

UNDERSTANDING THE COURT PROCESS FOR NONMINOR DEPENDENTS

Materials:

- 1) Extended Foster Care Rules and Forms: List, pages 1-2
- 2) AB12 Fostering Connections to Success Act: List of relevant ACL's, ACIN's, and CFL's, pages 3-10
- 3) Nonminor Dependent Findings and Orders (Title IV-E), page 11
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Extended Foster Care Rules and Forms

Juvenile California Rules of Court can be found at:

<http://www.courts.ca.gov/cms/rules/index.cfm?title=five>

Juvenile Judicial Council Forms can be found at:

<http://www.courts.ca.gov/forms.htm?filter=JV>

Rule Number	Title
5.502	Definitions and Terms of Use
5.555	Hearing to consider termination of juvenile court jurisdiction over a nonminor-dependents or wards of the juvenile court in a foster care placement and nonminor dependents (§§ 224.1(b), 303, 366.31, 391, 451, 452, 607.2, 607.3, 16501.1(g)(16))
5.613	Transfer of nonminor dependents
5.697	Disposition Hearing for a Nonminor (§§ 224.1, 295, 303, 358, 358.1, 361, 366.31, 390, 391)
5.812	Additional requirements for any hearing to terminate jurisdiction over child in foster care and for status review hearing for a child approaching age of majority (§§450, 451, 727.2(i)-(j), 778)
5.813	Modification to transition jurisdiction for a ward older than 18 years and younger than 21 years of age (§§450, 451)
5.814	Modification to transition jurisdiction for a ward older than 17 years, 5 months of age and younger than 18 years of age (§§450, 451)
5.900	Nonminor dependent-preliminary provisions (§§224,1(b), 303, 366, 366.3, 388, 391, 607(a))
5.903	Nonminor dependent status review hearing (§§225.1(b), 295, 366.1, 366.3, 366.31)
5.906	Request by nonminor for the juvenile court to resume jurisdiction (§§224.1(b), 303, 388(e), 388.1)

Form Number	Title
365*	Termination of Juvenile Court Jurisdiction - Nonminor
367*	Findings and Orders After Hearing to Consider Termination of Juvenile Court Jurisdiction Over a Nonminor
460	Attachment: Additional Findings and Orders For Child Approaching Majority—Dependency
461*	Findings and Orders After Nonminor Disposition Hearing
461(A)*	Dispositional Attachment: Nonminor Dependent
462	Findings and Orders After Nonminor Dependent Status Review Hearing

463*	Nonminor's Informed Consent to Hold Disposition Hearing
464-INFO*	How to Ask to Return to Juvenile Court Jurisdiction and Foster Care
466	Request to Return to Juvenile Court Jurisdiction and Foster Care
468*	Confidential Information—Request to Return to Juvenile Court Jurisdiction and Foster Care
470	Findings and Orders Regarding Prima Facie Showing on Nonminor's Request to Reenter Foster Care
472	Findings and Order After Hearing to Consider Nonminor's Request to Reenter Foster Care
475	Agreement of Adoption of Nonminor Dependent
477	Consent of Spouse or Registered Partner to Adoption of Nonminor Dependent
479	Order of Adoption of Nonminor Dependent
548*	Motion for Transfer Out
550*	Juvenile Court Transfer—Out Orders
552*	Juvenile Court Transfer-Out Orders—Nonminor Dependent
680	Findings and Orders for Child Approaching Majority—Delinquency
681	Attachment: Hearing For Dismissal—Additional Findings And Orders—Foster Care Placement—Delinquency
682	Findings and Orders After Hearing to Modify Delinquency Jurisdiction to Transition Jurisdiction for Child Younger Than 18 Years of Age
683	Findings and Orders After Hearing to Modify Delinquency Jurisdiction to Transition Jurisdiction for Ward Older Than 18 Years of Age

*= mandatory form

AB12 Fostering Connections to Success Act

Title/Keyword	All County Letters	Description	Link
New Kinship Guardianship Assistance Payment (Kin-Gap) Program Requirements	ACL 11-15 ACL 11-15E	Describes the new Kin-GAP program requirements pursuant to AB12.	http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2011/11_15.pdf http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2011/11-15E.pdf
THP Letter of Intent and Program Plan	ACL 11-53	Provides counties with updated instructions concerning the LOI and County Plan requirements for THPP, THP-Plus and THP- Plus-FC.	http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2011/11-53.pdf
Extended Foster Care (EFC)	ACL 11-61	Provides information about the extension of AFDC-FC benefits for youth that remain in foster care beyond age 18. Includes <ul style="list-style-type: none"> • Eligibility Criteria • Participation Conditions • Authority for Placement • Payment Information • Termination of Payment of AFDC-FC Benefits • Out of Statement Placements 	http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2011/11-61.pdf
Extension of Foster Care Beyond Age 18: Part One	ACL 11-69	Provides counties with instructions regarding the policies and procedures of the EFC Program. Topics include: <ul style="list-style-type: none"> • EFC Program Overview • Court Process for EFC • Participation Eligibility • Placement Agreements • Exiting and Re-entry (brief) • Case Management for EFC • Case Planning for youth approaching Age 17 yrs 5 mos • Case Planning for NMDs • Case Supervision for NMDs Also includes camera ready copies and translations of	http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2011/11-69.pdf

		forms.	
Extension of Foster Care Beyond Age 18: Part Two PLACEMENT	ACL 11-77	Provides counties with instruction regarding the policies and procedures for the placement of NMDs in EFC Program. This includes information related to Non-Related Legal Guardianships (NRLGs), under a Tribal IV-E agreement, or supervised by probation that were subject to an order of foster care on their 18 th birthday. Includes: <ul style="list-style-type: none"> • Placement Agreement Forms • Continuum of Placement Options • Licensed homes and approved relatives • Group Homes • THP-Plus-FC • SILP • Wraparound • Grievance Procedures 	http://cdss.ca.gov/lettersnotices/entres/getinfo/acl/2011/11-77.pdf
California Work Opportunity and Responsibility to Kids: Extending Benefits to Non-Minor Dependents CalWORKS	ACL 11-78 ACL 11-78E	Informs county welfare departments of changes to the CalWORKs program pursuant to AB12. Describes how NMDs are eligible to receive CalWORKs benefits up to age 20. Includes: <ul style="list-style-type: none"> • Background • EW Responsibilities • Eligibility • Pregnant or Parenting Teens • Out-of-County • CalFRESH Benefits • Claiming • Revised Forms and NOAs 	http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2011/11-78.pdf http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2011/11-78E.pdf
Extension of Foster Care Beyond Age 18: Part Three PROBATION	ACL 11-85 Part Three	Provides information regarding probation youth access to EFC Program. This includes a discussion of the new mechanism which allows for and defines how wards of the court can access EFC Program. Includes: <ul style="list-style-type: none"> • Transition to W&IC 300 Jurisdiction • W&IC 450 Jurisdiction 	http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2011/11-85.pdf

		<ul style="list-style-type: none"> • W&IC 602 Jurisdiction • Termination of Transition and Delinquency Jurisdiction 	
Extension of Kinship Guardianship Assistance Payment (Kin-GAP) Program Benefits and Adoption Assistance Payments (AAP) to Age 21	ACL 11-86	Provides counties with instructions regarding the extension of Kin-GAP Program benefits and AAP to age 21.	http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2011/11-86.pdf
AB12 Program and Extension of Foster Care Program	ACIN 1-40-11	Provides an overall description of the major provisions of AB12 including the new federal legislation which allows for Kinship Guardianship Assistance Payment (Kin-GAP) Program benefits to be eligible for the Federal Financial Participation (FFP). Another major provision is the extension of foster care up to age 20 for young adults who meet the federal participation criteria.	https://www.cdss.ca.gov/lettersnotices/entres/getinfo/acin/2011/1-40_11.pdf
Training Activities for the Extension of Foster Care Program	ACIN 1-78-11	Provides counties with information regarding training activities for the EFC Program. This notice provides a general description of the efforts underway to develop a statewide curriculum including brief descriptions of: <ul style="list-style-type: none"> • Stakeholder Participants • Youth Engagement, Training and Informing Team Process • Training Curriculum Review and Approval Process • Training Curriculum Content and Distribution • Upcoming Events 	http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acin/2011/1-78_11.pdf
Implementation of EFC Special Project Codes in the CWS/CMS System	ACL 12-05	Provides instruction regarding the statewide Special Project Codes (SPCs) in CWS/CMS and the additional new and revised forms required for the implementation of EFC.	http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2012/12-05.pdf
Re-Entry into Extended Foster Care (EFC)	ACL 12-12	Provides information about re-entry into EFC including case management information and eligibility information.	http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2012/12-12.pdf

Relative/NREFM Assessment/Approval; Revised and New SOC forms for Non Minor Dependent Placement	ACL 12-13	Provides counties with information and instructions regarding the forms used for the assessment of a prospective or existing relative or non-relative extended family member (NREFM) caregiver.	http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2012/12-13.pdf
Extended Benefits For Non-Minors Living with Current Or Former Non-Related Legal Guardians (NRLG)	ACL 12-48	This ACL discusses eligibility for extended benefits for non-minors living with former non-related legal guardians (NRLG).	http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2012/12-48.pdf
Extended Benefits for Non-Minors Living With Current or Former Non-Related Legal Guardians (NRLG)	ACL 12-48E	Deletes the table on page two of ACL 12-48 under the Age section. The chart on page two did not correctly identify the non-minors who may return to the care of the guardian and continue payment until their 21st birthday.	http://www.cdss.ca.gov/lettersnotices/EntRes/getinfo/acl/2012/12-48E.pdf
After 18 Program (AB 12 Extended Foster Care) And Indian Non-Minor Dependents (NMDs) Covered By The Indian Child Welfare Act (ICWA)	ACL 13-91	This ACL contains information on both case management and eligibility issues related to Indian youth as Non-Minor Dependents (NMDs).	http://www.cdss.ca.gov/lettersnotices/EntRes/getinfo/acl/2013/13-91.pdf
Implementation Of Assembly Bill 1712 (Chapter 846, Statutes Of 2012) Non-Minor Dependent Adoption	ACL 13-100	Provides instructions regarding the policies and procedures for the adoption of young adults age 18-20 that remain in Extended Foster Care (EFC) and are under the jurisdiction of the juvenile court.	https://www.cdss.ca.gov/lettersnotices/EntRes/getinfo/acl/2013/13-100.pdf
After 18 Training Resources	ACIN I-21-13	Provides counties with up-to-date information regarding training activities for the Extended Foster Care (After 18) Program contained in California's Fostering Connections to Success Act, Assembly Bill (AB) 12.	http://www.cdss.ca.gov/lettersnotices/EntRes/getinfo/acin/2013/I-21_13.pdf
Extended Foster Care (EFC) Update	ACIN I-29-13	Informs counties about the statutory changes to the Welfare and Institutions Code (W&IC) via passage of AB 1712, signed on September 30, 2012, and SB 1013, signed on June 27, 2012, concerning the EFC Program.	http://www.cdss.ca.gov/lettersnotices/EntRes/getinfo/acin/2013/I-29_13.pdf
New Health Rights And Social Worker And Probation Officer Responsibility To Educate Foster Children And Non-Minor Dependents On Foster Youth Personal Rights	ACL 14-38	Advises counties and other parties of recent changes to Welfare and Institutions Code (W&IC) section 16001.9 and to remind counties of the requirements regarding the responsibility of social workers and probation officers to educate foster children and non-minor dependents in out-of-home care of their personal rights.	https://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2014/14-38.pdf

Nonminor Dependents (NMDs) Placed Out Of State	ACL 14-33	Provides counties with instructions regarding the policies and procedures when placing NMDs out-of-state.	https://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2014/14-33.pdf
California Work Opportunity And Responsibility To Kids (CalWORKs): Final Regulations To Implement Assembly Bill (AB) 1712 And AB 212 Non-Minor Dependents (NMDs)	ACIN I-37-14	The purpose of this letter is to transmit final regulations affecting extended CalWORKs for Non-Minor Dependents (NMDs) due to the enactment of Assembly Bill (AB) 1712 and AB 212.	https://www.cdss.ca.gov/lettersnotices/EntRes/getinfo/acin/2014/I-37-14.pdf
Additional Payment For Nonminor Dependent (NMD) Parent In A Supervised Independent Living Placement (SILP)	ACL 15-67	Provides information regarding the availability of an additional \$200 in addition to the infant supplement paid to NMD parents residing in a SILP upon completion of certain requirements.	https://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2015/15-67.pdf
Extended Foster Care (EFC) Update	ACIN I-76-15	Provides counties with information regarding the statutory changes to the W&IC through enactment of AB 2454 and AB 787 regarding the extension of foster care, also known as "The After 18 Program". This ACIN also clarifies that existing child welfare laws that allow minors to extend foster care also apply to Nonminor Dependents (NMDs).	https://www.cdss.ca.gov/lettersnotices/EntRes/getinfo/acin/2015/I-76-15.pdf
Errata to Extended Foster Care (EFC) Update	ACIN I-76-15E	Provides further clarification on the population eligible to return to foster care, including those who would have been eligible for extended Adoption Assistance Payments and Kin-GAP benefits, but for the parent or guardian's death or failure to support the youth.	https://www.cdss.ca.gov/lettersnotices/EntRes/getinfo/acin/2016/I-76-15E.pdf
Additional Payment For A Nonminor Dependent (NMD) Parent In A Supervised Independent Living Placement (SILP) Questions And Answers	ACL 16-50	Provides counties and other interested parties with answers to frequently asked questions concerning the payment increase NMD parents residing in a SILP may receive as provided for in AB 2668, which created an opportunity for these youth to receive an additional \$200 payment by entering into a "Parent Support Plan."	https://www.cdss.ca.gov/lettersnotices/EntRes/getinfo/acl/2016/16-50.pdf
Reproductive And Sexual Health Care And Related Rights For Youth And Non-Minor Dependents (NMD) In Foster Care	ACL 16-82	Provides information and guidance related to legislative changes and existing law on the reproductive and sexual health care and related rights of youth and Non-Minor Dependents (NMDs) in foster care.	https://www.cdss.ca.gov/lettersnotices/EntRes/getinfo/acl/2016/16-82.pdf
California's Plan For The Prevention Of Unintended Pregnancy For Youth And Non-	ACL 16-88	Addresses and shares the "California's Plan for the Prevention of Unintended Pregnancy for Youth and Non-Minor Dependents" developed by the Healthy	https://www.cdss.ca.gov/lettersnotices/EntRes/getinfo/acl/2016/16-88.pdf

