicial officer.

39

40 **(e) Family centered case resolution plan order**

- 41
- 42 (1) Family centered case resolution plans as ordered by the court must comply  
43 with Family Code sections 2450(b) and 2451.

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(2) The family centered case resolution plan order should set a schedule for subsequent family centered case resolution conferences and otherwise provide for management of the case.

**(f) Family centered case resolution order without appearance**

If the court determines that appearances at a family centered case resolution conference are not necessary, the court may notify the parties and, if stipulated, issue a family centered case resolution order without an appearance at a conference.

**(g) Family centered case resolution information**

(1) Upon the filing of first papers in dissolution, legal separation, nullity, or parentage actions the court must provide the filing party with the following:

- (A) Written information summarizing the process of a case through disposition;
- (B) A list of local resources that offer procedural assistance, legal advice or information, settlement opportunities, and domestic violence services;
- (C) Instructions for keeping the court informed of the person’s current address and phone number, and e-mail address;
- (D) Information for self-represented parties about the opportunity to meet with court self-help center staff or a family law facilitator; and
- (E) Information for litigants on how to request a status conference, or a family centered case resolution conference earlier than or in addition to, any status conference or family centered case resolution conferences scheduled by the court.

*Rule 5.83 adopted effective January 1, 2012.*

**Rule 5.93. Attorney’s fees and costs**

**(a) Application**

This rule applies to attorney’s fees and costs based on financial need, as described in Family Code sections 2030, 2032, 3121, 3557, and 7605.

1 **(b) Request**

2  
3 (1) Except as provided in Family Code section 2031(b), to request attorney's fees  
4 and costs, a party must complete, file and serve the following documents:

5  
6 (A) Application for Order (form FL-310) attached to an Order to Show  
7 Cause (form FL-300) or a Notice of Motion (form FL-301);

8  
9 (B) Request for Attorney's Fees and Costs Attachment (form FL-319) or a  
10 comparable declaration that addresses the factors covered in form FL-  
11 319;

12  
13 (C) A current Income and Expense Declaration (form FL-150);

14  
15 (D) A personal declaration in support of the request for attorney's fees and  
16 costs, either using Supporting Declaration for Attorney's Fees and  
17 Costs Attachment (form FL-158) or a comparable declaration that  
18 addresses the factors covered in form FL-158; and

19  
20 (E) Any other papers relevant to the relief requested.

21  
22 (2) The party requesting attorney's fees and costs must provide the court with  
23 sufficient information about the attorney's hourly billing rate; the nature of  
24 the litigation; the attorney's experience in the particular type of work  
25 demanding; the fees and costs incurred or anticipated; and why the requested  
26 fees and costs are just, necessary, and reasonable.

27  
28 **(c) Response to request**

29  
30 To respond to the request for attorney's fees and costs, a party must complete, file,  
31 and serve the following documents:

32  
33 (1) Responsive Declaration to Order to Show Cause or Notice of Motion (form  
34 FL-320);

35  
36 (2) A current Income and Expense Declaration (form FL-150);

37  
38 (3) A personal declaration responding to the request for attorney's fees and costs,  
39 either using Supporting Declaration for Attorney's Fees and Costs  
40 Attachment (form FL-158) or a comparable declaration that addresses the  
41 factors covered in form FL-158; and

42  
43 (4) Any other papers relevant to the relief requested.

1  
2 **(d) Income and expense declaration**

3  
4 Both parties must complete, file, and serve a current *Income and Expense*  
5 *Declaration* (form FL-150). A *Financial Statement (Simplified)* (form FL-155) is  
6 not appropriate for use in proceedings to determine or modify attorney’s fees and  
7 costs.

8  
9 (1) “Current” is defined as being completed within the past three months,  
10 provided that no facts have changed. The form must be sufficiently  
11 completed to allow determination of the issues.

12  
13 (2) When attorney’s fees are requested by either party, the section on the *Income*  
14 *and Expense Declaration* (form FL-150) related to the amount in savings,  
15 credit union, certificates of deposit, and money market accounts must be fully  
16 completed, as well as the section related to the amount of attorney’s fees  
17 incurred, currently owed, and the source of money used to pay such fees.

18  
19 **(e) Court findings and order**

20  
21 The court may make findings and orders regarding attorney’s fees and costs by  
22 using *Attorney’s Fees and Costs Order Attachment* (form FL-346). This form is an  
23 attachment to *Findings and Order After Hearing* (form FL-340), *Judgment* (form  
24 FL-180), and *Judgment (Uniform Parentage—Custody and Support)* (form FL-  
25 250).

26  
27 *Rule 5.93 adopted effective January 1, 2012.*

28  
29 **Rule 5.242. Qualifications, rights, and responsibilities of counsel appointed to**  
30 **represent a child in family law proceedings**

31  
32 **(a)–(i) \*\*\***

33  
34 **(j) Responsibilities of counsel for a child**

35  
36 Counsel is charged with the representation of the ~~best interest of the child’s best~~  
37 ~~interest.~~ The role of the child’s counsel is to gather ~~facts~~ evidence that bears on the  
38 best interest of the child and present ~~those facts~~ that admissible evidence to the  
39 court, ~~including the child’s wishes when counsel deems it appropriate for~~  
40 ~~consideration by the court under Family Code section 3042.~~ in any manner  
41 appropriate for the counsel of a party. If the child so desires, the child’s counsel  
42 must present the child’s wishes to the court.

1           (1) ~~The e~~Counsel's duties, unless under the circumstances it is inappropriate to  
2           exercise the duties, include those under Family Code section 3151:

3  
4           ~~(1)~~(A)       Interviewing the child;

5  
6           ~~(2)~~(B)       Reviewing the court files and all accessible relevant records  
7           available to both parties; and

8  
9           ~~(3)~~(C)       Making any further investigations that counsel considers  
10          necessary to ascertain the facts relevant to the custody or visitation  
11          hearings;

12  
13       ~~(4) Participating in the proceeding to the degree necessary to adequately~~  
14       ~~represent the child, including introducing and examining counsel's own~~  
15       ~~witnesses and presenting arguments to the court concerning the child's~~  
16       ~~welfare; and~~

17  
18       ~~(5) Preparing, at the court's request, a written statement of issues and contentions~~  
19       ~~setting forth the facts that bear on the best interest of the child.~~

20       (2) Counsel must serve notices and pleadings on all parties consistent with the  
21       requirements for parties.

22  
23       (3) Counsel may introduce and examine witnesses, present arguments to the  
24       court concerning the child's welfare, and participate further in the proceeding  
25       to the degree necessary to represent the child adequately.

26  
27       (4) In any case in which counsel is representing a child who is called to testify in  
28       the proceeding, counsel must:

29  
30       (A) Provide information to the child in an age-appropriate manner about the  
31       limitations on confidentiality and the possibility that information  
32       provided to the court may be on the record and provided to the parties  
33       in the case;

34  
35       (B) Allow but not require the child to state a preference regarding custody  
36       or visitation and, in an age-appropriate manner, provide information  
37       about the process by which the court will make a decision;

38  
39       (C) Provide procedures relevant to the child's participation and, if  
40       appropriate, provide an orientation to the courtroom where the child  
41       will be testifying; and  
42

1 (D) Inform the parties and then the court about the client’s desire to provide  
2 input.

3  
4 (Subd (j) amended effective January 1, 2012.)

5  
6 (k) \* \* \*

7  
8 Rule 5.242 amended effective January 1, 2012; adopted effective January 1, 2008.

9  
10  
11 **Rule 5.250. Children’s participation and testimony in family court proceedings**

12  
13 **(a) Children’s participation**

14  
15 This rule is intended to implement Family Code section 3042. Children’s  
16 participation in family law matters must be considered on a case-by-case basis. No  
17 statutory mandate, rule, or practice requires children to participate in court or  
18 prohibits them from doing so. When a child wishes to participate, the court should  
19 find a balance between protecting the child, the statutory duty to consider the  
20 wishes of and input from the child, and the probative value of the child’s input  
21 while ensuring all parties’ due process rights to challenge evidence relied upon by  
22 the court in making custody decisions.

23  
24 **(b) Determining if the child wishes to address the court**

25  
26 (1) The following persons must inform the court if they have information  
27 indicating that a child in a custody or visitation (parenting time) matter  
28 wishes to address the court:

29  
30 (A) A minor’s counsel;

31  
32 (B) An evaluator;

33  
34 (C) An investigator; and

35  
36 (D) A child custody recommending counselor who provides  
37 recommendations to the judge under Family Code section 3183.

38  
39 (2) The following persons may inform the court if they have information  
40 indicating that a child wishes to address the court:

41  
42 (A) A party; and

1 (B) A party's attorney.

2  
3 (3) In the absence of information indicating a child wishes to address the court,  
4 the judicial officer may inquire whether the child wishes to do so.

5  
6 **(c) Guidelines for determining whether addressing the court is in the child's best**  
7 **interest**

8  
9 (1) When a child indicates that he or she wishes to address the court, the judicial  
10 officer must consider whether involving the child in the proceedings is in the  
11 child's best interest.

12  
13 (2) If the child indicating an interest in addressing the court is 14 years old or  
14 older, the judicial officer must hear from that child unless the court makes a  
15 finding that addressing the court is not in the child's best interest and states  
16 the reasons on the record.

17  
18 (3) In determining whether addressing the court is in a child's best interest, the  
19 judicial officer should consider the following:

20  
21 (A) Whether the child is of sufficient age and capacity to reason to form an  
22 intelligent preference as to custody or visitation (parenting time);

23  
24 (B) Whether the child is of sufficient age and capacity to understand the  
25 nature of testimony;

26  
27 (C) Whether information has been presented indicating that the child may  
28 be at risk emotionally if he or she is permitted or denied the opportunity  
29 to address the court or that the child may benefit from addressing the  
30 court;

31  
32 (D) Whether the subject areas about which the child is anticipated to  
33 address the court are relevant to the court's decisionmaking process;  
34 and

35  
36 (E) Whether any other factors weigh in favor of or against having the child  
37 address the court, taking into consideration the child's desire to do so.

38  
39 **(d) Guidelines for receiving testimony and other input**

40  
41 (1) If the court precludes the calling of a child as a witness, alternatives for the  
42 court to obtain information or other input from the child may include, but are  
43 not limited to:

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(A) The child’s participation in child custody mediation under Family Code section 3180;

(B) Appointment of a child custody evaluator or investigator under Family Code section 3110 or Evidence Code section 730;

(C) Admissible evidence provided by the parents, parties, or witnesses in the proceeding;

(D) Information provided by a child custody recommending counselor authorized to provide recommendations under Family Code section 3183(a); and

(E) Information provided from a child interview center or professional so as to avoid unnecessary multiple interviews.

(2) If the court precludes the calling of a child as a witness and specifies one of the other alternatives, the court must require that the information or evidence obtained by alternative means and provided by a professional or nonparty:

(A) Be in writing and fully document the child’s views on the matters on which the child wished to express an opinion;

(B) Describe the child’s input in sufficient detail to assist the court in its adjudication process;

(C) Be provided to the court and to the parties by an individual who will be available for testimony and cross-examination; and

(D) Be filed in the confidential portion of the family law file.

(3) On deciding to take the testimony of a child, the judicial officer should balance the necessity of taking the child’s testimony in the courtroom with parents and attorneys present with the need to create an environment in which the child can be open and honest. In each case in which a child’s testimony will be taken, courts should consider:

(A) Where the testimony will be taken, including the possibility of closing the courtroom to the public or hearing from the child on the record in chambers;

1 (B) Who should be present when the testimony is taken, such as: both  
2 parents and their attorneys, only attorneys in the case in which both  
3 parents are represented, the child’s attorney and parents, or only a court  
4 reporter with the judicial officer;

5  
6 (C) How the child will be questioned, such as whether only the judicial  
7 officer will pose questions that the parties have submitted, whether  
8 attorneys or parties will be permitted to cross-examine the child, or  
9 whether a child advocate or expert in child development will ask the  
10 questions in the presence of the judicial officer and parties or a court  
11 reporter; and

12  
13 (D) Whether a court reporter is available in all instances, but especially  
14 when testimony may be taken outside the presence of the parties and  
15 their attorneys and, if not, whether it will be possible to provide a  
16 listening device so that testimony taken in chambers may be heard  
17 simultaneously by the parents and their attorneys in the courtroom or to  
18 otherwise make a record of the testimony.

19  
20 (4) In taking testimony from a child, the court must take special care to protect  
21 the child from harassment or embarrassment and to restrict the unnecessary  
22 repetition of questions. The court must also take special care to ensure that  
23 questions are stated in a form that is appropriate to the witness’s age or  
24 cognitive level. If the child is not represented by an attorney, the court must  
25 inform the child in an age-appropriate manner about the limitations on  
26 confidentiality and that the information provided to the court will be on the  
27 record and provided to the parties in the case. In the process of listening to  
28 and inviting the child’s input, the court must allow but not require the child to  
29 state a preference regarding custody or visitation and should, in an age-  
30 appropriate manner, provide information about the process by which the  
31 court will make a decision.

32  
33 (5) In any case in which a child will be called to testify, the court may consider  
34 the appointment of minor’s counsel for that child. The court may consider  
35 whether such appointment will cause unnecessary delay or otherwise  
36 interfere with the child’s ability to participate in the process. In addition to  
37 adhering to the requirements for minor’s counsel under Family Code section  
38 3151 and rules 5.240, 5.241, and 5.242, minor’s counsel must:

39  
40 (A) Provide information to the child in an age-appropriate manner about the  
41 limitations on confidentiality and indicate to the child the possibility  
42 that information provided to the court will be on the record and  
43 provided to the parties in the case;

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(B) Allow but not require the child to state a preference regarding custody or visitation (parenting time) and, in an age-appropriate manner, provide information about the process by which the court will make a decision;

(C) Provide procedures relevant to the child’s participation and, if appropriate, provide an orientation to the courtroom where the child will be testifying; and

(D) Inform the parties and then the court about the client’s desire to provide input.

(6) No testimony of a child may be received without such testimony being heard on the record or in the presence of the parties. This requirement may not be waived by stipulation.

**(e) Responsibilities of court-connected or appointed professionals**

A child custody evaluator, a child custody recommending counselor, an investigator, or a mediator appointed or assigned to meet with a child in a family court proceeding must:

(1) Provide information to the child in an age-appropriate manner about the limitations on confidentiality and the possibility that information provided to the professional may be shared with the court on the record and provided to the parties in the case;

(2) Allow but not require the child to state a preference regarding custody and visitation (parenting time), and, in an age-appropriate manner, provide information about the process by which the court will make a decision; and

(3) Provide to the parents of the child participating in the court process information about local court procedures relevant to the child’s participation and information about how to best support the child in an age-appropriate manner during the court process.

**(f) Methods of providing information to parents and supporting children**

Courts should provide information to parties and parents and support for children when children want to participate or testify or are otherwise involved in family law proceedings. Such methods may include but are not limited to:

- 1           (1) Having court-connected professionals meet jointly or separately with the  
2           parents or parties to discuss alternatives to having a child provide direct  
3           testimony;
- 4
- 5           (2) Providing an orientation for a child about the court process and the role of the  
6           judicial officer in making decisions, how the courtroom or chambers will be  
7           set up, and what participating or testifying will entail;
- 8
- 9           (3) Providing information to parents or parties before and after a child  
10           participates or testifies so that they can consider the possible effect on their  
11           child of participating or not participating in a given case;
- 12
- 13           (4) Including information in child custody mediation orientation presentations  
14           and publications about a child’s participation in family law proceedings;
- 15
- 16           (5) Providing a children’s waiting room; and
- 17
- 18           (6) Providing an interpreter for the child, if needed.

