

# JUDICIAL COUNCIL OF CALIFORNIA

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## INVITATION TO COMMENT

**SPR15-26**

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Title	Action Requested
Juvenile Law: Sibling Visitation	Review and submit comments by June 17, 2015
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rules 5.570, 5.708, and 5.810; revise forms JV-183, JV-185, and JV-403	January 1, 2016
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Kerry Doyle, 415-865-8791 <a href="mailto:kerry.doyle@jud.ca.gov">kerry.doyle@jud.ca.gov</a>
Hon. Jerilyn L. Borack, Cochair	
Hon. Mark A. Juhas, Cochair	

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### **Executive Summary and Origin**

The Family and Juvenile Law Advisory Committee proposes amending three rules and revising three forms to conform them to recent statutory changes giving dependency courts the authority to order visitation between dependent and nondependent siblings in specified circumstances. These changes have created new requirements related to sibling visitation, such as requiring more detailed information in social worker reports and probation officer case plans, and requiring courts to make a renewed finding when renewing any suspension of sibling interaction. The recent statutory changes have also made both current and new sibling placement and visitation requirements apply to children under the jurisdiction of the delinquency court.

### **Background**

In October 2008, Congress passed and President George W. Bush signed the Fostering Connections to Success and Increasing Adoptions Act to promote permanent families for children and youth in foster care by providing greater assistance to relative caregivers and improving incentives for adoption. Among other things, the act requires states to use “reasonable efforts” to place siblings together, unless such placement is contrary to their safety or well-being. If the siblings are not placed together, visitation between them must occur frequently, unless the visitation is contrary to their safety or well-being.<sup>1</sup>

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<sup>1</sup> See 42 U.S.C. § 671(a).

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 These proposals are circulated for comment purposes only.*

Before passage of the act, California was one of the first states to pass legislation promoting sibling visitation for foster children—as early as 1999.<sup>2</sup> Since then, California has enacted several additional statutes to expand legal protections for sibling relationships.

These laws have served to promote sibling relationships when both children are in the dependency system, but at least one recent unpublished case indicates that courts will not grant visitation in a case where one sibling is in the foster system and the other remains in the legal custody of the parent.<sup>3</sup> Senate Bill 1099 (Steinberg; Stats. 2014, ch. 773) sought to address this situation by giving dependency courts the authority to order visitation between dependent and nondependent siblings in specified circumstances. Additionally, SB 1099 created new requirements related to sibling visitation, such as requiring more detailed information in social worker reports and probation officer case plans and requiring courts to make a renewed finding that sibling interaction is contrary to the safety or well-being of either child when renewing any suspension of sibling interaction. SB 1099 also made current and new sibling placement and visitation requirements apply to children under the jurisdiction of the delinquency court.

### **The Proposal**

Rules 5.570, 5.708, and 5.810 would be amended and forms JV-183, JV-185, and JV-403 would be revised to ensure that they conform to the recently enacted provisions of Welfare and Institutions Code sections 358.1, 388, 778, and 16002 and to clarify that after the court has conducted a permanency hearing, it must conduct a postpermanency hearing no less frequently than once every six months.

The committee proposes the following specific amendments to the California Rules of Court:

- Amend rule 5.570 with the new standard for granting or denying a request for sibling visitation with a nondependent sibling.

As introduced, the standard in section 388 for granting a request for visitation with a nondependent sibling was: “...a request for sibling visitation shall be granted unless it is shown by clear and convincing evidence that sibling visitation is contrary to the safety and well-being of any of the siblings.” Staff of the Senate Judiciary Committee had concerns that, “[i]n practice, the clear and convincing standard is a high evidentiary burden that many parties, especially self-represented parties, may have difficulty proving.”<sup>4</sup> That committee worked with the sponsor of the bill, the California Youth Connection, to change the standard to: “a request for sibling visitation *may* be granted unless *it is determined by the court* that sibling visitation is contrary to the safety and well-being of any of the siblings.” [Emphasis added.]

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<sup>2</sup> See Assem. Bill 740 (Stats. 1999, ch. 805).

<sup>3</sup> See *In re A.R.* (2012) 203 Cal.App4th 1160.

<sup>4</sup> Sen. Comm. on Jud., Analysis of Sen. Bill No. 1099 (2013–2014 Reg. Sess.) April 22, 2014, p. 6.

Given this legislative history, the committee proposes adding this new standard to rule 5.570 (h)(2) and (i)(2) but not specifying the burden of proof required.

- Further amend rule 5.570 to clarify that the request for visitation with a nondependent sibling can be granted only if that sibling is in the custody of a mutual parent who is subject to the court's jurisdiction.

SB 1099 amended section 16002 with the legislative intent to preserve and strengthen a child's sibling relationship so that when a child has been removed from his or her home and he or she has a sibling or siblings who remain in the custody of a mutual parent subject to the court's jurisdiction, the court has the authority to develop a visitation plan for the siblings, unless it has been determined that visitation is contrary to the safety or well-being of any sibling.

- Further amend rule 5.570 to specify the burden of proof and standard when requesting that a child be removed from the home or moved to a more restrictive level of placement.