Minor Dependents (NMDS) In Foster Care		Sexual Development Workgroup.	
Ensuring Youth Transitioning Out Of Foster Care Receive Medi-Cal Benefits To Age 26	ACL 17-54	Instructs counties on new requirements to ensure that youth exiting foster care receive uninterrupted Medi-Cal benefits and provides an update regarding the JV-365 form, along with a sample form for complying with the new verification requirements.	https://www.cdss.ca.gov/Portals/9/ACL/2017/17-54.pdf?ver=2019-06-25-140759-443
Changes In Placement Practices For Children, Youth, And Non-Minor Dependents (NMDs) In Foster Care	ACL 17-64	Notifies all public child welfare and probation departments, Title IV-E tribes, private foster or adoption agencies and group home providers of the changes to placement practices for children, youth and NMDs in out-of-home care resulting from SB 731. Newly added W&IC section 16006 requires that "children and non-minor dependents in out-of-home care shall be placed according to their gender identity, regardless of the gender or sex listed in their court or child welfare records."	https://www.cdss.ca.gov/Portals/9/ACL/2017/17-64.pdf?ver=2017-08-10-132353-807
Supervised Independent Living Placement (SILP) - Residing With A Parent	ACL 17-83	Informs counties that Non-Minor Dependents (NMDs) assessed as being ready for a SILP may now reside in a SILP in the same home as a parent or guardian, including the parent or guardian from whom the youth was initially removed, and receive foster care payments.	https://www.cdss.ca.gov/Portals/9/ACL/2017/17-83.pdf?ver=2019-06-26-140648-423
Family Reunification (FR) For Minor Parents And Non-Minor Dependent (NMD) Parents	ACIN I-24-17	Informs counties about the new provisions in the Welfare and Institutions Code which became effective January 1, 2016, that affect the FR process. These provisions require the court to consider the special barriers of minor parents and NMD parents in reunifying; and also allow the court to order six-months of additional FR services for minor parents and NMD parents with dependent children in the child welfare system.	https://www.cdss.ca.gov/Portals/9/ACIN/2017/I-24_17.pdf?ver=2019-06-13-152316-287
CalFresh Treatment Of Non-Minor Dependent (NMD) Foster Care Income	ACIN I-68-17	Provides County Welfare Departments (CWDs) and foster care stakeholders with clarification regarding the treatment of Non-Minor Dependent (NMD) income for the purpose of determining CalFresh eligibility.	https://www.cdss.ca.gov/Portals/9/ACIN/2017/I-68_17.pdf?ver=2019-06-17-124548-120
Eligibility For Extended Foster Care (EFC) For Married Youth And Youth Performing Non-Active Duty Military Service	ACL 18-101	The purpose of this ACL is to inform counties that otherwise eligible married youth are now eligible to enter, re-enter and remain in Extended Foster Care as nonminor dependents and receive foster care	https://www.cdss.ca.gov/Portals/9/ACL/2018/18-101.pdf?ver=2018-09-18-104047-363

		payments.	
Extended Foster Care (EFC) For Otherwise Eligible Minors And Nonminors Whose Juvenile Court Adjudications Are Vacated Under Penal Code (PC) Section 236.14 As Victims Of Human Trafficking	ACL 18-113	Addresses Assembly Bill 604 amended Welfare and Institutions Code sections 303, 388, 450, and 451 to ensure that a ward or former ward who is eligible for foster care and extended foster care under transition jurisdiction remains eligible if the court vacates the youth's underlying adjudication because they were a victim of human trafficking.	https://www.cdss.ca.gov/portals/9/acl/2018/18-113.pdf?ver=2018-09-19-082648-047
Re-Entry Of Eligible Nonminors To Extended Foster Care (EFC) When Adoptive Parent(s) Or Former Legal Guardian(s) No Longer Provide Support	ACL 19-31	Provides guidance to counties regarding policies and procedures for a young adult seeking re-entry into foster care as a Non-Minor Dependent because his or her adoptive parent(s) or legal guardian(s) are no longer providing support	https://www.cdss.ca.gov/Portals/9/ACL/2019/19-31_ES.pdf?ver=2019-04-18-104859-023
Placement Responsibility For Non-Minor Dependents (NMDS) In Extended Foster Care (EFC)	ACL 19-105	Provides guidance and clarification regarding the counties' responsibilities to offer safe and appropriate placements that meet the needs of a nonminor dependent in Extended Foster Care.	https://www.cdss.ca.gov/Portals/9/Additional-Resources/Letters-and-Notices/ACLs/2019/19-105.pdf
New Resources For Case Management Workers For Documenting, Protecting And Sharing Reproductive And Sexual Health Information For Youth And Non-Minor Dependents (NMDs) In Foster Care	ACIN I-06-20	This ACIN introduces two new resources to assist county child welfare social workers and juvenile probation officers with documenting, protecting and sharing reproductive and sexual health information of youth and nonminor dependents in foster care. As such, included with this ACIN are "Frequently Asked Questions" and "Talking Tips for Case Management Workers About Reproductive and Sexual Health.	https://www.cdss.ca.gov/Portals/9/Additional-Resources/Letters-and-Notices/ACINs/2020/I-06_20.pdf
Updates To Supervised Independent Living (SIL) Settings, Placement Option Evaluations, And Transitional Housing Provider Payments	ACL 21-95	Addresses new requirements on housing options for nonminor dependents in the extended foster care program as a result of the adoption of Assembly Bill 1979.	https://www.cdss.ca.gov/Portals/9/Additional-Resources/Letters-and-Notices/ACLs/2021/21-95.pdf?ver=2021-08-18-163613-730

<p>County Assistance (CA 800) Claim and County Expense Claim (CEC) Preliminary Claiming and Time Study Instructions for the Implementation of EFC</p>	<p>CFL 11/12-32</p>	<p>Provides preliminary instructions for the CEC and CA 800 related to EFC. These instructions assist counties in tracking expenditures and activities that are eligible for reimbursement under AB12. Includes:</p> <ul style="list-style-type: none"> EFC Aid Codes and CA800 Claiming Instructions • Cross Reference list of under 18 AID Codes with EFC over 18 Aid Codes • CEC Program, Time Study, and Direct-to-Program Codes and Claiming Instructions • Time Study Code Descriptions 	<p>http://www.cdss.ca.gov/lettersnotices/entres/getinfo/cfl/2011-12/11-12_32.pdf</p>
<p>FY 2010-11 Federally-Funded Kinship Guardianship Assistance Payment (KIN- GAP) Program Administration Allocations</p>	<p>CFL 10/11-61</p>	<p>Informs counties of the FY 10-11 allocation for the federally funded KIN-GAP Program Administration that was authorized by AB12.</p>	<p>http://www.cdss.ca.gov/lettersnotices/entres/getinfo/cfl/2010-11/10-11_61.pdf</p>

Nonminor Dependent (NMD) Proceedings¹

Basic Title IV-E Findings to Ensure Compliance

Nonminor Dependent Review Hearings

E1. The NMD's continued placement is necessary. The NMD's current placement is appropriate.

E2. The agency has made ongoing and intensive efforts to finalize the permanent plan

E3. The extent of progress made by the NMD toward meeting the Transitional Independent Living case plan goals has been _____.

E5. The NMDs permanent plan selected below is appropriate and ordered:

Return Home

Adoption

Tribal Customary Adoption

Placement with a fit and willing relative

Family Reunification services are continued

There is a compelling reason to determine that it is not in the best interest of the NMD to return home, be placed for adoption, or tribal customary adoption, or be placed with a fit and willing relative. The court orders the NMD into another planned permanent living arrangement.

E6. The likely date by which it is anticipated the NMD will achieve independence is ___/___/__. (*Insert date of NMD's 21st birthday*).

E7. The Transitional Independent Living Case Plan includes appropriate and meaningful independent living skill services that will assist the youth transition from foster care to successful adulthood.

Nonminor Dependent Reentry Hearing

F1. Continuing in a foster care placement is in the nonminor's best interest.

F2. Placement and care are vested with the placing agency.

Modification of Jurisdiction to dependency, delinquency, or transition

G1. The minor was originally removed from the physical custody of his or her parents or legal guardians on (*specify date*): ___/___/___ and continues to be removed from their custody.

G2. The removal findings —“continuance in the home is contrary to the child's welfare” and “reasonable efforts were made to prevent removal”— made at that hearing remain in effect.

G3. The [] probation department [] social services agency is responsible for the nonminor's placement and care. †

¹ Welf. & Inst. Code §§ 366.31, 388, 450

Information Sheet 18

Nonminor Dependents in 602 proceedings

Assembly Bill 12, which established extended foster care, made the extension of services and support applicable to delinquent, as well as dependent, youth. AB12 “extend[ed] the court’s jurisdiction to a ward who has been placed in foster care...who reaches the age of majority before jurisdiction is terminated until the nonminor reaches 21 years of age.” Consequently, young people 18 years and older who remain wards under section 602 and have an out-of-home placement order on their 18th birthday are nonminor dependents (NMDs).

The extension of extended foster care services and supports is codified throughout the Welfare and Institutions Code.¹ Section 607.2(4) requires the court to continue delinquency jurisdiction over a ward as an NMD if the ward has an out-of-home placement order on his or her 18th birthday but does not qualify for transition jurisdiction. Similarly, section 11400(v) defines a nonminor dependent as “a foster child who is a current dependent child or ward of the juvenile court...[and] has attained 18 years of age while under an order of foster care placement...”

Unlike delinquent wards who transition to NMD status pursuant to transition jurisdiction under section 450, NMDs who continue under 602 delinquency jurisdiction are not voluntarily remaining in foster care; thus, the Mutual Agreement for Extended Foster Care is not required. However, because a ward under a foster care placement order at the age of 18 is an NMD, the findings and orders for NMDs, which are set forth in *Findings and Orders After Nonminor Dependent Status Review Hearing* (form JV-462), must be made at each status review hearing instead of the postpermanency hearing findings and orders. It is recommended that the court use form JV-462 at these hearings, or a form that contains the findings set forth in form JV-462.

In addition, pursuant to section 362.5, the court is required to open a separate court file for nonminors under the dependency, delinquency, or transition jurisdiction of the court. The contents of this file are limited to what is described in section 362.5. Because the individuals who have access to the court file for a child under the age of 18 are different than those who have access to the court file for NMDs, even one who remains a 602 ward, it is important to develop a process and procedure to ensure all the documents are protected.²

¹ All further statutory references are to the Welfare and Institutions Code, unless otherwise noted.

² The court files for children under the age of 18 are governed by §827.

Extended Foster Care Information Sheet 8

*Dismissal under Welfare and Institutions Code section 602
and
Reentry under Welfare and Institutions Code section 450*

Reentry into the foster care system was first introduced in California through Assembly Bill 12. The introductory language states that this bill “would allow a nonminor who left foster care at or after the age of majority to petition the court to have dependency or delinquency jurisdiction resumed.” Reentry was meant as a safety net for those children who met the definition of nonminor dependents.

A “nonminor dependent” is defined in Welfare and Institutions code section 11400(v) as a foster child that was under a foster care placement at the age of 18 and had a transitional independent living case plan.¹ A young adult can be a nonminor dependent under dependency, delinquency, or transition jurisdiction.

Although commonly done, the code does not contemplate the dismissal of a foster care case when probation has not been satisfied. Section 607 allows the court to retain jurisdiction over a ward until the age of 21. Section 607.2 discusses termination of jurisdiction over a ward who is a minor under a foster care placement order, a nonminor who is subject to a foster care placement order, and a ward who is under a foster care placement order and was a dependent at the time he or she became a ward. Under section 607.2, at the hearing to terminate jurisdiction the court must continue jurisdiction over a ward as a nonminor dependent unless the court finds that after reasonable and documented efforts, the ward cannot be located or does not wish to become a nonminor dependent. In making its findings, the court must ensure that the ward was informed of his or her options including the right to reenter foster care. Section 607.3 describes the duties of the probation officer at the hearing to terminate jurisdiction over a ward, which includes the right to reenter. Finally, section 782 discusses the right of the court to dismiss a petition or set aside findings if the child was not in need of treatment or rehabilitation.

There is little guidance on this issue. There are a few recent cases that discuss satisfactorily completing probation and sealing.^{2, 3} However, neither of these cases discuss any of the dismissal statutes above nor do they involve children that had placement orders.

¹ All further statutory references are to the Welfare and Institutions Code, unless otherwise indicated.

² See *In re A.V. (2017)*, 11 Cal. App. 5th 697, 217 [A juvenile court has discretion to find, or not to find, that a ward before the court has satisfactorily completed his or her probation, justifying dismissal of wardship petition and sealing of records; however, whichever way the juvenile court exercises its discretion, it applies to both dismissing and sealing the petition.]

³ See *In re N.R. (2017)*, 15 Cal. App. 5th 590 [Determination that juvenile's decision to not complete his high school education, in violation of his DEJ probation, reflected current lack of rehabilitation precluding sealing of records]

Section 388(e) allows for nonminors to petition the court to reenter foster care until they reach the age of 21. The juvenile court must find that: 1) the nonminor was under a foster care placement order at the age of 18 and has not yet attained the age of 21; 2) the nonminor intends to satisfy one of the eligibility criteria; 3) reentry and remaining in foster care is in the nonminor's best interest, and 4) the nonminor wants assistance in maintaining or securing an appropriate supervised placement and agrees to supervised placement pursuant to a signed voluntary reentry agreement. The nonminor reenters under either section 300 or section 450 jurisdiction. The nonminor cannot reenter under 602 jurisdiction. Since the law does not contemplate a termination of wardship without meeting rehabilitative goals, the court does not need to make a finding that rehabilitative goals have been met for a nonminor dependent to reenter. If the court can make the findings required in section 388(e)(5)(A), the nonminor can reenter.

related to underlying juvenile delinquency petition did not preclude a finding of rehabilitation at some point in the future that would support sealing of records; juvenile court was permitted to order that records be sealed upon finding that, since termination of jurisdiction, juvenile had not been convicted of felony or of any misdemeanor involving moral turpitude and that rehabilitation had been attained to the satisfaction of the court.]

Information Sheet 20—Modification of Jurisdiction

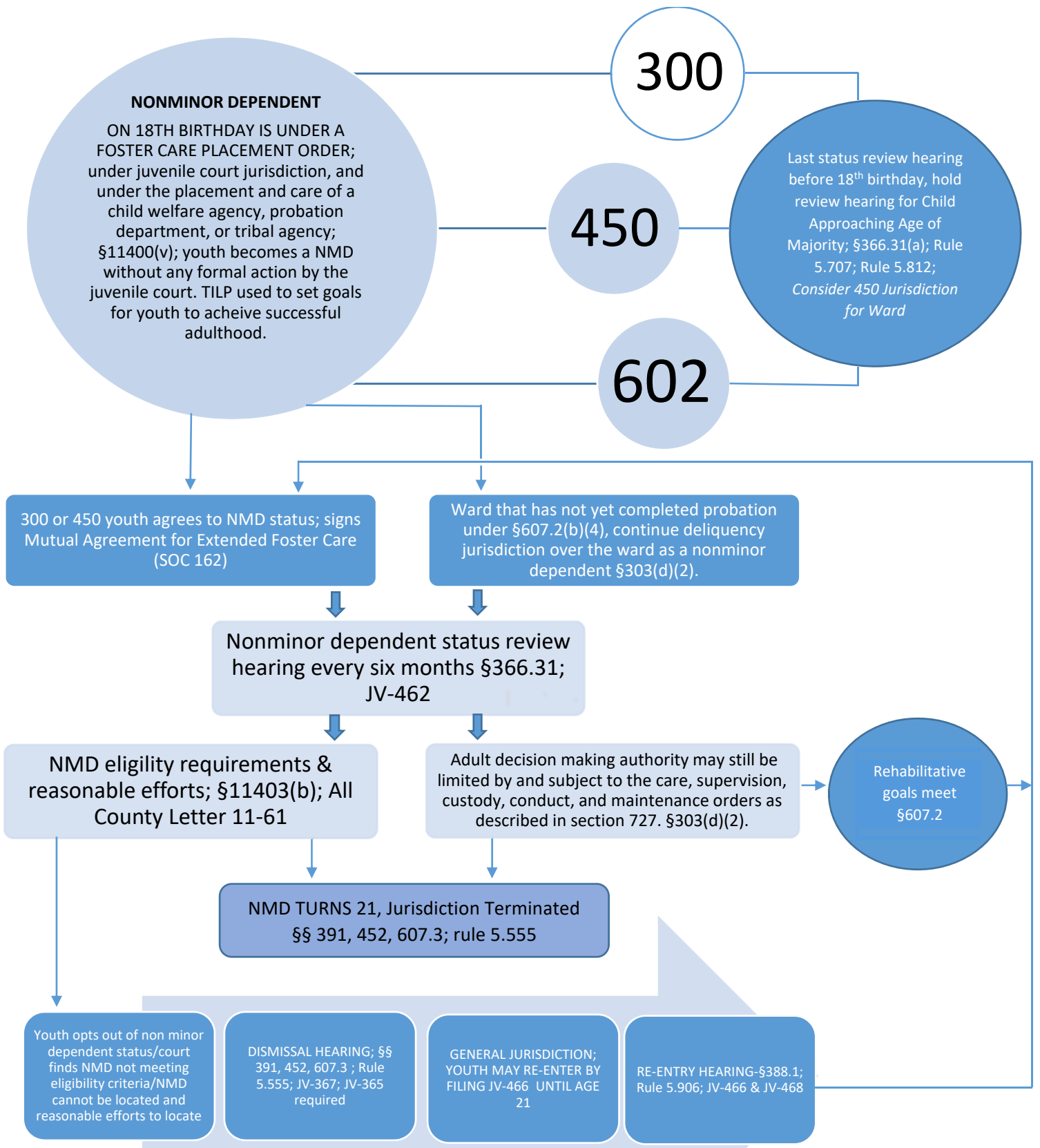
When the court modifies its jurisdiction from dependency to wardship, or wardship to dependency, there are some steps that must be taken to assure the child's continuing eligibility to the Aid to Families with Dependent Children-Foster Care (AFDC-FC) Program. In order to treat a case which transitions from dependency to wardship status, or wardship to dependency status, as a single out-of-home placement episode, it is necessary that all federal AFDC-FC eligibility requirements are maintained. There are four requirements to ensure continued AFDC-FC eligibility.