19

20 **(g) Education and training**

21

22 Education and training content for court staff and judicial officers should include  
23 information on children’s participation in family court processes, methods other  
24 than direct testimony for receiving input from children, and procedures for taking  
25 children’s testimony.

26

27 *Rule 5.250 adopted effective January 1, 2012.*

28

29 **Advisory Committee Comment**

30

31 Rule 5.250 does not apply to probate guardianships except as and to the extent that the rule is  
32 incorporated or expressly made applicable by a rule of court in title 7 of the California Rules of  
33 Court.

34

35

36 **Rule 5.380. Agreement and judgment of parentage in Domestic Violence Prevention**  
37 **Act cases**

38

39 **(a) No requirement to open separate case; no filing fee**

- 40
- 41           (1) If the court accepts the agreement of parentage and issues a judgment of  
42 parentage, the court may not require a party to open a separate parentage or  
43 other type of case in which to file the judgment. The court may open a

1                    separate type of case, but the court must not charge a fee for filing the  
2                    judgment of parentage in the new case.

3  
4                    (2) When a judgment of parentage is filed in a Domestic Violence Prevention  
5                    Act case in which a restraining order is currently in effect, no filing fee may  
6                    be charged.

7  
8                    **(b) Retention**

9  
10                    The judgment must be retained by the court as a paternity record under  
11                    Government Code section 68152.

12  
13                    **(c) Notice of Entry of Judgment**

14  
15                    When Agreement and Judgment of Parentage (form DV-180) is filed, the court  
16                    must mail Notice of Entry of Judgment (form FL-190).

17  
18                    *Rule 5.380 adopted effective January 1, 2012.*

19  
20  
21                    **Rule 5.381. Modification of child custody, visitation, and support orders in**  
22                    **Domestic Violence Prevention Act cases**

23  
24                    **(a) Application of rule**

25  
26                    This rule addresses court procedures for the modification of child custody,  
27                    visitation, and support orders in accordance with Family Code section 6340(a).

28  
29                    **(b) Filing fees**

30  
31                    A filing fee may be charged on a request to modify a child custody, visitation, or  
32                    support order only after a protective order, as defined in Family Code section 6218,  
33                    is no longer in effect. The filing fee, if charged, is the same as the filing fee for a  
34                    motion, application, or any other paper requiring a hearing after the first paper.

35  
36                    **(c) Retention**

37  
38                    The court must retain any child custody, visitation, or support order filed in a  
39                    Domestic Violence Prevention Act as a Family Law order under Government Code  
40                    section 68152(c)(5).

41  
42                    *Rule 5.381 adopted effective January 1, 2012.*

43

1  
2 **Rule 5.502. Definitions and use of terms**

3  
4 Definitions (§§ 202(e), 319, 361, 361.5(a)(3), 628.1, 636, 726, 727.3(c)(2), 727.4(d),  
5 11400(v), 11400(y); 20 U.S.C. § 1415; 25 U.S.C. § 1903(2))

6  
7 As used in these rules, unless the context or subject matter otherwise requires:

8  
9 (1)–(15) \*\*\*

10  
11 (16) “General jurisdiction” means the jurisdiction the juvenile court retained over a  
12 nonminor at the time of the dismissal of dependency jurisdiction, delinquency  
13 jurisdiction, or transition jurisdiction for the purpose of considering a request to  
14 resume its dependency jurisdiction or to assume or resume its transition jurisdiction  
15 over the person as a nonminor dependent.

16  
17 ~~(16)~~(17) \*\*\*

18  
19 ~~(17)~~(18) \*\*\*

20  
21 ~~(18)~~(19) \*\*\*

22  
23 ~~(19)~~(20) \*\*\*

24  
25 ~~(20)~~(21) \*\*\*

26  
27 (22) “90-day Transition Plan” means the personalized plan developed at the direction of  
28 a child currently in a foster care placement during the 90-day period before the  
29 child’s planned exit from foster care when she or he attains 18 years of age or, if  
30 applicable, developed at the direction of a nonminor during the 90-day period prior  
31 to his or her anticipated exit from foster care. A 90-day Transition Plan must also  
32 be developed for and at the direction of a former foster child who remains eligible  
33 for Independent Living Program services during the 90-day period before he or she  
34 attains 18 years of age. The plan is as detailed as the child or nonminor chooses and  
35 includes information about a power of attorney for health care and specific options  
36 regarding housing, health insurance, education, local opportunities for mentors and  
37 continuing support services, workforce supports, and employment services.  
38 Inclusion of information in the plan relating to sexual health, services, and  
39 resources to ensure the child or nonminor is informed and prepared to make healthy  
40 decisions about his or her life is encouraged.

41  
42 (23) “Nonminor dependent” means a person at least 18 years of age and no more than  
43 20 years of age who was under an order for a foster care placement on his or her

1 18th birthday and is currently in foster care under the placement and care of the  
2 county welfare department, county probation department, or Indian tribe that  
3 entered into an agreement under Welfare and Institutions Code section 10553.1;  
4 who is participating in a Transitional Independent Living Case Plan; and who is  
5 meeting at least one of the education, training, or work requirements in Welfare and  
6 Institutions Code section 11403(b) or is incapable of meeting one of those  
7 requirements due a medical condition.

8  
9 ~~(21)(24)~~ \*\*\*

10  
11 ~~(22)(25)~~ \*\*\*

12  
13 ~~(23)(26)~~ \*\*\*

14  
15 ~~(24)(27)~~ \*\*\*

16  
17 ~~(25)(28)~~ \*\*\*

18  
19 ~~(26)(29)~~ \*\*\*

20  
21 ~~(27)(30)~~ \*\*\*

22  
23 ~~(28)(31)~~ \*\*\*

24  
25 ~~(29)(32)~~ \*\*\*

26  
27 ~~(30)(33)~~ \*\*\*

28  
29 ~~(31)(34)~~ \*\*\*

30  
31 ~~(32)(35)~~ \*\*\*

32  
33 ~~(33)(36)~~ \*\*\*

34  
35 ~~(34)(37)~~ \*\*\*

36  
37 (38) “Transition jurisdiction” means the juvenile court’s jurisdiction over a child or  
38 nonminor described in Welfare and Institutions Code section 450.

39  
40 (39) “Transitional independent living case plan” means a child’s case plan submitted for  
41 the last review hearing held before he or she turns 18 years of age or a nonminor  
42 dependent’s case plan, developed with the child or nonminor dependent and  
43 individuals identified as important to him or her, signed by the child or nonminor

1 dependent and updated every six months, that describes the goals and objectives of  
2 how the child or nonminor will make progress in the transition to living  
3 independently and assume incremental responsibility for adult decision making; the  
4 collaborative efforts between the child or nonminor dependent and the social  
5 worker, probation officer, or Indian tribe and the supportive services as described in  
6 the Transitional Independent Living Plan (TILP) to ensure the child’s or nonminor  
7 dependent’s active and meaningful participation in one or more of the eligibility  
8 criteria described in subdivision (b) of section 11403; the child or nonminor  
9 dependent’s appropriate supervised placement setting; the child or nonminor  
10 dependent’s permanent plan for transition to living independently; and the steps  
11 the social worker, probation officer, or Indian tribe is taking to ensure the child or  
12 nonminor dependent achieves permanence, including maintaining or obtaining  
13 permanent connections to caring and committed adults, as set forth in paragraph  
14 (16) of subdivision (f) of section 16501.1.

15  
16 (40) “Transitional Independent Living Plan” means the written unique, individualized  
17 service delivery plan for a child or nonminor mutually agreed upon by the child or  
18 nonminor and the social worker or probation officer that identifies the child’s or  
19 nonminor’s current level of functioning, emancipation goals, and the specific skills  
20 needed to prepare the child or nonminor to live independently upon leaving foster  
21 care.

22  
23 ~~(35)~~(41) \*\*\*

24  
25 *Rule 5.502 amended effective January 1, 2012; adopted as rule 1401 effective January 1, 1990;*  
26 *previously amended and renumbered effective January 1, 2007; previously amended effective*  
27 *July 1, 1992, July 1, 1997, January 1, 1998, January 1, 1999, January 1, 2001, July 1, 2002,*  
28 *January 1, 2003, January 1, 2008, July 1, 2010, and January 1, 2011.*

29  
30 **Rule 5.504. Judicial Council forms**

31  
32 **(a)–(b) \*\*\***

33  
34 **(c) Implementation of new and revised mandatory forms**

35  
36 To help implement mandatory Judicial Council juvenile forms:

37  
38 (1) \*\*\*

39  
40 (2) Until January 1, ~~2012~~2017, a court may produce court orders in any form or  
41 format as long as:

42  
43 (A)–(D) \*\*\*

1  
2 (Subd (c) amended effective January 1, 2012; adopted effective January 1, 2006;  
3 previously amended effective January 1, 2007.)  
4

5 Rule 5.504 amended effective January 1, 2012; adopted as rule 1402 effective January 1, 1991;  
6 previously amended effective July 1, 1991, January 1, 1992, July 1, 1992, January 1, 1993,  
7 January 1, 1994, January 1, 1998, January 1, 2001, January 1, 2006, and July 1, 2006;  
8 previously amended and renumbered effective January 1, 2007.  
9

10  
11 **Rule 5.530. Persons present**  
12

13 (a) \*\*\*  
14

15 (b) **Persons present (§§ 280, 290.1, 290.2, 332, 347, 349, 353, 656, 658, 677, 679,**  
16 **681, 700; 25 U.S.C. §§ 1911, 1931–1934)**  
17

18 The following persons are entitled to be present:  
19

20 (1) The child or nonminor dependent;  
21

22 (2) All parents, de facto parents, Indian custodians, and guardians of the child or,  
23 if no parent or guardian resides within the state or, if their places of residence  
24 are not known;  
25

26 (A) ~~Any~~ any adult relatives residing within the county or, if none;  
27

28 (B) ~~Any~~ the adult relatives residing nearest the court;  
29

30 (3)–(11) \*\*\*  
31

32 (Subd (b) amended effective January 1, 2012; previously amended effective January 1,  
33 1995, January 1, 1997, January 1, 2005, and January 1, 2007.)  
34

35 (c)–(e) \*\*\*  
36

37 (f) **Participation of incarcerated parent in dependency proceedings (§§ 290.1–294,**  
38 **316.2, 349, 361.5(e); Pen. Code § 2625)**  
39

40 The incarcerated parent of a child on behalf of whom a petition under section 300  
41 has been filed may appear and participate in dependency proceedings as provided  
42 in this subdivision.  
43

- 1           (1) Notice must be sent to an incarcerated parent of a detention hearing under  
2 section 319 as required by sections 290.1 and 290.2; a jurisdictional hearing  
3 under section 355 or a dispositional hearing under section 358 or 361 as  
4 required by section 291; a review hearing under section 366.21, 366.22, or  
5 366.25 as required by section 293; or a permanency planning hearing under  
6 section 366.26 as required by section 294.  
7  
8           (A) Notice to an incarcerated parent of a jurisdictional hearing, a  
9 dispositional hearing, or a section 366.26 permanency planning hearing  
10 at which termination of parental rights is at issue must inform the  
11 incarcerated parent of his or her right to be physically present at the  
12 hearing and explain how the parent may secure his or her presence or,  
13 if he or she waives the right to be physically present, appearance and  
14 participation.  
15  
16           (B) Notice to an incarcerated parent of a detention hearing, a review  
17 hearing, or any other hearing in a dependency proceeding must inform  
18 the incarcerated parent of his or her options for requesting physical or  
19 telephonic appearance at and participation in the hearing.  
20  
21           (C) The county welfare department must use the prisoner location system  
22 developed by the Department of Corrections and Rehabilitation to  
23 facilitate timely and effective notice of hearings to incarcerated parents.  
24  
25           (2) The court must order an incarcerated parent's temporary removal from the  
26 institution where he or she is confined and production before the court at the  
27 time appointed for any jurisdictional hearing held under section 355 or  
28 dispositional hearing held under section 358 or 361, and any permanency  
29 planning hearing held under section 366.26 in which termination of parental  
30 rights is at issue.  
31  
32           (3) For any other hearing in a dependency proceeding, including but not limited  
33 to a detention hearing or a review hearing, the court may order the temporary  
34 removal of the incarcerated parent from the institution where he or she is  
35 confined and the parent's production before the court at the time appointed  
36 for that hearing.  
37  
38           (4) No hearing described in (2) may be held without the physical presence of the  
39 incarcerated parent and the parent's attorney unless the court has received:  
40  
41           (A) A knowing waiver of the right to be physically present signed by the  
42 parent; or  
43

1           (B) A declaration, signed by the person in charge of the institution in which  
2           the parent is incarcerated, or his or her designated representative,  
3           stating that the parent has, by express statement or action, indicated an  
4           intent not to be physically present at the hearing.

5  
6           (5) When issuing an order under (2) or (3), the court must require that *Order for*  
7           *Prisoner's Appearance at Hearing Affecting Parental Rights* (form JV-450)  
8           and a copy of *Prisoner's Statement Regarding Appearance at Hearing*  
9           *Affecting Parental Rights* (form JV-451) be attached to the notice of hearing  
10           and served on the parent, the parent's attorney, the person in charge of the  
11           institution, and the sheriff's department of the county in which the order is  
12           issued by the person responsible for giving notice of the hearing at issue not  
13           less than 15 days before the date of the hearing.

14  
15           (6) The court may, at the request of any party or on its own motion, permit an  
16           incarcerated parent, who has waived his or her right to be physically present  
17           at a hearing described in (2) or who has not been ordered to appear before the  
18           court, to appear and participate in a hearing by videoconference consistent  
19           with the requirements of rule 5.531. If video technology is not available, the  
20           court may permit the parent to appear by telephone consistent with the  
21           requirements of rule 5.531. The court must inform the parent that, if no  
22           technology complying with rule 5.531 is available, the court may proceed  
23           without his or her appearance and participation.

24  
25           (7) The presiding judge of the juvenile court in each county should convene  
26           representatives of the county welfare department, the sheriff's department,  
27           parents' attorneys, and other appropriate entities to develop:

28  
29           (A) Local procedures or protocols to ensure an incarcerated parent's  
30           notification of, transportation to, and physical presence at court  
31           hearings involving proceedings affecting his or her child as required or  
32           authorized by Penal Code section 2625 and this rule unless he or she  
33           has knowingly waived the right to be physically present; and

34  
35           (B) Local procedures or protocols, consistent with (f)(6) and rule 5.531, to  
36           facilitate the appearance and participation by videoconference or  
37           telephone of an incarcerated parent who has knowingly waived the  
38           right to be physically present.

39  
40           *(Subd (f) adopted effective January 1, 2012.)*

41

1 *Rule 5.530 amended effective January 1, 2012; adopted as rule 1410 effective January 1, 1990;*  
2 *previously amended effective January 1, 1995, January 1, 1997, January 1, 2001, and January 1,*  
3 *2005; previously amended and renumbered effective January 1, 2007.*

4  
5  
6 **Rule 5.531. Appearance by telephone (§ 388; Pen. Code § 2625)**

7  
8 **(a) Application**

9  
10 The standards in (b) apply to any appearance or participation in court by telephone,  
11 videoconference, or other digital or electronic means authorized by law.