In spring 2013, the committee recommended amending rule 5.570 to "[r]emove statutorily incorrect uses of a section 388 petition."<sup>5</sup> Because the subparagraphs addressed requests to remove a child from the child's home and requests to move a child to a more restrictive placement, the committee decided that section 387, which addresses these requests when made by the child welfare department, governed these requests. It has since, however, been pointed out to staff that children's counsel sometimes make these requests, and if so, these requests would be governed by section 388. The committee therefore proposes that the language taken out of the rule effective January 1, 2014, be included in it again.

- Amend rule 5.708 to require that the court make the findings required by section 16002(b).

Rule 5.708 governs the findings the court must make regarding siblings at dependency status review hearings. SB 1099 created a requirement in section 16002(b) that when sibling interaction has been suspended, in order for the suspension to continue, the court must make a renewed finding that sibling interaction is contrary to the safety or well-being of either child. The committee proposes using a cross-reference to recently amended section 16002(b). By referencing the statute, any future modification to section 16002(b) will not result in the need for changes to the rule.

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<sup>5</sup> Judicial Council of Cal., Adv. Comm. Invitation to Comment, *Juvenile Law: Extended Foster Care* (spring 2013), p. 4.

- Amend rule 5.810 to require a finding, if sibling interaction has been suspended and will continue to remain suspended, that sibling interaction is contrary to the safety or well-being of either child.

Rule 5.810 governs the findings the court must make at delinquency status review hearings. As stated above, SB 1099 created a requirement in section 16002(b) that when sibling interaction has been suspended, in order for the suspension to continue, the court must make a renewed finding that sibling interaction is contrary to the safety or well-being of either child. The committee proposes adding this newly required finding to the subdivisions governing each status review type: prepermanency, permanency, and postpermanency hearings.

- Further amend rules 5.708 and 5.810 to delete references to “youth.”

Frequently, but not consistently, these rules refer to “child or youth” rather than “child.” “Youth” is not defined in the California Rules of Court. Rule 5.502 defines “child” as “a person under the age of 18 years.” It further defines both “nonminors” and “nonminor dependents.” These three definitions include all children and nonminors who are subject to the court’s jurisdiction. The committee proposes using the words that are defined in the rule and deleting any references to the undefined “youth.”

- Further amend rule 5.810 to clarify that, after the court has conducted a permanency hearing, it must conduct a postpermanency hearing no less frequently than once every 6 months and to eliminate the requirement for a permanency hearing every 12 months.

Although a permanency hearing is required every 12 months under federal law,<sup>6</sup> California complies with this requirement by holding postpermanency status review hearings every 6 months.<sup>7</sup> The finding and order required by federal law to identify a permanent plan for a child are required by state law to be made at each postpermanency status review hearing, thus satisfying the federal requirement.<sup>8</sup>

- Further amend rule 5.810 to remove subdivision (f) regarding administrative reviews because it is duplicative of statute.
- Amend rules 5.570, 5.708, and 5.810 with new references to code sections and subsections and with further clarifying changes.

The committee also proposes the following specific revisions to Judicial Council forms:

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<sup>6</sup> See 45 C.F.R. §§ 1355.20, 1356.21(b)(2)(i); 42 U.S.C. § 675(5)(C),(F).

<sup>7</sup> Welf. & Inst. Code, § 366.3(a), (d).

<sup>8</sup> Welf. & Inst. Code, § 366.3(e)(3).

- Revise *Court Order on Form JV-180, Request to Change Court Order* (form JV-183) to include the new standard for granting a request for sibling visitation with a child who is not a dependent of the court, and to allow the court to deny a request for sibling visitation if the sibling is not living in the custody of a mutual parent subject to the court’s jurisdiction.
- Further revise form JV-183 to allow a court to set a hearing for the parties to argue whether a hearing on a section 388 petition should be granted or denied.

In *In re G.B.* (2014) 227 Cal.App.4th 1147, the First Appellate District held, inter alia, that the failure to hold a hearing on modification requests did not amount to reversible error.<sup>9</sup> In doing so, the appellate court implicitly approved the trial court’s practice of setting a hearing for the purpose of giving the parties an opportunity to argue whether the section 388 petition stated a prima facie case and whether a hearing on the petition should be set. The appellate court stated that in checking the box on the form, the juvenile court was not deciding that a prima facie case had been made but was instead scheduling the matter for the parties to argue the issue.<sup>10</sup> It further stated that such a setting was not an option on the form.

The committee proposes revising the form to allow courts the option of setting a hearing to allow argument by the parties before the court decides whether to grant or deny a hearing on the section 388 petition.

- Revise *Child’s Information Sheet—Request to Change Court Order* (form JV-185) to clarify, in plain language, that a child can request visitation with a sibling who lives with a mutual parent subject to the jurisdiction of the court.
- Revise *Sibling Attachment: Contact and Placement* (form JV-403) to include the new findings required by SB 1099 regarding siblings under the court’s jurisdiction who are not placed together in the same home.