Whenever the court modifies its jurisdiction over a dependent or ward under section 241.1, 607.2, 725, or 727.2, the court must ensure that all of the following conditions are met:

- (1) The petition under which jurisdiction was taken at the time the dependent or ward was originally removed from his or her parents or legal guardian and placed in foster care is not dismissed until after the new petition is sustained; and
- (2) The order modifying the court's jurisdiction contains all of the following provisions:
 - (A) A reference to the original removal findings, the date those findings were made, and a statement that the finding "continuation in the home is contrary to the child's welfare" and the finding "reasonable efforts were made to prevent removal" made at that hearing remain in effect;
 - (B) A statement that the child continues to be removed from the parents or legal guardian from whom the child was removed under the original petition; and
 - (C) Identification of the agency that is responsible for placement and care of the child based upon the modification of jurisdiction.¹

¹ See California Rules of Court, rule 5.812(f)

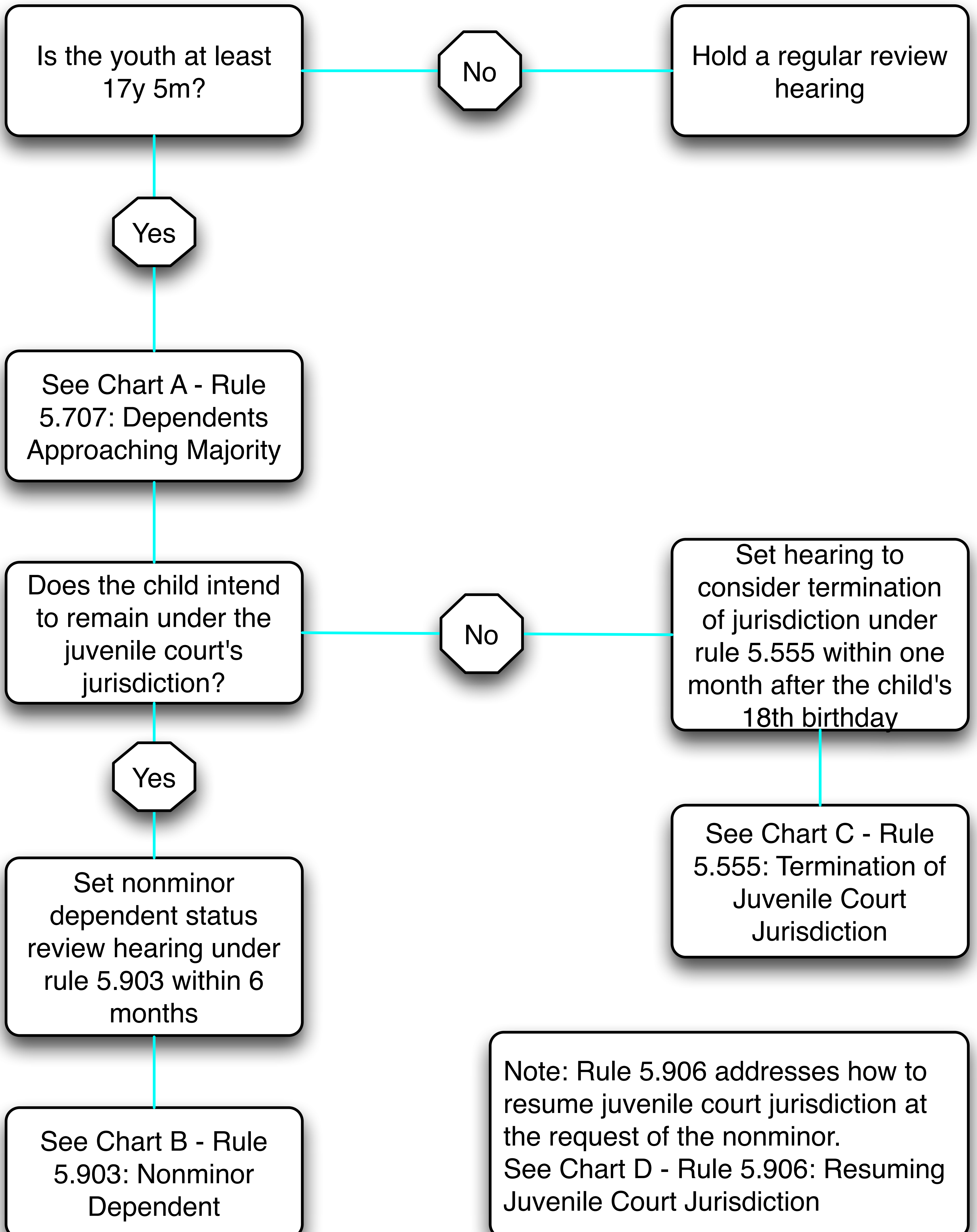
Nonminor Dependent Flow Chart



*A nonminor may still continue under juvenile court jurisdiction as a ward or dependent until his or her 21st birthday without meeting the requirements for status as an NMD, but will be ineligible for federal AFDC-FC funding. §§ 303, 607.

*All statutory references are to the Welfare and Institutions Code and all rule references are to the California Rules of court

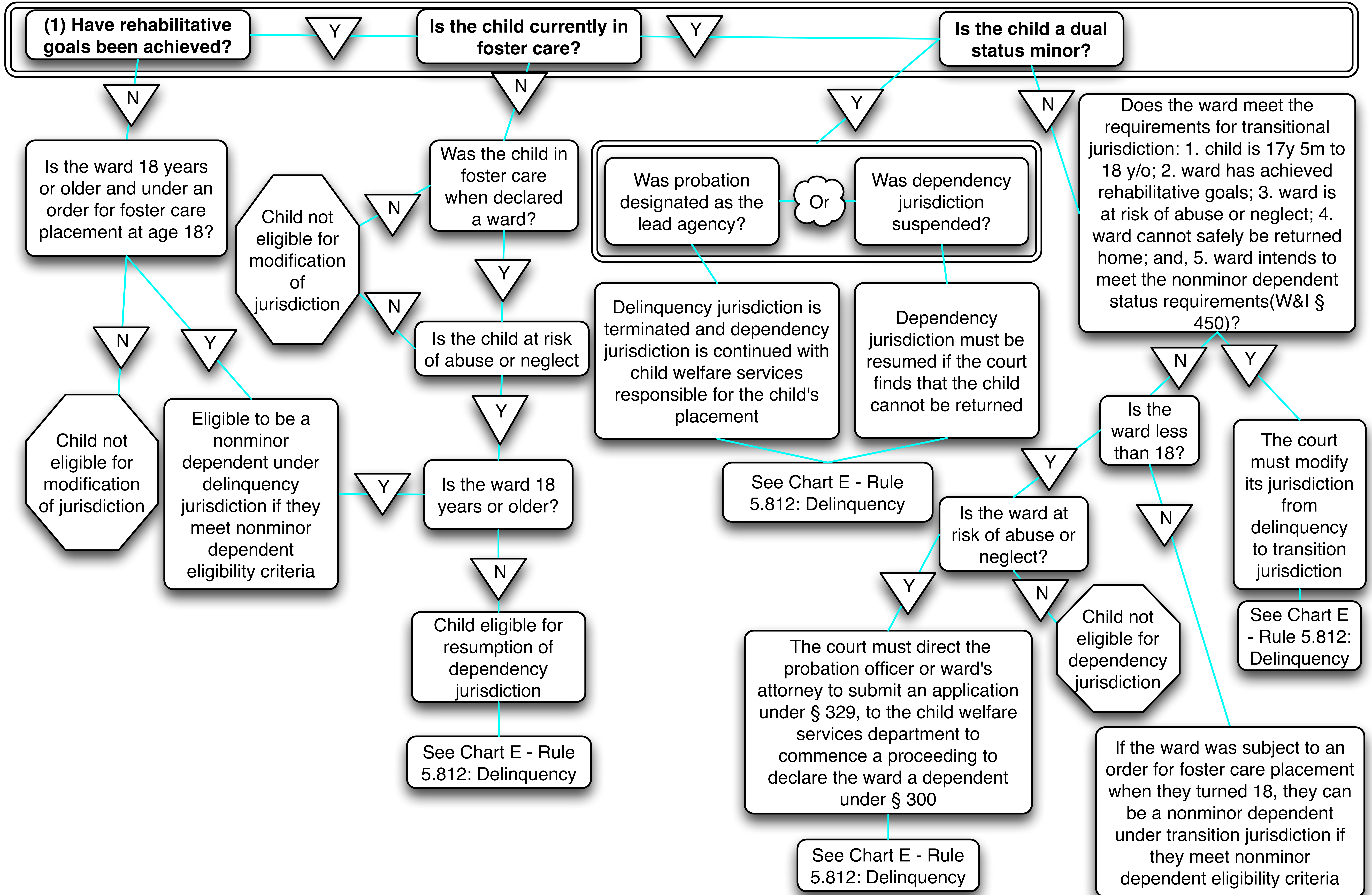
Dependents Approaching Majority



Modification from Delinquency Jurisdiction to Transition or Dependency Jurisdiction

Wards: (1) Last status review if 17 years 5 months & less than 18 years of age

(2) Hearing to terminate jurisdiction (any age)





Judicial Council of California

California's Fostering Connections to Success Act: Written Report Requirements for Probation Officers

A probation officer's written court report is integral to the court's oversight of a delinquent child and a nonminor dependent (NMD). The report informs the court about a multitude of issues regarding the child or NMD and serves as the basis of the court's findings and orders, helping the court make informed decisions regarding a child's or NMD's safety, permanency, well-being, and successful transition to living independently as an adult.

The Judicial Council approved a number of new and revised California Rules of Court¹ and Judicial Council forms to implement the statutory mandates of Assembly Bill 12 as amended by Assembly Bill 212 (California Fostering Connections to Success Act). The rules and forms also provide a uniform procedural framework to ensure compliance with the requirements for the federal funding needed to support the extension of foster-care services to NMDs. The rules also outline the information related to the extended foster care that must be discussed in court reports.

Last review hearing for child approaching majority and hearing to terminate jurisdiction over child who is in foster care as ward or who was in foster care when declared a ward (Rule 5.812)

The report requirements below apply to the following hearings:

- The last review hearing under section 727.2 or 727.3 before the child turns 18 years of age (must be set at least 90 days before the child attains his or her 18th birthday and within six months of the previous status review hearing);
- A dispositional hearing under section 702 for a child under an order of foster care placement who will attain 18 years of age before a subsequent review hearing will be held.
- Any review hearing held under section 727.2 or 727.3 for a child less than 18 years of age during which a recommendation to terminate juvenile court jurisdiction will be considered;
- Any hearing to terminate juvenile court jurisdiction over a child less than 18 years of age who is subject to an order for foster care placement; and
- Any hearing to terminate juvenile court jurisdiction over a child less than 18 years of age who is not currently subject to an order for foster care placement but was previously removed from the custody of his or her parents or legal guardian as a dependent of the

¹ All further rule references are to the California Rules of Court unless otherwise indicated.

juvenile court and an order for a foster care placement as a dependent of the juvenile court was in effect at the time the juvenile court adjudged the child to be a ward of the juvenile court under section 725.

In addition to complying with all other statutory and rule requirements applicable to the report Prepared by the probation officer for any of the hearings listed above, the report must state whether the child was provided with the notices and information required under section 607.5 and include a description of:

- (1) The child's progress toward meeting the case plan goals that will enable him or her to be a law-abiding and productive member of his or her family and the community. This information is not required if dismissal of delinquency jurisdiction and vacatur of the underlying adjudication is based on Penal Code section 236.14.
- (2) If reunification services have not been previously terminated, the progress of each parent or legal guardian toward participating in case plan service activities and meeting the case plan goals developed to resolve his or her issues that were identified and contributed to the child's removal from his or her custody.
- (3) The current ability of each parent or legal guardian to provide the care, custody, supervision, and support the child requires in a safe and healthy environment.
- (4) For a child previously determined to be a dual status child for whom juvenile court jurisdiction as a dependent was suspended under section 241.1(e)(5)(A), a joint assessment by the probation department and the child welfare services agency under section 366.5 regarding the detriment, if any, to the child of a return to the home of his or her parents or legal guardian and a recommendation on the resumption of dependency jurisdiction. The facts in support of the opinions expressed and the recommendations made must be included in the joint assessment section of the report. If the probation department and the child welfare services agency do not agree, the child welfare services agency must file a separate report with facts in support of its opinions and recommendations.
- (5) For a child previously determined to be a dual status child for whom the probation department was designated the lead agency under section 241.1(e)(5)(B), the detriment, if any, to the child of a return to the home of his or her parents or legal guardian and the probation officer's recommendation regarding the modification of the court's jurisdiction over the child from that of a dual status child to that of a dependent under section 300 and the facts in support of the opinion expressed and the recommendation made.
- (6) For a child other than a dual status child, including a child whose underlying adjudication is subject to vacatur under Penal Code section 236.14, the probation officer's recommendation regarding the modification of the juvenile court's jurisdiction over the child from that of a ward under section 601 or 602 to that of a dependent under section 300 or to that of a transition dependent under section 450 and the facts in support of his or her recommendation.

There are additional requirements for the following hearings:

- the last review hearing before a child turns 18;
- any review hearing for a child more than 17 years, 5 months and less than 18 when a recommendation to terminate jurisdiction will be considered; and
- any hearing to terminate jurisdiction over a child more than 17 years, 5 months and less than 18 who is subject to an order for foster care placement.

- (1) The child's plans to remain under juvenile court jurisdiction as a nonminor dependent including the criteria in section 11403(b) that he or she plans to meet;
- (2) The efforts made by the probation officer to help the child meet one or more of the criteria in section 11403(b);
- (3) For an Indian child, his or her plans to continue to be considered an Indian child for the purposes of the ongoing application of the Indian Child Welfare Act to him or her as a nonminor dependent;
- (4) Whether the child has applied for and, if so, the status of any in-progress application pending for title XVI Supplemental Security Income benefits and, if such an application is pending, whether it is in the child's best interest to continue juvenile court jurisdiction until a final decision has been issued to ensure that the child receives continued assistance with the application process;
- (5) Whether the child has an in-progress application pending for Special Immigrant Juvenile Status or other applicable application for legal residency and whether an active juvenile court case is required for that application;
- (6) The efforts made by the probation officer toward providing the child with the written information, documents, and services described in section 391 and, to the extent that the child has not yet been provided with them, the barriers to providing the information, documents or services and the steps that will be taken to overcome those barriers by the date the child attains 18 years of age;
- (7) When and how the child was informed that upon reaching 18 years of age he or she may request the dismissal of juvenile court jurisdiction over him or her under section 778;
- (8) When and how the child was provided with information regarding the potential benefits of remaining under juvenile court jurisdiction as a nonminor dependent and the probation officer's assessment of the child's understanding of those benefits;
- (9) When and how the child was informed that if juvenile court jurisdiction is terminated after he or she attains 18 years of age, he or she has the right to file a request to return to foster care and have the juvenile court assume or resume transition jurisdiction over him or her as a nonminor dependent; and
- (10) The child's Transitional Independent Living Case Plan and Transitional Independent Living Plan, which must include:

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

The probation officer must also submit the child's Transitional Independent Living Case Plan (TILCP) which must include (1) the individualized plan for the child to satisfy one or more of the criteria in section 11403(b) and the child's anticipated placement as specified in section 11402, and (2) the child's alternate plan for his or her transition to independence, including housing, education, employment, and a support system in the event the child does not remain under juvenile court jurisdiction after attaining 18 years of age.