12  
13 **(b) Standards for local procedures or protocols**

14  
15 Local procedures or protocols must be developed to ensure the fairness and  
16 confidentiality of any proceeding in which a party is permitted by statute, rule of  
17 court, or judicial discretion to appear by telephone. These procedures or protocols  
18 must, at a minimum:

- 19  
20 (1) Ensure that the party appearing by telephone can participate in the hearing in  
21 real time, with no delay in aural or, if any, visual transmission or reception;  
22  
23 (2) Ensure that the statements of participants are audible to all other participants  
24 and court staff and that the statements made by a participant are identified as  
25 being made by that participant;  
26  
27 (3) Ensure that the proceedings remain confidential as required by law;  
28  
29 (4) Establish a deadline of no more than three court days before the proceeding  
30 for notice to the court by the party or party's attorney (if any) of that party's  
31 intent to appear by telephone, and permit that notice to be conveyed by any  
32 method reasonably calculated to reach the court, including telephone, fax, or  
33 other electronic means;  
34  
35 (5) Permit the party, on a showing of good cause, to appear by telephone even if  
36 he or she did not provide timely notice of intent to appear by telephone;  
37  
38 (6) Permit a party to appear in person for a proceeding at the time and place for  
39 which the proceeding was noticed, even if that party had previously notified  
40 the court of an intent to appear by telephone;  
41

1           (7) Ensure that any hearing at which a party appears by telephone is recorded and  
2           reported to the same extent and in the same manner as if he or she had been  
3           physically present;

4  
5           (8) Ensure that the party appearing by telephone is able to communicate  
6           confidentially with his or her attorney (if any) during the proceeding and  
7           provide timely notice to all parties of the steps necessary to secure  
8           confidential communication; and

9  
10          (9) Provide for the development of the technological capacity to accommodate  
11          appearances by telephone that comply with the requirements of this rule.

12  
13        **(c) No independent right**

14  
15          Nothing in this rule confers on any person an independent right to appear by  
16          telephone, videoconference, or other electronic means in any proceeding.

17  
18        *Rule 5.531 adopted effective January 1, 2012.*

19  
20  
21        **Rule 5.555. Hearing to consider termination of juvenile court jurisdiction over a**  
22        **nonminor—dependents or wards of the juvenile court in a foster care**  
23        **placement and nonminor dependents (§§ 224.1(b), 303, 366.31, 391, 607.3,**  
24        **16501.1(f)(16))**

25  
26        **(a) Applicability**

27  
28          (1) This rule applies to any hearing during which the termination of the juvenile  
29          court’s jurisdiction over the following nonminors will be considered:

30  
31            (A) A nonminor dependent as defined in section 11400(v); and

32  
33            (B) A ward or dependent of the juvenile court who is a nonminor 18 years  
34            of age or older, and subject to an order for a foster care placement.

35  
36          (2) Nothing in the Welfare and Institutions Code or in the California Rules of  
37          Court restricts the ability of the juvenile court to maintain dependency  
38          jurisdiction or delinquency jurisdiction over a person, 18 years of age and  
39          older, who does not meet the eligibility requirements for status as a nonminor  
40          dependent and to proceed as to that person under the relevant sections of the  
41          Welfare and Institutions Code and California Rules of Court.

1 **(b) Setting a hearing**  
2

- 3 (1) A court hearing placed on the appearance calendar must be held prior to  
4 terminating juvenile court jurisdiction.  
5
- 6 (2) The hearing under this rule may be held during a hearing required under  
7 section 366(f), 366.21, 366.22, 366.25, 366.3, 727.2, or 727.3 or rule 5.903.  
8
- 9 (3) Notice of the hearing to the parents of a nonminor dependent as defined in  
10 section 11400(v) is not required.  
11
- 12 (4) If juvenile court jurisdiction was previously terminated with the juvenile  
13 court retaining general jurisdiction for the purpose of resuming its  
14 jurisdiction, and subsequently jurisdiction was resumed, a hearing under this  
15 rule must be held if the nonminor dependent wants juvenile court jurisdiction  
16 terminated again. The social worker or probation officer is not required to file  
17 the 90-day Transition Plan, and the court need not make the findings included  
18 in (d)(1)(L)(iii) or (d)(2)(E)(vi).  
19
- 20 (5) The hearing must be continued for no more than five court days for the  
21 submission of additional information as ordered by the court, if the court  
22 determines that the report, the Transitional Independent Living Plan, the  
23 Transitional Independent Living Case Plan (TILCP) if required, or the 90-day  
24 Transition Plan submitted by the social worker or probation officer do not  
25 provide the information required by (c) and the court is unable to make the  
26 findings and orders required by (d).  
27

28 **(c) Reports**  
29

- 30 (1) In addition to complying with all other statutory and rule requirements  
31 applicable to the report prepared by the social worker or probation officer for  
32 any hearing during which termination of the court's jurisdiction will be  
33 considered, the report must include:  
34
- 35 (A) Whether remaining under juvenile court jurisdiction is in the  
36 nonminor's best interests and the facts supporting the conclusion  
37 reached;  
38
- 39 (B) The specific criteria in section 11403(b) met by the nonminor that  
40 makes him or her eligible to remain under juvenile court jurisdiction as  
41 a nonminor dependent defined in section 11400(v);  
42

- 1 (C) For an Indian child to whom the Indian Child Welfare Act applies,  
2 when and how the nonminor was provided with information about the  
3 right to continue to be considered an Indian child for the purposes of  
4 the ongoing application of the Indian Child Welfare Act to him or her  
5 as a nonminor;  
6
- 7 (D) Whether the nonminor has applied for and, if so, the status of any in-  
8 progress application pending for title XVI Supplemental Security  
9 Income benefits and whether remaining under juvenile court  
10 jurisdiction until a final decision has been issued is in the nonminor's  
11 best interests;  
12
- 13 (E) Whether the nonminor has applied for and, if so, the status of any in-  
14 progress application pending for Special Juvenile Immigration Status or  
15 other applicable application for legal residency and whether an active  
16 juvenile court case is required for that application;  
17
- 18 (F) When and how the nonminor was provided with information about the  
19 potential benefits of remaining under juvenile court jurisdiction as a  
20 nonminor dependent, and the social worker's or probation officer's  
21 assessment of the nonminor's understanding of those benefits;  
22
- 23 (G) When and how the nonminor was informed that if juvenile court  
24 jurisdiction is terminated with the court retaining general jurisdiction  
25 for the purpose of resuming jurisdiction, he or she has the right to file a  
26 request to return to foster care and have the juvenile court resume  
27 jurisdiction over him or her as a nonminor dependent until he or she has  
28 attained the age of 21 years or the age of 20 years if the Legislature  
29 does not appropriate funding to extend the availability of foster care  
30 placement to the age of 21 years;  
31
- 32 (H) When and how the nonminor was informed that if juvenile court  
33 jurisdiction is continued over him or her, he or she has the right to have  
34 juvenile court jurisdiction terminated;  
35
- 36 (I) For a nonminor who is not present for the hearing:  
37
- 38 (i) Documentation of the nonminor's statement that the he or she did  
39 not wish to appear in court for the scheduled hearing; or  
40
- 41 (ii) Documentation of the reasonable efforts made to locate the  
42 nonminor when his or her current location is unknown;  
43

- 1           (J) Verification that the nonminor was provided with the information,  
2           documents, and services as required under section 391(e)(1)–(8); and  
3  
4           (K) Verification for a nonminor who is under delinquency jurisdiction that  
5           the notices and information required under section 607.5 were  
6           provided.  
7  
8           (2) The social worker or probation officer must file with the report a completed  
9           Termination of Juvenile Court Jurisdiction—Nonminor (form JV-365).  
10  
11           (3) The social worker or probation officer must file with the report the  
12           nonminor’s:  
13  
14           (A) Transitional Independent Living Case Plan when recommending  
15           continuation of juvenile court jurisdiction;  
16  
17           (B) Most recent Transitional Independent Living Plan (TILP); and  
18  
19           (C) Completed 90-day Transition Plan.  
20  
21           (4) The social worker or probation officer’s report and all documents required by  
22           (c)(2)–(3) must be filed with the court at least 10 calendar days before the  
23           hearing, and the social worker or probation officer must provide copies of the  
24           report and other documents to the nonminor, the nonminor’s parents, and all  
25           attorneys of record. If the nonminor is under juvenile court jurisdiction as a  
26           nonminor dependent, the social worker or probation officer is not required to  
27           provide copies of the report and other documents to the nonminor  
28           dependent’s parents.  
29

30 **(d) Findings and orders**

31  
32 In addition to complying with all other statutory and rule requirements applicable  
33 to the hearing, the following judicial findings and orders must be made on the  
34 record and included in the written, signed court documentation of the hearing:  
35

36 **(1) Findings**

- 37  
38           (A) Whether the nonminor had the opportunity to confer with his or her  
39           attorney about the issues currently before the court;  
40  
41           (B) Whether remaining under juvenile court jurisdiction is in the  
42           nonminor’s best interests and the facts in support of the finding made;  
43

- 1 (C) Whether the nonminor meets the eligibility criteria in section 11403(b)  
2 to remain in foster care as a nonminor dependent under juvenile court  
3 jurisdiction and, if so, the specific criteria in section 11403(b) met by  
4 the nonminor;  
5
- 6 (D) For an Indian child to whom the Indian Child Welfare Act applies,  
7 whether the nonminor was provided with information about the right to  
8 continue to be considered an Indian child for the purposes of the  
9 ongoing application of the Indian Child Welfare Act to him or her;  
10
- 11 (E) Whether the nonminor has an in-progress application pending for title  
12 XVI Supplemental Security Income benefits and, if such an application  
13 is pending, whether it is in the nonminor’s best interests to continue  
14 juvenile court jurisdiction until a final decision has been issued to  
15 ensure that the nonminor receives continued assistance with the  
16 application process;  
17
- 18 (F) Whether the nonminor has an in-progress application pending for  
19 Special Juvenile Immigration Status or other applicable application for  
20 legal residency and whether an active juvenile court case is required for  
21 that application;  
22
- 23 (G) Whether the nonminor understands the potential benefits of remaining  
24 in foster care under juvenile court jurisdiction;  
25
- 26 (H) Whether the nonminor has been informed that if juvenile court  
27 jurisdiction is continued, he or she may have the right to have juvenile  
28 court jurisdiction terminated with the court retaining general  
29 jurisdiction for the purpose of resuming dependency jurisdiction or  
30 assuming or resuming transition jurisdiction over him or her as a  
31 nonminor dependent;  
32
- 33 (I) Whether the nonminor has been informed that if juvenile court  
34 jurisdiction is terminated with the court retaining general jurisdiction,  
35 he or she has the right to file a request to return to foster care and have  
36 the juvenile court resume jurisdiction over him or her as a nonminor  
37 dependent until he or she has attained the age of 21 years or the age of  
38 20 years if the Legislature does not appropriate funding to extend the  
39 availability of nonminor foster care placement to the age of 21 years;  
40
- 41 (J) Whether the nonminor was provided with the information, documents,  
42 and services as required under section 391(e) and, if not, whether

1 juvenile court jurisdiction should be continued to ensure that all  
2 information, documents, and services are provided;

3  
4 (K) Whether verification was submitted that the requirements of section  
5 607.5 have been completed for a nonminor who is subject to  
6 delinquency jurisdiction; and

7  
8 (L) Whether the nonminor's:

9  
10 (i) Transitional Independent Living Case Plan, if required, includes a  
11 plan for a placement the nonminor believes is consistent with his  
12 or her need to gain independence, reflects the agreements made  
13 between the nonminor and social worker or probation officer to  
14 obtain independent living skills, and sets out the benchmarks that  
15 indicate how both will know when independence can be  
16 achieved;

17  
18 (ii) Transitional Independent Living Plan identifies the nonminor's  
19 level of functioning, emancipation goals, and the specific skills  
20 he or she needs to prepare to live independently upon leaving  
21 foster care; and

22  
23 (iii) 90-day Transition Plan is a concrete individualized plan that  
24 specifically covers the following areas: housing, health insurance,  
25 education, local opportunities for mentors and continuing support  
26 services, workforce supports and employment services, and  
27 information that explains how and why to designate a power of  
28 attorney for health care.

29  
30 (M) For a nonminor who is not present for the hearing, whether the reason  
31 for his or her failure to appear was:

32  
33 (i) The nonminor's expressed wish to not appear in court for the  
34 scheduled hearing; or

35  
36 (ii) The nonminor's current location remains unknown although  
37 reasonable efforts were made to locate the nonminor.

38  
39 (2) Orders

40  
41 (A) Order the continuation of juvenile court jurisdiction for a nonminor  
42 who meets the eligibility criteria in section 11403(b) to remain in  
43 placement under dependency jurisdiction as a nonminor dependent or

1 under transition jurisdiction as a nonminor dependent, unless the court  
2 finds that:

3  
4 (i) The nonminor does not wish to remain under juvenile court  
5 jurisdiction as a nonminor dependent;

6  
7 (ii) The nonminor is not participating in a reasonable and  
8 appropriate Transitional Independent Living Case Plan; or

9  
10 (iii) Reasonable efforts were made to locate the nonminor whose  
11 current location is unknown.

12  
13 (B) When juvenile court jurisdiction is continued for the nonminor to  
14 remain in placement as a nonminor dependent:

15  
16 (i) Order a permanent plan consistent with the nonminor's  
17 Transitional Independent Living Plan or Transitional Independent  
18 Living Case Plan;

19  
20 (ii) Continue the nonminor's status as an Indian child for the  
21 purposes of the ongoing application of the Indian Child Welfare  
22 Act to him or her unless he or she has elected not to have his or  
23 her status as an Indian child continued; and

24  
25 (iii) Set a status review hearing under rule 5.903 within six months of  
26 the date of his or her most recent status review hearing.

27  
28 (C) For a nonminor who does not meet and does not intend to meet the  
29 eligibility requirements for nonminor dependent status but who is  
30 otherwise eligible to and will remain under juvenile court's jurisdiction  
31 in a foster care placement, the court must set a hearing under section  
32 366.21, 366. 2, 366.25, 366.3, 727.2, or 727.3 within six months of the  
33 date of the nonminor's most recent status review hearing.

34  
35 (D) For a nonminor whose current location is unknown the court may enter  
36 an order for termination of juvenile court jurisdiction only after finding  
37 that reasonable efforts were made to locate the nonminor whose current  
38 location is unknown;

39  
40 (E) For a nonminor (1) who does not meet the eligibility criteria of section  
41 11403(b) and is not otherwise eligible to remain under juvenile court  
42 jurisdiction, (2) who does meet the eligibility criteria of section  
43 11403(b) but does not wish to remain under the jurisdiction of the

1 juvenile court as a nonminor dependent, or (3) who does meet the  
2 eligibility criteria of section 11403(b) but is not participating in a  
3 reasonable and appropriate Transitional Independent Living Case Plan,  
4 the court may enter an order for the termination of juvenile court  
5 jurisdiction only after entering the following findings and orders:  
6

7 (i) The nonminor was provided with the information, documents,  
8 and services as required under section 391(e);  
9

10 (ii) The nonminor was informed of the options available to him or  
11 her to assist with the transition from foster care to independence;  
12

13 (iii) The nonminor was informed that if juvenile court jurisdiction is  
14 terminated, he or she has the right to return to foster care and to  
15 file a request to have the juvenile court resume jurisdiction over  
16 him or her as a nonminor dependent until he or she has attained  
17 the age of 21 years or the age of 20 years if the Legislature does  
18 not appropriate funding to extend the availability of nonminor  
19 foster care placement to the age of 21 years;  
20

21 (iv) The nonminor was provided with a copy of *How to Return to*  
22 *Juvenile Court Jurisdiction and Foster Care* (form JV-464-  
23 INFO), *Request to Return to Juvenile Court Jurisdiction and*  
24 *Foster Care* (form JV-466), *Confidential Information— Request*  
25 *to Return to Juvenile Court Jurisdiction and Foster Care* (form  
26 JV-468), and an endorsed, filed copy of the *Termination of*  
27 *Juvenile Court Jurisdiction—Nonminor* (form JV-365);  
28

29 (v) The nonminor had an opportunity to confer with his or her  
30 attorney regarding the issues currently before the court;  
31

32 (vi) The nonminor’s 90-day Transition Plan includes specific options  
33 regarding housing, health insurance, education, local  
34 opportunities for mentors and continuing support services,  
35 workforce supports and employment services, and information  
36 that explains how and why to designate a power of attorney for  
37 health care;  
38

39 (F) An order retaining general jurisdiction over the nonminor for the  
40 purpose of considering a request filed under section 388(e) to resume  
41 dependency jurisdiction or to assume or resume transition jurisdiction  
42 over him or her as a nonminor dependent must be made when juvenile  
43 court jurisdiction is terminated under this rule.