SB 1099 amended sections 366 and 366.3 to require findings regarding whether the visits are supervised or unsupervised and, if supervised, why and what needs to be accomplished in order for the visits to be unsupervised; a description of the location and length of the visits; and any plan to increase visitation between the siblings. These findings would be added to the current item 3 and would make the one-page form a two-page form.

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<sup>9</sup> The published opinion can be found at [www.courts.ca.gov/opinions/archive/A140107.PDF](http://www.courts.ca.gov/opinions/archive/A140107.PDF).

<sup>10</sup> Current form JV-183, item 3, which is to be completed by the trial court, reads, “The court orders a hearing on the form JV-180 request because the best interest of the child may be promoted by the request. The hearing will take place on (date): . . .”

### **Alternatives Considered**

The committee considered not amending rule 5.570 and not revising form JV-183 regarding setting hearings on section 388 petitions but decided that the practice of setting a hearing for parties to argue whether a hearing on a section 388 petition should be granted or denied occurred in enough jurisdictions that the form should be revised. The committee also decided that amending this rule and revising this form would increase the options available to judicial officers.

### **Implementation Requirements, Costs, and Operational Impacts**

This proposal could result in an increase in section 388 petitions filed requesting visitation with siblings who are not dependents of the court. This increase, however, is due to recent statutory changes authorizing such requests. In implementing the revised forms, courts would incur standard reproduction costs and retraining of affected staff.

## **Request for Specific Comments**

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

- Does the proposal appropriately address the stated purpose?

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

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

### **Attachments and Links**

1. Proposed Cal. Rules of Court, rules 5.570, 5.708, and 5.810, at pages 7–17
2. Proposed forms JV-183, JV-185, and JV-403, at pages 18–23
3. Senate Bill 1099,  
[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140SB1099&search\\_keywords=](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB1099&search_keywords=)

1 **Rule 5.570. Request to change court order (petition for modification)**  
2

3 (a)–(c) \* \* \*

4  
5 **(d) Denial of hearing**  
6

7 The court may deny the petition ex parte if:  
8

- 9 (1) The petition filed under section 388(a) or section 778(a) fails to state a  
10 change of circumstance or new evidence that may require a change of order  
11 or termination of jurisdiction or fails to show that the requested modification  
12 would promote the best interest of the child, nonminor, or nonminor  
13 dependent.  
14
- 15 (2) The petition filed under section 388(b) fails to demonstrate that the requested  
16 modification would promote the best interest of the dependent child; or  
17
- 18 (3) The petition filed under section 388(b) or 778(b) requests visits with a  
19 nondependent child and demonstrates that sibling visitation is contrary to the  
20 safety and well-being of any of the siblings;  
21
- 22 (4) The petition filed under section 388(b) or 778(b) requests visits with a sibling  
23 who is not in the custody of a mutual parent subject to the court's  
24 jurisdiction; or  
25
- 26 ~~(3)~~(4) The petition filed under section 388(c) fails to state facts showing that the  
27 parent has failed to visit the child or that the parent has failed to participate  
28 regularly and make substantive progress in a court-ordered treatment plan or  
29 fails to show that the requested termination of services would promote the  
30 best interest of the child.  
31

32 **(e) Grounds for grant of petition (§§ 388, 778)**  
33

- 34 (1) If the petition filed under section 388(a) or section 778(a) states a change of  
35 circumstance or new evidence and it appears that the best interest of the  
36 child, nonminor, or nonminor dependent may be promoted by the proposed  
37 change of order or termination of jurisdiction, the court may grant the petition  
38 after following the procedures in (f), (g), and (h), or (i).  
39
- 40 (2) If the petition is filed under section 388(b) and it appears that the best interest  
41 of the child, nonminor, or nonminor dependent may be promoted by the  
42 proposed recognition of a sibling relationship ~~and~~ or other requested orders,

1 the court may grant the petition after following the procedures in (f), (g), and  
2 (h).

3  
4 (3) If the petition is filed under section 388(b), the request is for visitation with a  
5 sibling who is not a dependent of the court and who is in the custody of a  
6 parent subject to the court's jurisdiction, and it appears that sibling visitation  
7 is not contrary to the safety and well-being of any of the siblings, the court  
8 may grant the request after following the procedures in (f), (g), and (h).  
9

10 (4) If the petition is filed under section 778(b) and it appears that the sibling is in  
11 the custody of a parent subject to the court's jurisdiction and that visitation is  
12 not contrary to the safety and well being of the ward or any of the siblings,  
13 the court may grant the request after following the procedures in (f), (g), and  
14 (i).  
15

16 ~~(3)~~ (5) \* \* \*

17  
18 ~~(4)~~ (6) \* \* \*

19  
20 ~~(5)~~ (7) If the petition filed under section 388(a) is filed before an order terminating  
21 parental rights and is seeking to modify an order that reunification services  
22 ~~were not needed~~ need not be provided under section 361.5(b)(4), (5), or (6) or  
23 to modify any orders related to custody or visitation of the child for whom  
24 reunification services were not ordered under section 361.5(b)(4), (5), or (6),  
25 the court may modify the orders only if the court finds by clear and  
26 convincing evidence that the proposed change is in the best interests of the  
27 child. The court may grant the petition after following the procedures in (f),  
28 (g), and (h).  
29