NMD Status Review (Rule 5.903)

As described in rule 5.903, reporting requirements at a status review hearing for an NMD held every six months are found in section 366.31. The following requirements are required at every status review hearing regardless of the permanent plan:

- (1) How and when the Transitional Independent Living Case Plan was developed, including the nature and the extent of the nonminor dependent's participation in its development, and for the nonminor dependent who has elected to have the Indian Child Welfare Act continue to apply, the extent of consultation with the tribal representative;
- (2) Progress made toward meeting the Transitional Independent Living Case Plan goals and the need for any modifications to assist the nonminor dependent in attaining the goals;

Section 366.31(b) requires that at every review hearing for a nonminor dependent, as described in section 11400(v), the report shall describe all of the following:

- (1) The child's and nonminor dependent's plans to remain in foster care and plans to meet one or more of the participation conditions as described in section 11403(b)(1) to (5) to continue to receive AFDC-FC benefits as a nonminor dependent.
- (2) The efforts made and assistance provided to the child and nonminor dependent by the social worker or the probation officer so that the child and nonminor dependent will be able to meet the participation conditions.
- (3) Efforts toward completing the items described in section 391(e)(2).
- (4) On and after October 1, 2021, for a child or nonminor dependent whose placement in a short-term residential therapeutic program has been reviewed and

approved, and, on and after July 1, 2022, for a child or nonminor dependent whose placement in a community treatment facility has been reviewed and approved, pursuant to section 361.22, the report prepared for the review shall include evidence of all of the following:

- a. Ongoing assessment of the strengths and needs of the child or nonminor dependent continues to support the determination that the needs of the child or nonminor dependent cannot be met by family members or in another family-based setting, placement in a short-term residential therapeutic program or community treatment facility, as applicable, continues to provide the most effective and appropriate care setting in the least restrictive environment, and placement is consistent with the short- and long-term mental and behavioral health goals and permanency plan for the child or nonminor dependent.
 - b. Documentation of the child or nonminor dependent's specific treatment or service needs that will be met in the placement and the length of time the child or nonminor dependent is expected to need the treatment or services. For a Medi-Cal beneficiary, the determination of services and expected length of time for those services funded by Medi-Cal shall be based upon medical necessity and on all other state and federal Medi-Cal requirements, and shall be reflected in the documentation.
 - c. Documentation of the intensive and ongoing efforts made by the child welfare department, consistent with the child or nonminor dependent's permanency plan, to prepare the child or nonminor dependent to return home or to be placed with a fit and willing relative, a legal guardian, an adoptive parent, in a resource family home, a tribally approved home, or in another appropriate family-based setting, or, in the case of a nonminor dependent, in a supervised independent living setting.
- (5) For a child or nonminor dependent in high school who has been under the jurisdiction of the juvenile court for a year or longer, the information in section 366.1(h)(1)(B) and whether the social worker or probation officer has informed the minor or nonminor dependent of the information in section 366.1(h)(2). (This paragraph does not affect any applicable confidentiality law.)
- (6) Whether the social worker or probation officer has, pursuant to the requirements of section 16501.1(g)(22), identified the person or persons who shall be responsible for assisting the child or nonminor dependent with applications for postsecondary education and related financial aid, or that the child or nonminor dependent stated that they do not want to pursue postsecondary education, including career or technical education.

For a nonminor dependent who is no longer receiving court-ordered family reunification services and is in a permanent plan of *another planned permanent living arrangement*, the report should also ensure that there is sufficient information addressing the required findings in section 366.31(e).

For a nonminor dependent whose case plan is continued court-ordered *family reunification* Services pursuant to Section 361.6, the review report shall include a discussion of all of the following:

- (1) Whether foster care placement continues to be necessary and appropriate.
- (2) The likely date by which the nonminor dependent may reside safely in the home of the parent or guardian or will achieve independence.
- (3) Whether the parent or guardian and nonminor dependent were actively involved in the development of the case plan.
- (4) Whether the social worker or probation officer has provided reasonable services designed to aid the parent or guardian to overcome the problems that led to the initial removal of the nonminor dependent.
- (5) The extent of progress the parents or guardian have made toward alleviating or mitigating the causes necessitating placement in foster care.
- (6) Whether the nonminor dependent and parent, parents, or guardian are in agreement with the continuation of reunification services.
- (7) Whether continued reunification services are in the best interest of the nonminor dependent.
- (8) Whether there is a substantial probability that the nonminor dependent will be able to safely reside in the home of the parent or guardian by the next review hearing date.
- (9) The efforts to maintain the nonminor's connections with caring and permanently committed adults.
- (10) The agency's compliance with the nonminor dependent's transitional independent living case plan, including efforts to finalize the nonminor's permanent plan and prepare the nonminor dependent for independence.
- (11) The progress in providing the information and documents to the nonminor dependent as described in Section 391.
- (12) For a nonminor dependent in high school who has been under the jurisdiction of the juvenile court for a year or longer, the information in section 366.1(h)(1)(B). Whether the social worker or probation officer has informed the nonminor dependent of the information in 366.1(h)(2). (This subparagraph does not affect any applicable confidentiality law).
- (13) Whether the social worker or probation officer has, pursuant to the requirements of section 16501.1(g)(22), identified the person or persons who shall be responsible for assisting the child or nonminor dependent with applications for postsecondary education and related financial aid, or that the child or nonminor dependent stated that they do not want to pursue postsecondary education including career or technical education.

The probation officer must also submit with his or her report with the TILCP. At least 10 calendar days before the hearing, the probation officer must file with the court the report

prepared for the hearing and the TILCP and provide copies of the report and other documents to the NMD, all attorneys of record, and, for the NMD who has elected to have ICWA apply, the tribal representative.

Termination of Jurisdiction (Rule 5.555)

At any hearing to terminate the jurisdiction of the juvenile court over an NMD or a dependent of the court who is a nonminor and subject to an order for a foster-care placement, in addition to all other statutory and rule requirements applicable to the report prepared for any hearing during which the termination of the court's jurisdiction will be considered, the probation officer must include the following:

- (1) Whether remaining under juvenile court jurisdiction is in the nonminor's best interests and the facts supporting the conclusion reached;
- (2) The specific criteria in section 11403(b) met by the nonminor that make the nonminor eligible to remain under juvenile court jurisdiction as a nonminor dependent as defined in section 11400(v);
- (3) For a nonminor to whom the Indian Child Welfare Act applies, when and how the nonminor was provided with information about the right to continue to be considered an Indian child for the purposes of the ongoing application of the Indian Child Welfare Act to the nonminor;
- (4) Whether the nonminor has applied for title XVI Supplemental Security Income benefits and, if so, the status of that application, and whether remaining under juvenile court jurisdiction until a final decision has been issued is in the nonminor's best interests;
- (5) Whether the nonminor has applied for Special Immigrant Juvenile status or other immigration relief and, if so, the status of that application, and whether an active juvenile court case is required for that application;
- (6) When and how the nonminor was provided with information about the potential benefits of remaining under juvenile court jurisdiction as a nonminor dependent, and the social worker's or probation officer's assessment of the nonminor's understanding of those benefits;
- (7) When and how the nonminor was informed that if juvenile court jurisdiction is terminated, the court maintains general jurisdiction over the nonminor for the purpose of resuming jurisdiction and the nonminor has the right to file a request to return to foster care and have the juvenile court resume jurisdiction over the nonminor as a nonminor dependent until the nonminor has attained the age of 21 years;
- (8) When and how the nonminor was informed that if juvenile court dependency jurisdiction or transition jurisdiction is continued the nonminor has the right to have that jurisdiction terminated;
- (9) If the social worker or probation officer has reason to believe that the nonminor will not appear at the hearing, documentation of the basis for that belief, including:

- a. Documentation of the nonminor's statement that the nonminor does not wish to appear in person or by telephone for the hearing; or
 - b. Documentation of reasonable efforts to find the nonminor when the nonminor's location is unknown;
- (10) Verification that the nonminor was provided with the information, documents, and services as required under section 391(d); and
 - (11) When and how a nonminor who is under delinquency jurisdiction was provided with the notices and information required under section 607.5.

The probation officer must file with the report a completed *Termination of Juvenile Court Jurisdiction—Nonminor* (form JV-365). The probation officer must also file with the report the nonminor's TILCP (when recommending continuation of juvenile court jurisdiction), most recent Transitional Independent Living Plan (TILP), and completed 90-day Transition Plan.

At least 10 calendar days before the hearing, the probation officer must file the report and all documents with the court and must provide copies of the report and other documents to the nonminor, the nonminor's parents, and all attorneys of record. If the nonminor is an NMD, the probation officer is not required to provide copies of the report and other documents to the NMD's parents, unless the parent is receiving court-ordered family reunification services.

Resumption of Juvenile Court Jurisdiction (Rule 5.906)

At least two court days before the hearing on a nonminor's *Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-466), the probation officer or Indian tribal agency case worker must file the report and any supporting documentation with the court and provide a copy to the nonminor and to his or her attorney of record. The probation officer or tribal case worker must submit a report to the court that includes:

- (1) Confirmation that the nonminor was previously under juvenile court jurisdiction subject to an order for foster care placement when the nonminor attained 18 years of age and that the nonminor has not attained 21 years of age, or is eligible to petition the court to assume jurisdiction over the nonminor pursuant to section 388.1;
- (2) The condition or conditions under section 11403(b) that the nonminor intends to satisfy;
- (3) The social worker, probation officer, or tribal case worker's opinion as to whether continuing in a foster care placement is in the nonminor's best interests and recommendation about the assumption or resumption of juvenile court jurisdiction over the nonminor as a nonminor dependent;
- (4) Whether the nonminor and the placing agency have entered into a reentry agreement for placement in a supervised setting under the placement and care responsibility of the placing agency;
- (5) The type of placement recommended if the request to return to juvenile court jurisdiction and foster care is granted;

- (6) If the type of placement recommended is a placement in a setting where minor dependents also reside, the results of the background check of the nonminor under section 16504.5.
 - a. The background check under section 16504.5 is required only if a minor dependent resides in the placement under consideration for the nonminor.
 - b. A criminal conviction is not a bar to a return to foster care and the resumption of juvenile court jurisdiction over the nonminor as a nonminor dependent.

Conclusion

The California Fostering Connections to Success Act made extensive policy and program changes to improve the well-being of and outcomes for children in the delinquency and foster care systems. The successful transition of a young person from foster care to independent living is difficult and complex. It must be carefully planned and closely monitored. Thorough court reports are an essential component to this process and can help ensure that the nonminor dependent receives the array of services and support necessary for success.

For more information, please contact:
Juvenile Court Assistance Team
Center for Families, Children & the Courts
Judicial Council of California
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San Francisco, CA 94102-3688
415-865-7644 cfcc@jud.ca.gov

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION TWO

In re Jonathan C.M., a Person
Coming Under the Juvenile Court
Law.

THE PEOPLE

Plaintiff,

v.

JONATHAN C.M.,

Defendant and Appellant;

CONTRA COSTA COUNTY
PROBATION DEPARTMENT

Intervener and Respondent.

A165931

(Contra Costa County Super. Ct.
No. J16-00144

Under the California Fostering Connections to Success Act, certain dependents and wards of the juvenile court are allowed to remain under the court’s jurisdiction and receive financial assistance as “nonminor dependents” until they turn 21 years old, so long as they meet eligibility requirements. (*In re Leon E.* (2022) 74 Cal.App.5th 222, 225, 229 (*Leon E.*), citing Assem. Bill No. 12 (2009–2010 Reg. Sess) and Assem. Bill No. 212 (2011–2012 Reg.

Sess); *In re R.G.* (2015) 240 Cal.App.4th 1090, 1092; Welf. & Inst. Code,¹ § 303, subd. (b); § 11403.) This benefits program is often referred to as “AB12.” (*Leon E.*, at pp. 225.) When a nonminor ward remains under juvenile court jurisdiction to receive AB12 benefits after termination of the wardship, the continuing jurisdiction is called “transition jurisdiction.” (*Id.* at p. 227, fn. 4; § 450).

Jonathan C.M. appeals from a juvenile court order terminating transition jurisdiction. He contends the juvenile court erred, first, in holding a hearing on termination in his absence and, second, in terminating transition jurisdiction without considering his best interests. Because we find his second contention has merit, we need not address the first. We will reverse and remand to allow the juvenile court to consider whether to terminate jurisdiction taking into account Jonathan’s best interests.

FACTS AND PROCEDURAL HISTORY

Jonathan was born in 2003. It is undisputed that he began displaying symptoms of autism spectrum disorder and other mental health and developmental conditions as a very young child and that he suffered a chaotic childhood characterized by neglect, abuse, and homelessness. Jonathan has been diagnosed with autism, ADHD, oppositional defiant disorder, mood disorder, and tic disorder, and he has an extensive history with the dependency and juvenile delinquency systems. As a minor, he was placed in various foster care group homes and ran away multiple times.

In December 2020, Jonathan (already a dependent of the juvenile court) pleaded no contest to two counts of assault by means of force likely to

¹ Further undesignated statutory references are to the Welfare and Institutions Code.

produce great bodily injury. The juvenile court committed him to the Youthful Offender Treatment Program (YOTP) in juvenile hall.

In December 2021, the probation department (probation) requested authority to release Jonathan to home supervision for the last phase of the YOTP. Probation noted that Jonathan was eligible for extended foster care services and informed the court, “Probation is prepared to offer AB 12 services to the youth via reentry process.”²

In January 2022,³ Jonathan was released to a sober living environment facility for 90 days of home supervision under the YOTP.

In March, probation reported that Jonathan had completed the YOTP. Jonathan continued to attend therapy, applied to a few jobs, and expressed interest in automotive mechanics. Probation found Jonathan had “made progress” since his arrest in 2020, and, upon returning to the community, he had continued to rebuild his relationship with his mother, engaged in therapy, and used community resources. Probation wrote that Jonathan was “making strides in the positive direction.” But probation also recognized Jonathan “still has room to grow and make improvements on his decision making skills.” Probation recommended that the court terminate Jonathan’s wardship and exercise transition jurisdiction over Jonathan as a nonminor dependent.

At a hearing on March 15, the juvenile court followed probation’s recommendation. Jonathan’s wardship was terminated, and the juvenile

² On December 14, 2021, Jonathan signed a “Voluntary Re-entry Agreement for Extended Foster Care,” which provided that AFDC-FC benefits would begin to be paid as of the date he is “placed in a supervised foster care setting.” He also signed a “Transitional Independent Living Plan and Agreement.”

³ Further dates are in 2022.

court continued jurisdiction over Jonathan as a nonminor dependent. A nonminor dependent review hearing was set for May 24.

The next day, Jonathan told a probation officer he did not want to continue living in the sober living environment. The officer told Jonathan he “could technically live wherever he chooses” as he was no longer a ward of the court but cautioned that “not every place he wants to live would be approved as a Supervised Independent Living Placement” (SILP).⁴ Jonathan moved in with an adult male friend in Concord and did not request that the residence be assessed for qualification as a SILP.

On April 4, Jonathan reported to probation that he was working at a landscaping company but did not provide paystubs. He said he was taking classes at Fast Eddies, where he was learning automotive repair, but he was “reluctant” to provide information about his living situation. On April 23, Jonathan texted probation that he was no longer working, he was not taking class at Fast Eddies, and he had lost his housing. Probation sent Jonathan information on shelters and emergency housing, but he did not respond.

On April 27, a probation officer sent Jonathan a text message informing him that probation would recommend terminating AB12 services at the May 24 nonminor dependent review hearing. At this point, Jonathan had been a nonminor dependent under transition jurisdiction for only six weeks. The next day, Jonathan told probation he could not live in a shelter and the only thing he needed was a job. Jonathan would not tell the probation officer where he was living.

⁴ To be eligible for AFDC-FC, a nonminor dependent must be placed in an acceptable type of housing; the list of acceptable types of housing includes “[a]n approved supervised independent living setting for nonminor dependents.” (§ 11402, subd. (e).)

Jonathan missed an appointment with probation on May 3. Probation asked whether he would like to reschedule. As of May 11, Jonathan had not responded.

In anticipation of the nonminor dependent review hearing, probation filed a memo with the court recommending terminating jurisdiction. Probation wrote, “At this juncture, it is evident through Jonathan’s lack of engagement, he does not wish to continue in this voluntary program. Jonathan has stated he wants the benefits of utilizing the program, but his actions and behavior indicate[] he is not willing to uphold his obligations set forth in the mutual agreement or case plan.”

At the scheduled review hearing on May 24, Jonathan was present via Zoom.

Jonathan’s attorney reminded the court that Jonathan had autism spectrum disorder (ASD), a history with the dependency system, and a history of homelessness. She argued, “So I think that he is in desperate need of AB–12, and I’m hoping that you would not follow the recommendation and give Jonathan another chance to comply with the requirements.” She reported that Jonathan was trying to get a job and explained that “the manifestations of his ASD [sometimes] come across as being uncooperative and not wanting to comply with probation” but that was not his intent.

The juvenile court suggested that rather than terminate jurisdiction that day, it would continue the hearing on termination to give Jonathan time to comply with the requirements of AB12. Jonathan’s attorney responded, “[W]e would appreciate that opportunity. I know that Jonathan wants AB–12 and wants to comply, so we would take that opportunity to show you that he’s serious about his efforts.” The court recognized that the quality of communication between Jonathan and probation may be affected by his ASD

and expressed hope that Jonathan’s attorney could “help facilitate so that nothing is lost in the communication . . . from probation.”

The probation officer agreed that Jonathan “needs AB–12 services” but stated, “right now he’s just not doing enough.”

The court continued the hearing on termination to June 24.

