



Judicial Council of California

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INVITATION TO COMMENT

SPR25-20

Title

Juvenile Law: Date a Child Entered Foster Care

Action Requested

Review and submit comments by May 23, 2025

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rule 5.502

Proposed Effective Date

January 1, 2026

Proposed by

Family and Juvenile Law Advisory Committee
Hon. Tari L. Cody, Cochair
Hon. Stephanie E. Hulsey, Cochair

Contact

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Executive Summary and Origin

Assembly Bill 2664 (Bryan; Stats. 2024, ch. 412) amended Welfare and Institutions Code section 361.49 to clarify the date a child is deemed to have entered foster care for the purpose of establishing timelines for the provision of reunification services. The Family and Juvenile Law Advisory Committee proposes amending two definitions in rule 5.502 of the California Rules of Court to conform to the law.

Background

When there is an allegation that a child is being abused or neglected, the county child welfare agency is tasked with investigating the allegation.¹ Depending on the investigation, the social worker can offer voluntary services to keep the child safe in the parent's custody; keep the child in the parent's custody and file a petition with the court to open a juvenile dependency case;² or remove the child from the home (with or, in certain circumstances, without a warrant) and file a petition with the court.

¹ Welf. & Inst. Code, §§ 328, 16500. All unspecified statutory references are to the Welfare and Institutions Code.

² This petition must be heard by the court within 15 days. (Cal. Rules of Court, rule 5.670(a).) All unspecified references to rules are to the California Rules of Court.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

When a child is taken from the home of a parent or guardian by a social worker or peace officer because of safety concerns, unless the child is returned to parental custody within 48 hours, a social worker or probation officer must file a petition with the court.³ The court must set a detention hearing on the petition that same day or the next day to determine whether the child should be detained or released to a parent pending the jurisdiction hearing.⁴ If the court takes jurisdiction over the child at the jurisdiction hearing, the case moves to a disposition hearing where the court can formally take custody from the parent or guardian and make appropriate orders regarding the child's care and custody.⁵

One of the options at the disposition hearing on a section 300 petition is placing the child in foster care and ordering time-limited services to the parent or guardian with the aim of eventually reunifying the child with the parent or guardian. Reunification services may be provided for up to 18 months or, in certain exceptional cases, 24 months from the date the child was originally removed from the parent's physical custody.⁶ At the end of this reunification period, the court must consider a permanent plan for the child that may include termination of parental rights and placement of the child for adoption.⁷

Another option at the disposition hearing on a section 300 petition is *not* removing the child from the custody of a parent or guardian and ordering family *maintenance* services.⁸ If a petition under section 342 or 387 is later filed, the court may remove the child from the custody of their parent or guardian at disposition on this later petition and order reunification services. The Welfare and Institutions Code did not expressly address the timeline for reunification services for a child detained but not removed at disposition on a section 300 petition but later removed at disposition on a section 342 or 387 petition.

An opinion from an appellate court illustrated the lack of certainty that surrounded such a situation. In the case of *In re Damian L.* (2023) 90 Cal.App.5th 357, the children were initially taken from their mother's custody by law enforcement and then detained by the court on a section 300 petition in September 2019. The children remained out of the mother's care until the disposition hearing on the section 300 petition in June 2020, when the juvenile court ordered custody of the children to be retained by the mother and family maintenance services provided. When the children were subsequently removed at disposition on a section 387 petition in May 2021, the child welfare agency argued that the mother was out of time to reunify because the 18- and 24-month limits for reunification services ran from the date the children were initially taken from parental custody in September 2019. The juvenile court

³ § 313(a).

⁴ §§ 315, 319.

⁵ § 358.

⁶ §§ 361.5(a)(3)(A) & (a)(4)(A), 366.21(g)(1) & (g)(2), 366.22(b).

⁷ § 366.26.

⁸ § 362(c).

disagreed and ordered reunification services for the mother. The Court of Appeal reversed the juvenile court's order, holding that the 18- and 24-month time limits on reunification services began when the children were taken from parental custody on the original section 300 petition.⁹

In response to *In re Damian L.*, the Legislature passed Assembly Bill 2664, which amended section 361.49. As amended, section 361.49 provides that, when a court does not remove a child from the custody of their parent or guardian at disposition on a section 300 petition, the timeline for reunification does not begin to run. The timeline will begin to run if the child becomes the subject of a subsequent petition under section 342 or 387 and the court removes the child from the custody of the parent or guardian at disposition on the subsequent petition. In such a situation, the date the child entered foster care, which is the date used to calculate hearings to track the timeline and progress toward reunification, is the earlier of the date of the jurisdiction hearing on the section 342 or 387 petition or the date that is 60 days after the date the child was initially removed from the physical custody of their parent or guardian under the section 342 or 387 petition.

