

Invitation to Comment

Title	Juvenile Law: Caregiver Notice and Right to Be Heard (amend Cal. Rules of Court, rule 5.534; revise form JV-290; and approve form JV-290-INFO).
Summary	The proposed amended rule and new and revised forms would facilitate access to the courts for foster parents, relative caregivers, preadoptive parents and nonrelative extended family members caring for the child in a dependency case by ensuring that those individuals receive notice of any proceeding regarding the child, receive instructions about how to complete, file, and serve the <i>Caregiver Information Form</i> , and are ensured an opportunity to be heard in the case if they so choose.
Source	Family and Juvenile Law Advisory Committee Hon. Jerilyn L. Borack and Hon. Susan D. Huguenor, Cochairs
Staff	Mara Bernstein, 415-865-7728, mara.bernstein@jud.ca.gov
Discussion	<p>This proposal, an amended rule and new and revised forms, would enhance access to the courts for foster parents, relative caregivers, preadoptive parents, and nonrelative extended family members and bring the dependency rules into compliance with recent changes in state and federal law.</p> <p>The Safe and Timely Interstate Placement of Foster Children Act of 2006 (Pub. L. No.109-239 (July 3, 2006) 120 Stat. 508), requires that each state have “in effect a rule requiring State courts to ensure that foster parents, preadoptive parents, and relative caregivers of a child in foster care under the responsibility of the State are notified of any proceeding to be held with respect to the child” The act also requires that these caregivers have a right to be heard in any such proceeding. Modifications to section 8.3C.2b of the federal Child Welfare Policy Manual, disseminated via e-mail on January 29, 2007, explain that “having a ‘right’ to any ‘proceeding’ to be held with respect to the child” means that “the foster parents, pre-adoptive parents or relatives providing care for a child must, at a minimum, be provided with notice of their right to be heard in all permanency hearings, as well as six-month reviews, if held by the court.”</p> <p>Currently, California statutes and rules provide for notice to these individuals for some, but not all, review and permanency hearings. In addition, California notice requirements do not include “preadoptive parents” specifically. The proposed revisions to rule 5.534 would</p>

bring our dependency rules of court fully into compliance with this new federal legal requirement.

Moreover, Senate Bill 1667 (Kuehl; Stats. 2006, ch. 389), enacted in 2006, made changes to Welfare and Institutions Code sections 295 and 366.21, pertaining to caregiver notice. The relevant changes include the following:

- Subdivision (a)(6) of Welfare and Institutions Code section 295 (the statute regarding notice of postpermanency review hearings) was amended to add that relative caregivers who are noticed may attend all hearings and may submit any information to the court in writing.
- Subdivision (c) of Welfare and Institutions Code section 366.21 (the statute regarding 6- and 12-month review hearings), was amended to require that at least 10 calendar days before each hearing the social worker provide form JV-290 to caregivers, along with a summary of the social worker's recommendations and information about how to file form JV-290 with the court.
- Subdivision (d) of Welfare and Institutions Code section 366.21 was amended to add that the report that must be filed under certain circumstances by the foster family agency or community care facility can be filed on form JV-290.

The proposed changes to rule 5.534 and form JV-290, along with the adoption of new form JV-291-INFO, would meet the requirements of both Senate Bill 1667 and the Safe and Timely Interstate Placement of Foster Children Act of 2006. The proposed rule and form changes are summarized below.

New subdivision (m) of rule 5.534 (General provisions—all proceedings) would require the court to ensure that notice of certain dependency hearings pertaining to a child in foster care is provided to the foster parents, preadoptive parents, relative caregivers, and nonrelative extended family members of that child; that these caregivers have the right to be heard in each such proceeding; and that they have the right to submit information about the child to the court prior to the hearing. The new subdivision also requires the court to ensure that, at least 10 calendar days before each postdispositional hearing, the social worker provide forms JV-290, *Caregiver Information Form*, and JV-290-INFO, *Instruction Sheet for Caregiver Information Form*, to the caregivers. The rule would specify that if a caregiver chooses to complete form JV-290, he or she must file the

form with the court at least 5 calendar days prior to the hearing. Finally, the rule would specify that the clerk's office is responsible for service of the completed form JV-290.

