

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

W22-04

Title

Juvenile Law: Nonminor Dependents

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rules 5.555 and 5.906; adopt forms JV-469 and JV-471

Proposed by

Family and Juvenile Law Advisory
Committee
Hon. Stephanie E. Hulse, Cochair
Hon. Amy M. Pellman, Cochair

Action Requested

Review and submit comments by January 21, 2022

Proposed Effective Date

September 1, 2022

Contact

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Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes amending two rules and adopting two forms to implement recent statutory changes that authorize placing agencies to petition the court on behalf of nonminor dependents who were ineligible for federal funding as children to terminate the nonminors from juvenile dependency or transitional jurisdiction and immediately reenter them to allow a new federal eligibility determination to be undertaken so that federal matching funds can be accessed to cover the costs of their cases.

Background

In 2021, the Legislature enacted Assembly Bill 640 (Cooley; Stats. 2021, ch. 622) to provide a mechanism for county child welfare and probation agencies to obtain a redetermination of eligibility for federal financial participation in a foster care case for a nonminor dependent. Such a redetermination is beneficial to the state and the agency because of the restrictions on which cases can receive federal matching funds for reimbursement. As the Assembly Floor Analysis for AB 640 explains:

Foster care payments for eligible youth are provided through either state or federal AFDC-FC [Aid for Dependent Children–Foster Care]. In order to be eligible for federal AFDC-FC, the home from which the child was removed must meet Aid for Dependent Children (AFDC) eligibility criteria from 1996 for the month in which a dependency petition is filed with the juvenile court, or in any of the six months prior to the month in

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which the petition is filed. In 1996, the income limit for a family of three to qualify for AFDC was \$723. Eligibility for federal AFDC-FC is determined at the time a child is removed from their parent's custody and eligibility is not re-determined once the youth is in foster care. Because many youth are ineligible for federal AFDC-FC, California created state AFDC-FC, which provides funding to foster children who are placed with non-relative foster parents.

Because eligibility for federal AFDC-FC is determined at the time a child is removed from their parents' custody, youth who immediately transition from foster care to EFC do not undergo federal AFDC-FC eligibility re-determination, as there is no disruption in their foster care status that would warrant re-determination. However, current law permits nonminors who are eligible for EFC to undergo re-determination for federal AFDC-FC if they re-enter the dependency system through a voluntary re-entry agreement.

(Assem. Floor Analysis, Sen. Conc. Amends. to Assem. Bill 640 (2021–2022 Reg. Sess.) Sept. 2, 2021, pp. 3–4.)

The legislation adds a new subdivision (f) to Welfare and Institutions Code section 388 to authorize the placing agency to file the request to exit and reenter care via a voluntary reentry agreement with the court on behalf of and with the consent of the nonminor. It provides that there be no break in services and prohibits filing a petition if the nonminor is categorically ineligible for federal funds or if the nonminor is a member of a tribe and filing the request would disrupt services or make the nonminor ineligible for services. The request may be granted by the court without a hearing, and the proceeding is not subject to the requirements for other hearings to terminate juvenile court jurisdiction. AB 640 requires the Judicial Council to adopt any needed rules or forms for implementation by September 1, 2022. Many nonminor dependents whose families were ineligible for federal financial participation when the nonminor entered care are expected to be eligible when they are evaluated as nonminors based on their current income, which will allow the state to draw down additional federal funds for foster care.

The Proposal

Petition and Order to Exit and Reenter Jurisdiction—Nonminor Dependent (form JV-469)

The committee proposes adopting a mandatory form to be used by the placing agency to petition the court to dismiss and then resume jurisdiction over the nonminor. The form would also allow the court to specify if it intends to grant the request without a hearing or set the matter for a hearing. In most cases, it is expected that a hearing will not be required, in which case the court would use the other proposed form to make its findings and orders. The committee is seeking comment on whether combining the petition with the order form is workable or whether they should be stand-alone forms.

Findings and Orders Regarding Exit and Reentry of Jurisdiction—Nonminor Dependent (form JV-471)

The committee proposes an additional mandatory form for the court to make the findings and orders required to dismiss and resume jurisdiction over the nonminor so that the placing agency

may enter into a new agreement and redetermine federal financial eligibility. The form would also allow the court to deny the request if it found that to exit and reenter was not in the nonminor's best interest.

Amendments to rules 5.555 and 5.906 to exclude exit and reentry from procedural requirements

The committee proposes amending rules 5.555 and 5.906, which address procedures to be used when terminating jurisdiction over a nonminor or resuming jurisdiction when they reenter care after exiting in other circumstances, to make clear that neither rule applies to the exit and reentry provisions of section 388(f). Each rule would also provide that those cases should be handled using the two mandatory forms described above.

Alternatives Considered

The committee considered adopting a new rule of court to implement section 388(f) but concluded that the statutory guidance and the forms were sufficient to allow the courts to administer this new process. The committee also considered whether a form was required to document the consent of the nonminor and is seeking comment on whether that is a necessary addition to the proposal.

Fiscal and Operational Impacts

The proposal is designed to minimize the burden on the courts to implement the new legislative option by providing simple and streamlined forms to be filed by the placing agency. Because the legislation allows the court to take this action without holding a hearing, the workload burden is expected to be mostly administrative.

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?
- Is a form that combines the request and initial order on whether a hearing is needed on the request workable?
- Does this mostly administrative process require its own rule of court, or can it be accomplished with the mandatory forms?
- Should the forms be mandatory or optional? If the forms were optional, would a rule of court then be required?
- Is a form needed to document the consent of the nonminor?