30 **(f) Hearing on petition**  
31

32 If all parties stipulate to the requested modification, the court may order  
33 modification without a hearing. If there is no such stipulation and the petition has  
34 not been denied ex parte under section (d), the court may order a hearing for the  
35 parties to argue whether a hearing on the petition should be granted or denied or  
36 may must order that a hearing on the petition for modification be held within 30  
37 calendar days after the petition is filed. If the court orders a hearing for the parties  
38 to argue whether a hearing on the petition should be granted or denied and grants a  
39 hearing on the petition, that hearing must be held within 30 calendar days after the  
40 petition is filed.  
41

42 **(g)** \* \* \*  
43

1 (h) Conduct of hearing (§ 388)

2  
3 (1) The petitioner requesting the modification under section 388 has the burden  
4 of proof.

5  
6 (A) If the request is for the removal of the child from the child's home, the  
7 petitioner must show by clear and convincing evidence that the grounds  
8 for removal in section 361(c) exist.

9  
10 (B) If the request is for removal to a more restrictive level of placement, the  
11 petitioner must show by clear and convincing evidence that the change  
12 is necessary to protect the physical or emotional well-being of the  
13 child.

14  
15 ~~(A)~~(C) If the request is for termination of court-ordered reunification services,  
16 the petitioner must show by clear and convincing evidence that one of  
17 the conditions in section 388(c)(1)(A) or (B) exists and must show by a  
18 preponderance of the evidence that reasonable services have been  
19 offered or provided.

20  
21 ~~(B)~~(D) If the request is to modify an order that reunification services were not  
22 needed under section 361.5(b)(4), (5), or (6) or to modify any orders  
23 related to custody or visitation of the child for whom reunification  
24 services were not ordered under section 361.5(b)(4), (5), or (6), the  
25 petitioner must show by clear and convincing evidence that the  
26 proposed change is in the best interests of the child.

27  
28 ~~(C)~~(E) All other requests require a preponderance of the evidence to show  
29 that the child's welfare requires such a modification.

30  
31 (2) If the request is for visitation with a sibling who is not a dependent of the  
32 court, the court may grant the request unless the court determines that the  
33 sibling is not in the custody of a mutual parent subject to the court's  
34 jurisdiction or that sibling visitation is contrary to the safety and well-being  
35 of any of the siblings.

36  
37 ~~(2)~~ (3) The hearing must be conducted as a dispositional hearing under rules 5.690  
38 and 5.695 if:

39  
40 (A) The request is for termination of court-ordered reunification services;  
41 or

42  
43 (B) There is a due process right to confront and cross-examine witnesses.  
44

1 Otherwise, proof may be by declaration and other documentary evidence, or by  
2 testimony, or both, at the discretion of the court.

3  
4 **(i) Conduct of hearing (§ 778)**

5  
6 (1) The petitioner requesting the modification under section 778(a) has the  
7 burden of proving by a preponderance of the evidence that the ward's welfare  
8 requires the modification. Proof may be by declaration and other  
9 documentary evidence, or by testimony, or both, at the discretion of the  
10 court.

11  
12 (2) If the request is for visitation under section 778(b), the court may grant the  
13 request unless the court determines that the sibling is not in the custody of a  
14 mutual parent subject to the court's jurisdiction or that sibling visitation is  
15 contrary to the safety and well-being of any of the siblings.

16  
17  
18 **(j) Petitions for juvenile court to resume jurisdiction over nonminors (§§ 388(e),**  
19 **388.1)**

20  
21 A petition filed by or on behalf of a nonminor requesting that the court resume  
22 jurisdiction over the nonminor as a nonminor dependent is not subject to this rule.  
23 Petitions filed under ~~subdivision (e) of section 388(e)~~ or section 388.1 are subject  
24 to rule 5.906.

25  
26 **Rule 5.708. General review hearing requirements**

27  
28 **(a)–(b) \* \* \***

29  
30 **(c) Reports (§§ 366.05, 366.1, 366.21, 366.22, 366.25, 16002)**

31  
32 Before the hearing, the social worker must investigate and file a report describing  
33 the services offered to the family, progress made, and, if relevant, the prognosis for  
34 return of the child to the parent or legal guardian.

35  
36 (1) The report must include:

37  
38 (A) Recommendations for court orders and the reasons for those  
39 recommendations;

40  
41 (B) A description of the efforts made to achieve legal permanence for the  
42 child if reunification efforts fail; ~~and~~

1 (C) A factual discussion of each item listed in sections 366.1 and  
2 366.21(c); and

3  
4 (D) A factual discussion of the information required by section 16002(b).