Form JV-290, *Caregiver Information Form*, would be amended to make technical changes to ensure consistency with the proposed amended rule, recently amended statutes, and proposed instruction sheet.

New form JV-290-INFO, *Instruction Sheet for Caregiver Information Form*, would explain how to complete JV-290 and would provide detailed instructions on how the form must be filed and served. The instructions also include information to assist community care facilities and foster family agencies in completing the form. These instructions were adapted from an instruction sheet created and distributed to caregivers by Legal Advocates for Permanent Parenting, a California nonprofit organization.

The Family and Juvenile Law Advisory Committee seeks comments on the proposed procedures described in amended rule 5.534 and form JV-290-INFO for filing and service of form JV-290. The committee knows that various procedures for filing and serving these forms are currently used around the state. Comments about the ease or difficulty with which the courts expect to be able to implement the new, statewide procedures are specifically sought. No new funds are available to reimburse courts for costs associated with these new clerk's office procedures.

The proposed rule is attached at page 4.

The proposed forms are attached at pages 5–8.

The relevant pages of the federal Safe and Timely Interstate Placement of Foster Children Act of 2006 are attached at pages 9 and 10.

The relevant texts of the California statutes (Welf. & Inst. Code, §§ 295 and 366.21, amended Jan. 1, 2007), are attached at pages 11–14.

Attachments

Rule 5.534 of the California Rules of Court would be amended, effective January 1, 2008, to read:

1 **Rule 5.534. General provisions—all proceedings**

2
3 ~~(a)~~–(l) * * *

4
5 **(m) Caregiver notice and right to be heard (§§ 290.1–297, 366.21)**

6
7 For cases filed under section 300 et seq., the court must ensure that:

8
9 (1) For any child who has been removed from the home, notice of statutory
10 review hearings, permanency hearings, and section 366.26 hearings must be
11 provided to the current caregiver of the child, including foster parents,
12 preadoptive parents, relative caregivers, and nonrelative extended family
13 members. Notice of dispositional hearings must also be provided to these
14 individuals when the dispositional hearing is serving as a permanency
15 hearing under section 361.5(f).

16
17 (2) The current caregiver has the right to be heard in each proceeding listed
18 above and to submit information about the child to the court before any
19 hearing. The *Caregiver Information Form* (form JV-290) may be used for
20 providing this information to the court.

21
22 (3) At least 10 calendar days before each postdispositional, statutory hearing, the
23 social worker must provide to the current caregiver:

24
25 (A) A summary of his or her recommendations;

26
27 (B) *Caregiver Information Form* (form JV-290); and

28
29 (C) *Instruction Sheet for Caregiver Information Form* (form JV-290-INFO).

30
31 (4) If the caregiver chooses to complete form JV-290, it should be filed with the
32 court no later than five days before the hearing.

33
34 (5) When form JV-290 is filed, the court clerk must serve all parties and their
35 attorneys with a copy of the completed form. The clerk must also complete,
36 file and serve *Proof of Service —Juvenile* (form JV-510).

37
38 ~~(m)~~ (n) * * *

39
40 ~~(n)~~ (o) * * *

<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</p> <p>STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:</p>	<p><i>FOR COURT USE ONLY</i></p> <p>DRAFT 5 02/26/07 mc Not approved by the Judicial Council</p>
<p>CASE NAME:</p>	<p>CASE NUMBER:</p>
<p>CAREGIVER INFORMATION FORM</p>	

To the foster parent, relative caregiver, legal guardian, preadoptive parent, nonrelative extended family member, community care facility or foster family agency caring for the child: You may submit written information to the court and you may attend review hearings. This optional form may assist you in providing written information to the court. Please type or print clearly in ink and submit the form at least five days before the hearing. Be aware that other individuals involved in the case have access to this information. See form JV-290-INFO for instructions on how to complete this form and file it with the court.

1. a. Child's name: _____
 b. Child's date of birth: _____ c. Child's age: _____

2. Caregiver Information

- a. Name of caregiver: _____
 b. Address: _____
 c. Telephone number: _____
 d. Type of caregiver: Foster parent Relative Legal guardian Preadoptive parent
 Nonrelative extended family member Other (*specify*): _____
 e. The child has been living in my home for (*specify*): _____ years _____ months.