1  
2 Rule 5.555 adopted effective January 1, 2012.

3  
4 **Rule 5.630. Restraining orders**

5  
6 **(a) Court's authority (~~§ 213.5~~)**

7  
8 \*\*\*

9  
10 *(Subd (a) amended effective January 1, 2012.)*

11  
12 **(b) Application for restraining orders (~~§§ 213.5, 304~~)**

13  
14 (1) Application for restraining orders may be made orally at any scheduled  
15 hearing regarding the child who is the subject of a petition under section 300,  
16 601, or 602, or may be made by written application, or may be made on the  
17 court's own motion.

18  
19 (2) The written application must be submitted on *Application and Affidavit*  
20 *Request for Restraining Order—Juvenile* (form JV-245).

21  
22 (3) A person requesting a restraining order in writing must submit to the court  
23 with the request a completed Confidential CLETS Information Form (form  
24 CLETS-001) under rule 1.51.

25  
26 *(Subd (b) amended effective January 1, 2012; previously amended effective January 1,*  
27 *2003, January 1, 2004, and January 1, 2007.)*

28  
29 **(c) Definition of abuse**

30  
31 The definition of abuse in Family Code section 6203 applies to restraining orders  
32 issued under Welfare and Institutions Code section 213.5.

33  
34 *(Subd (c) adopted effective January 1, 2012.)*

35  
36 **~~(e) — Protected children (§ 213.5(a) and (b))~~**

37  
38 ~~Restraining orders may be issued to protect any of the following children:~~

39  
40 ~~(1) — A child who is the subject of the dependency petition or who is declared a~~  
41 ~~dependent;~~

42  
43 ~~(2) — Another child in the household of the child named in (1); and~~

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~~(3) — A child who is the subject of a delinquency petition or who is declared a ward.~~

~~(d) — Other protected persons (§ 213.5(a))~~

~~The court may also issue orders protecting any parent, legal guardian, or current caregiver of the child listed in (c)(1), whether or not that child resides with that parent, legal guardian, or current caregiver.~~

~~(e) — Available orders and restrained persons (§ 213.5(a), (b), and (d)–(f))~~

~~The court may issue, either ex parte or after notice and hearing, restraining orders that:~~

~~(1) — Enjoin any person from molesting, attacking, striking, sexually assaulting, stalking, or battering any of the persons listed in (c) or (d);~~

~~(2) — Exclude any person from the dwelling of the person who has care, custody, and control of the child named in (c)(1) or (3). This order may be issued for the time and on the conditions that the court determines, regardless of which party holds legal or equitable title or is the lessee of the residence or dwelling, on a showing that:~~

~~(A) — The party who will stay in the dwelling has a right under color of law to possession of the premises;~~

~~(B) — The party to be excluded has assaulted or threatened to assault the other party or any other person under the care, custody, and control of the other party, or any minor child of the parties or of the other party; and~~

~~(C) — Physical or emotional harm would otherwise result to the other party, to any person under the care, custody, and control of the other party, or to any minor child of the parties or of the other party;~~

~~(3) — Enjoin any person from behavior, including contacting, threatening, or disturbing the peace of the persons named in (c) or (d), as necessary to effectuate orders under (e)(1) or (2); and~~

~~(4) — Enjoin any delinquent child or any child for whom a section 601 or 602 petition has been filed from contacting, threatening, stalking, or disturbing the peace of any person;~~

1           (A) ~~Whom the court finds to be at risk from the conduct of the child; or~~

2  
3           (B) ~~With whom association would be detrimental to the child.~~

4  
5   **(f)(d) Ex parte Applications—procedure (§ 213.5(a)–(c) and (f))**

6  
7           The application may be submitted ~~ex parte~~ without notice, and the court may grant  
8           the petition and issue a temporary order. ~~The matter may be heard simultaneously~~  
9           ~~with any scheduled hearing regarding the child who is the subject of the section~~  
10           ~~300, 601, or 602 petition. Notice of the ex parte proceeding is required as stated~~  
11           ~~under rule 3.1204.~~

12  
13           (1) In determining whether or not to issue the temporary restraining order ~~ex~~  
14           ~~parte~~ without notice, the court must consider all documents submitted with  
15           the application and may review the contents of the juvenile court file  
16           regarding the child.

17  
18           (2) The temporary restraining order must be prepared on *Restraining Order—*  
19           *Juvenile (CLETS—JUV)* (form JV-250) and must state on its face the date of  
20           expiration of the order.

21  
22           *(Subd (d) amended and relettered effective January 1, 2012; adopted as subd (c);*  
23           *previously amended and relettered as subd (f) effective January 1, 2003; previously*  
24           *amended effective January 1, 2007.)*

25  
26   **(g)(c) Order to show cause and reissuance (§ 213.5(e)) Reissuance**

27  
28           ~~When a temporary restraining order is granted without notice, the matter must be~~  
29           ~~made returnable on an order to show cause why the order should not be granted, no~~  
30           ~~later than 15 days or, on a showing of good cause, 20 days from the date the~~  
31           ~~temporary restraining order is granted.~~

32  
33           (1) ~~On the motion of the person seeking the restraining order or on its own~~  
34           ~~motion, the court may shorten the time for service of the order to show cause~~  
35           ~~on the person to be restrained.~~

36  
37           (2)(1) The court may, on its own motion or the filing of ~~an affidavit~~ a declaration by  
38           the person seeking the restraining order, find that the person to be restrained  
39           could not be served within the time required by the law and reissue an order  
40           previously issued and dissolved by the court for failure to serve the person to  
41           be restrained.

42  
43           (2) The reissued order must state on its face the date of expiration of the order.

1  
2 (3) *Application and Order for Reissuance of Order to Show Cause* (form FL-  
3 306/JV-251) must be used for this purpose.

4  
5 *(Subd (e) amended and relettered effective January 1, 2012; adopted as subd (g) effective*  
6 *January 1, 2003; previously amended effective January 1, 2004, and January 1, 2007.)*

7  
8 **(h)(f) Hearing on application for restraining order (§ 213.5(d) and (f))**

9  
10 ~~The court may issue, after notice and hearing, any of the orders in (e). The~~  
11 ~~restraining order must remain in effect for a period of time determined by the court,~~  
12 ~~but in any case not more than three years.~~

13  
14 ~~(1) The matter may be heard simultaneously with any scheduled hearing~~  
15 ~~regarding the child who is the subject of the section 300, 601, or 602 petition.~~

16  
17 ~~(2)(1) Proof may be by the application and any attachments, additional declarations~~  
18 ~~or documentary evidence, the contents of the juvenile court file, testimony, or~~  
19 ~~any combination of these.~~

20  
21 ~~(3)(2) The order after hearing must be prepared on *Restraining Order—Juvenile*~~  
22 ~~(*CLETS—JUV*) (form JV-250) and must state on its face the date of~~  
23 ~~expiration of the order.~~

24  
25 *(Subd (f) amended and relettered effective January 1, 2012; adopted as subd (d);*  
26 *previously amended and relettered as subd (h) effective January 1, 2003; previously*  
27 *amended effective January 1, 2007.)*

28  
29 **(g) Service of restraining order**

30  
31 When service of *Restraining Order—Juvenile* (form JV-250) is made, it must be  
32 served with *Proof of Firearms Turned In or Sold* (form DV-800/JV-252) and *How*  
33 *Do I Turn In or Sell Firearms?* (form DV-800-INFO/JV-252-INFO). Failure to  
34 serve form JV-252 or JV-252-INFO does not make service of form JV-250 invalid.

35  
36 *(Subd (g) adopted effective January 1, 2012.)*

37  
38 **(h) Expiration of restraining order**

39  
40 If the juvenile case is dismissed, the restraining order remains in effect until it  
41 expires or is terminated.

42  
43 *(Subd (h) adopted effective January 1, 2012.)*

1  
2 **(i) Criminal records search (§ 213.5(k) and Stats. 2001, ch. 572, § 7)**

3  
4 \*\*\*

5  
6 *(Subd (i) amended effective January 1, 2012; adopted effective January 1, 2003;*  
7 *previously amended effective January 1, 2007.)*  
8

9 ~~**(j) Termination or extension of restraining order (§ 213.5(d))**~~

10  
11 ~~(1) The restraining order may be terminated by the court before the expiration~~  
12 ~~date listed on its face.~~

13  
14 ~~(2) The restraining order may be extended beyond the expiration date listed on~~  
15 ~~its face by mutual consent of all parties to the order, or by further order of the~~  
16 ~~court on motion of any party to the order.~~

17  
18 **(j) Modification of restraining order**

19  
20 (1) A restraining order may be modified on the court's own motion or in the  
21 manner provided for in Welfare and Institutions Code section 388 and rule  
22 5.560.

23  
24 (2) A termination or modification order must be made on *Change to Restraining*  
25 *Order After Hearing* (form JV-255).

26  
27 *(Subd (j) adopted effective January 1, 2012.)*  
28

29 ~~**(k) Violation (§ 213.5(h))**~~

30  
31 ~~Any willful and knowing violation of any order, temporary order, or order after~~  
32 ~~hearing granted under section 213.5 is a misdemeanor, punishable under Penal~~  
33 ~~Code section 273.65.~~

34  
35 ~~**(k)**~~ **Restraining orders issued by other courts (§ 304)**

36  
37 ~~(1) If a A restraining order has been issued by the juvenile court under section~~  
38 ~~213.5, no court other than a criminal court may issue any order contrary to~~  
39 ~~the juvenile court's restraining order. takes precedence over any other court~~  
40 ~~order except the following:~~

41  
42 ~~(A) A conflicting criminal court order; or~~  
43

1 (B) An Emergency Protective Order that is more restrictive than the  
2 juvenile court order.

3  
4 (Subd (k) amended and relettered effective January 1, 2012; adopted as subd (l) effective  
5 January 1, 2003; previously amended effective January 1, 2007.)

6  
7 Rule 5.630 amended effective January 1, 2012; adopted as rule 1429.5 effective January 1, 2000;  
8 previously amended effective January 1, 2003, and January 1, 2004; amended and renumbered  
9 effective January 1, 2007.

10  
11  
12 **Rule 5.645. Mental health or condition of child; court procedures**

13  
14 (a)–(c)\*\*\*

15  
16 (d) **Doubt as to capacity to cooperate with counsel (§§ 601, 602; Pen. Code, § 1367)**

17  
18 (1) If the court finds that there is ~~reason to doubt~~ substantial evidence that a child  
19 who is the subject of a petition filed under section 601 or 602 ~~is capable of~~  
20 ~~understanding the proceedings or of cooperating with the child's attorney,~~  
21 lacks sufficient present ability to consult with counsel and assist in preparing  
22 his or her defense with a reasonable degree of rational understanding, or lacks  
23 a rational as well as factual understanding of the nature of the charges or  
24 proceedings against him or her, the court must ~~stay~~ suspend the proceedings  
25 and conduct a hearing regarding the child's competence. Evidence is  
26 substantial if it raises a reasonable doubt about the child's competence to  
27 stand trial.

28  
29 (1)(A) The court ~~may~~ must appoint an expert to examine the child to  
30 evaluate ~~the child's capacity to understand the proceedings and to~~  
31 ~~cooperate with the attorney whether the child suffers from a mental~~  
32 disorder, developmental disability, developmental immaturity, or other  
33 condition and, if so, whether the condition or conditions impair the  
34 child's competency.

35  
36 (B) To be appointed as an expert, an individual must be a:

37  
38 (i) Licensed psychiatrist who has successfully completed four years  
39 of medical school and either four years of general psychiatry  
40 residency, including one year of internship and two years of child  
41 and adolescent fellowship training, or three years of general  
42 psychiatry residency, including one year of internship and one

1 year of residency that focus on children and adolescents and one  
2 year of child and adolescent fellowship training; or

3  
4 (ii) Clinical, counseling, or school psychologist who has received a  
5 doctoral degree in psychology from an educational institution  
6 accredited by an organization recognized by the Council for  
7 Higher Education Accreditation and who is licensed as a  
8 psychologist.

9  
10 (C) The expert, whether a licensed psychiatrist or psychologist, must:

11  
12 (i) Possess demonstrable professional experience addressing child  
13 and adolescent developmental issues, including the emotional,  
14 behavioral, and cognitive impairments of children and  
15 adolescents;

16  
17 (ii) Have expertise in the cultural and social characteristics of  
18 children and adolescents;

19  
20 (iii) Possess a curriculum vitae reflecting training and experience in  
21 the forensic evaluation of children;

22  
23 (iv) Be familiar with juvenile competency standards and accepted  
24 criteria used in evaluating juvenile competence;

25  
26 (v) Possess a comprehensive understanding of effective interventions  
27 as well as treatment, training, and programs for the attainment of  
28 competency available to children and adolescents; and

29  
30 (vi) Be proficient in the language preferred by the child, or if that is  
31 not feasible, employ the services of a certified interpreter and use  
32 assessment tools that are linguistically and culturally appropriate  
33 for the child.

34  
35 (2) ~~If the court finds that the child is not capable of understanding the~~  
36 ~~proceedings or of cooperating with the attorney, the court must proceed under~~  
37 ~~section 6550 and (a)–(c) of this rule. Nothing in this rule precludes~~  
38 ~~involvement of clinicians with other professional qualifications from~~  
39 ~~participation as consultants or witnesses or in other capacities relevant to the~~  
40 ~~case.~~

41  
42 (3) ~~If the court finds that the child is capable of understanding the proceedings~~  
43 ~~and of cooperating with the attorney, the court must proceed with the case.~~

1                    Following the hearing on competence, the court must proceed as directed in  
2                    section 709.

3  
4                    *(Subd (d) amended effective January 1, 2012; previously amended effective January 1,*  
5                    *2007.)*

6  
7                    *Rule 5.645 amended effective January 1, 2012; adopted as rule 1498 effective January 1, 1999;*  
8                    *previously amended and renumbered effective January 1, 2007; previously amended effective*  
9                    *January 1, 2009.*

10  
11                    **Advisory Committee Comment**

12  
13                    Welfare and Institutions Code section 709(b) mandates that the Judicial Council develop and  
14                    adopt rules regarding the qualification of experts to determine competency for purposes of  
15                    juvenile adjudication. Upon a court finding of incompetency based on a developmental disability,  
16                    the regional center determines eligibility for services under Division 4.5 of the Lanterman  
17                    Developmental Disabilities Services (Welf. & Inst. Code, § 4500 et seq.).