The Proposal

The Family and Juvenile Law Advisory Committee proposes to amend two definitions in rule 5.502—subdivision (9), Date the child entered foster care, and subdivision (21), Initial removal—to conform to current law.

Definition of “date the child entered foster care”

For dependency cases, the definition of “date the child entered foster care” in subdivision (9)(A) of rule 5.502 would be amended to add a provision addressing the situation of a child removed on a subsequent petition after not having been removed at disposition on the original section 300 petition. New subdivision (9)(A)(ii) would provide: “If the court ordered custody retained by the parent or guardian at disposition on a petition filed under section 300, even if the child was initially detained, and later removed the child at disposition on a subsequent petition filed under section 342 or 387, the earlier of the date on which the court sustained the subsequent petition filed under section 342 or 387 or 60 days after the “initial removal” of the child, as defined in (21)(B).” With minor clarifying changes, new subdivision (9)(A)(i) would retain the existing definition for situations in which a court orders a child removed from the custody of a parent or guardian at disposition on a section 300 petition.

Definition of “initial removal”

Similarly, this proposal would amend the definition of “initial removal” in subdivision (21) of rule 5.502 to add new subdivision (21)(B): “If the child was not removed from the physical custody of their parent or guardian at disposition on a prior petition filed under section 300, the date on which the child, who is the subject of a subsequent petition filed under section 342

⁹ *In re Damian L.* (2023) 90 Cal.App.5th 357, 383.

or 387, was taken into custody by the social worker or a peace officer, or was deemed to have been taken into custody under section 309(b) on the subsequent petition.” With minor clarifying changes, the new subdivision 21(A) would retain the existing definition for situations in which a court orders a child removed from the custody of a parent or guardian at disposition on a section 300 petition.

Alternatives Considered

The committee did not consider taking no action. Amending the two definitions is necessary to conform with amended section 361.49 and to ensure that parents receive the reunification services to which they are entitled.

Fiscal and Operational Impacts

Other than education and training of judicial officers and court staff, no fiscal and operational impacts on courts are expected.

Request for Specific Comments

In addition to comments on the proposal as a whole, the Family and Juvenile Law Advisory Committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

The Family and Juvenile Law 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. Cal. Rules of Court, rule 5.502, at pages 5–6
2. Link A: Welf. & Inst. Code, § 361.49
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=361.49.&lawCode=WIC
3. Link B: Assem. Bill 2664 (Bryan; Stats. 2024, ch. 412)
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB2664

Rule 5.502 of the California Rules of Court would be amended, effective January 1, 2026, to read:

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

2
3 Definitions * * *

4
5 As used in these rules, unless the context or subject matter otherwise requires:

6
7 (1)–(8) * * *

8
9 (9) “Date the child entered foster care” means:

10
11 (A) In dependency;

12
13 (i) Except as provided in (ii), the earlier of the date on which the
14 court sustained the petition filed under section 300 or 60 days
15 after the “initial removal” of the child as defined below in
16 (21)(A), whichever is earlier; or

17
18 (ii) If the court ordered custody retained by the parent or guardian at
19 disposition on a petition filed under section 300, even if the child
20 was initially detained, and later removed the child at disposition
21 on a subsequent petition filed under section 342 or 387, the
22 earlier of the date on which the court sustained the subsequent
23 petition filed under section 342 or 387 or 60 days after the “initial
24 removal” of the child, as defined in (21)(B).

25
26 (B) * * *

27
28 (10)–(20) * * *

29
30 (21) “Initial removal” means:

31
32 (A) Except as provided in (B), the date on which the child, who is the
33 subject of a petition filed under section 300 or 600, was taken into
34 custody by the social worker or a peace officer, or was deemed to have
35 been taken into custody under section 309(b) or 628(c), if removal
36 results in the filing of the petition before the court; or

37
38 (B) If the child was not removed from the physical custody of their parent
39 or guardian at disposition on a prior petition filed under section 300, the
40 date on which the child, who is the subject of a subsequent petition
41 filed under section 342 or 387, was taken into custody by the social

1 worker or a peace officer, or was deemed to have been taken into
2 custody under section 309(b) on the subsequent petition.

3

4 (22)-(46) * * *