3. Agency or Facility Information

- a. Name of agency or facility: _____
 b. Address: _____
 c. Telephone number: _____
 d. Type of facility: Foster family agency Community care agency Other (*specify*): _____
 e. The child has been placed with our agency/facility for (*specify*): _____ years _____ months, and in the current home for (*specify*): _____ years _____ months.
 f. Name of person completing form: _____ Title: _____
 g. Hours per week the person filling out this form spends with the child (*specify*): _____ hours/week.
 h. The information on this form consists of _____
 (1) the observations and recommendations of the person filling out this form.
 (2) the observations and recommendations of a group or team made up of the following individuals (*specify*): _____

4. Current Status of Child's Medical, Dental, and General Physical and Emotional Health

- a. There is no new or additional information since the last court hearing.
 b. There is new or additional information since the last court hearing, as follows (*do not include the names of doctors*): _____

CASE NAME:	CASE NUMBER:
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5. Current Status of Child's Education

- a. There is no new or additional information since the last court hearing.
- b. There is new or additional information since the last court hearing, as follows *(do not include the names of schools)*:

- 6. a. The child is a special education student. Date of last Individual Education Plan (IEP) *(specify)*:
- b. The child is not a special education student.
- c. I do not know the child's special education status.

7. Current Status of Child's Adjustment to Living Arrangement

- a. There is no new or additional information since the last court hearing.
- b. There is new or additional information since the last court hearing, as follows:

8. Current Status of Child's Social Skills and Peer Relationships

- a. There is no new or additional information since the last court hearing.
- b. There is new or additional information since the last court hearing, as follows:

9. Current Status of Child's Special Interests and Activities

- a. There is no new or additional information since the last court hearing.
- b. There is new or additional information since the last court hearing, as follows:

10. Other Helpful Information

- a. There is no new or additional information since the last court hearing.
- b. There is new or additional information since the last court hearing, as follows:

- 11. If you need more space to respond to any section above, please check this box and attach additional pages.
 Number of pages attached *(specify)*: _____

Date:

 (TYPE OR PRINT NAME)

▲

 (SIGNATURE OF CAREGIVER OR FACILITY/AGENCY STAFF PERSON WHO HAS COMPLETED THIS FORM)

INSTRUCTION SHEET FOR CAREGIVER INFORMATION FORM

Background

1. **What is the "Caregiver Information Form"?** The *Caregiver Information Form*, also called form JV-290, is intended to provide an easily accessible way for foster parents, relative caregivers, preadoptive parents, nonrelative extended family members, legal guardians, community care facilities, and foster family agencies to provide information about the child to the court.
2. **When does it need to be filled out?** The *Caregiver Information Form* is an optional form. If you choose to fill it out, be sure to fill it out and file it with the court at least five days before the hearing. Follow the instructions below about how to fill out the form and what to do with it after you have filled it out. Do not wait until the day of the court hearing to file the form.
3. **Foster parents, relative caregivers, preadoptive parents, nonrelative extended family members, legal guardians, and other individuals caring for a child:** You may fill out this form, even if a staff person from the child's foster family agency or community care facility is also filling it out.
4. **Foster family agencies or community care facilities:** You may complete this form and use it as the mandatory report required by Welfare and Institutions Code section 366.21. It is recommended that each agency or facility develop a policy about who is responsible for filling out and filing the form or report on behalf of each child.
5. **What should I be thinking about as I fill out the form?** Use the form to provide factual information about the child, such as behavior you have observed in the child and information about the child's needs. Avoid including opinions or information not related to the child. The goal is to provide information to the court that helps the judge make good decisions about the child.