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 three 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, rules 5.555 and 5.906, at page 5
2. Forms JV-469 and JV-471, at pages 6–7
3. Link A: Assem. Bill 640,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB640

Rules 5.555 and 5.906 of the California Rules of Court would be amended, effective September 1, 2022, to read:

1 **Rule 5.555. Hearing to consider termination of juvenile court jurisdiction over a**
2 **nonminor—dependents or wards of the juvenile court in a foster care**
3 **placement and nonminor dependents (§§ 224.1(b), 303, 366.31, 391, 451, 452,**
4 **607.2, 607.3, 16501.1(g)(16))**

5
6 **(a) Applicability**

7
8 (1)–(2) * * *

9
10 (3) This rule does not apply to a hearing on a petition for a nonminor to exit and
11 reenter care to establish eligibility for federal financial participation under
12 section 388(f). Those petitions may be decided with or without a hearing
13 using mandatory forms *Petition and Order to Exit and Reenter Jurisdiction—*
14 *Nonminor Dependent* (form JV-469) and *Findings and Orders Regarding*
15 *Exit and Reentry of Jurisdiction—Nonminor Dependent* (form JV-471).
16

17 **(b)–(d) * * ***

18
19 **Rule 5.906. Request by nonminor for the juvenile court to resume jurisdiction**
20 **(§§ 224.1(b), 303, 388(e), 388.1)**

21
22 **(a) Purpose**

23
24 (1) Except as provided in (2), this rule provides the procedures that must be
25 followed when a nonminor wants to have juvenile court jurisdiction assumed
26 or resumed over ~~the nonminor him or her~~ as a nonminor dependent as defined
27 in subdivisions (v) or (aa) of section 11400.
28

29 (2) This rule does not apply to a petition for a nonminor to exit and reenter care
30 to establish eligibility for federal financial participation under section 388(f).
31 Those petitions may be decided with or without a hearing using mandatory
32 forms *Petition and Order to Exit and Reenter Jurisdiction—Nonminor*
33 *Dependent* (form JV-469) and *Findings and Orders Regarding Exit and*
34 *Reentry of Jurisdiction—Nonminor Dependent* (form JV-471).
35

36 **(b)–(i) * * ***

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| ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name): | FOR COURT USE ONLY <p style="text-align: center;">DRAFT Not approved by the Judicial Council JV-469.v2.112321.cz</p> |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | |
| NONMINOR'S NAME: | |
| PETITION AND ORDER TO EXIT AND REENTER JURSDICTION—NONMINOR DEPENDENT | CASE NUMBER: |

1. **Petitioner (name):**

- a. Social worker
- b. Probation officer
- c. Tribal placing agency

requests on behalf of and with the consent of the nonminor named above that the court dismiss its jurisdiction under Welfare and Institutions Code section 300 or 450 and assume general jurisdiction under section 303 and then immediately resume its jurisdiction under section 300 or 450 to establish the nonminor's eligibility for federal financial participation. Petitioner certifies that the nonminor is not categorically ineligible for federal foster care benefits and is not a member of a tribe whose services would be disrupted by seeking to establish federal eligibility.

2. Notice of this request has been provided to the nonminor and the attorney for the nonminor and a proof of service is attached.

Date: _____

_____ (TYPE OR PRINT NAME) ▶ _____ (SIGNATURE)

(The court will complete the section below)

ORDER

3. The court orders the following:

- a. The request is granted without a hearing, and findings and orders are made as provided on attached form JV-471.
- b. The matter is set for hearing on (date): _____ in department: _____

Date: _____ _____ (JUDICIAL OFFICER)

| | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name): | FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-471.v2.112421.cz |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | |
| NONMINOR'S NAME: | |
| FINDINGS AND ORDERS REGARDING EXIT AND REENTRY OF JURISDICTION—NONMINOR DEPENDENT | CASE NUMBER: |

Findings and Orders:

1. The court has read and considered *Petition and Order to Exit and Reenter Jurisdiction—Nonminor Dependent* (form JV-469), filed by (name): _____ on (date): _____
2. The court held a hearing on the request on (date): _____, at which of the following were present

| Name | Attorney name |
|----------------------------------------------------------|--------------------------|
| a. <input type="checkbox"/> Nonminor dependent: | <input type="checkbox"/> |
| b. <input type="checkbox"/> Probation officer: | <input type="checkbox"/> |
| c. <input type="checkbox"/> County agency social worker: | <input type="checkbox"/> |
| d. <input type="checkbox"/> Other (specify): | <input type="checkbox"/> |

Court Grants Request

3. The court makes the findings stated below:
 - a. Notice of the date, time, and location of the hearing was given as required by law.
 - b. Notice of the request was provided to the nonminor and the attorney for the nonminor.
 - c. It is in the best interest of the nonminor to reenter foster care as a nonminor dependent.
4. The court makes the order stated below:
 - a. The court grants the request to dismiss jurisdiction under Welfare and Institutions Code section 300 or 450 and to assumed general jurisdiction over the nonminor under section 303, and then resume jurisdiction over the nonminor under section 300 or section 450 to establish the nonminor's eligibility for federal financial participation in the cost of the nonminor's care.
 - b. Placement and care are vested with the placing agency.
 - c. The placing agency must establish a new agreement for extended foster care with the nonminor and ensure no break in service or supports.
 - d. A transitional independent living case plan has not previously been established. The placing agency must develop with the nonminor a new plan and file it with the court within 60 days
 - e. A nonminor dependent review hearing under Welfare and Institutions Code section 366.31 and rule 5.903 of the California Rules of Court is set for (date): _____

Court Denies Request

5. The court finds that it is not in the nonminor's best interest to grant the request to dismiss jurisdiction and maintains jurisdiction over the nonminor under its existing order for the reasons stated on the record.

Date: _____

(JUDICIAL OFFICER)