5  
6 (2)–(3) \* \* \*

7  
8 (d)–(e) \* \* \*

9  
10 (f) **Educational and developmental-services needs (§§ 361, 366, 366.1, 366.3)**

11  
12 The court must consider the educational and developmental-services needs of each  
13 child and nonminor or nonminor dependent ~~youth~~, including whether it is necessary  
14 to limit the rights of the parent or legal guardian to make educational or  
15 developmental-services decisions for the child ~~or youth~~. If the court limits those  
16 rights or, in the case of a nonminor or nonminor dependent ~~youth~~ who has chosen  
17 not to make educational or developmental-services decisions for him- or herself or  
18 has been deemed incompetent, finds that appointment would be in the best interests  
19 of the ~~youth~~ nonminor or nonminor dependent, the court must appoint a responsible  
20 adult as the educational rights holder as defined in rule 5.502. Any limitation on the  
21 rights of a parent or guardian to make educational or developmental-services  
22 decisions for the child ~~or youth~~ must be specified in the court order. The court must  
23 follow the procedures in rules 5.649–5.651.

24  
25 (g) **Case plan (§§ 16001.9, 16501.1)**

26  
27 The court must consider the case plan submitted for the hearing and must  
28 determine:

29  
30 (1) Whether the child ~~or youth~~ was actively involved, as age- and  
31 developmentally appropriate, in the development of his or her own case plan  
32 and plan for permanent placement. If the court finds that the child ~~or youth~~  
33 was not appropriately involved, the court must order the agency to actively  
34 involve the child ~~or youth~~ in the development of his or her own case plan and  
35 plan for permanent placement, unless the court finds that the child is unable,  
36 unavailable, or unwilling to participate.

37  
38 (2)–(3) \* \* \*

39  
40 (4) For a child ~~or youth~~ 12 years of age or older in a permanent placement,  
41 whether the child was given the opportunity to review the case plan, sign it,  
42 and receive a copy. If the court finds that the child ~~or youth~~ was not given

1 this opportunity, the court must order the agency to give the child the  
2 opportunity to review the case plan, sign it, and receive a copy.

3  
4 **(h)–(i)** \* \* \*

5  
6 **(j) Sibling findings; additional findings (§§ 366, 16002)**

7  
8 (1) The court must determine whether the child has other siblings under the  
9 court's jurisdiction. If so, the court must make the additional determinations  
10 required by section 366(a)(1)(D); and

11  
12 (2) The court must enter any additional findings as required by section 366 and  
13 section 16002.

14  
15 **(k)–(m)** \* \* \*

16  
17 **(n) Requirements on setting a section 366.26 hearing (§§ 366.21, 366.22, 366.25)**

18  
19 The court must make the following orders and determinations when setting a  
20 hearing under section 366.26:

21  
22 (1) The court must terminate reunification services to the parent or legal guardian  
23 and:

24  
25 (A) Order that the social worker provide a copy of the child's birth  
26 certificate to the caregiver as consistent with sections 16010.4(e)(5) and  
27 16010.5(b)–(c); and

28  
29 (B) Order that the social worker provide a child ~~or youth~~ 16 years of age or  
30 older with a copy of his or her birth certificate unless the court finds  
31 that provision of the birth certificate would be inappropriate.

32  
33 (2)–(6) \* \* \*

34  
35 **(o)** \* \* \*

36  
37  
38 **Rule 5.810. Reviews, hearings, and permanency planning**

39  
40 **(a) Six-month status review hearings (§§ 727.2, 11404.1)**

41  
42 For any ward removed from the custody of his or her parent or guardian under  
43 section 726 and placed in a home under section 727, the court must conduct a status  
44 review hearing no less frequently than once every six months from the date the

1 ward entered foster care. The court may consider the hearing at which the initial  
2 order for placement is made as the first status review hearing.

3  
4 (1)–(2) \* \* \*

5  
6 (3) *Findings and orders (§ 727.2(e))*

7  
8 The court must consider the safety of the ward and make findings and orders  
9 that determine the following:

10  
11 (A)–(E) \* \* \*

12  
13 (F) In the case of a child ~~or youth~~ who is 16 years of age or older, the  
14 services needed to assist the child ~~or youth~~ in making the transition  
15 from foster care to independent living;

16  
17 (G) Whether the child ~~or youth~~ was actively involved, as age- and  
18 developmentally appropriate, in the development of his or her own case  
19 plan and plan for permanent placement. If the court finds that the child  
20 ~~or youth~~ was not appropriately involved, the court must order the  
21 probation department to actively involve the child ~~or youth~~ in the  
22 development of his or her own case plan and plan for permanent  
23 placement, unless the court finds that the child ~~or youth~~ is unable,  
24 unavailable, or unwilling to participate; ~~and~~

25  
26 (H) Whether each parent was actively involved in the development of the  
27 case plan and plan for permanent placement. If the court finds that any  
28 parent was not actively involved, the court must order the probation  
29 department to actively involve that parent in the development of the  
30 case plan and plan for permanent placement, unless the court finds that  
31 the parent is unable, unavailable, or unwilling to participate; and

32  
33 (I) If sibling interaction has been suspended and will continue to be  
34 suspended, that sibling interaction is contrary to the safety or well-  
35 being of either child.