How to Fill Out Form JV-290

1. **Complete the caption.** These are the boxes at the top of the page.
 - *Court name and mailing address.* Write the name of the county where the court is located and the mailing address of the court. If you do not know the name and address of the court, look on the notice of the court hearing you received in the mail or go to www.courtinfo.ca.gov/courts/trial/courtlist.htm to find the local court in your county. For branch name, write "Juvenile."
 - *Case Name.* Write "In re" followed by the child's first name and last initial.
 - *Case Number.* This number is on the notice of the court hearing you received in the mail. If you do not have the number, ask the child's caseworker or attorney for the number. If the case involves brothers and sisters (siblings), there may be more than one case number. Be sure to use the correct number for each child.
2. **Complete information about the child and about yourself or your agency.**
 - *Question 1.* Fill in child's first and last names, date of birth, and age.
 - *Question 2.* Foster parents, relative caregivers, and other individuals caring for children should complete question 2. Skip question 3. Include your name, address, telephone number, what type of caregiver you are, and how many months or years the child has lived in your home. If you want your name, address, or phone number to remain confidential, identify yourself as the child's caregiver (e.g., "Johnny's foster parent") and leave the address and phone number spaces blank.
 - *Question 3.* Foster family agencies, community care facilities, and staff at any other group-care setting should skip question 2 and complete question 3. Indicate the facility name, address, telephone number, the type of facility, how long the child has been with your agency, and how long he or she has been in the current placement. Then write your name (the person completing form) and your title. If it is not clear from your title, explain in what capacity you work with the child. Indicate how many hours each week you spend with the child. Finally, check the box to indicate whether you are filling out the form based on your own observations and recommendations or on the observations and recommendations of a group or team. If applicable, specify the members of the group or team.

3. **Complete questions 4–10 about the child.** For each question, check the box to indicate whether there is new information since the last hearing. If there is new information, write it in the appropriate section of the form. Be brief and factual, and do not describe anything you have not personally observed.
- *Question 4.* Provide information on the child's medical, dental, and emotional health (e.g., doctor or dentist visits or hospitalizations and the results of those visits, medications and any adverse reactions to them, descriptions of physical or emotional development).
 - *Question 5.* Provide information on the child's status at school, if applicable (e.g., child's grade level, public or non-public school, how the child is doing in school, outcomes of testing or school conferences).
 - *Question 6.* Indicate whether the child is a special education student and, if so, the date of the most recent Individualized Education Plan (IEP).
 - *Question 7.* Provide information on how the child is adjusting to your home (e.g., child's social skills and behavior at home, how the child is interacting with other family members, how the child expresses feelings and needs, the child's eating and sleeping patterns).
 - *Question 8.* Provide information on how the child is getting along with others (e.g., peer relationships, relationships with teachers and other adults outside of your family).
 - *Question 9.* Provide information on the child's special interests and activities (e.g., participation in sports or music lessons; how often the child participates; any talents, interests, or hobbies).
 - *Question 10.* Provide any additional information that you believe the court should know about the child (e.g., behavioral information; services the child is receiving; your recommendations for additional services that are needed; visitation information, such as dates of visits with parents or siblings).
4. **Add any attachments.** You may add additional pages if you need more room to answer any of the questions or if you want to attach information from the child's teacher, doctor, or other service providers. Check the box in item 11 if you add additional pages. You may also attach a photograph of the child.
5. **Sign and date the form.** On the bottom of page 2, write the date, print your name, and sign your name. If you are requesting that your name remain confidential, sign the form as the child's caregiver.

What to Do With the Form After You Have Filled It Out

1. **Make copies.** Make eight or more copies of the completed JV-290 form and any attachments.
2. **Bring the form and copies to the clerk's office five days before the hearing.** Take the original form and the eight copies with you to the court clerk's office at the courthouse where the hearing will be held. You must do this five days or more before the hearing date.
3. **File the form.** Tell the clerk you want to file the form. The clerk will stamp the original form and the copies with a date stamp and file the original in the court file.
4. **Ensure that it is served.** The form needs to be provided to ("served on") all parties. Rule 5.534 of the California Rules of Court requires the clerk to serve the form on all the attorneys and other necessary parties and complete a proof of service form. After filing the form, be sure to ask the clerk to serve each party and attorney.
5. **After filing.** Send a copy of the form to the child's caseworker and keep a copy for your files.
6. **Be aware of hearing date.** Be sure that you know the child's next hearing date so you can attend the court hearing if you wish. You may want to call the court the day before to confirm the hearing date and courtroom.