In June, probation prepared an update for the court about Jonathan’s actions since the May 24 hearing.⁵ On June 7, Jonathan reported to his assigned probation officer that he was working for a landscaping service in Pittsburg, but as of June 21, he had not provided any documentation of his employment. Similarly, he said he was enrolled in an automotive mechanics program at Fast Eddies but did not provide documentation. Jonathan continued to be unwilling to share basic information. Probation reported that, when asked about his living situation and employment in person, Jonathan “will deflect and change the subject,” and when asked over text message, he “will simply ignore questions.”

At the continued hearing on June 24, Jonathan was present. According to the juvenile court minute order, Jonathan requested to put the matter over, the juvenile court granted the request, and the hearing was continued to July 8.

At the next continued hearing on July 8, Jonathan was not present. His attorney requested a continuance because of Jonathan’s failure to appear. She stated that she believed there was an issue with his cell phone as he had confirmed with her that he intended to appear for the hearing. The juvenile court granted the request and set the next hearing for July 15.

⁵ The probation memo was signed by Jonathan’s assigned probation officer on June 21, but the memo apparently was not filed with the court until July 15, 2022.

At the continued hearing on July 15, Jonathan was not present. His attorney stated Jonathan was “unable to appear,” but his mother was present. The probation officer reported that probation had texted and emailed Jonathan a couple of times that week without response and that Jonathan also missed an appointment for an interview with a transitional housing provider.

Jonathan’s attorney told the court she was “surprised that Jonathan was not present” at the July 8 hearing because he “always made all of his court dates after he was released from YOTP.” She was in contact with Jonathan’s mother, who “explained that Jonathan’s phone is not working, and that explained why he was unable to appear last Friday [the July 8 hearing]” and “why he’s unable to appear today.” Jonathan’s attorney requested another continuance. She recognized the court might be frustrated with Jonathan but emphasized that he needed AB12 services.

The juvenile court terminated AB12 services. The court explained, “[T]he law requires him to meet certain requirements, and he hasn’t been meeting those requirements, and he’s had multiple opportunities.” The court noted that Jonathan could come back to court to request AB12 services as soon as he meets the eligibility criteria and, “Hopefully we’ll see Jonathan back soon back on AB-12.”

DISCUSSION

A. Statutory Background

“Before 2008, most dependent children ‘emancipated’ from—i.e., became ineligible for—foster care on their 18th birthday. In 2008, in order to improve outcomes for children who aged out of foster care, Congress passed the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub.L.No. 110–351 (Oct. 7, 2008) 122 Stat. 3949). Among other things, the

2008 act provided federal funding to reimburse states for part of the cost of providing maintenance payments to eligible youths who remained in foster care after their 18th birthdays, so long as those youths had not yet reached their 21st birthdays and were either enrolled in school, employed at least 80 hours a month, or participating in ‘an activity designed to promote or remove barriers to employment.’ (Congressional Research Service, Child Welfare: The Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110–351) (Oct. 9, 2008) p. 9.)” (*In re A.A.* (2016) 243 Cal.App.4th 765, 772–773.)

California enacted AB12 to take advantage of this expanded federal foster care funding. (*In re A.A.*, *supra*, 243 Cal.App.4th at p. 773.) To be eligible to receive financial support under AB12, a nonminor dependent must satisfy at least one of the following eligibility requirements: “(1) The nonminor is completing secondary education or a program leading to an equivalent credential. [¶] (2) The nonminor is enrolled in an institution that provides postsecondary or vocational education. [¶] (3) The nonminor is participating in a program or activity designed to promote, or remove barriers to employment. [¶] (4) The nonminor is employed for at least 80 hours per month. [¶] (5) The nonminor is incapable of doing any of the activities described in paragraphs (1) to (4), inclusive, due to a medical condition, and that incapability is supported by regularly updated information in the case plan of the nonminor.” (§ 11403, subd. (b); *Leon E.*, *supra*, 74 Cal.App.5th at pp. 229–230; *In re K.L.* (2012) 210 Cal.App.4th 632, 638.)

Participation in the AB12 program is voluntary. (*In re H.C.* (2017) 17 Cal.App.5th 1261, 1267–1268.) “It is the intent of the Legislature, both at the time of initial determination of the nonminor dependent’s eligibility and

throughout the time the nonminor dependent is eligible for aid . . . , that the social worker or probation officer . . . and the nonminor dependent shall work together to ensure the nonminor dependent’s ongoing eligibility. All case planning shall be a collaborative effort between the nonminor dependent and the social worker [or] probation officer . . . with the nonminor dependent assuming increasing levels of responsibility and independence.” (§ 11403, subd. (a).)

Section 391 “authorizes the termination of [nonminor dependent] jurisdiction in only three specific circumstances.” (*In re Nadia G.* (2013) 216 Cal.App.4th 1110, 1118.) These are (1) “the nonminor does not wish to remain subject to dependency jurisdiction,” (2) “the nonminor is not participating in a reasonable and appropriate transitional independent living case plan,” or (3) “after reasonable and documented efforts the nonminor cannot be located.” (§ 391, subs. (e)(1)(A), (e)(1)(B), (f).)

B. *Best Interests*

Section 202, subdivision (d), provides, “Juvenile courts and other public agencies charged with enforcing, interpreting, and administering the juvenile court law shall consider the safety and protection of the public, the importance of redressing injuries to victims, and the *best interests* of the minor in all deliberations pursuant to this chapter [which encompasses transition jurisdiction and termination of jurisdiction over nonminor dependents].” (Italics added.)

For any hearing during which the termination of the juvenile court’s jurisdiction over a nonminor dependent is considered, the probation officer’s report must address “[w]hether remaining under juvenile court jurisdiction is in the nonminor’s best interests and the facts supporting the conclusion reached,” and the juvenile court’s written findings and orders on termination

of jurisdiction likewise must include “[w]hether remaining under juvenile court jurisdiction is in the nonminor’s best interests and the facts in support of the finding made.” (Cal. Rules of Court, rule 5.555(c)(1)(A), (d)(1)(B).)

Jonathan contends the juvenile court erred as matter of law in terminating jurisdiction because no consideration was given to whether termination of the dependency was in his best interests. We agree.

In the absence of any evidence to the contrary, we presume the court is aware of and complies with the law. (*People v. Jones* (2017) 3 Cal.5th 583, 616.) But, here, neither the parties nor the court ever mentioned Jonathan’s “best interests” at the May 24 or July 15 hearing. Further, in its memo filed with the court May 24, probation used a form with boxes to check next to suggested findings it recommended that the court make. One line recommended a finding that “Remaining under juvenile court jurisdiction” either “is” or “is not” “in the non-minor’s best interest.” Probation checked the box for “is.” This may have been a typographical error, but in any event, probation did not identify *any* facts supporting a conclusion that Jonathan remaining under juvenile court jurisdiction was not in his best interests. In its update filed July 15, probation continued to recommend that the court make a finding that remaining under juvenile court jurisdiction “is” in the nonminor’s best interest and continued to fail to identify any facts to support its conclusion.

Although the juvenile court’s July 15, 2022, written findings and orders on preprinted form JV-367 (printed findings) include a statement (at line 11) that remaining under juvenile court jurisdiction “is not” in the nonminor’s best interests, the printed findings do not appear to be a complete or accurate record of the court’s findings and orders. For example, the printed findings specify (at line 7) that the court read the probation report filed May 24, 2022,

but do not mention the update filed July 15, 2022. The printed findings include a checked box (line 34. c.) indicating the nonminor “meets the eligibility criteria for status as a nonminor dependent but is not participating in a reasonable and appropriate Transitional Independent Living Case Plan,” but that was not the stated basis of the court’s ruling at the July 15 hearing. Rather, the juvenile court clearly stated that it found “the minor in this case does not meet the eligibility criteria for status as a non-minor dependent.” Yet, the printed findings include a box for a suggested finding that the nonminor “does not meet the eligibility criteria for status as a nonminor dependent” (line 34 a), and that box is *not* checked. Under these circumstances, we conclude the printed findings are not a reliable reflection of what the juvenile court actually found. (Cf. *In re Aryanna C.* (2005) 132 Cal.App.4th 1234, 1241, fn. 5 [“under the circumstances the juvenile court’s comments and orders stated at the dispositional hearing prevail over the order contained in the clerk’s transcript”].)

The printed findings provide at line 11 that remaining under juvenile court jurisdiction is not in the nonminor’s best interests. Line 11 continues, “The facts supporting this determination were stated on the record.” But, as we have described, there was no discussion of Jonathan’s best interests on the record.

Under these circumstances, it is apparent that neither probation nor the juvenile court fulfilled its duty to consider Jonathan’s best interests. Accordingly, we will remand to allow the juvenile court to decide whether to terminate jurisdiction considering Jonathan’s best interests.

Jonathan further requests that this court order that probation expedite a regional center assessment. This request should be presented to the juvenile court in the first instance. Jonathan further suggests probation

should have helped him apply for Supplemental Security Income and food stamps and that his already appointed court-appointed education attorney could have been involved in his case. These arguments, too, should be presented to the juvenile court in the first instance.⁶

DISPOSITION

The order terminating transition jurisdiction is reversed. We may direct immediate issuance of the remittitur if the parties so stipulate. (See Cal. Rules of Court, rule 8.272(c)(1).) In light of the short period remaining before Jonathan’s 21st birthday, we strongly encourage the parties to so stipulate.

⁶ In a lengthy discussion in the final section of Jonathan’s opening brief on appeal, his appellate counsel asks, “[w]hat *would* have been in Jonathan’s best interest?” The brief continues with a detailed list, all of which may be presented to the juvenile court on remand. It includes “Prioritizing completion of an assessment by the regional center, for one thing. A regional center assessment had been court-ordered in April 2021 . . . But in December 2021, while Jonathan was waiting to be released from the YOTP program facility, the regional center assessment had still not been completed. The probation officer blamed ‘technical issues with internet’ for this. [¶] Regional center services should have been put in place f[or] Jonathan while he was a NMD or a delinquent ward. . . . Jonathan was entitled as a disabled NMD who suffered from the developmental condition of autism, as well as a life-long hearing impairment, to free and appropriate special education and related services including regional center services for youth with autism, hearing disabilities and other specified conditions under the federal Individuals with Disabilities Education Act (IDEA) and its California statutory corollaries in the Education Code and implementing rules of court. [citations] . . . [¶] . . . [¶] Jonathan will not be able to navigate the regional center process on his own. He is at high risk of becoming lost to the streets, shelter, hospitals, prisons, and being a public charge – all fates that could have been avoided had he received the regional services he needed as a child and teenager.”

Miller, J.

WE CONCUR:

Richman, Acting P.J.

Markman, J.*

A165931, *People v. Jonathan C.M.*

* Judge of the Alameda Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

In re Jonathan C.M., a Person
Coming Under the Juvenile Court
Law.

THE PEOPLE

Plaintiff,

v.

JONATHAN C.M.,

Defendant and Appellant;

CONTRA COSTA COUNTY
PROBATION DEPARTMENT

Intervener and Respondent.

A165931

(Contra Costa County Super. Ct.
No. J16-00144

ORDER GRANTING PUBLICATION
AND MODIFYING OPINION

BY THE COURT:

The opinion in the above-entitled matter filed on May 18, 2023, was not certified for publication in the Official Reports. For good cause and pursuant to California Rules of Court, rule 8.1105, it now appears that the opinion should be published in the Official Reports, and it is so ordered.

It is also ordered that the opinion filed herein on May 18, 2023, be modified as follows:

In the 11th line of footnote 6 on page 12, after the first word, “NMD”, insert “[nonminor dependent)].”

This modification does not change the judgment.

Dated: _____

Richman, Acting P.J.

A165931, *People v. Jonathan C.M.*

Court: Contra Costa County Superior Court

Trial Judge: Hon. Wade M. Rhyne

Deborah Dentler, under appointment by the Court of Appeal, for Defendant and Appellant

Steven P. Rettig, Assistant Contra Costa County Counsel; Amee L. Choi, Deputy County Counsel, for Intervener and Respondent

A165931, *People v. Jonathan C.M.*

I. Social Worker's Report—Additional Requirements

At the last review hearing before a child's 18th birthday, in addition to complying with all other statutory and rule¹ requirements, the social worker must submit a report that includes all of the following:

- A. The child's plans to remain under juvenile court jurisdiction as a nonminor dependent (NMD), including the criteria in Welfare and Institutions Code section 11403(b)² that he or she plans to meet;
 - B. The efforts made by the social worker to help the child meet one or more of the criteria in section 11403(b);
 - C. For an Indian child to whom the Indian Child Welfare Act (ICWA) applies, whether he or she plans as a NMD to continue to be considered an Indian child for the purposes of the ongoing application of ICWA;
 - D. Whether the child has applied for title XVI Supplemental Security Income (SSI) benefits and, if so, the status of any pending application and whether it is in the child's best interest to continue juvenile court jurisdiction until the SSI decision is issued to ensure that the child receives continued assistance with the application process;
 - E. Whether the child has a pending application for Special Immigrant Juvenile Status or other application for legal residency and, if so, whether an active dependency case is required for that application;
 - F. The efforts made by the social worker toward completing and providing the child with the written information, documents, and services described in section 391(b) and (c), to the extent that the child has not been provided with them, the barriers to providing that information and the steps that will be taken to overcome those barriers by the child's 18th birthday;
 - G. When and how the child was informed of the right to have juvenile court jurisdiction terminated when he or she attains 18 years old;
 - H. When and how the child was provided with information about the potential benefits of remaining under juvenile court jurisdiction as a NMD, and the social worker's assessment of the child's understanding of those benefits; and
 - I. When and how the child was informed that if juvenile court jurisdiction is terminated after he or she attains 18 years of age, he or she has the right to file a request to return to foster care and have the juvenile court resume jurisdiction over him or her as a NMD.
-

II. Transitional Independent Living Case Plan (TILCP) and Transitional Independent Living Plan (TILP)

- A. Must be submitted with the social worker's report prepared for the hearing at least 10 calendar days before the hearing; *and*
- B. Must include:
 1. The individualized plan for the child to satisfy one or more of the criteria in section 11403(b) and the child's anticipated placement as specified in section 11402; *and*
 2. The child's alternative plan for his or her transition to independence, including housing, education, employment, and a support system in the event he or she does not remain under jurisdiction after attaining majority.

If the court determines that the social worker's report, the TILCP, and the TILP do not provide all the information described in sections I and II above, leaving the court unable to make the findings and orders required in sections III and IV below, the hearing must be continued for no more than five court days for the submission of additional information.

III. Additional Findings

- A. The child's TILCP includes a plan for the child to satisfy the following conditions of eligibility to remain under juvenile court jurisdiction as a nonminor dependent (*indicate all that apply*):
 1. Attending high school or a high school equivalency (GED) certificate program;
 2. Attending a college, a community college, or a vocational education program;
 3. Participating in a program or activities to promote employment or to overcome barriers to employment;

¹ All rule references are to the California Rules of Court unless otherwise indicated.

² All code references are to the California Welfare and Institutions Code unless otherwise indicated
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-
4. Being employed at least 80 hours per month;
5. Having a medical condition that makes the child unable to attend a high school, GED program, college, community college, vocational education program, or a program or activities to promote employment or overcome barriers to employment, or to work 80 hours per month;
- B. The child's TILCP includes an alternative plan for the child's transition to successful adulthood, including housing, educations, employment, and a support system in the event the child does not remain under juvenile court jurisdiction after attaining 18 years of age;
- C. For an Indian child to whom the Indian Child Welfare Act applies, whether he or she intends to continue to be considered an Indian child for the purposes of the ongoing application of the Indian Child Welfare Act to him or her as a nonminor dependent;
- C. For a child who has an in-progress application pending for title XVI Supplemental Security Income (SSI) benefits, continuation of juvenile court jurisdiction to ensure continued assistance with the application process until a final SSI decision is issued is is not in the child's best interest;
- D. For a child who has an in-progress application pending for Special Immigrant Juvenile Status or other legal residency application, an active juvenile court case is is not required for that application.
- E. The child has been informed that on turning 18, he or she has the right to have juvenile court jurisdiction terminated after a hearing under rule 5.555.
- F. The potential benefits of remaining under juvenile court jurisdiction as a NMD were explained to the child and the child has stated that he or she those benefits.
- G. The child has been informed that if juvenile court jurisdiction is terminated after he or she attains 18 years of age, he or she has the right to file a request to return to foster care and have the court resume jurisdiction over him or her as a NMD.
- H. Information, Documents, and Services
1. All the information, documents and services in section 391(b) and (c) have been provided to the child; *or*
 2. Not all the information, documents and services in section 391(b) and (c) have been provided to the child, and the barriers to providing any missing information, documents, or services can be overcome by the child's 18th birthday; *or*
 3. Not all the information, documents, and services in section 391(b) and (c) have been provided to the child and the barriers to providing any missing information, documents, or services may not be overcome by the child's 18th birthday.
- I. For a child to whom the Indian Child Welfare Act applies:
1. The child intends to continue to be considered an Indian child for purposes of the ongoing application of ICWA to the child as a NMD; *or*
 2. The child does not intend to continue to be considered an Indian child for purposes of the ongoing application of ICWA to the child as a NMD.
-

IV. Orders

- A. For a child who INTENDS TO REMAIN under juvenile court jurisdiction as a nonminor dependent after age 18, a review hearing under rule 5.903 is set on (*choose date within next six months*): / / ; *or*
- B. For a child who DOES NOT INTEND TO REMAIN under juvenile court jurisdiction as a nonminor dependent after age 18, a hearing under rule 5.555 is set on (*choose a date within one month after child's 18th birthday*): / / ; *or*
- C. For a child who WILL REMAIN under juvenile court jurisdiction in a foster care placement after age 18 but is not eligible for nonminor dependent status, a hearing under section 366.21, 366.22, 366.25, or 366.3 is set on (*choose date within next six months*): / / .