36  
37  
38 (4) \* \* \*

39  
40  
41 (b) **Permanency planning hearings (§§ 727.2, 727.3, 11404.1)**

1 A permanency planning hearing for any ward who has been removed from the  
2 custody of a parent or guardian and not returned at a previous review hearing must  
3 be held within 12 months of the date the ward entered foster care as defined in  
4 section 727.4(d)(4). ~~and periodically thereafter, but no less frequently than once~~  
5 ~~every 12 months while the ward remains in placement.~~ However, when no  
6 reunification services are offered to the parents or guardians under section 727.2(b),  
7 the first permanency planning hearing must occur within 30 days of disposition.  
8

9 (1) \* \* \*

10  
11 (2) *Findings and orders (§§ 727.2(e), 727.3(a))*

12  
13 At each permanency planning hearing, the court must consider the safety of  
14 the ward and make findings and orders regarding the following:  
15

16 (A)–(C) \* \* \*

17  
18 (D) The permanent plan for the child ~~or youth~~, as described in (3);  
19

20 (E) Whether the child ~~or youth~~ was actively involved, as age- and  
21 developmentally appropriate, in the development of his or her own case  
22 plan and plan for permanent placement. If the court finds that the child  
23 ~~or youth~~ was not appropriately involved, the court must order the  
24 probation officer to actively involve the child ~~or youth~~ in the  
25 development of his or her own case plan and plan for permanent  
26 placement, unless the court finds that the child ~~or youth~~ is unable,  
27 unavailable, or unwilling to participate; and  
28

29 (F) Whether each parent was actively involved in the development of the  
30 case plan and plan for permanent placement. If the court finds that any  
31 parent was not actively involved, the court must order the probation  
32 department to actively involve that parent in the development of the  
33 case plan and plan for permanent placement, unless the court finds that  
34 the parent is unable, unavailable, or unwilling to participate; and  
35

36 (G) If sibling interaction has been suspended and will continue to be  
37 suspended, that sibling interaction is contrary to the safety or well-  
38 being of either child.  
39

40 (3) *Selection of a permanent plan (§ 727.3(b))*

41  
42 At the first permanency planning hearing, the court must select a permanent  
43 plan. At subsequent permanency planning hearings that can be held under

1 section 727.2(g), the court must either make a finding that the current  
2 permanent plan is appropriate or select a different permanent plan, including  
3 returning the child home, if appropriate. The court must choose from one of  
4 the following permanent plans, which are, in order of priority:

5  
6 (A) \* \* \*

7  
8 (B) A permanent plan of return of the child to the physical custody of the  
9 parent or guardian, after 6 additional months of reunification services.  
10 The court may not order this plan unless the court finds that there is a  
11 substantial probability that the child will be able to return home within  
12 18 months of the date of initial removal or that reasonable services  
13 have not been provided to the parent or guardian.

14  
15 (C)–(F) \* \* \*

16  
17 (4) \* \* \*

18  
19 (c) **Postpermanency status review hearings (§ 727.2)**

20  
21 A postpermanency status review hearing must be conducted for wards in placement  
22 no less frequently than once every six months.

23  
24 (1) *Consideration of reports (§ 727.2(d))*

25  
26 The court must review and consider the social study report and updated case  
27 plan submitted for this hearing by the probation officer and the report  
28 submitted by any CASA volunteer, and any other reports filed with the court  
29 under section 727.2(d).

30  
31 (2) *Findings and orders (§ 727.2(g))*

32  
33 At each postpermanency status review hearing, the court must consider the  
34 safety of the ward and make findings and orders regarding the following:

35  
36 (A) Whether the current permanent plan continues to be appropriate. If not,  
37 the court must select a different permanent plan, including returning the  
38 child home, if appropriate. ~~The court must not order the permanent~~  
39 ~~plan of returning home after 6 more months of reunification services, as~~  
40 ~~described in (b)(3)(B), unless it has been 18 months or less since the~~  
41 ~~date the child was removed from home;~~

42  
43 (B) The continuing necessity for and appropriateness of the placement;

44

1 (C) The extent of the probation department’s compliance with the case plan  
2 in making reasonable efforts to complete whatever steps are necessary  
3 to finalize the permanent plan for the child; ~~and~~  
4

5 (D) Whether the child ~~or youth~~ was actively involved, as age- and  
6 developmentally appropriate, in the development of his or her own case  
7 plan and plan for permanent placement. If the court finds that the child  
8 ~~or youth~~ was not appropriately involved, the court must order the  
9 probation department to actively involve the child ~~or youth~~ in the  
10 development of his or her own case plan and plan for permanent  
11 placement, unless the court finds that the child ~~or youth~~ is unable,  
12 unavailable, or unwilling to participate; and  
13

14 (E) If sibling interaction has been suspended and will continue to be  
15 suspended, sibling interaction is contrary to the safety or well-being of  
16 either child.  
17