What to Do on the Hearing Day

1. **Bring extra copies of the form.** If you decide to attend the hearing, make additional copies of the date-stamped form and any attachments and take them with you when you come to court. Provide copies of the form to any of the attorneys or parties who did not receive them in the mail.
2. **Comments in court.** If you choose to attend the hearing, keep in mind that the court has a limited amount of time, so any comments you make should be short, factual, and based on your own observations.

PUBLIC LAW 109-239—JULY 3, 2006

SAFE AND TIMELY INTERSTATE PLACEMENT
OF FOSTER CHILDREN ACT OF 2006

(A) by inserting “a copy of the record is” before “supplied”; and

(B) by inserting “, and is supplied to the child at no cost at the time the child leaves foster care if the child is leaving foster care by reason of having attained the age of majority under State law” before the semicolon.

SEC. 8. RIGHT TO BE HEARD IN FOSTER CARE PROCEEDINGS.

(a) **IN GENERAL.**—Section 475(5)(G) of the Social Security Act (42 U.S.C. 675(5)(G)) is amended—

(1) by striking “an opportunity” and inserting “a right”;

(2) by striking “and opportunity” and inserting “and right”;

and

(3) by striking “review or hearing” each place it appears and inserting “proceeding”.

(b) **NOTICE OF PROCEEDING.**—Section 438(b) of such Act (42 U.S.C. 638(b)) is amended by inserting “shall have in effect a rule requiring State courts to ensure that foster parents, pre-adoptive parents, and relative caregivers of a child in foster care under the responsibility of the State are notified of any proceeding to be held with respect to the child, and” after “highest State court”.

42 USC 629h.

SEC. 9. COURT IMPROVEMENT.

Section 438(a)(1) of the Social Security Act (42 U.S.C. 629h(a)(1)) is amended—

(1) by striking “and” at the end of subparagraph (C); and

(2) by adding at the end the following:

“(E) that determine the best strategy to use to expedite the interstate placement of children, including—

“(i) requiring courts in different States to cooperate in the sharing of information;

“(ii) authorizing courts to obtain information and testimony from agencies and parties in other States without requiring interstate travel by the agencies and parties; and

“(iii) permitting the participation of parents, children, other necessary parties, and attorneys in cases involving interstate placement without requiring their interstate travel; and”.

SEC. 10. REASONABLE EFFORTS.

(a) **IN GENERAL.**—Section 471(a)(15)(C) of the Social Security Act (42 U.S.C. 671(a)(15)(C)) is amended by inserting “(including, if appropriate, through an interstate placement)” after “accordance with the permanency plan”.

(b) **PERMANENCY HEARING.**—Section 471(a)(15)(E)(i) of such Act (42 U.S.C. 671(a)(15)(E)(i)) is amended by inserting “, which considers in-State and out-of-State permanent placement options for the child,” before “shall”.

(c) **CONCURRENT PLANNING.**—Section 471(a)(15)(F) of such Act (42 U.S.C. 671(a)(15)(F)) is amended by inserting “, including identifying appropriate in-State and out-of-State placements” before “may”.

SEC. 11. CASE PLANS.

Section 475(1)(E) of the Social Security Act (42 U.S.C. 675(1)(E)) is amended by inserting “to facilitate orderly and timely in-State and interstate placements” before the period.

Effective: January 01, 2007

West's Annotated California Codes [Currentness](#)
Welfare and Institutions Code ([Refs & Annos](#))
Division 2. Children
Part 1. Delinquents and Wards of the Juvenile Court
[Chapter 2.](#) Juvenile Court Law ([Refs & Annos](#))
[Article 5.5.](#) Notices in Dependent Child Proceedings ([Refs & Annos](#))

→ § 295. Review hearings held pursuant to § 366.3

The social worker or probation officer shall give notice of review hearings held pursuant to [Section 366.3](#) in the following manner:

(a) Notice of the hearing shall be given to the following persons:

- (1) The mother.
 - (2) The presumed father.
 - (3) The legal guardian or guardians.
 - (4) The child, if the child is 10 years of age or older.
 - (5) Any known sibling of the child who is the subject of the hearing if that sibling either is the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, the sibling's caregiver and the sibling's attorney. However, notice is not required to be given to any sibling whose matter is calendared in the same court on the same day.
 - (6) The foster parents, relative caregivers, community care facility, or foster family agency having physical custody of the child if a child is removed from the physical custody of the parents or legal guardian. The person notified may attend all hearings and may submit any information he or she deems relevant to the court in writing.
 - (7) The attorney of record if that attorney of record was not present at the time that the hearing was set by the court.
 - (8) The alleged father or fathers, but only if the recommendation is to set a new hearing pursuant to [Section 366.26](#).
- (b) No notice is required for a parent whose parental rights have been terminated.
- (c) The notice of the review hearing shall be served no earlier than 30 days, nor later than 15 days, before the hearing.
- (d) The notice of the review hearing shall contain a statement regarding the nature of the hearing to be held, any recommended change in the custody or status of the child, and any recommendation that the court set a new hearing pursuant to [Section 366.26](#) in order to select a more permanent plan.
- (e) Service of notice shall be by first-class mail addressed to the last known address of the person to be provided notice. In the case of an Indian child, notice shall be by registered mail, return receipt requested.
- (f) If the child is ordered into a permanent plan of legal guardianship, and subsequently a petition to terminate or modify the guardianship is filed, the probation officer or social worker shall serve notice of the petition not less than 15 court days prior to the hearing on all persons listed in subdivision (a) and on the court that established legal

West's Ann.Cal.Welf. & Inst.Code § 295

guardianship if it is in another county.

(g) If the social worker or probation officer knows or has reason to know that an Indian child is involved, notice shall be given in accordance with [Section 224.2](#).

Effective: January 01, 2007

West's Annotated California Codes [Currentness](#)

Welfare and Institutions Code ([Refs & Annos](#))

Division 2. Children

Part 1. Delinquents and Wards of the Juvenile Court

 [Chapter 2.](#) Juvenile Court Law ([Refs & Annos](#))

 [Article 10.](#) Dependent Children--Judgments and Orders ([Refs & Annos](#))

➔ § 366.21. Status review hearings

(a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing and of their right to be present and represented by counsel.

(b) Except as provided in [Sections 294](#) and [295](#), notice of the hearing shall be provided pursuant to [Section 293](#).

(c) At least 10 calendar days prior to the hearing, the social worker shall file a supplemental report with the court regarding the services provided or offered to the parent or legal guardian to enable him or her to assume custody and the efforts made to achieve legal permanence for the child if efforts to reunify fail, including, but not limited to, efforts to maintain relationships between a child who is 10 years of age or older and has been in out-of-home placement for six months or longer and individuals who are important to the child, consistent with the child's best interests; the progress made; and, where relevant, the prognosis for return of the child to the physical custody of his or her parent or legal guardian; and shall make his or her recommendation for disposition. If the child is a member of a sibling group described in paragraph (3) of subdivision (a) of [Section 361.5](#), the report and recommendation may also take into account those factors described in subdivision (e) relating to the child's sibling group. If the recommendation is not to return the child to a parent or legal guardian, the report shall specify why the return of the child would be detrimental to the child. The social worker shall provide the parent or legal guardian, counsel for the child, and any court-appointed child advocate with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a child removed from the physical custody of his or her parent or legal guardian, the social worker shall, at least 10 calendar days prior to the hearing, provide a summary of his or her recommendation for disposition to any foster parents, relative caregivers, and certified foster parents who have been approved for adoption by the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency, community care facility, or foster family agency having the physical custody of the child. The social worker shall include a copy of the Judicial Council Caregiver Information Form (JV-290) with the summary of recommendations to the child's foster parents, relative caregivers, or foster parents approved for adoption, in the caregiver's primary language when available, along with information on how to file the form with the court.

(d) Prior to any hearing involving a child in the physical custody of a community care facility or a foster family agency that may result in the return of the child to the physical custody of his or her parent or legal guardian, or in adoption or the creation of a legal guardianship, the facility or agency shall file with the court a report, or a Judicial Council Caregiver Information Form (JV-290), containing its recommendation for disposition. Prior to the hearing involving a child in the physical custody of a foster parent, a relative caregiver, or a certified foster parent who has been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a licensed adoption agency, the foster parent, relative caregiver, or the certified foster parent who has been approved for adoption by the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency, may file with the court a report containing his or her recommendation for disposition. The court shall consider the report and recommendation filed pursuant to this subdivision prior to determining any disposition.