The information on this chart is based on the provisions of Assembly Bill 12 (Beall; Stats. 2010, ch. 559), the California Fostering Connections to Success Act, as amended by Assembly Bill 212 (Beall; Stats. 2011, ch. 459) and the California Rules of Court, effective January 1, 2016. The chart was compiled by the Juvenile Court Assistance Team, Center for Families, Children & the Courts, Judicial Council of California, 455 Golden Gate Avenue, San Francisco, California 94102-3688, 415-865-4220, cfcc@jud.ca.gov

I. Purpose

To focus on the goals and services set out for a nonminor dependent (NMD) in the Transitional Independent Living Case Plan (TILCP) and Transitional Independent Living Plan (TILP) and check in on the NMD's efforts and progress toward achieving independence and establishing lifelong connections with caring and committed adults.

II. Setting and conduct

- A. The hearing must be conducted every six months by the court *or* by a local administrative review panel.
 - B. The hearing must be placed on the appearance calendar, held before a judicial officer, and recorded by a court reporter if ANY of the following circumstances apply:
 1. It is the first hearing following the NMD's 18th birthday;
 2. It is the first hearing following the resumption of juvenile court jurisdiction under rule 5.906¹ of the California Rules of Court;
 3. The nonminor dependent or the nonminor dependent's attorney requests that the hearing be conducted by the court; or
 4. It has been 12 months or more since the court last conducted a review hearing.
 - C. As appropriate, the hearing may be attended by participants invited by the NMD in addition to those entitled to notice under rule 5.903(c). If delinquency jurisdiction is dismissed in favor of transition jurisdiction under Welfare and Institutions Code section 450, the prosecuting attorney is not permitted to appear at later review hearings for the nonminor dependent.
 - D. The NMD may appear at the hearing by telephone at no cost as provided in rule 5.900.
 - E. If the court determines that the social worker's or probation officer's report, the TILCP, and the TILP did not collectively provide all the required information described below in section IV and the court is unable to make all the findings and orders required below in sections V and VI, the hearing must be continued for no more than five court days for the submission of additional information by the social worker or probation officer or by the NMD.
-

III. Notice of hearing

- A. The social worker or probation officer must serve written notice of the hearing in the manner and to the persons described in Welfare and Institutions Code section 295², EXCEPT notice to the parents is not required unless the parents are participating in court ordered reunification services.
 - B. The notice served on the NMD must include a statement that he or she may appear at the hearing by telephone, along with local court instructions for how to appear by telephone.
 - C. Proof of service must be filed five court days before the hearing.
-

IV. Written reports requirements

- A. The social worker or probation officer must submit a report that includes the information required by section 366.31, including:
 1. The continuing necessity for the nonminor's placement;
 2. The appropriateness of the current foster care placement;
 3. The NMD's plans to remain under juvenile court jurisdiction, including criteria in section 11403(b) that have been met;
 4. The efforts made by the social worker or probation officer to help the NMD meet the criteria in section 11403(b);
 5. Whether a prospective adoptive parent has been identified and assessed as appropriate for the NMD's adoption under section 366.31(e)(4); whether the prospective adoptive parent has been informed about the terms of the written negotiated adoption assistance agreement; and whether adoption should be ordered as the NMD's permanent plan.
 6. Verification that the NMD was provided with the information, documents, and services required under section 391;
 7. Information about the development of the TILCP, including how and when it was created, how the NMD participated, and, for an NMD who elected to have the Indian Child Welfare Act (ICWA) continue to apply, the extent of consultation with the tribal representatives;
 8. The extent of the agency's compliance with the nonminor dependent's TILCP, including whether or not reasonable efforts have been made to make and finalize the youth's permanent plan and prepare the nonminor dependent for independence.
 9. If the permanent plan is APPLA, the intensive and ongoing efforts to return the nonminor dependent to the home of the parent, place the nonminor dependent for adoption, or place the nonminor dependent with a fit and willing relative, as appropriate, and the steps taken to ensure that the nonminor dependent's care provider is following the reasonable and prudent

¹ All rule references are to the California Rules of Court unless otherwise indicated.

² All code references are to the California Welfare and Institutions Code unless otherwise indicated.

parent standard and whether the nonminor dependent has regular, ongoing opportunities to engage in age or developmentally appropriate activities, including consulting with the nonminor dependent about opportunities for the nonminor dependent to participate in those activities.

10. The efforts made by the social worker or probation officer to find and evaluate relatives.
 11. Progress made towards meeting the TILP goals, and modifications to assist the NMD in attaining the goals;
 12. The efforts made by the social worker or probation officer to help maintain relationships between the NMD and caring and committed adults;
 13. The efforts made by the social worker or probation officer as required under section 366(a)(1)(D) to help establish or maintain the NMD's relationship with his or her siblings who are under the juvenile court's jurisdiction.
 14. If the nonminor dependent is in high school and has been under the jurisdiction of the juvenile court for a year or longer, whether the social worker or probation officer has taken the actions described in section 366(a)(1)(F).
 15. The person or persons who shall be responsible for assisting the child or nonminor dependent with applications for postsecondary education and related financial aid, or that the child or nonminor dependent stated that they do not want to pursue postsecondary education, including career or technical education pursuant to the requirements of section 16501.1(g)(22).
 16. For a NMD whose case plan is continued court-ordered family reunification services, the information required in section 366.31(d)(1); and
 17. For a nonminor who has returned to the home of the parent or former legal guardian, the information required in section 366.31(d)(3).
- B. The social worker or probation officer who prepares the report must submit the TILCP and TILP with the report.
- C. The report, the TILCP, and the TILP must be filed with the court at least 10 calendar days before the hearing, and copies of all documents must be provided to the NMD, all attorneys of record, and, if applicable, tribal representatives where ICWA continues to apply.

V. Findings

- A. Notice of the date, time, and location of the hearing was given as required by law;
- B. 1. The NMD's continued placement is necessary; *or*
2. The NMD's continued placement is no longer necessary;
- C. 1. The NMD's current placement is appropriate; *or*
2. The NMD's current placement is not appropriate, and the county agency and the NMD must work collaboratively to locate an appropriate placement;
- D. The TILP includes a plan for the NMD to satisfy one or more of the criteria in section 11403(b) for eligibility for NMD status, specifically the following (*indicate all that apply*):
1. Attending high school or a high school equivalency certificate (GED) program;
 2. Attending a college, a community college, or a vocational education program;
 3. Attending a program or participating in an activity that will promote or help remove a barrier to employment;
 4. Employed at least 80 hours per month
 5. Unable to attend a high school, GED program, college, community college, vocational education program, or a program or activities to promote employment or overcome barriers to employment, or to work 80 hours per month due to a medical condition;
- E. The county agency has has not made reasonable efforts & provided assistance to help the NMD establish & maintain compliance with the conditions in §11403(b);
- F. The NMD was was not provided with the information, documents, and services as required under section 391;
- G. The TILCP and TILP were were not developed jointly by the NMD and the county agency;
- H. For the NMD who has elected to have ICWA continue to apply, the representative from his or her tribe was was not consulted during the development of the TILCP;
- I. The NMD's TILCP does does not reflect the living situation and services consistent, in the nonminor's opinion, with what he or she needs to gain independence and sets out benchmarks that indicate how both will know when independence can be achieved;
- J. The NMD's TILCP does does not include appropriate & meaningful independent living skill services that will assist the youth with the transition from foster care to successful adulthood;
- K. The county agency has has not made reasonable efforts to comply with the TILCP, including efforts to finalize the NMD's permanent plan and prepare him or her for successful adulthood
- L. If the permanent plan is APPLA, the county agency has has not made ongoing and intensive efforts to finalize the permanent plan.
- M. The county agency has has not exercised due diligence to locate an appropriate relative with whom the nonminor can be placed. Each relative whose name has been submitted to the department. has has not been evaluated.

- N. The TILP includes appropriate and meaningful independent living skill services that will assist the NMD with the transition from foster care to successful adulthood;
- O. The NMD did did not sign and receive a copy of his or her TILCP and TILP;
- P. The progress made by the NMD toward meeting the goals in the TILCP has been (*specify and describe*):
Any modifications needed to assist in attaining the goals have been stated on the record and are to be incorporated in the case plan;
- Q. The county agency has has not made reasonable efforts to help maintain relationships between the NMD and individuals who are important to him or her, including efforts to help establish and maintain relationships with caring and committed adults who can serve as lifelong connections;
- R. The county agency has made reasonable efforts as required in section 366(a)(1)(D) to establish or maintain the NMD's relationship with his or her siblings who are under the juvenile court's jurisdiction;
- S. The likely date by which it is anticipated the NMD will achieve successful adulthood is (*choose a date that reflects a realistic assessment*): / / .
- T. If the nonminor dependent is in high school and has been under the jurisdiction of the juvenile court for a year or longer, whether the social worker or probation officer has taken the actions described in section 366(a)(1)(F).
- V. Whether the social worker or probation officer has, pursuant to the requirements of paragraph (22) of subdivision (g) of Section 16501.1, identified the person or persons who shall be responsible for assisting the child or nonminor dependent with applications for postsecondary education and related financial aid, or that the child or nonminor dependent stated that they do not want to pursue postsecondary education, including career or technical education.
- W. For a NMD whose permanent plan is changing to adoption, the court finds adoption is identified as the permanent plan for the NMD and sets a hearing under section 366.31(f) within 60 days.

VI. Orders

- A. Juvenile court jurisdiction over the youth as a NMD is continued.
1. The youth's permanent plan is:
- Return Home
 - Adoption
 - Tribal Customary Adoption
 - Placement with a fit and willing relative
 - Family Reunification services are continued
 - There is a compelling reason to determine that it is not in the best interest of the NMD to return home, be placed for adoption, or tribal customary adoption, or be placed with a fit and willing relative. The court orders the NMD into another planned permanent living arrangement.
2. The matter is continued for a hearing under section 366(f) and rule 5.903 on (*choose date within the next six months*): / / ; **or**
- B. Juvenile court jurisdiction over the NMD may no longer be necessary, and a hearing under rule 5.555 to consider termination of juvenile court jurisdiction is ordered on (*choose date within the next 30 days*): / / ; **or**
- C. At a hearing held today under rule 5.555, the juvenile court entered the findings and orders as recorded on the *Findings and Orders After Hearing to Consider Termination of Juvenile Court Jurisdiction Over Nonminor* (form JV-367) and juvenile court jurisdiction is terminated pursuant to those findings and orders.

VII. Additional Findings and Orders for a Nonminor with a Continued Case Plan of Reunification

- a. The county agency has has not complied with the case plan by making reasonable efforts or, in the case of an Indian child, active efforts, as described in Section 361.7, to create a safe home for the NMD to reside in and to complete whatever steps are necessary to finalize the permanent plan.
- b. The extent of progress made toward alleviating or mitigating the causes necessitating the current out of home placement has been: by father _____ by mother _____ by the legal guardian _____
- c. The likely date by which the NMD may safely reside in the home or achieve successful adulthood or, for an Indian child, in consultation with the child's tribe, placed for tribal customary adoption is: / / .
- d. The adequacy of services provided to the parent or guardian and to the nonminor dependent.
- e. Whether the social worker or probation officer has provided reasonable services designed to aid the parent or guardian to overcome the problems that led to the initial removal of the nonminor dependent.
- f. *Choose one of the following:*

Fostering Connections to Success Act

Chart B (03/2023)

- (1) The NMD can safely reside in the home and may return to the family home.
 - a. The court maintains jurisdiction under section 303(a) and a review hearing under section 366.31(d)(3) is ordered; *or*
 - b. It appears that juvenile court jurisdiction over the nonminor may no longer be necessary, and a hearing to consider termination of juvenile court jurisdiction under section 391 and rule 5.555 is ordered.
- (2) The NMD cannot safely reside in the family home, and reunification services are continued.
 - a. The NMD and parent(s) or guardian(s) are in agreement with the continuation of reunification services;
 - b. Continued reunification services are in the best interest of the NMD;
 - c. There is a substantial probability that the NMD will be able to safely reside in the family home by the next review hearing; *and*
 - d. The matter is continued for a review hearing under section 366.31 and rule 5.903 within the next six months.
- (3) The NMD cannot safely reside in the family home and reunification services are terminated.
 - a. The NMD and parent(s) or guardian(s) are not in agreement with the continuation of reunification services; and/or
 - b. Continued reunification services are not in the best interest of the NMD; and/or
 - c. There is not a substantial probability that the NMD will be able to safely reside in the family home by the next review hearing.

VIII. Additional Findings and Orders for a Nonminor Residing in the Home of a Parent or Guardian

- A. (1) It appears that juvenile court jurisdiction over the nonminor may no longer be necessary, and a hearing to consider termination of juvenile court jurisdiction under section 391 and rule 5.555 is ordered; *or*
- (2) Court supervision and juvenile court jurisdiction continue to be necessary. The court maintains jurisdiction under section 303(a). The matter is continued for a review hearing under section 366.31 and rule 5.903 within the next six months.
- B. The county agency has has not complied with the case plan by making reasonable efforts to maintain a safe family home for the nonminor;
- C. The county agency has has not made reasonable efforts to comply with the TILCP, including efforts prepare the nonminor for independence.

The information on this chart is based on the provisions of Assembly Bill 12 (Beall; Stats. 2010, ch. 559), the California Fostering Connections to Success Act, as amended by Assembly Bill 212 (Beall; Stats. 2011, ch. 459), Assembly Bill 1712 (Beall; Stats 2012, ch. 846), and Assembly Bill 787 (Stone; Stats. 2013, ch. 487), and the California Rules of Court. The chart was compiled by the Juvenile Court Assistance Team, Center for Families, Children & the Courts, Judicial Council of California, 455 Golden Gate Avenue, San Francisco, California 94102-3688, 415-865-4220, cfcc@jud.ca.gov

Hearing to Consider Termination of Juvenile Court Jurisdiction
Over a Dependent or Ward Age 18 or Older in a Foster Care Placement or Over a Nonminor Dependent
(Welfare and Institutions Code sections 224.1(b), 295, 303, 366.31, 391, 607.3, 16501.1(f)(16))

I. Applicability

- A. This rule applies to any hearing during which the termination of the juvenile court's jurisdiction over the following nonminors will be considered:
 - 1. A nonminor dependent as defined in Welfare and Institutions Code section 11400(v)¹;
 - 2. A ward or dependent of the juvenile court 18 years of age or older and subject to a foster care placement order; or
 - 3. A ward who was subject to an order for foster care placement at the time the ward attained 18 years of age, or a dependent of the juvenile court who is 18 years of age or older and is living in the home of the parent or former legal guardian.
 - B. Nothing in the Welfare and Institutions Code or in the California Rules of Court² restricts the ability of the juvenile court to maintain dependency jurisdiction or delinquency jurisdiction over a person 18 years of age and older who does not meet the eligibility requirements for status as a nonminor dependent.
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II. Setting and conduct of hearing

- A. A court hearing must be placed on the appearance calendar and held before terminating juvenile court jurisdiction.
 - B. The hearing under this rule may be held during any regularly scheduled review hearing or a hearing on a petition filed under section 388 or section 778.
 - C. Notice of the hearing must be given as required by section 295. Notice of the hearing to the parents of a nonminor dependent as defined in section 11400(v) is not required unless the parent is receiving court-ordered family reunification services or the nonminor is living in the home of the parent or former legal guardian.
 - D. If juvenile court jurisdiction was resumed after having previously been terminated, a hearing under this rule must be held if the nonminor dependent wants juvenile court jurisdiction terminated again.
 - E. If the court determines that the social worker's or probation officer's report prepared for the hearing, Transitional Independent Living Case Plan (TILCP), Transitional Independent Living Plan (TILP), and 90-day Transition Plan do not provide all information required below in section III and the court is unable to make all the findings and orders required below in sections IV and V, the hearing must be continued for no more than five court days for the submission of additional information.
-

III. Reports and supporting documents

- A. The social worker or probation officer's report must include the following information:
 - 1. Whether remaining under juvenile court jurisdiction is in the nonminor's best interests and the facts supporting the conclusion reached;
 - 2. The specific criteria in section 11403(b) met by the nonminor that makes him or her eligible to remain under juvenile court jurisdiction as a nonminor dependent;
 - 3. For a nonminor to whom the Indian Child Welfare Act (ICWA) applies, when and how the nonminor was provided with information about the right to continue to be considered an Indian child for the purposes of the ongoing application of ICWA;
 - 4. Whether the nonminor has applied for title XVI Supplemental Security Income (SSI) benefits and, if so, the status of any pending application and whether remaining under juvenile court jurisdiction until a final SSI decision has been issued is in the nonminor's best interests;
 - 5. Whether the nonminor has applied for Special Immigrant Juvenile Status or other application for legal residency and, if so, the status of any pending application and whether an active juvenile court case is required for that application;

¹ All code references are to the California Welfare and Institutions Code unless otherwise indicated.