18 (d) **Notice of hearings; service; contents (§ 727.4)**  
19

20 No earlier than 30 or later than 15 calendar days before each hearing date, the  
21 probation officer must serve written notice on all persons entitled to notice under  
22 section 727.4, as well as the current caregiver, any CASA volunteer or educational  
23 rights holder, and all counsel of record. ~~A~~ *Notice of Hearing—Juvenile*  
24 *Delinquency Proceeding* (form JV-625) must be used.  
25

26 (e) **Report (§§ 706.5, 706.6, 727.2(c), 727.3(a)(1), 727.4(b), 16002)**  
27

28 Before each hearing described above, the probation officer must investigate and  
29 prepare a social study report that must include an updated case plan and all of the  
30 information required in sections 706.5, 706.6, 727.2, ~~and~~ 727.3, and 16002.  
31

32 (1) The report must contain recommendations for court findings and orders and  
33 must document the evidentiary basis for those recommendations.  
34

35 (2) At least 10 calendar days before each hearing, the ~~petitioner~~ probation officer  
36 must file the report and provide copies of the report to the ward, the parent or  
37 guardian, all attorneys of record, and any CASA volunteer.  
38

39 (f) **Hearing by administrative panel (§§ 727.2(h), 727.4(d)(7))**  
40

41 ~~The status review hearings described in (a) and (c) may be conducted by an~~  
42 ~~administrative review panel, provided:~~  
43

- 1           ~~(1) The ward, parent or guardian, and all those entitled to notice under section~~  
2                     ~~727.4 may attend;~~  
3  
4           ~~(2) Proper notice is provided;~~  
5  
6           ~~(3) The panel has been appointed by the presiding judge of the juvenile court and~~  
7                     ~~includes at least one person who is not responsible for the case management~~  
8                     ~~of, or delivery of service to, the ward or the parent or guardian; and~~  
9  
10          ~~(4) The panel makes findings as required by (a)(3) or (e)(2) above and submits~~  
11                     ~~them to the juvenile court for approval and inclusion in the court record.~~  
12

The court will complete this form after reviewing the Request to Change Court Order (form JV-180) and either grant the request, deny the request, or set a hearing on the request.

After reading and considering the Request to Change Court Order (form JV-180) filed by:

Name: \_\_\_\_\_

on (date): \_\_\_\_\_

Clerk stamps date here when form is filed.

**DRAFT**

**NOT APPROVED  
BY THE JUDICIAL  
COUNCIL**

**The Court Finds and Orders**

- 1  All parties and attorneys agree to the request. The request is granted
  - a.  as requested in item 8 of Form JV-180.
  - b.  as follows (state specific modifications):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- 2 The request is denied because
  - a.  the request is not signed.
  - b.  the request does not state new evidence or a change of circumstances.
  - c.  the proposed change of order, recognition of sibling relationships, or termination of jurisdiction does not promote the best interest of the child.
  - d.  the request is for visitation with a dependent of the court and the proposed change of order does not promote the best interest of the child.
  - e.  the request is for visitation with a nondependent of the court and the proposed change of order is contrary to the safety or well-being of one or more of the siblings.
  - f.  the request is for visitation with a nondependent of the court and the parent who has custody is not subject to this court's jurisdiction.
  - g.  Other (state the specific reason): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- 3 The court orders a hearing on whether the court should grant or deny a hearing. The hearing will take place on (date): \_\_\_\_\_ at (time): \_\_\_\_\_ (circle one) a.m./p.m.

in department \_\_\_\_\_ of the Superior Court of \_\_\_\_\_

County located at \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

Fill in child's name and date of birth:

**Name of Child or Youth:**

Clerk fills in case number when form is filed.

**Case Number:**



Name of child or youth: \_\_\_\_\_

Case Number: _____
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④ The court orders a hearing on the form JV-180 request because the best interest of the child may be promoted by the request. The hearing will take place on *(date)*: \_\_\_\_\_  
at *(time)*: \_\_\_\_\_ *(circle one)* a.m./p.m. in department \_\_\_\_\_  
of the Superior Court of \_\_\_\_\_ County located at \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

▸ \_\_\_\_\_  
*Judicial officer*

CHILD'S NAME:

CASE NUMBER:

**CHILD'S INFORMATION SHEET—  
REQUEST TO CHANGE COURT ORDER  
(Welf. & Inst. Code, §§ 353.1, 388)**

**TO THE CHILD:** This information sheet tells you about your right to ask the court to change a decision the court has made about your life and the rules that must be followed when you want to ask the court to change a decision. It also explains your right to ask the court to make an order about your relationship with a brother or sister. If you are under 12 years of age, your attorney must talk with you about this information. If you are 12 years of age or older and in court at the dispositional hearing, the court must also talk with you about this information. The court must mail this information to you after a dispositional hearing.

- A. I have just made a decision about your life. I will be making other decisions about your life. You have a right to ask me to change a decision I have made. You have an attorney who will help you with this.

For me to change a decision I have made, you must talk with your attorney and have your attorney ask me to change my decision.

Your attorney will have to fill out a form called *Request to Change Court Order* (form JV-180).

The form will explain to me the changes that have happened in your life and why the changes you want me to make in the court order will make things better for you.