18  
19  
20                    **Rule 5.707. Review hearing requirements for child approaching majority (§§ 224.1,**  
21                    **366(a)(1)(F), 366.3(l), 366.3(n), 16501.1(f)(16)**

22  
23                    **(a) Reports**

24  
25                    At the last review hearing before the child attains 18 years of age held under  
26                    section 366.21, 366.22, 366.25, or 366.3, in addition to complying with all other  
27                    statutory and rule requirements applicable to the report prepared by the social  
28                    worker for the hearing, the report must include a description of:

- 29  
30                    (1)    The child’s plans to remain under juvenile court jurisdiction as a nonminor  
31                    dependent including the criteria in section 11403(b) that he or she plans to  
32                    meet;  
33  
34                    (2)    The efforts made by the social worker to help the child meet the criteria in  
35                    section 11403(b);  
36  
37                    (3)    For an Indian child to whom the Indian Child Welfare Act applies, his or her  
38                    plans to continue to be considered an Indian child for the purposes of the  
39                    ongoing application of the Indian Child Welfare Act to him or her as a  
40                    nonminor dependent;  
41  
42                    (4)    Whether the child has applied for and, if so, the status of any in-progress  
43                    application pending for title XVI Supplemental Security Income benefits and,

1 if such an application is pending, whether it will be the child’s best interest to  
2 continue juvenile court jurisdiction until a final decision is issued to ensure  
3 that the child receives continued assistance with the application process;  
4

5 (5) Whether the child has an in-progress application pending for Special Juvenile  
6 Immigration Status or other applicable application for legal residency and  
7 whether an active dependency case is required for that application;  
8

9 (6) The efforts made by the social worker toward providing the child with the  
10 written information described in section 391(e)(1), and to the extent that the  
11 child has not yet been provided with the information, the barriers to providing  
12 that information, and the steps that will be taken to overcome those barriers  
13 by the date the child attains 18 years of age;  
14

15 (7) The efforts made by the social worker toward completing and providing the  
16 child with the documents and services described in section 391(e)(2), and to  
17 the extent that the child has not yet been provided with them, the barriers to  
18 providing documents and services, and the steps that will be taken to  
19 overcome those barriers by the date the child attains 18 years of age;  
20

21 (8) When and how the child was informed of his or her right to have juvenile  
22 court jurisdiction terminated when he or she attains 18 years of age;  
23

24 (9) When and how the child was provided with information about the potential  
25 benefits of remaining under juvenile court jurisdiction as a nonminor  
26 dependent and the social worker’s assessment of the child’s understanding of  
27 those benefits; and  
28

29 (10) When and how the child was informed that if juvenile court jurisdiction is  
30 terminated, he or she has the right to file a request to return to foster care and  
31 have the juvenile court resume jurisdiction over him or her as a nonminor  
32 dependent.  
33

34 **(b) Transitional Independent Living Case Plan**  
35

36 At the last review hearing before the child attains 18 years of age held under  
37 section 366.21, 366.22, 366.25, or 366.3, the child’s Transitional Independent  
38 Living Case Plan:  
39

40 (1) Must be submitted with the social worker’s report prepared for the hearing at  
41 least 10 calendar days before the hearing; and  
42

43 (2) Must include:

- 1  
2 (A) The individualized plan for the child to satisfy one or more of the  
3 criteria in section 11403(b) and the child's anticipated placement as  
4 specified in section 11402; and  
5  
6 (B) The child's alternate plan for his or her transition to independence,  
7 including housing, education, employment, and a support system in the  
8 event the child does not remain under juvenile court jurisdiction after  
9 attaining 18 years of age.

10  
11 **(c) Findings**

- 12  
13 (1) At the last review hearing before the child attains 18 years of age held under  
14 section 366.21, 366.22, 366.25, or 366.3, in addition to complying with all  
15 other statutory and rule requirements applicable to the hearing, the court must  
16 find on the record and in the written, signed orders:  
17  
18 (A) Whether the child's Transitional Independent Living Case Plan  
19 includes a plan for the child to satisfy one or more of the criteria in  
20 section 11403(b) and the specific criteria it is anticipated the child will  
21 satisfy;  
22  
23 (B) Whether there is included in the child's Transitional Independent  
24 Living Case Plan an alternative plan for the child's transition to  
25 independence, including housing, education, employment, and a  
26 support system in the event the child does not remain under juvenile  
27 court jurisdiction after attaining 18 years of age;  
28  
29 (C) For an Indian child to whom the Indian Child Welfare Act applies,  
30 whether he or she intends to continue to be considered an Indian child  
31 for the purposes of the ongoing application of the Indian Child Welfare  
32 Act to him or her as a nonminor dependent;  
33  
34 (D) Whether the child has an in-progress application pending for title XVI  
35 Supplemental Security Income benefits and, if such an application is  
36 pending, whether it is in the child's best interest to continue juvenile  
37 court jurisdiction until a final decision has been issued to ensure that  
38 the child receives continued assistance with the application process;  
39  
40 (E) Whether the child has an in-progress application pending for Special  
41 Juvenile Immigration Status or other applicable application for legal  
42 residency and whether an active dependency case is required for that  
43 application;

1  
2 (F) Whether all the information, documents, and services in sections 391(e)  
3 were provided to the child, and

4  
5 (i) Whether the barriers to providing any missing information,  
6 documents, or services can be overcome by the date the child  
7 attains 18 years of age; and

8  
9 (ii) Whether juvenile court jurisdiction should be continued to ensure  
10 that all information, documents, and services are provided to the  
11 child if the barriers cannot be overcome by the date the child  
12 attains 18 years of age;

13  
14 (G) Whether the child has been informed of his or her right to have juvenile  
15 court jurisdiction terminated when he or she attains 18 years of age;

16  
17 (H) Whether the child understands the potential benefits of remaining under  
18 juvenile court jurisdiction as a nonminor dependent; and

19  
20 (I) Whether the child has been informed that if juvenile court jurisdiction  
21 is terminated, he or she has the right to file a request to return to foster  
22 care and have the juvenile court resume jurisdiction over him or her as  
23 a nonminor dependent.

24  
25 (2) The hearing must be continued for no more than five court days for the  
26 submission of additional information as ordered by the court if the court finds  
27 that the report and Transitional Independent Living Case Plan submitted by  
28 the social worker do not provide the information required by (a) and (b) and  
29 the court is unable to make all the findings required by (c)(1).

30  
31 **(d) Orders**

32  
33 (1) For a child who intends to remain under juvenile court jurisdiction as a  
34 nonminor dependent, as defined in section 11400(v), after attaining 18 years  
35 of age, the court must set a nonminor dependent review hearing under rule  
36 5.903 within six months from the date of the current hearing.

37  
38 (2) For a child who does not intend to remain under juvenile court as a nonminor  
39 dependent, as defined in section 11400(v), after attaining 18 years of age, the  
40 court must:

- 1 (A) Set a hearing under rule 5.555 for a date within one month after the  
2 child's 18th birthday, for the child who requests that the juvenile court  
3 terminate its jurisdiction after he or she attains 18 years of age; or  
4  
5 (B) Set a hearing under section 366.21, 366.22, 366.25, or 366.3 no more  
6 than six months from the date of the current hearing, for a child who  
7 will remain under juvenile court jurisdiction in a foster care placement.  
8

9 *Rule 5.707 adopted effective January 1, 2012.*

10  
11 **Rule 5.740. Hearings subsequent to a permanent plan (§§ 366.26, 366.3, ~~391~~)**

12  
13 (a)–(c) \*\*\*

14  
15 ~~(d) Hearings on termination of jurisdiction-child reaching age of majority (§ 391)~~

16  
17 ~~Petitioner must file *Termination of Dependency Jurisdiction-Child Attaining Age of*~~  
18 ~~*Majority (Juvenile)* (form JV-365) with the court at least 10 calendar days before~~  
19 ~~the hearing to terminate dependency jurisdiction based on the child's age and must~~  
20 ~~provide copies to the child, the parents or guardians, any CASA volunteer, and all~~  
21 ~~counsel of record at least 10 calendar days before the hearing.~~  
22

23 *Rule 5.740 amended effective January 1, 2012; adopted as rule 1465 effective January 1, 1991;*  
24 *previously renumbered as rule 1466 effective July 1, 1995; previously amended and renumbered*  
25 *effective January 1, 2007; previously amended effective January 1, 1992, January 1, 1993,*  
26 *January 1, 1994, July 1, 1994, January 1, 1998, January 1, 1999, July 1, 1999, July 1, 2002,*  
27 *January 1, 2005, January 1, 2006, and July 1, 2010.*  
28

29 **Rule 5.812. Additional requirements for any hearing to terminate jurisdiction over**  
30 **child in foster care and for status review hearing for child approaching**  
31 **majority (§§ 450, 451, 727.2(i)–(j), 778)**

32  
33 (a) **Hearings subject to this rule**

34  
35 The following hearings are subject to this rule:

- 36  
37 (1) The last review hearing under section 727.2 or 727.3 before the child turns 18  
38 years of age. This hearing must be set at least 90 days before the child attains  
39 his or her 18th birthday and within six months of the previous hearing held  
40 under section 727.2 or 727.3.  
41

- 1           (2) Any review hearing held under section 727.2 or 727.3 for a child less than 18  
2 years of age during which a recommendation to terminate juvenile court  
3 jurisdiction will be considered;  
4
- 5           (3) Any hearing to terminate juvenile court jurisdiction over a child less than 18  
6 years of age who is subject to an order for foster care placement; and  
7
- 8           (4) Any hearing to terminate juvenile court jurisdiction over a child less than 18  
9 years of age who is not currently subject to an order for foster care  
10 placement, but was previously removed from the custody of his or her parents  
11 or legal guardian as a dependent of the juvenile court and an order for a foster  
12 care placement as a dependent of the juvenile court was in effect at the time  
13 the juvenile court adjudged the child to be a ward of the juvenile court under  
14 section 725.  
15

16 **(b) Conduct of the hearing**

- 17
- 18           (1) The hearing must be held before a judicial officer and recorded by a court  
19 reporter.  
20
- 21           (2) The hearing must be continued for no more than five court days for the  
22 submission of additional information as ordered by the court if the court finds  
23 that the report and, if required, the Transitional Independent Living Plan  
24 submitted by the probation officer do not provide the information required by  
25 (c) and the court is unable to make all the findings required by (d).  
26

27 **(c) Reports**

- 28
- 29           (1) In addition to complying with all other statutory and rule requirements  
30 applicable to the report prepared by the probation officer for a hearing  
31 described in (a)(1)–(4), the report must include verification that the  
32 requirements of section 607.5 have been completed and a description of:  
33
- 34               (A) The child’s progress toward meeting the case plan goals that will  
35 enable him or her to be a law-abiding and productive member of his or  
36 her family and the community.  
37
- 38               (B) If reunification services have not been previously terminated, the  
39 progress of each parent or legal guardian toward participating in case  
40 plan service activities and meeting the case plan goals developed to  
41 assist in the efforts to resolve his or her issues that were identified and  
42 contributed to the child’s removal from his or her custody.  
43

1 (C) The current ability of each parent or legal guardian to provide the care,  
2 custody, supervision, and support the child requires in a safe and  
3 healthy environment.

4  
5 (D) For a child previously determined to be a dual status child for whom  
6 juvenile court jurisdiction as dependent was suspended under section  
7 241.1(e)(5)(A), a joint assessment by the probation department and the  
8 child welfare services agency under section 366.5 regarding the  
9 detriment, if any, to the child of a return to the home of his or her  
10 parents or legal guardian and a recommendation on the resumption of  
11 dependency jurisdiction. The facts in support of the opinions expressed  
12 and the recommendations made must be included in the joint  
13 assessment section of the report. If the probation department and the  
14 child welfare services agency do not agree, the child welfare services  
15 agency must file a separate report with facts in support of its opinions  
16 and recommendations.

17  
18 (E) For a child previously determined to be a dual status child for whom  
19 the probation department was designated the lead agency under section  
20 241.1(e)(5)(B), the detriment, if any, to the child of a return to the  
21 home of his or her parents or legal guardian and the probation officer's  
22 recommendation regarding the modification of the court's jurisdiction  
23 over the child from that of a dual status child to that of a child under  
24 the court's jurisdiction as a dependent under section 300 and the facts  
25 in support of the opinion expressed and the recommendation made.

26  
27 (F) For a child other than a dual status child, the probation officer's  
28 recommendation regarding the modification of the juvenile court's  
29 jurisdiction over the child from that of a ward under section 601 or 602  
30 to that of a dependent under section 300 or to that of a transition  
31 dependent under section 450 and the facts in support of his or her  
32 recommendation.

33  
34 (2) For the review hearing held on behalf of a child approaching majority  
35 described in (a)(1) and any hearing described in (a)(2) or (a)(3) held on  
36 behalf of a child more than 17 years, 5 months old and less than 18 years of  
37 age, in addition to complying with all other report requirements set forth in  
38 (c)(1), the report prepared by the probation officer must include:

39  
40 (A) The child's plans to remain under juvenile court jurisdiction as a  
41 nonminor dependent including the criteria in section 11403(b) that he  
42 or she plans to meet;

- 1 (B) The efforts made by the probation officer to help the child meet the  
2 criteria in section 11403(b);  
3
- 4 (C) For an Indian child, his or her plans to continue to be considered an  
5 Indian child for the purposes of the ongoing application of the Indian  
6 Child Welfare Act to him or her as a nonminor dependent;  
7
- 8 (D) Whether the child has applied for and, if so, the status of any in-  
9 progress application pending for title XVI Supplemental Security  
10 Income benefits and, if such an application is pending, whether it is in  
11 the child's best interest to continue juvenile court jurisdiction until a  
12 final decision has been issued to ensure that the child receives  
13 continued assistance with the application process;  
14
- 15 (E) Whether the child has an in-progress application pending for Special  
16 Juvenile Immigration Status or other applicable application for legal  
17 residency and whether an active juvenile court case is required for that  
18 application;  
19
- 20 (F) The efforts made by the probation officer toward providing the child  
21 with the written information described in section 391(e)(1), and to the  
22 extent that the child has not yet been provided with the information, the  
23 barriers to providing the information, and the steps that will be taken to  
24 overcome those barriers by the date the child attains 18 years of age;  
25
- 26 (G) The efforts made by the probation officer toward completing and  
27 providing the child with the items described in section 391(e)(2), and to  
28 the extent that the child has not yet been provided with each of the  
29 documents and services, the barriers to providing those items, and the  
30 steps that will be taken to overcome those barriers by the date the child  
31 attains 18 years of age;  
32
- 33 (H) When and how the child was informed that upon reaching 18 years of  
34 age he or she may request the dismissal of juvenile court jurisdiction  
35 over him or her under section 778;  
36
- 37 (I) When and how the child was provided with information regarding the  
38 potential benefits of remaining under juvenile court jurisdiction as a  
39 nonminor dependent and the probation officer's assessment of the  
40 child's understanding of those benefits;  
41
- 42 (J) When and how the child was informed that if juvenile court jurisdiction  
43 is terminated, he or she has the right to file a request to return to foster

1 care and have the juvenile court assume or resume transition  
2 jurisdiction over him or her as a nonminor dependent; and

3  
4 (K) The child's Transitional Independent Living Plan, which must include:

5  
6 (i) The individualized plan for the child to satisfy one or more of the  
7 criteria in section 11403(b) and the child's anticipated placement  
8 as specified in section 11402; and

9  
10 (ii) The child's alternate plan for his or her transition to  
11 independence, including housing, education, employment, and a  
12 support system in the event the child does not remain under  
13 juvenile court jurisdiction after attaining 18 years of age.