(e) At the review hearing held six months after the initial dispositional hearing, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the

evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of [Section 16504.5](#), of the parent or legal guardian subsequent to the child's removal, provided that he or she agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to [Section 356.5](#); and shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself to services provided.

Whether or not the child is returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental or would not be detrimental. The court also shall make appropriate findings pursuant to subdivision (a) of [Section 366](#); and, where relevant, shall order any additional services reasonably believed to facilitate the return of the child to the custody of his or her parent or legal guardian. The court shall also inform the parent or legal guardian that if the child cannot be returned home by the 12-month permanency hearing, a proceeding pursuant to [Section 366.26](#) may be instituted. This section does not apply in a case where, pursuant to [Section 361.5](#), the court has ordered that reunification services shall not be provided.

If the child was under the age of three years on the date of the initial removal, or is a member of a sibling group described in paragraph (3) of subdivision (a) of [Section 361.5](#), and the court finds by clear and convincing evidence that the parent failed to participate regularly and make substantive progress in a court-ordered treatment plan, the court may schedule a hearing pursuant to [Section 366.26](#) within 120 days. If, however, the court finds there is a substantial probability that the child, who was under the age of three years on the date of initial removal or is a member of a sibling group described in paragraph (3) of subdivision (a) of [Section 361.5](#), may be returned to his or her parent or legal guardian within six months or that reasonable services have not been provided, the court shall continue the case to the 12-month permanency hearing.

For the purpose of placing and maintaining a sibling group together in a permanent home, the court, in making its determination to schedule a hearing pursuant to [Section 366.26](#) for some or all members of a sibling group, as described in paragraph (3) of subdivision (a) of [Section 361.5](#), shall review and consider the social worker's report and recommendations. Factors the report shall address, and the court shall consider, may include, but need not be limited to, whether the sibling group was removed from parental care as a group, the closeness and strength of the sibling bond, the ages of the siblings, the appropriateness of maintaining the sibling group together, the detriment to the child if sibling ties are not maintained, the likelihood of finding a permanent home for the sibling group, whether the sibling group is currently placed together in a preadoptive home or has a concurrent plan goal of legal permanency in the same home, the wishes of each child whose age and physical and emotional condition permits a meaningful response, and the best interest of each child in the sibling group. The court shall specify the factual basis for its finding that it is in the best interest of each child to schedule a hearing pursuant to [Section 366.26](#) in 120 days for some or all of the members of the sibling group.

If the child was removed initially under subdivision (g) of [Section 300](#) and the court finds by clear and convincing evidence that the whereabouts of the parent are still unknown, or the parent has failed to contact and visit the child, the court may schedule a hearing pursuant to [Section 366.26](#) within 120 days. If the court finds by clear and convincing evidence that the parent has been convicted of a felony indicating parental unfitness, the court may schedule a hearing pursuant to [Section 366.26](#) within 120 days.

If the child had been placed under court supervision with a previously noncustodial parent pursuant to [Section 361.2](#), the court shall determine whether supervision is still necessary. The court may terminate supervision and transfer permanent custody to that parent, as provided for by paragraph (1) of subdivision (b) of [Section 361.2](#).

Item SPR07-30 Response Form

Title: Juvenile Law: Caregiver Notice and Right to Be Heard (amend Cal. Rules of Court, rule 5.534; revise form JV-290; and approve form JV-290-INFO).

- Agree** with proposed changes
- Agree** with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization**

Address: _____

City, State, Zip: _____

Please **write** or **fax** or **respond using the Internet** to:

Address: Ms. Camilla Kieliger,
Judicial Council, 455 Golden Gate Avenue,
San Francisco, CA 94102
Fax: (415) 865-7664 **Attention:** Camilla Kieliger
Internet: www.courtinfo.ca.gov/invitationstocomment

DEADLINE FOR COMMENT: 5:00 p.m., Wednesday, June 20, 2007
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Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council,
the Rules and Projects Committee, or the Policy Coordination and Liaison Committee.
All comments will become part of the public record of the council's action.*