² All rule references are to the California Rules of Court unless otherwise indicated.

Over a Dependent or Ward Age 18 or Older in a Foster Care Placement or Over a Nonminor Dependent

(Welfare and Institutions Code sections 224.1(b), 295, 303, 366.31, 391, 607.3, 16501.1(f)(16))

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6. When and how the nonminor was provided with information about the potential benefits of remaining under juvenile court jurisdiction as a nonminor dependent, and the social worker's assessment of the nonminor's understanding of those benefits;
 7. When and how the nonminor was informed that if juvenile court jurisdiction is terminated, the court maintains general jurisdiction over him or her, and the nonminor has the right to file a request to return to foster care and have the juvenile court resume jurisdiction over him or her as a nonminor dependent;
 8. When and how the nonminor was informed that if juvenile court dependency jurisdiction or transition jurisdiction is continued, he or she has the right to have that jurisdiction terminated;
 9. For a nonminor who is not present for the hearing:
 - a. Documentation of the nonminor's statement that the nonminor did not wish to appear in court for the scheduled hearing; *or*
 - b. Documentation of the reasonable efforts made to locate the nonminor whose current location is unknown; and
 10. Verification that the nonminor was provided with the information, documents, and services as required under section 391; *and*
 11. When and how a nonminor who is under delinquency jurisdiction was provided with the notices and information required under section 607.5.
- B. A completed *Termination of Juvenile Court Jurisdiction—Nonminor* (form JV-365), the nonminor's TILCP if the recommendation is for continuation of juvenile court jurisdiction, the nonminor's most recent TILP, and the nonminor's completed 90-day Transition Plan must be filed with the social worker's or probation officer's report.
 - C. The social worker's or probation officer's report and all documents must be filed with the court at least 10 calendar days before the hearing, and the social worker or probation officer must provide copies of the report and other documents to the nonminor, the nonminor's parents, and all attorneys of record. If the nonminor is under juvenile court jurisdiction as a nonminor dependent, the social worker or probation officer is not required to provide copies of the report and documents to the nonminor dependent's parents, unless the parent is receiving court-ordered family reunification services.
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Judicial Findings and Orders

All judicial findings and orders must be made on the record and included in the written, signed court documentation of the hearing.

IV. Findings

- A. Notice of the date, time, and location of the hearing was given as required by law;
- B. The nonminor had the opportunity to confer with his or her attorney about the issues currently before the court. (The nonminor must have had the opportunity to confer with his or her attorney prior to termination of jurisdiction unless the court finds the nonminor's whereabouts are unknown and reasonable efforts were made to locate the nonminor);
- C. Remaining under juvenile court jurisdiction is is not in the nonminor's best interests, and the facts in support of this finding were stated on the record.
- D. For a nonminor who is not present for the hearing, the reason for the nonminor's failure to appear was:
 1. The nonminor expressed a wish to not appear in court for the scheduled hearing and did not appear; or
 2. The nonminor's current location remains unknown and whether reasonable efforts were made to locate the nonminor.
- E.
 1. The nonminor does not meet the eligibility criteria in §11403(b) to remain in foster care as a nonminor dependent under juvenile court jurisdiction at this time; or
 2. The nonminor meets one or more of the eligibility criteria in section 11403(b) to remain in foster care as a nonminor dependent. The specific criteria met by the nonminor is
 - a. Attending high school or a high school equivalency certificate (GED) program

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(Welfare and Institutions Code sections 224.1(b), 295, 303, 366.31, 391, 607.3, 16501.1(f)(16))

- b. Attending a college, a community college, or a vocational education program
- c. Attending a program or participating in an activity that will promote or help remove a barrier to employment
- d. Employed at least 80 hours per month
- e. The NMD is not able to attend a high school, a GED program, a college, a community college, a vocational education program, an employment program or activity or to work 80 hours per month due to a medical condition;
- F. For a nonminor to whom the Indian Child Welfare Act applies, whether the nonminor was provided with information about the right to continue to be considered an Indian child for the purposes of the ongoing application of the Indian Child Welfare Act to the nonminor;
- G. For a nonminor who has an in-progress application pending for title XVI Supplemental Security Income benefits: The nonminor has an in-progress application pending for title XVI Supplement Security Income benefits and the continuation of juvenile court jurisdiction until a final decision has been issued to ensure that the child receives continued assistance with the application process is is not in the nonminor's best interest;
- H. For a nonminor who has an in-progress application pending for Special Immigrant Juvenile Status or other legal residency application, an active juvenile court case is is not required for that application;
- I. Whether the nonminor understands the potential benefits of remaining in foster care under juvenile court jurisdiction;
- J. The nonminor was informed of the options available to assist with the transition from foster care to successful adulthood;
- K. The potential benefits of remaining in foster care under juvenile court jurisdiction were explained to the nonminor and the nonminor has stated that he or she understands those benefits;
- J. The nonminor was informed that if juvenile court jurisdiction is continued, he or she may have the right to have juvenile court jurisdiction terminated and that the court will maintain general jurisdiction for the purpose of resuming dependency jurisdiction or assuming or resuming transition jurisdiction over him or her as a nonminor dependent;
- K. The nonminor was informed that if juvenile court jurisdiction is terminated with the court retaining general jurisdiction, he or she has the right to file a petition to have the court resume jurisdiction over him or her so long as he or she is within the eligible age range for status as a nonminor dependent;
- L. 1. The nonminor was provided with the information, documents, and services set forth in section 391(a) and (b) and a completed *Termination of Juvenile Court Jurisdiction Nonminor* (form JV-365) was filed with this court; **or**
2. The nonminor was not provided with the information, documents, and services set forth in section 391(a) and (b) and juvenile court jurisdiction is continued to ensure that all information, documents, and services are provided (Continue jurisdiction for receipt of information, documents, and services unless the court finds the nonminor's whereabouts are unknown and reasonable efforts were made to locate the nonminor);
- M. For a nonminor subject to delinquency jurisdiction, the nonminor was was not provided with the notices and information required under section 607.5;
- N. For a nonminor to whom the Indian Child Welfare Act applies:
1. The nonminor intends to continue to be considered an Indian child for purposes of the ongoing application of ICWA to the nonminor as a nonminor dependent; **or**
2. The nonminor does not intend to continue to be considered an Indian child for purposes of the ongoing application of ICWA to the nonminor as a nonminor dependent;
- O. 1. The Transitional Independent Living Case Plan includes a plan for a placement the nonminor believes is consistent with his or her need to gain independence, reflects the agreements made to obtain independent living skills, and sets out the benchmarks that indicate how the nonminor and social worker or probation officer will know when successful adulthood can be achieved;
2. The Transitional Independent Living Plan identified the nonminor's level of functioning, emancipation goals, and the specific skills he or she needs to prepare to live

Over a Dependent or Ward Age 18 or Older in a Foster Care Placement or Over a Nonminor Dependent

(Welfare and Institutions Code sections 224.1(b), 295, 303, 366.31, 391, 607.3, 16501.1(f)(16))

independently upon leaving foster care; **and**

3. The 90-day Transition Plan is a concrete individualized plan that specifically covers the following areas: housing, health insurance, education, local opportunities for mentors and continuing support services, workforce supports and employment services, and information that explains how and why to designate a power of attorney for health care.
- N. For a nonminor who has attained 21 years of age the court is only required to find that:
1. Notice was given as required by law.
 2. The nonminor was provided with the information, documents, and services required under section 391(a) and (b), and a completed *Termination of Juvenile Court Jurisdiction-Nonminor* (form JV-365) was filed with the court.
 3. The 90-day Transition Plan is a concrete, individualized plan that specifically covers the following areas: housing, health insurance, education, local opportunities for mentoring and continuing support services, workforce supports and employment services, and information that explains how and why to designate a power of attorney for health care.
 4. The nonminor has attained 21 years of age and is no longer subject to the jurisdiction of the court under section 303.

V. Orders: Juvenile court jurisdiction continued

- A. The nonminor meets one or more of the conditions in section 11403(b) and eligibility criteria for status as a nonminor dependent **and**
 1. dependency jurisdiction transition jurisdiction over the nonminor as a nonminor dependent is ordered;
 2. A permanent plan is ordered consistent with the nonminor's Transitional Independent Living Plan or Transitional Independent Living Case Plan;
 3. For a nonminor to whom the Indian Child Welfare Act applies: The nonminor is an Indian child and has has not elected to have the Indian Child Welfare Act apply;
 4. The matter is continued for a hearing under section 366(f) and rule 5.903 on (*choose date within six months of today's hearing date*): / / .
- B. For the nonminor who does not meet and does not intend to meet section 11403(b) eligibility criteria for status as a nonminor dependent but is otherwise eligible: The nonminor does not meet and does not intend to meet section 11403(b) eligibility criteria for status as a nonminor dependent but is otherwise eligible and will remain under juvenile court jurisdiction in a foster care placement, with the matter set for a status review hearing on (*choose date within six months of today's hearing date*): / / .

VI. Orders: Juvenile court jurisdiction terminated

- A. Reasonable efforts were made to locate the nonminor and his or her current location remains unknown. The juvenile court's jurisdiction over the minor is terminated. The nonminor remains under the general jurisdiction of the juvenile court for the purposes of its considering a petition filed under section 388(e) to resume dependency jurisdiction or to assume or resume transition jurisdiction over him or her as a nonminor dependent; **or**
- B. The nonminor:
 1. Does not meet one or more of the eligibility criteria for status as a nonminor dependent and is not otherwise eligible to remain under juvenile court jurisdiction; **or**
 2. Does meet one or more of the eligibility criteria for status as a nonminor dependent but does not wish to remain under juvenile court jurisdiction as a nonminor dependent; **or**

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(Welfare and Institutions Code sections 224.1(b), 295, 303, 366.31, 391, 607.3, 16501.1(f)(16))

3. Does meet one or more of the eligibility criteria for status as a nonminor dependent but is not participating in a reasonable and appropriate Transitional Independent Living Case Plan; and
4. The relevant findings under rule 5.555(d)(2)(E) were made:
 - (i) The nonminor was provided with the information, documents, and services as required under section 391;
 - (ii) The nonminor was informed of the options available to assist with the transition from foster care to independence;
 - (iii) The nonminor was informed that if juvenile court jurisdiction is terminated, the nonminor has the right to file a request to return to foster care and have the juvenile court resume jurisdiction over the nonminor as a nonminor dependent until the nonminor has reached 21 years of age;
 - (iv) The nonminor was provided with a copy of *How to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-464-INFO), *Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-466), *Confidential Information-Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-468), and an endorsed filed copy of the *Termination of Juvenile Court Jurisdiction-Nonminor* (form JV-365);
 - (v) The nonminor had an opportunity to confer with the nonminor's attorney regarding the issues currently before the court;
 - (vi) The nonminor's 90-day Transition Plan includes specific options regarding housing, health insurance, education, local opportunities for mentors and continuing support services, workforce supports and employment services, and information that explains how and why to designate a power of attorney for health care.(findings in this Chart C in section IV, items L(1), J, I, and B)

The juvenile court's jurisdiction over the nonminor is terminated. The nonminor remains under the general jurisdiction of the juvenile court for the purpose of its considering a petition filed under section 388(e) to resume dependency jurisdiction or to assume or resume transition jurisdiction over him or her as a nonminor dependent; **or**

- C. The nonminor is no longer within the eligible age range for status as a nonminor dependent subject to the jurisdiction of the juvenile court. The relevant findings under rule 5.555 were made (findings in this Chart C in section IV, items N(1)-(4)). Juvenile court jurisdiction over the nonminor is dismissed and the attorney for the nonminor dependent is relieved 60 days from the date of the order.

The information on this chart is based on the provisions of Assembly Bill 12 (Beall; Stats. 2010, ch. 559), the California Fostering Connections to Success Act, as amended by Assembly Bill 212 (Beall; Stats. 2011, ch. 459) and the California Rules of Court, effective July 1, 2012. The chart was compiled by the Juvenile Court Assistance Team, Center for Families, Children & the Courts, Judicial Council of California, 455 Golden Gate Avenue, San Francisco, California 94102-3688, 415-865-4220, cfcc@jud.ca.gov

I. Purpose

Rule 5.906 provides the procedures for the resumption of juvenile court jurisdiction over a nonminor.

II. Contents of the request

- A. The request to resume jurisdiction must be made using *Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-466).
 - B. The request must be verified by the nonminor or if the nonminor is unable to provide verification due to a medical condition, the nonminor's representative. The court may dismiss without prejudice a request filed under this rule that is not verified.
 - C. The request must be liberally construed in favor of its sufficiency.
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III. Filing the request

- A. The form JV-466 must be completed and verified by the nonminor or the nonminor's representative if the nonminor is unable to provide verification due to a medical condition and may be filed by the nonminor or the county child welfare services, probation department, or Indian tribe (placing agency).
 - B. For the convenience of the nonminor, form JV-466 and, if the nonminor wishes to keep his or her contact information confidential, *Confidential Information—Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-468) may be:
 1. Filed with the juvenile court that maintained general jurisdiction, or
 2. Submitted to the juvenile court in the county in which the nonminor currently resides, after which:
 - a. The court clerk must record the date and time the originals were submitted and give a copy of the originals marked as received to the nonminor at no cost to the nonminor.
 - b. The court clerk must forward those originals to the clerk of the court of general jurisdiction within two court days of submission of the originals.
 - c. The court in the county in which the nonminor resides is responsible for all costs of processing, copying, and forwarding the form JV-466 and form JV-468 to the clerk of the court of general jurisdiction.
 - d. The court clerk in the county in which the nonminor resides must retain a copy of the documents submitted.
 - e. The form JV-466 and, if submitted, the form JV-468 must be filed immediately upon receipt by the clerk of the juvenile court of general jurisdiction.
 3. For a nonminor living outside of California, the form JV-466 and the form JV-468 must be filed with the juvenile court of general jurisdiction.
 - C. If the form JV-466 is filed by the nonminor, within two court days of its filing with the clerk of the court in the county of general jurisdiction, the clerk of that court must notify the placing agency that was supervising the nonminor when juvenile court jurisdiction was terminated that the nonminor has filed the form JV-466 and provide the placing agency with the nonminor's contact information. The notification must be by telephone, fax, e-mail, or other method approved by the presiding juvenile court judge that will ensure prompt notification and inform the placing agency that a copy of the form JV-466 will be served on the agency and that one is currently available in the office of the juvenile court clerk.
 - D. If the form JV-466 has not been filed at the time the nonminor completes the Voluntary Reentry Agreement (VRA) described in section 11400(z), the placing agency must file the form JV-466 on the nonminor's behalf within 15 court days of the date the VRA was signed, unless the nonminor files form JV-466 prior to the expiration of the 15 court days.
 - E. No filing fees are required for the filing of form JV-466 or form JV-468. An endorsed, filed copy of each form filed must be provided at no cost to the nonminor or the placing agency that filed the request on the nonminor's behalf.
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IV. Determination of prima facie showing