14 **(d) Findings**

15  
16 (1) At the hearing described in (a)(1)–(4), in addition to complying with all other  
17 statutory and rule requirements applicable to the hearing, the court must find  
18 on the record and in the written, signed orders:

19  
20 (A) Whether the rehabilitative goals for this child have been met and  
21 juvenile court jurisdiction over the child as a ward is no longer  
22 required. The facts supporting the finding must be stated on the record.

23  
24 (B) For a dual status child for whom dependency jurisdiction was  
25 suspended under section 241.1(e)(5)(A) whether the return to the home  
26 of the parent or legal guardian would be detrimental to the minor. The  
27 facts supporting the finding must be stated on the record.

28  
29 (C) For a child previously determined to be a dual status child for whom  
30 the probation department was designated the lead agency under section  
31 241.1(e)(5)(B), whether the return to the home of the parent or legal  
32 guardian would be detrimental to the minor. The facts supporting the  
33 finding must be stated on the record.

34  
35 (D) For a child other than a dual status child:

36  
37 (i) Whether the child is at risk of abuse or neglect. The facts  
38 supporting the finding must be stated on the record;

39  
40 (ii) Whether the return to the home of the parent or legal guardian  
41 would create a substantial risk of detriment to the child's safety,  
42 protection, or physical or emotional well-being. The facts  
43 supporting the finding must be stated on the record

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- (iii) Whether reunification services have been terminated;
- (iv) Whether the matter has been set for a hearing to terminate parental rights or establish a guardianship; and
- (v) Whether the minor intends to sign a mutual agreement for a placement in a supervised setting as a nonminor dependent.

(2) At the review hearing held on behalf of a child approaching majority described in (a)(1) and any hearing under (a)(2) or (a)(3) held on behalf of a child more than 17 years, 5 months old and less than 18 years of age, in addition to complying with all other statutory and rule requirements applicable to the hearing, the court must find on the record and in the written, signed orders:

- (A) Whether the child’s Transitional Independent Living Case Plan, if required, or Transitional Independent Living Plan, includes:
  - (i) A plan specific to the child for him or her to satisfy one or more of the criteria in section 11403(b) and the specific criteria in section 11403(b) it is anticipated the child will satisfy; and
  - (ii) 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.
- (B) For an Indian child to whom the Indian Child Welfare Act applies, whether he or she intends 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;
- (C) Whether the child has an 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;
- (D) Whether the child has an in-progress application pending for Special Juvenile Immigration Status or other applicable application for legal residency and an active juvenile court case is required for that application;

- 1  
2 (E) Whether the child has been informed that he or she may decline to  
3 become a nonminor dependent;  
4  
5 (F) Whether the child has been informed that upon reaching 18 years of  
6 age he or she may request the dismissal of juvenile court jurisdiction  
7 over him or her under section 778;  
8  
9 (G) Whether the child understands the potential benefits of remaining under  
10 juvenile court jurisdiction as a nonminor dependent; and  
11  
12 (H) Whether the child has been informed that if juvenile court jurisdiction  
13 is terminated, he or she has the right to file a request to return to foster  
14 care and have the juvenile court assume or resume transition  
15 jurisdiction over him or her as a nonminor dependent;  
16  
17 (I) Whether all the information, documents, and services in sections 391(e)  
18 were provided to the child, and  
19  
20 (i) Whether the barriers to providing any missing information,  
21 documents or services can be overcome by the date the child  
22 attains 18 years of age; and  
23  
24 (ii) Whether juvenile court jurisdiction should be continued to ensure  
25 that all information, documents, and services are provided to the  
26 child if the barriers cannot be overcome by the child attains 18  
27 years of ages; and  
28  
29 (J) Whether verification was submitted that the notices and information  
30 required under section 607.5 were provided to a child who is or was  
31 subject to an order for foster care placement.  
32

33 **(e) Orders**  
34

- 35 (1) For a child previously determined to be a dual status child for whom  
36 dependency jurisdiction was suspended under section 241.1(e)(5)(A),  
37 dependency jurisdiction must be resumed if the court finds that the child's  
38 rehabilitative goals have been achieved and a return to the home of the parent  
39 or legal guardian would be detrimental to the child.  
40  
41 (2) For a child previously determined to be a dual status child for whom the  
42 probation department was designated the lead agency under section  
43 241.1(e)(5)(B), the court must terminate dual status, dismiss delinquency

1 jurisdiction and continue dependency jurisdiction with the child welfare  
2 services department responsible for the child's placement if the court finds  
3 that the child's rehabilitative have been achieved and a return to the home of  
4 the parent or legal guardian would be detrimental to the child.  
5

6 (3) For a child who comes within the description of section 450(a), other than a  
7 child described in (e)(1) or (e)(2), the court must enter an order modifying its  
8 jurisdiction over him or her from delinquency jurisdiction to transition  
9 jurisdiction and set a nonminor dependent status review hearing under rule  
10 5.903 within six months of the last hearing held under section 727.2.  
11

12 (4) For a child who was not subject to the court's dependency jurisdiction at the  
13 time he or she was adjudged a ward and is currently subject to an order for a  
14 foster care placement the court must:  
15

16 (A) Order the probation department or the child's attorney to submit an  
17 application, under section 329, to the county child welfare services  
18 department to commence a proceeding to declare the child a dependent  
19 of the court by filing a petition under section 300 if the court finds:  
20

21 (i) The child does not come within the description of section 450(a);  
22

23 (ii) The rehabilitative goals for the child included in his or her case  
24 plan have been met and delinquency jurisdiction is no longer  
25 required; and  
26

27 (iii) The child appears to come within the description of section 300  
28 and a return to the home of the parent or legal guardian may be  
29 detrimental to his or her safety, protection, or physical or  
30 emotional well-being.  
31

32 (B) Set a hearing to review the county child welfare services department's  
33 decision within 20 court days of the date the order to file an application  
34 under section 329 was entered and at that hearing:  
35

36 (i) Affirm the county child welfare services department's decision  
37 not to file a petition under section 300; or  
38

39 (ii) Order the county child welfare services department to file a  
40 petition under section 300.  
41

42 (C) If the court affirms the decision not to file a petition under section 300  
43 or a petition filed under section 300 is not sustained, the court may:

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- (i) Return the child to the home of the parent or legal guardian and set a progress report hearing within the next six months;
- (ii) Return the child to the home of the parent or legal guardian and terminate juvenile court jurisdiction over the child; or
- (iii) Continue the child’s foster care placement and set a hearing under section 727.2 no more than six months from the date of the most recent hearing held under 727.2.

(5) For a child who was subject to an order for foster care placement as a dependent of the court at the time he or she was adjudged a ward, the court must modify its delinquency jurisdiction over the child by vacating the order terminating jurisdiction over the child as a dependent of the court and resuming dependency jurisdiction over him or her if the court finds:

- (A) The child does not come within the description of section 450(a);
- (B) The rehabilitative goals for the child included in his or her case plan have been met and delinquency jurisdiction may not be required; and
- (C) The child remains within the description of a dependent child under section 300 and a return to the home of a parent or legal guardian would create a substantial risk of detriment to his or her safety, protection, or physical or emotional well-being.

(6) At a hearing described in (a)(1) for a child approaching majority or at any hearing described in (a)(2) or (a)(3) held on behalf of a child more than 17 years, 5 months old and less than 18 years of age that did not result in modification of jurisdiction over the child from delinquency jurisdiction to dependency jurisdiction or transition jurisdiction, the court must:

- (A) Return the child to the home of the parent or legal guardian and set a progress report hearing within the next six months; or
- (B) Return the child to the home of the parent or legal guardian and terminate juvenile court jurisdiction over the child; or
- (C) Continue the child’s foster care placement and:
  - (i) For the child who intends to meet the eligibility requirements for status as a nonminor dependent after attaining 18 years of age,

1 the court must set a nonminor dependent review hearing under  
2 rule 5.903 no more than six months from the most recent hearing  
3 held under section 727.2; or  
4

5 (ii) For the child who does not intend to meet the eligibility  
6 requirements for nonminor dependent status after attaining 18  
7 years of age, the court must:  
8

9 a. Set a hearing to terminate delinquency jurisdiction under  
10 section 607.2(b)(4) and section 607.3 for a date within one  
11 month after the child's 18th birthday; or  
12

13 b. Set a hearing under section 727.2 no more than six months  
14 from the date of the most recent hearing held under section  
15 727.2 for the child who will remain under delinquency  
16 jurisdiction in a foster care placement.  
17

18 (7) At any hearing under (a)(2) or (a)(3) held on behalf of a child 17 years, 5  
19 months old or less that did not result in modification of jurisdiction over the  
20 child from delinquency jurisdiction to dependency jurisdiction, the court  
21 must:  
22

23 (A) Return the child to the home of the parent or legal guardian and set a  
24 progress report hearing within the next six months;  
25

26 (B) Return the child to the home of the parent or legal guardian and  
27 terminate juvenile court jurisdiction over the child; or  
28

29 (C) Continue the child's out-of-home placement and set a hearing under  
30 section 727.2 to occur within six months of the most recent hearing  
31 under section 727.2.  
32

33 (8) At any hearing under (a)(4) on behalf of a child less than 18 years of age that  
34 did not result in modification of jurisdiction over the child from delinquency  
35 jurisdiction to dependency jurisdiction, the court must:  
36

37 (A) Return the child to the home of the parent or legal guardian and set a  
38 progress report hearing within the next six months;  
39

40 (B) Return the child to the home of the parent or legal guardian and  
41 terminate juvenile court jurisdiction over the child; or  
42

1 (C) Continue the child’s out-of-home placement and set a progress report  
2 hearing within the next six months.

3  
4 **(f) Modification of jurisdiction—conditions**

5  
6 Whenever the court modifies its jurisdiction over a dependent or ward under section  
7 241.1, 607.2, or 727.2, the court must ensure that all of the following conditions are  
8 met:

9  
10 (1) The petition under which jurisdiction was taken at the time the dependent or  
11 ward was originally removed from his or her parents or legal guardian and  
12 placed in foster care is not dismissed until after the new petition is sustained;  
13 and

14  
15 (2) The order modifying the court’s jurisdiction contains all of the following  
16 provisions:

17  
18 (A) A reference to the original removal findings, the date those findings  
19 were made, and a statement that the finding, “continuation in the home  
20 is contrary to the child’s welfare,” and the finding, “reasonable efforts  
21 were made to prevent removal,” made at that hearing remain in effect;

22  
23 (B) A statement that the child continues to be removed from the parents or  
24 legal guardian from whom the child was removed under the original  
25 petition; and

26  
27 (C) Identification of the agency that is responsible for placement and care  
28 of the child based upon the modification of jurisdiction.

29  
30 *Rule 5.812 adopted effective January 1, 2012.*

31  
32  
33 **Chapter 14. Nonminor Dependent**

34  
35 *Title 5, Family and Juvenile Rules—Division 3, Juvenile rules—Chapter 14, Nonminor Dependent;*  
36 *adopted effective January 1, 2012.*

37  
38 **Rule 5.900. Nonminor dependent—preliminary provisions (§§ 224.1(b), 295, 303,**  
39 **366, 366.3, 388, 391, 607(a))**

40  
41 **(a) Applicability**

1           (1) The provisions of this chapter apply to nonminor dependents as defined in  
2           section 11400(v).

3  
4           (2) Nothing in the Welfare and Institutions Code or in the California Rules of  
5           Court restricts the ability of the juvenile court to maintain dependency  
6           jurisdiction or delinquency jurisdiction over a person, 18 years of age and  
7           older, who does not meet the eligibility requirements for status as a nonminor  
8           dependent and to proceed as to that person under the relevant sections of the  
9           Welfare and Institutions Code and California Rules of Court.

10  
11       **(b) Purpose**

12  
13           Maintaining juvenile court jurisdiction under section 300,450, 601, or 602 over a  
14           person as a nonminor dependent is the result of a consensual agreement between  
15           the person and child welfare services agency or the probation department for a  
16           voluntary placement in a supervised setting and includes the agreement between the  
17           social worker or probation officer and the person to work together to facilitate the  
18           implementation of the mutually developed supervised placement agreement or  
19           reentry agreement and Transitional Independent Living Case Plan. Maintaining  
20           juvenile court jurisdiction and supervision by the child welfare services agency or  
21           probation department is for the purpose of providing support, guidance, and foster  
22           care services to the person as a nonminor dependent so he or she is able to  
23           successfully achieve independence.

24  
25       **(c) Legal status**

26  
27           (1) Nothing in the Welfare and Institutions Code, including sections 340, 366.2,  
28           and 369.5, or in the California Rules of Court provides legal custody of a  
29           nonminor dependent to the child welfare services agency or the probation  
30           department or abrogates any right the nonminor dependent, as a person who  
31           has attained 18 years of age, may have as an adult under California law.

32  
33           (2) A nonminor dependent retains all his or her legal decision-making authority  
34           as an adult.

35  
36       **(d) Conduct of hearings**

37  
38           (1) All hearings involving a person who is a nonminor dependent must be  
39           conducted in a manner that respects the person's legal status as an adult.

40  
41           (2) Unless there is a contested issue of fact or law, the hearings must be informal  
42           and nonadversarial and all parties must work collaboratively with the

1 nonminor dependent as he or she moves toward the achievement of his or her  
2 Transitional Independent Living Case Plan goals.

3  
4 (3) The nonminor dependent may designate his or her attorney to appear on his  
5 or her behalf at a hearing under this chapter.

6  
7 **(e) Telephone appearance**

8  
9 (1) The person who is the subject of the hearing may appear, at his or her  
10 request, by telephone at a hearing to terminate juvenile court jurisdiction held  
11 under rule 5.555, a status review hearing under rule 5.903, or a hearing on a  
12 request to have juvenile court jurisdiction resumed held under rule 5.906.  
13 Rule 5.531 applies to telephone appearances under this paragraph.

14  
15 (2) The court may require the nonminor dependent or the person requesting to  
16 return to juvenile court jurisdiction and foster care to appear personally on a  
17 showing of good cause and a showing that the personal appearance will not  
18 create an undue hardship for him or her.

19  
20 (3) The telephone appearance must be permitted at no cost to the nonminor  
21 dependent or the person requesting to return juvenile court jurisdiction and  
22 foster care.

23  
24 *Rule 5.900 adopted effective January 1, 2012.*

25  
26 **Rule 5.903. Nonminor dependent status review hearing (§§ 224.1(b), 295, 366(f),**  
27 **366.1, 366.3)**

28  
29 **(a) Purpose**

30  
31 The primary purpose of the nonminor dependent status review hearing is to focus  
32 on the goals and services described in the nonminor dependent's Transitional  
33 Independent Living Case Plan and the efforts and progress made toward achieving  
34 independence and establishing lifelong connections with caring and committed  
35 adults.

36  
37 **(b) Setting and conduct of a nonminor dependent status review hearing**

38  
39 (1) A status review hearing for a nonminor dependent conducted by the court or  
40 by a local administrative review panel must occur no less frequently than  
41 once every 6 months.