You may get a copy of the blank form from your attorney or from the court clerk's office at the courthouse to review so you know what information needs to be on the form.

1. You must tell your attorney the following information:

- a. What has changed since I made the decision? If nothing has changed, what new information do you want to tell me?
- b. What changes to my decision do you want me to make?
- c. If I make the changes you want, will you be better off than if I do not make these changes? Tell me how the changes will make you healthier, safer, and happier.

2. After you speak with your attorney, your attorney will fill out the form.

- a. I will read the form.
- b. I may ask the other people involved with your case if they think you have given me the kind of information I must have in order to change my decision. Then I will decide if you told me anything new and if the change you want me to make is good for you.
- c. If I believe you have not told me anything new or if I believe what you want me to change is not good for you, I will not make any changes. The court clerk will send to you and all the people involved with your case a written notice of my decision not to make any changes.
- d. If I believe you did tell me something new and what you are asking me to change may be better for you, I will schedule a court date for you. The court clerk will send to you and all the people involved with your case a written notice of my decision to schedule a hearing and the date of the hearing.
- e. At that court date, everyone involved in your case will be present and allowed to speak.
- f. After everyone has spoken, I will make the final decision. I will make the changes you want only if I believe you have told me something new and what you are asking for is good for you.

- B. If you have a brother or sister who lives with the parent you were removed from, you may ask me to make an order allowing visits with him or her.

If you have a brother or sister who is or might become a dependent of the court, you may ask me to make an order allowing visits, to make an order placing you in the same home, to make other orders that may be in the best interest of your brother or sister, and to consider your relationship with your brother or sister when making decisions about him or her.

For me to make these orders, you must tell your attorney you would like to ask me to make an order about your brother or sister.

CHILD'S NAME:	CASE NUMBER:
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B. Your attorney will fill out a form asking me to make the order about your brother or sister.

The court clerk will send to you and all the people involved with your brother's or sister's case a written notice of my decision to schedule a hearing and the date of the hearing.

At that court date, everyone involved in the case will be present and allowed to speak.

After everyone has spoken, I will make the final decision. I will make the order about your brother or sister that you asked me to make only if I believe what you are asking for is good for your brother or sister.

If you have any questions please ask your attorney. Your attorney will be able to answer your questions about court procedures and the laws I will apply in making my decisions.

Date:

\_\_\_\_\_

JUDICIAL OFFICER

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

1. The child has siblings under the court's jurisdiction.

a. The nature of the relationship between the child and the child's siblings is

- (1)  stated on the record.
- (2)  described in the social worker's report.
- (3)  other (specify):

b. (1)  Developing or maintaining the sibling relationship with the siblings named below is appropriate.

- (a) (name):
- (b) (name):
- (c) (name):
- (d) (name):
- (e) (name):
- (f) (name):

(2)  Developing or maintaining the sibling relationship with the siblings named below is not appropriate.

- (a) (name):
- (b) (name):
- (c) (name):
- (d) (name):
- (e) (name):
- (f) (name):

(3) The basis for the finding in item 1b is

- (a)  stated on the record.
- (b)  described in the social worker's report.
- (c)  other (specify):

c. The impact of the sibling relationships on the child's placement and planning for legal permanence is

- (1)  stated on the record.
- (2)  described in the social worker's report.
- (3)  other (specify):

2.  The child and all of the child's siblings under the court's jurisdiction are placed together in the same home.

3.  The child and all of the child's siblings under the court's jurisdiction are not placed together in the same home.

a.  Efforts are being made to place the child and the following siblings together.

(1) Child's siblings:

- (a) (name):
- (b) (name):
- (c) (name):
- (d) (name):
- (e) (name):
- (f) (name):

(2) The reasons the child and these siblings are not placed together and the efforts being made to do so are

- (a)  stated on the record.
- (b)  described in the social worker's report.
- (c)  other (specify):

b.  Efforts to place the child with the following siblings are not appropriate.

(1) Child's siblings:

- (a) (name):
- (b) (name):
- (c) (name):

(2) The reasons that efforts to place the child with these siblings are not appropriate are

- (a)  stated on the record.
- (b)  described in the social worker's report.
- (c)  other (specify):

c.  The frequency and nature of the visits between the child and the child's siblings who are not placed together are

- (1)  stated on the record.
- (2)  described in the social worker's report.
- (3)  other (specify):

CHILD'S NAME:	CASE NUMBER:
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3. d.  The reasons why the visits between the child and the child's siblings are supervised are
- (1)  stated on the record.
- (2)  described in the social worker's report.
- (3)  other (*specify*):
- e.  What needs to be accomplished in order for the visits to be unsupervised is
- (1)  stated on the record.
- (2)  described in the social worker's report.
- (3)  other (*specify*):
- f.  The location and length of the visits between the child and the child's siblings who are not placed together are
- (1)  stated on the record.
- (2)  described in the social worker's report.
- (3)  other (*specify*):
- g.  The plan to increase visitation between the child and the child's siblings who are not placed together is
- (1)  stated on the record.
- (2)  described in the social worker's report.
- (3)  other (*specify*):