1           (2) The hearing must be placed on the appearance calendar, held before a judicial  
2 officer, and recorded by a court reporter under any of the following  
3 circumstances:

4  
5           (A) The hearing is the first hearing following the nonminor dependent's  
6 18th birthday;

7  
8           (B) The hearing is the first hearing following the resumption of juvenile  
9 court jurisdiction over a person as a nonminor dependent under rule  
10 5.906;

11  
12           (C) The nonminor dependent or the nonminor dependent's attorney  
13 requests that the hearing be conducted by the court; or

14  
15           (D) It has been 12 months since the hearing was conducted by the court.

16  
17           (3) The hearing may be attended, as appropriate, by participants invited by the  
18 nonminor dependent in addition to those entitled to notice under (c).

19  
20           (4) The nonminor dependent may appear by telephone as provided in rule 5.900  
21 at a hearing conducted by the court.

22  
23           (5) The hearing must be continued for no more than five court days for the social  
24 worker, probation officer, or nonminor dependent to submit additional  
25 information as ordered by the court if the court determines that the report and  
26 Transitional Independent Living Case Plan submitted by the social worker or  
27 probation officer do not provide the information required by (d)(1) and the  
28 court is unable to make all the findings and orders required by (e).

29  
30           (c) **Notice of hearing (§ 295)**

31  
32           (1) The social worker or probation officer must serve written notice of the  
33 hearing in the manner provided in section 295, and to all persons required to  
34 receive notice under section 295, except notice to the parents of the nonminor  
35 dependent is not required.

36  
37           (2) The written notice served on the nonminor dependent must include:

38  
39           (A) A statement that he or she may appear for the hearing by telephone; and

40  
41           (B) Instructions about the local court procedures for arranging to appear  
42 and appearing at the hearing by telephone.

1           (3) Proof of service of notice must be filed by the social worker or probation  
2           officer at least five court days before the hearing.

3  
4   **(d) Reports**

5  
6           (1) The social worker or probation officer must submit a report to the court that  
7           includes information regarding:

8  
9           (A) The continuing necessity for the nonminor dependent’s placement and  
10           the facts supporting the conclusion reached;

11  
12           (B) The appropriateness of the nonminor dependent’s current foster care  
13           placement;

14  
15           (C) The nonminor dependent’s plans to remain under juvenile court  
16           jurisdiction including the criteria in section 11403(b) that he or she  
17           meets;

18  
19           (D) The efforts made by the social worker or probation officer to help the  
20           nonminor dependent meet the criteria in section 11403(b);

21  
22           (E) Verification that the nonminor dependent was provided with the  
23           information, documents, and services as required under section 391(e);

24  
25           (F) How and when the Transitional Independent Living Case Plan was  
26           developed, including the nature and the extent of the nonminor  
27           dependent’s participation in its development, and for the nonminor  
28           dependent who has elected to have the Indian Child Welfare Act  
29           continue to apply, the extent of consultation with the tribal  
30           representative;

31  
32           (G) The efforts made by the social worker or probation officer to comply  
33           with the nonminor dependent’s Transitional Independent Living Case  
34           Plan, including efforts to finalize the permanent plan and prepare him  
35           or her for independence;

36  
37           (H) Progress made toward meeting the Transitional Independent Living  
38           Case Plan goals and the need for any modifications to assist the  
39           nonminor dependent in attaining the goals;

40  
41           (I) The efforts made by the social worker or probation officer to maintain  
42           relationships between the nonminor dependent and individuals who are  
43           important to him or her, including the efforts made to establish and

1 maintain relationships with caring and committed adults who can serve  
2 as a lifelong connection;

3  
4 (J) The efforts made by the social worker or probation officer to establish  
5 or maintain the nonminor dependent's relationship with his or her  
6 siblings who are under the juvenile court's jurisdiction as required in  
7 section 366(a)(1)(D).

8  
9 (2) The social worker or probation officer must submit with his or her report the  
10 Transitional Independent Living Case Plan.

11  
12 (3) The social worker or probation officer must file with the court the report  
13 prepared for the hearing and the Transitional Independent Living Case Plan at  
14 least 10 calendar days before the hearing, and provide copies of the report  
15 and other documents to the nonminor dependent, all attorneys of record, and  
16 for the nonminor dependent who has elected to have the Indian Child Welfare  
17 Act continue to apply, the tribal representative.

18  
19 **(e) Findings and orders**

20  
21 The court must consider the safety of the nonminor dependent, and the following  
22 judicial determinations and orders must be made on the record and included in the  
23 written, signed court documentation of the hearing:

24  
25 (1) Findings

26  
27 (A) Whether notice was given as required by law;

28  
29 (B) Whether the nonminor dependent's continuing placement is necessary;

30  
31 (C) Whether the nonminor dependent's current placement is appropriate;

32  
33 (D) Whether the Transitional Independent Living Case Plan includes a plan  
34 for the nonminor dependent to satisfy one or more of the criteria in  
35 section 11403(b);

36  
37 (E) The specific criteria in section 11403(b) the nonminor dependent  
38 satisfied since the last hearing held under this rule;

39  
40 (F) The specific criteria in section 11403(b) it is anticipated the nonminor  
41 dependent will satisfy during the next six months;

- 1 (G) Whether reasonable efforts were made and assistance provided by the  
2 social worker or probation officer to help the nonminor dependent  
3 establish and maintain compliance with section 11403(b);  
4
- 5 (H) Whether the nonminor dependent was provided with the information,  
6 documents, and services as required under section 391(e);  
7
- 8 (I) Whether the Transitional Independent Living Case Plan was developed  
9 jointly by the nonminor dependent and the social worker or probation  
10 officer, reflects the living situation and services that are consistent in  
11 the nonminor dependent’s opinion with what he or she needs to gain  
12 independence, and sets out the benchmarks that indicate how both will  
13 know when independence can be achieved;  
14
- 15 (J) For the nonminor dependent who has elected to have the Indian Child  
16 Welfare Act continue to apply, whether the representative from his or  
17 her tribe was consulted during the development of the Transitional  
18 Independent Living Case Plan;  
19
- 20 (K) Whether reasonable efforts were made by the social worker or  
21 probation officer to comply with the Transitional Independent Living  
22 Case Plan, including efforts to finalize the nonminor dependent’s  
23 permanent plan and prepare him or her for independence;  
24
- 25 (L) Whether the Transitional Independent Living Case Plan includes  
26 appropriate and meaningful independent living skill services that will  
27 assist him or her with the transition from foster care to independent  
28 living;  
29
- 30 (M) Whether the nonminor dependent signed and received a copy of his or  
31 her Transitional Independent Living Case Plan;  
32
- 33 (N) The extent of progress made by the nonminor dependent toward  
34 meeting the Transitional Independent Living Case Plan goals and any  
35 modifications needed to assist in attaining the goals;  
36
- 37 (O) Whether reasonable efforts were made by the social worker or  
38 probation officer to maintain relationships between the nonminor  
39 dependent and individuals who are important to him or her, including  
40 the efforts made to establish and maintain relationships with caring and  
41 committed adults who can serve as lifelong connections; and  
42

1 (P) Whether reasonable efforts were made by the social worker or  
2 probation officer to establish or maintain the nonminor dependent's  
3 relationship with his or her siblings who are under the juvenile court's  
4 jurisdiction as required in section 366(a)(1)(D).

5  
6 (2) Orders

7  
8 (A) Order the continuation of juvenile court jurisdiction and set a nonminor  
9 dependent review hearing under this rule within six months, and:

10  
11 (i) Order a permanent plan consistent with the nonminor  
12 dependent's Transitional Independent Living Case Plan, and

13  
14 (ii) Specify the likely date by which independence is anticipated to  
15 be achieved; or

16  
17 (B) Order the continuation of juvenile court jurisdiction and set a hearing to  
18 consider termination of juvenile court jurisdiction over a nonminor  
19 under rule 5.555 within 30 days; or

20  
21 (C) Order termination of juvenile court jurisdiction pursuant to rule 5.555 if  
22 this nonminor dependent status review hearing was heard at the same  
23 time as a hearing under rule 5.555.

24  
25 *Rule 5.903 adopted effective January 1, 2012.*

26  
27 **Rule 5.906. Request by nonminor for the juvenile court to resume jurisdiction**  
28 **(§§ 224.1(b), 303, 388(e))**

29  
30 (a) **Purpose**

31  
32 This rule provides the procedures that must be followed when a nonminor wants to  
33 have juvenile court jurisdiction resumed over him or her as a nonminor dependent  
34 described in section 11400(v).

35  
36 (b) **Contents of the request**

37  
38 (1) The request to have the juvenile court resume jurisdiction must be made on  
39 the *Request to Return to Juvenile Court Jurisdiction and Foster Care* (form  
40 JV-466).

- 1           (2) The request must be liberally construed in favor of its sufficiency. It must be  
2 verified by the nonminor or the nonminor’s designee and, to the extent  
3 known to the nonminor, must include the following information:  
4
- 5           (A) The nonminor’s name and date of birth;  
6
- 7           (B) The nonminor’s address and contact information, unless the nonminor  
8 requests that this information be kept confidential from those persons  
9 entitled to access to the juvenile court file, including his or her parents,  
10 by filing *Confidential Information—Request to Return to Juvenile*  
11 *Court Jurisdiction and Foster Care* (form JV-468). Form JV-468 must  
12 be kept in the court file under seal, and only the court, the child welfare  
13 services agency, the probation department, or the Indian tribe with an  
14 agreement under section 10553.1 to provide child welfare services to  
15 Indian children (Indian tribal agency), and the nonminor’s attorney may  
16 have access to this information;  
17
- 18           (C) The name and action number or court file number of the nonminor’s  
19 case and the name of the juvenile court that terminated its dependency  
20 jurisdiction, delinquency jurisdiction, or transition jurisdiction and  
21 retained general jurisdiction for the purpose of considering a request to  
22 assume or resume its jurisdiction over him or her as a nonminor  
23 dependent;  
24
- 25           (D) The date the juvenile court entered the order terminating its  
26 dependency jurisdiction, delinquency jurisdiction, or transition  
27 jurisdiction and retained general jurisdiction over him or her.  
28
- 29           (E) If the nonminor wants his or her parents or former legal guardians to  
30 receive notice of the filing of the request and the hearing, the name and  
31 residence addresses of the nonminor’s parents or former guardians;  
32
- 33           (F) The name and telephone number of the court-appointed attorney who  
34 represented the nonminor at the time the juvenile court terminated its  
35 dependency jurisdiction, delinquency jurisdiction, or transition  
36 jurisdiction and retained general jurisdiction if the nonminor wants that  
37 attorney to be the attorney appointed to represent him or her for the  
38 purposes of the hearing on the request;  
39
- 40           (G) If the nonminor is an Indian child within the meaning of the Indian  
41 Child Welfare Act and he or she chooses to have the Indian Child  
42 Welfare Act apply to him or her, the name of the tribe and the name,  
43 address, and telephone number of his or her tribal representative;

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- (H) If the nonminor had a Court Appointed Special Advocate (CASA) when he or she was a dependent or ward of the court and wants the CASA to receive notice of the filing of the request and the hearing, the CASA’s name;
- (I) The condition or conditions under section 11403(b) that the nonminor intends to satisfy; and
- (J) Whether the nonminor requires assistance to maintain or secure an appropriate, supervised placement, or is in need of immediate placement and will agree to a supervised placement under a voluntary reentry agreement.

(3) The court may dismiss without prejudice a request filed under this rule that is not verified.

**(c) Filing the request**

- (1) The form JV-466 may be filed by the nonminor or the county child welfare services, probation department, or Indian tribe (placing agency) on behalf of the nonminor.
- (2) For the convenience of the nonminor, the form JV-466 and, if the nonminor wishes to keep his or her contact information confidential, the *Confidential Information—Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-468) may be:
  - (A) Filed with the juvenile court that retained general jurisdiction in the same action in which the nonminor was found to be a dependent or ward of the court, or
  - (B) Submitted to the juvenile court in the county in which the nonminor currently resides:
    - (i) The court clerk must record the date and time received on the face of the originals submitted and provide a copy of the originals marked as received to the nonminor at no cost to the him or her.
    - (ii) To ensure receipt of the original JV-466 and, if submitted the JV-468, by the court that retained general within five court days as required in section 388(e), the court clerk must forward those originals to the clerk of the court that retained general jurisdiction

1 within two court days of submission of the originals by the  
2 nonminor.

3  
4 (iii) The court in the county in which the nonminor resides is  
5 responsible for all costs of processing, copying, and forwarding  
6 the form JV-466 and form JV-468 to the clerk of the court that  
7 retained general jurisdiction.

8  
9 (iv) The court clerk in the county in which the nonminor resides must  
10 retain a copy of the documents submitted.

11  
12 (v) The form JV-466 and, if submitted, the form JV-468 must be  
13 filed immediately upon receipt by the clerk of the juvenile court  
14 that retained general jurisdiction.

15  
16 (C) For a nonminor living outside the state of California, the form JV-466  
17 and, if the nonminor wishes to keep his or her contact information  
18 confidential, the form JV-468 must be filed with the juvenile court that  
19 retained general jurisdiction.

20  
21 (3) If form JV-466 is filed by the nonminor, within two court days of its filing  
22 with the clerk of the court in the county that retained general jurisdiction, the  
23 clerk of that court must notify the placing agency that was supervising the  
24 nonminor when juvenile court jurisdiction was terminated that the nonminor  
25 has filed form JV-466 and provide the placing agency with the nonminor's  
26 contact information. The notification must be by telephone, fax, e-mail, or  
27 other method approved by the presiding juvenile court judge that will ensure  
28 prompt notification and inform the placing agency that a copy of form JV-  
29 466 will be served on the agency and that one is currently available in the  
30 office of the juvenile court clerk.

31  
32 (4) If form JV-466 has not been filed at the time the nonminor completes the  
33 voluntary reentry agreement described in section 11400(z), the placing  
34 agency must file form JV-466 on the nonminor's behalf within 15 court days  
35 of the date the voluntary reentry agreement was signed, unless the nonminor  
36 files form JV-466 prior to the expiration of the 15 court days.

37  
38 (5) No filing fees are required for the filing of form JV-466 and, if filed, form  
39 JV-468. An endorsed, filed copy of each form filed must be provided at no  
40 cost to the nonminor or the placing agency that filed the request on the  
41 nonminor's behalf.

1 **(d) Determination of prima facie showing**

- 2
- 3 (1) Within three court days of the filing of form JV-466 with the clerk of the
- 4 juvenile court that retained general jurisdiction, a juvenile court judicial
- 5 officer must review form JV-466 and determine whether a prima facie
- 6 showing has been made that the nonminor meets all of the criteria set forth
- 7 below in (d)(1)(A)–(D) and enter an order as set forth in (d)(2) or (d)(3).
- 8
- 9 (A) The nonminor was previously under juvenile court jurisdiction subject
- 10 to an order for foster care placement when he or she attained 18 years
- 11 of age;
- 12
- 13 (B) On and after January 1, 2012, the nonminor will not have not attained
- 14 19 years of age; or commencing January 1, 2013, he or she will not
- 15 have attained 20 years of age; or commencing on January 1, 2014, he or
- 16 she will not have attained 21 years of age;
- 17
- 18 (C) The nonminor wants assistance to maintain or secure an appropriate,
- 19 supervised placement or is in need of immediate placement and agrees
- 20 to a supervised placement under a voluntary reentry agreement; and
- 21
- 22 (D) The nonminor intends to satisfy at least one of the conditions as
- 23 described in section 11403(b) and set forth below:
- 24
- 25 (i) Complete secondary education or a program leading to an
- 26 equivalent credential.
- 27
- 28 (ii) Enroll in an institution that provides postsecondary or vocational
- 29 education.
- 30
- 31 (iii) Participate in a program or activity designed to promote or
- 32 remove barriers to employment.
- 33
- 34 (iv) Be employed for at least 80 hours per month.
- 35
- 36 (v) Incapable of doing any of the activities described in
- 37 subparagraphs (i) to (iv), inclusive, due to a medical condition;
- 38
- 39 (2) If the court determines that a prima facie showing has not been made, the
- 40 court must enter a written order denying the request, listing the issues that
- 41 resulted in the denial and informing the nonminor that a new JV-466 may be
- 42 filed when those issues are resolved.
- 43

- 1           (A) The court clerk must serve on the nonminor:
- 2
- 3           (i) A copy of the written order;
- 4
- 5           (ii) A blank copy of *Request to Return to Juvenile Court Jurisdiction*
- 6           and *Foster Care* (form JV-466) and *Confidential Information—*
- 7           *Request to Return to Juvenile Court Jurisdiction and Foster*
- 8           *Care* (form JV-466);
- 9
- 10          (iii) A copy of *How to Ask the to Return to Juvenile Court*
- 11          *Jurisdiction and Foster Care* (form JV-464-INFO); and
- 12
- 13          (iv) The names and contact information for those attorneys approved
- 14          by the court to represent children in juvenile court proceedings
- 15          who have agreed to provide a consultation to any nonminor
- 16          whose request was denied due to the failure to make a prima facie
- 17          showing.
- 18
- 19          (B) The court clerk must serve on the placing agency a copy of the written
- 20          order.
- 21
- 22          (C) Service must be by personal service or first-class mail within two court
- 23          days of the issuance of the order.
- 24
- 25          (D) A proof of service must be filed.
- 26
- 27          (3) If the judicial officer determines that a prima facie showing has been made,
- 28          the judicial officer must issue a written order:
- 29
- 30                (A) Directing the court clerk to set the matter for a hearing, and
- 31
- 32                (B) Appointing an attorney to represent the nonminor for the sole purpose
- 33                of the hearing on the request.
- 34
- 35          (e) **Appointment of attorney**
- 36
- 37                (1) If the nonminor included on the form JV-466 a request for the appointment of
- 38                the court-appointed attorney who represented the nonminor during the period
- 39                of time he or she was a ward or dependent or nonminor dependent, the
- 40                judicial officer must appoint that attorney for the sole purpose of the hearing
- 41                on the request, if the attorney is available to accept such an appointment.
- 42

- 1           (2) If the nonminor did not request the appointment of his or her former court-  
2 appointed attorney, the judicial officer must appoint an attorney to represent  
3 the nonminor for the sole purpose of the hearing on the request. The attorney  
4 must be selected from the panel or organization of attorneys approved by the  
5 court to represent children in juvenile court proceedings.  
6
- 7           (3) In addition to complying with the requirements in (g)(1) for service of notice  
8 of the hearing, the juvenile court clerk must notify the attorney of his or her  
9 appointment as soon as possible, but no later than one court day from the date  
10 the order for his or her appointment was issued under (d)(3). This notification  
11 must be made by telephone, fax, e-mail, or other method approved by the  
12 presiding juvenile court judge that will ensure prompt notification. The notice  
13 must also include the nonminor’s contact information and inform the attorney  
14 that a copy of the JV-466 will be served on him or her and that one is  
15 currently available in the office of the juvenile court clerk.  
16
- 17           (4) If the request is granted, the court must continue the attorney’s appointment  
18 to represent the nonminor regarding matters related to his or her status as a  
19 nonminor dependent until the jurisdiction of the juvenile court is terminated,  
20 unless the court finds that the nonminor would not benefit from the  
21 appointment of an attorney.  
22
- 23           (A) In order to find that a nonminor would not benefit from the  
24 appointment of an attorney, the court must find all of the following:  
25
- 26                   (i) The nonminor understands the nature of the proceedings;  
27
- 28                   (ii) The nonminor is able to communicate and advocate effectively  
29 with the court, other attorneys, and other parties, including social  
30 workers, probation officers, and other professionals involved in  
31 the case; and  
32
- 33                   (iii) Under the circumstances of the case, the nonminor would not  
34 gain any benefit from representation by an attorney.  
35
- 36           (B) If the court finds that the nonminor would not benefit from  
37 representation by an attorney, the court must make a finding on the  
38 record as to each of the criteria in (e)(4)(A) and state the reasons for  
39 each finding.  
40
- 41           (5) Representation of the nonminor by the court-appointed attorney for the  
42 hearing on the request to return to juvenile court jurisdiction and for matters

1 related to his or her status as a nonminor dependent must be at no cost to the  
2 nonminor.

3  
4 (6) If the nonminor chooses to be represented by an attorney other than a court-  
5 appointed attorney, the fees for an attorney retained by the nonminor are the  
6 nonminor's responsibility.

7  
8 **(f) Setting the hearing**

9  
10 (1) Within two court days of the issuance of the order directing the court clerk to  
11 do so, the court clerk must set a hearing on the juvenile court's calendar  
12 within 15 court days from the date the JV-466 was filed with the court that  
13 retained general jurisdiction.

14  
15 (2) The hearing must be placed on the appearance calendar, heard before a  
16 juvenile court judicial officer, and recorded by a court reporter.

17  
18 **(g) Notice of hearing**

19  
20 (1) The juvenile court clerk must serve notice as soon as possible but no later  
21 than five court days before the date the hearing is set, as follows:

22  
23 (A) The notice of the date, time, place, and purpose of the hearing and a  
24 copy of the JV-466 must be served on the nonminor, the nonminor's  
25 attorney, and the child welfare services agency, the probation  
26 department, or the Indian tribal agency that was supervising the  
27 nonminor when the juvenile court entered the order retaining general  
28 jurisdiction over the nonminor.

29  
30 (B) The notice of the date, time, place, and purpose of the hearing must be  
31 served on the nonminor's parents only if the nonminor included in the  
32 JV-466 a request that notice be provided to his or her parents.

33  
34 (C) The notice of the date, time, place, and purpose of the hearing must be  
35 served on the nonminor's tribal representative if the nonminor is an  
36 Indian child and indicated on the JV-466 his or her choice to have the  
37 Indian Child Welfare Act apply to him or her as a nonminor dependent.

38  
39 (D) The notice of the date, time, place, and purpose of the hearing must be  
40 served on the local CASA office if the nonminor had a CASA and  
41 included on the JV-466 a request that notice be provided to his or her  
42 former CASA.

- 1           (2) The written notice served on the nonminor dependent must include:  
2  
3           (A) A statement that the nonminor may appear for the hearing by  
4           telephone; and  
5  
6           (B) Instructions regarding the local juvenile court procedures for arranging  
7           to appear and appearing at the hearing by telephone.  
8  
9           (3) Service of the notice must be by personal service or by first-class mail.  
10  
11          (4) Proof of service of notice must be filed by the juvenile court clerk at least two  
12          court days prior to the hearing.  
13

14   **(h) Reports**

- 15  
16          (1) The social worker, probation officer, or Indian tribal agency case worker  
17          (tribal case worker) must submit a report to the court that includes:  
18  
19               (A) Confirmation that the nonminor was previously under juvenile court  
20               jurisdiction subject to an order for foster care placement when he or she  
21               attained 18 years of age, that the juvenile court retained general  
22               jurisdiction over the nonminor, and that on and after January 1, 2012,  
23               the nonminor will not have not attained 19 years of age; or  
24               commencing January 1, 2013, he or she will not have attained 20 years  
25               of age; or commencing on January 1, 2014, he or she will not have  
26               attained 21 years of age;  
27  
28               (B) The condition or conditions under section 11403(b) that the nonminor  
29               intends to satisfy;  
30  
31               (C) The social worker, probation officer, or tribal case worker’s opinion as  
32               to whether continuing in a foster care placement is in the nonminor’s  
33               best interests and recommendation about the resumption of juvenile  
34               court jurisdiction over the nonminor as a nonminor dependent;  
35  
36               (D) Whether the nonminor and the placing agency have entered into a  
37               reentry agreement for placement in a supervised setting under the  
38               placement and care responsibility of the placing agency;  
39  
40               (E) The type of placement recommended if the request to return to juvenile  
41               court jurisdiction and foster care is granted;  
42

1 (F) If the type of placement recommended is a placement in a setting where  
2 minor dependents also reside, the results of the background check of  
3 the nonminor under section 16504.5.

4  
5 (i) The background check under section 16504.5 is required only if a  
6 minor dependent resides in the placement under consideration for  
7 the nonminor.

8  
9 (ii) A criminal conviction is not a bar to a return to foster care and  
10 the resumption of juvenile court jurisdiction over the nonminor as  
11 a nonminor dependent.

12  
13 (2) At least two court days before the hearing, the social worker, probation  
14 officer, or tribal case worker must file the report and any supporting  
15 documentation with the court and provide a copy to the nonminor and to his  
16 or her attorney of record; and

17  
18 (3) If the court determines that the report and other documentation submitted by  
19 the social worker, probation officer, or tribal case worker does not provide  
20 the information required by (h)(1) and the court is unable to make the  
21 findings and orders required by (i), the hearing must be continued for no  
22 more than five court days for the social worker, probation officer, tribal case  
23 worker, or nonminor to submit additional information as ordered by the court.

24  
25 (i) **Findings and orders**

26  
27 The court must read and consider, and state on the record that it has read and  
28 considered, the report; supporting documentation submitted by the social worker,  
29 probation officer, or tribal case worker; the evidence submitted by the nonminor;  
30 and any other evidence. The following judicial findings and orders must be made  
31 on the record and included in the written, signed court documentation of the  
32 hearing:

33  
34 (1) *Findings*

35  
36 (A) Whether notice was given as required by law;

37  
38 (B) Whether the nonminor was previously under juvenile court jurisdiction  
39 subject to an order for foster care placement when he or she attained 18  
40 years of age;

41  
42 (C) Whether the juvenile court retained general jurisdiction over the  
43 nonminor;

- 1  
2 (D) Whether on and after January 1, 2012, the nonminor will not have not  
3 attained 19 years of age; or commencing January 1, 2013, he or she will  
4 not have attained 20 years of age; or commencing on January 1, 2014,  
5 he or she will not have attained 21 years of age;  
6  
7 (E) Whether the nonminor intends to satisfy a condition or conditions  
8 under section 11403(b);  
9  
10 (F) The condition or conditions that the nonminor intends to satisfy under  
11 section 11403(b);  
12  
13 (G) Whether continuing in a foster care placement is in the nonminor’s best  
14 interests;  
15  
16 (H) Whether the nonminor and the placing agency have entered into a  
17 reentry agreement for placement in a supervised setting under the  
18 placement and care responsibility of the placing agency; and  
19  
20 (I) Whether a nonminor who is an Indian child chooses to have the Indian  
21 Child Welfare Act apply to him or her as a nonminor dependent.  
22

23 (2) Orders  
24

- 25 (A) If the court finds that the nonminor comes within the age requirements  
26 under (i)(1)(D), that the juvenile court entered an order retaining  
27 general jurisdiction over the nonminor, that the nonminor does intend  
28 to satisfy at least one condition under section 11403(b), and that the  
29 nonminor and placing agency have entered into a reentry agreement,  
30 the court must:  
31  
32 (i) Grant the request and enter an order resuming juvenile court  
33 jurisdiction over the nonminor as a nonminor dependent and  
34 vesting responsibility for the nonminor’s placement and care with  
35 the placing agency;  
36  
37 (ii) Order the social worker, probation officer, or tribal case worker  
38 to develop with the nonminor and file with the court within 60  
39 days a new Transitional Independent Living Case Plan;  
40  
41 (iii) Order the social worker or probation officer to consult with the  
42 tribal representative regarding a new Transitional Independent  
43 Living Case Plan for the nonminor who chooses to have the

1 Indian Child Welfare Act apply to him or her as a nonminor  
2 dependent and who is not under the supervision of a tribal case  
3 worker;  
4

5 (iv) Set a nonminor dependent review hearing under rule 5.903 within  
6 the next six months; and

7  
8 (v) Make the findings and enter the appropriate orders under (e)(4)  
9 regarding appointment of an attorney for the nonminor.

10  
11 (B) If the court finds that the nonminor comes within the age requirements  
12 under (i)(1)(D) and that the juvenile court entered an order retaining  
13 general jurisdiction over the nonminor, but the nonminor does not  
14 intend to satisfy at least one of the conditions under section 11403(b)  
15 and/or the nonminor and placing agency have not entered into a reentry  
16 agreement, the court must:

17  
18 (i) Enter an order denying the request, listing the reasons for the  
19 denial, and informing the nonminor that a new JV-466 may be  
20 filed when those circumstances change;

21  
22 (ii) Enter an order terminating the appointment of the attorney  
23 appointed by the court to represent the nonminor, effective seven  
24 calendar days after the hearing; and

25  
26 (iii) In addition to the service of a copy of the written order as  
27 required in (i)(3), the juvenile court clerk must cause to be served  
28 on the nonminor a blank copy of the *Request to Return to*  
29 *Juvenile Court Jurisdiction and Foster Care* (form JV-466) and  
30 *Confidential Information—Request to Return to Juvenile Court*  
31 *Jurisdiction and Foster Care* (form JV-468), and a copy of *How*  
32 *to Ask to Return to Juvenile Court Jurisdiction and Foster Care*  
33 (form JV-464-INFO).

34  
35 (C) If the court finds that the nonminor does not come within the age  
36 requirements under (i)(1)(D) and/or the juvenile court did not retain  
37 general jurisdiction over the nonminor, the court must:

38  
39 (i) Enter an order denying the request to have juvenile court  
40 jurisdiction resumed; and  
41

1 (ii) Enter an order terminating the appointment of the attorney  
2 appointed by the court to represent the nonminor, effective seven  
3 calendar days after the hearing.

4  
5 (3) Findings and orders: service

6  
7 (A) The written findings and order must be served by the juvenile court  
8 clerk on all persons provided with notice of the hearing under (g)(1).

9  
10 (B) Service must be by personal service or first-class mail within three  
11 court days of the issuance of the order.

12  
13 (C) A proof of service must be filed.

14  
15 *Rule 5.906 adopted effective January 1, 2012.*

16  
17 **Advisory Committee Comment**

18  
19 Assembly Bill 12 (Beall; Stats. 2010, ch. 559), the California Fostering Connections to Success  
20 Act and Assembly Bill 212 (Beall; Stats. 2011, ch. 459), implement the federal Fostering  
21 Connections to Success and Increasing Adoptions Act, Pub.L. No. 110-351, which provides  
22 funding resources to extend the support of the foster care system to children who are still in a  
23 foster care placement on their 18th birthday. Every effort was made in the development of the  
24 rules and forms to provide an efficient framework for the implementation of this important and  
25 complex legislation.

26  
27 The extension of benefits for nonminors up to 18 years of age during the first year and for  
28 nonminors up to 19 years of age during the following year is fully provided for in Assembly Bill  
29 12 and does not require further action by the Legislature; however, extension of those benefits to  
30 nonminors between 20 and 21 years of age is contingent upon an appropriation by the  
31 Legislature. (Welf. & Inst. Code, § 11403(k).)

32  
33  
34 **Rule 8.385. Proceedings after the petition is filed**

35  
36 (a)–(b) \*\*\*

37  
38 (c) **Petition filed in an inappropriate court**

39  
40 (1) \* \* \*

41  
42 (2) A Court of Appeal ~~must~~ should deny without prejudice a petition for writ of  
43 habeas corpus that challenges the denial of parole or the petitioner's