- A. Within three court days of the filing of the form JV-466 with the clerk of the juvenile court of general jurisdiction, a juvenile court judicial officer must review the form JV-466 and determine whether a prima facie showing has been made that the nonminor meets all of the criteria set forth below and enter an order as set forth in section V.
 1. The nonminor was previously under juvenile court jurisdiction subject to an order for foster care placement on the date he or she attained 18 years of age, including a nonminor whose adjudication was vacated under Penal Code section 236.14;
 2. On and after January 1, 2012, the nonminor has not have attained 21 years of age;
 3. The nonminor wants assistance to maintain or secure an appropriate, supervised placement or is in need of immediate placement & agrees to a supervised placement under a VRA; and
 4. The nonminor intends to satisfy at least one of the eligibility criteria in section 11403(b).
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V. Finding and orders regarding prima facie showing

- A. On determining that a prima facie showing has been made, the judicial officer issues the following written orders:

1. The nonminor's request to return to foster care is set for hearing on (specify date within 15 days of the date form JV-466 was filed): ___/___/___.
 2. An attorney is appointed to represent the nonminor solely for the hearing on the request (See section VI below.)
 - B. On determining that a prima facie showing has not been made, the judicial officer issues the following written orders:
 1. The nonminor's request to return to foster care is denied. The request is denied because (specify the reasons for the denial):
 2. The nonminor may file a new request when the issues are resolved.
 - C. The court clerk must serve on the nonminor the following documents:
 1. A copy of the written order;
 2. Blank copies of Request to Return to Juvenile Court Jurisdiction and Foster Care (form JV-466) and Confidential Information—Request to Return to Juvenile Court Jurisdiction and Foster Care (form JV-468);
 3. A copy of How to Ask to Return to Juvenile Court Jurisdiction and Foster Care (form JV-464-INFO); and
 4. The names and contact information of attorneys approved by the court to represent minors in juvenile court proceedings who have agreed to provide a consultation to nonminors whose requests are denied due to the failure to make a prima facie showing.
 - D. The court clerk must serve a copy of the written order on the placing agency.
 - E. Service must be by personal service or first-class mail, or by electronic service in accordance with section 212.5 within two court days of the issuance of the order.
 - F. Proof of service must be filed.
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VI. Appointment of attorney:

- A. If the nonminor included on the form JV-466 a request for reappointment of the same court-appointed attorney who represented the nonminor when he or she was a ward or dependent or nonminor dependent, the judicial officer must appoint that attorney, if available, solely for the hearing on the request to return to juvenile court jurisdiction.
 - B. If the nonminor did not request the reappointment of a previous court-appointed attorney, the judicial officer must appoint an attorney to represent the nonminor solely for the hearing on the request. The attorney must be selected from the panel or organization of attorneys approved by the court to represent children in juvenile court proceedings.
 - C. The juvenile court clerk must notify the attorney of the appointment as soon as possible, but no later than one court day from the date the order for appointment was issued. Notification must be made by telephone, fax, e-mail, or other method approved by the presiding juvenile court judge that ensures prompt notification. Notice must include the nonminor's contact information and inform the attorney that a copy of the nonminor's form JV-466 will be served on him or her and is also available juvenile court clerk's office.
 - D. If the request to resume jurisdiction is granted, the judicial officer must continue the attorney's appointment to represent the nonminor on matters related to his or her status as a nonminor dependent until juvenile court jurisdiction is terminated, unless a finding is made that the nonminor would not benefit from the appointment of an attorney.
 1. To find that a nonminor would not benefit from the appointment of an attorney, the judicial officer must find all of the following:
 - a. The nonminor understands the nature of the proceedings;
 - b. The nonminor is able to communicate and advocate effectively with the court, other attorneys, and other parties, including social workers, probation officers, and other professionals involved in the case; and
 - c. Under the circumstances of the case, the nonminor would not gain any benefit from representation by an attorney.
 2. If the judicial officer finds that the nonminor would not benefit from representation by an attorney, a finding must be made on the record as to each of the criteria in item D.1 and reasons for each finding must be stated on the record.
 - E. Representation of the nonminor by the court-appointed attorney for the hearing on the request to return to juvenile court jurisdiction and for matters related to his or her status as a nonminor dependent must be at no cost to the nonminor.
 - F. If the nonminor chooses to be represented by an attorney other than a court-appointed attorney, the fees for an attorney retained by the nonminor are the nonminor's responsibility.
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VII. Notice of hearing

- A. The juvenile court clerk must serve notice as soon as possible, but no later than five court days before the hearing date, as follows:
 1. Notice of the date, time, place, and purpose of the hearing and a copy of the nonminor's completed form JV-466 must be served on:
 - a. The nonminor;
 - b. The nonminor's attorney;
 - c. The child welfare services agency, the probation department, or the Indian tribal agency that was supervising the nonminor when the juvenile court terminated jurisdiction over the

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- nonminor; and
 - d. The attorney for the child welfare agency, the probation department, or the Indian tribe.
 - 2. Notice of the date, time, place, and purpose of the hearing must be served on:
 - a. The nonminor's parents, only if the nonminor requested on the form JV-466 that notice be provided to the parents;
 - b. The nonminor's tribal representative, if the nonminor is an Indian child and indicated the choice on the form JV-466 to have the Indian Child Welfare Act apply; and
 - c. The local CASA office, if the nonminor requested on the form JV-466 that notice be provided to his or her former CASA.
 - B. The written notice served on the nonminor dependent must include:
 - 1. A statement that the nonminor may appear for the hearing by telephone; and
 - 2. Instructions on the local juvenile court procedures for arranging to appear and appearing at the hearing by telephone.
 - C. Service of the notice must be by personal service, by first-class mail or by electronic service in accordance with section 212.5..
 - D. Proof of service of notice must be filed by the juvenile court clerk at least two court days prior to the hearing.
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VIII. Reports

- A. The social worker, probation officer, or Indian tribal agency case worker must submit a report to the court that includes:
 - 1. Confirmation that the nonminor was previously under juvenile court jurisdiction subject to a foster care placement order at the time he or she turned 18 years old and that the nonminor has not attained 21 years of age, or is eligible to petition the court to assume jurisdiction over the nonminor pursuant to section 388.1;
 - 2. The condition or conditions under section 11403(b) that the nonminor intends to satisfy;
 - 3. The social worker, probation officer, or tribal case worker's opinion as to whether continuing in a foster care placement is in the nonminor's best interests and a recommendation about the resumption of juvenile court jurisdiction over the nonminor as a nonminor dependent;
 - 4. Whether the nonminor & the placing agency have entered into a reentry agreement for placement in a supervised setting under the placement & care responsibility of the placing agency;
 - 5. The type of placement recommended should the request be granted to return to juvenile court jurisdiction and foster care; and
 - 6. If the placement recommended is in a setting where minor dependents also reside, the results of the background check of the nonminor under section 16504.5.
 - a. The background check under section 16504.5 is required only if a minor dependent resides in the placement under consideration for the nonminor.
 - b. A criminal conviction is not a bar to a return to foster care and the resumption of juvenile court jurisdiction as a nonminor dependent.
 - B. The report and any supporting documentation must be filed with the court and a copy provided to the nonminor and the nonminor's attorney at least two court days before the hearing; and
 - C. If the court determines that the report and other documentation submitted by the placing agency do not provide all the information listed above in this section and the court is unable to make all the findings and orders required below in sections IX and X, the hearing must be continued for no more than five court days for the placing agency or the nonminor to submit additional information as ordered by the court.
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Judicial Findings and Orders

All judicial findings and orders must be made on the record and included in the written, signed court documentation of the hearing.

IX. Findings

- A. Notice was given as required by law;
- B. The nonminor was previously under juvenile court jurisdiction subject to an order for foster care placement in effect at the time he or she turned 18, or meets the requirements of section 388.1(c)(5);
- C. The nonminor has not attained 21 years of age;
- D. The nonminor intends to satisfy at least one of the conditions detailed in section 11403(b);
- E. The condition or conditions under section 11403(b) that the nonminor intends to satisfy are
 - 1. Attending high school or a high school equivalency certificate (GED) program
 - 2. Attending a college, a community college, or a vocational education program
 - 3. Attending a program or participating in an activity that will promote or help remove a barrier to employment
 - 4. Employed at least 80 hours per month

5. The NMD is not able to attend a high school, a GED program, a college, a community college, a vocational education program, an employment program or activity, or to work 80 hours per month due to a medical condition;
- F. Continuing in a foster care placement is in the nonminor's best interests;
- G. The nonminor and the placing agency have entered into a reentry agreement for placement in a supervised setting under the placement and care responsibility of the placing agency; and
- H. The nonminor is an Indian child and chooses to have the Indian Child Welfare Act continue to apply to him or her as a nonminor dependent **or**
The nonminor is an Indian child and chooses NOT to have the Indian Child Welfare Act apply to him or her as a nonminor dependent.

X. Orders

- A. If the court finds that the nonminor meets the age requirements for eligibility, and the nonminor intends to satisfy at least one condition under section 11403(b), and the nonminor and placing agency have entered into a Voluntary Reentry Agreement, the following orders are entered:
1. The court grants the request to resume jurisdiction, and juvenile court jurisdiction shall resume over the nonminor;
 2. Placement and care are vested with the placing agency;
 3. The placing agency must develop with the nonminor a new Transitional Independent Living Case Plan (TILCP) and file it with the court within 60 days;
 4. For a nonminor who is an Indian child and who chooses to have the Indian Child Welfare Act apply and is not under the supervision of a tribal case worker, the social worker or probation officer must consult with the tribal representative regarding a new TILCP;
 5. A nonminor dependent review hearing under rule 5.903 is set for (*specify a date within six months of the date the VRA was signed*): / / ; and
 6. The prior order appointing an attorney for the minor is continued and that attorney is appointed until the jurisdiction of the juvenile court is terminated.
- B. If the court finds that the nonminor comes within the eligible age range, but the nonminor does not intend to satisfy at least one of the conditions under section 11403(b) or the nonminor and placing agency have not entered into a reentry agreement, the following orders are entered:
1. The nonminor's request to return to foster care is denied. The request is denied because (*specify the reasons for denial*):
 2. Informing the nonminor that a new request may be filed when the circumstances change.
 3. The order appointing an attorney to represent the nonminor is terminated and the attorney is relieved as of (*specify date seven calendar days after the hearing*): / / .

In addition to service of a copy of the written order, the juvenile court clerk must cause to be served on the nonminor blank copies of *Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-466) and *Confidential Information—Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-468) and the information sheet *How to Ask to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-464-INFO).

- C. If the court finds that the nonminor does not meet the age requirements, the following orders are entered:
1. The request to have juvenile court jurisdiction resumed is denied; and
 2. The order appointing an attorney to represent the nonminor is terminated, and the attorney is relieved as of (*specify date seven calendar days after the hearing*): / / .

XI. Findings and orders: Service

- A. The findings and orders must be made on the record and included in the written, signed court documentation of the hearing.
- B. The written findings and order must be served by the juvenile court clerk on all persons who were served with notice of the hearing.
1. Service must be by personal service or first-class mail, or by electronic service in accordance with section 212.5 within three court days of the issuance of the order.
 2. Proof of service must be filed.

The information on this chart is based on the provisions of Assembly Bill 12 (Beall; Stats. 2010, ch. 559), the California Fostering Connections to Success Act, as amended by Assembly Bill 212 (Beall; Stats. 2011, ch. 459) and the California Rules of Court, effective July 1, 2012. The chart was compiled by the Juvenile Court Assistance Team, Center for Families, Children & the Courts, Administrative Office of the Courts, 455 Golden Gate Avenue, San Francisco, California 94102-3688, 415-865-4220, cfcc@jud.ca.gov

**CHART E Additional requirements for (1) any hearing to terminate jurisdiction over child who is in foster care as ward or RULE 5.812
who was in foster care as dependent when declared a ward and (2) last review hearing for child approaching majority—Delinquency
Welfare and Institutions Code sections 450, 451, 727.2(i)-(j), 778**

I. Hearings subject to this rule

- A. The last review hearing under Welfare and Institutions Code section 727.2¹ or 727.3 before the child turns 18 years of age, this hearing must be set at least 90 days before the child turns 18 and within six months of the previous status review hearing, and a dispositional hearing under section 702 for a child under an order of foster care placement who will attain 18 years of age before a subsequent review hearing will be held.
 - B. Any review hearing held under section 727.2 or 727.3 for a child less than 18 years of age during which a recommendation to terminate juvenile court jurisdiction will be considered;
 - C. Any hearing to terminate juvenile court jurisdiction over a child less than 18 years of age who is subject to an order for foster care placement; and
 - D. Any hearing to terminate juvenile court jurisdiction over a child less than 18 years of age and not currently subject to a foster care placement order but who had an order for foster care placement as a dependent of the juvenile court at the time he or she was adjudged to be a ward.
-

II. Conduct of the hearing

- A. The hearing must be held before a judicial officer and recorded by a court reporter.
 - B. If the court finds that the report and, if required, the Transitional Independent Living Case Plan and the Transitional Independent Living Plan submitted by the probation officer do not provide the required information and the court is unable to make all the findings required by rule 5.812(d)², the hearing must be continued for no more than five court days for the submission of additional information as ordered by the court.
-

III. Written report requirements

- A. The report must state whether the child was provided with the notices and information required under section 607.5 and include a description of:
 - 1. The child's progress toward meeting the case plan goals that will enable the child to be a law-abiding and productive member of the family and community. This information is not required if dismissal of delinquency jurisdiction and vacatur of the underlying adjudication is based on Penal Code section 236.14.
 - 2. If reunification services have not been previously terminated, the progress of each parent or legal guardian toward participating in case plan service activities and meeting the case plan goals developed to resolve the issues that contributed to the child's removal from his or her custody.
 - 3. The current ability of each parent or legal guardian to provide the care, custody, supervision, and support the child requires in a safe and healthy environment.
 - 4. For a child previously determined to be a dual status child for whom juvenile court jurisdiction as a dependent was suspended, a joint assessment under section 366.5 by the probation department and the child welfare services agency of the detriment, if any, to the child of a return to the home of his or her parents or legal guardian, and a recommendation on the resumption of dependency jurisdiction. The facts in support of the opinions expressed and recommendations made must be included in the joint assessment section of the report. If the probation department and the child welfare services agency do not agree in their conclusions, the child welfare services agency must file a separate report with facts in support of its opinions and recommendations.
 - 5. For a child previously determined to be a dual status child for whom the probation department was designated the lead agency, the detriment, if any, to the child of a return to the home of his or her parents or legal guardian and the probation officer's recommendation regarding the modification of the court's jurisdiction over the child from that of a dual status child to that of a dependent under section 300 and the facts in support of the opinion expressed and the recommendation made.
 - 6. For a child other than a dual status child, including a child whose underlying adjudication is subject to vacatur under Penal Code section 236.14, the probation officer's recommendation regarding modification of the juvenile court's jurisdiction over the child from ward to a dependent under section 300 or a transition dependent under section 450, and the facts in support of the recommendation.
- B. For the last review hearing held on behalf of a **child approaching majority** and any hearing to terminate jurisdiction held on behalf of a **child more than 17 years, 5 months and less than 18 years of age**, the report must include:
 - 1. The child's plans to remain under juvenile court jurisdiction as a nonminor dependent, including the criteria in section 11403(b) that he or she plans to meet;
 - 2. The efforts made by the probation officer to help the child meet one or more of the criteria in section 11403(b);
 - 3. Where applicable, the child's plans to maintain his or her status as an Indian child for purposes of the ongoing application of the ICWA to him or her as a nonminor dependent;

¹ All code references are to the California Welfare and Institutions Code unless otherwise indicated.

² All rule references are to the California Rules of Court unless otherwise indicated.

**CHART E Additional requirements for (1) any hearing to terminate jurisdiction over child who is in foster care as ward or RULE 5.812
who was in foster care as dependent when declared a ward and (2) last review hearing for child approaching majority—Delinquency**

Welfare and Institutions Code sections 450, 451, 727.2(i)-(j), 778

4. The status of any application pending for title XVI Supplemental Security Income (SSI) benefits and, if such an application is pending, whether it is in the child's best interest to continue juvenile court jurisdiction until a final SSI decision has been issued to ensure that the child receives continued assistance with the application process;
5. Whether the child has an in-progress application pending for Special Immigrant Juvenile Status or other application for legal residency and, if so, whether an active juvenile court case is required for that application;
6. The efforts made by the probation officer toward providing the child with the written information, documents, and services described in section 391 and, to the extent that the child has not yet been provided with them, the barriers to providing the information, documents, or services and the steps that will be taken to overcome those barriers by the child's 18th birthday;
7. When and how the child was informed that at 18 years old he or she may request dismissal of juvenile court jurisdiction under section 778;
8. When and how the child was provided with information regarding the potential benefits of remaining under juvenile court jurisdiction as a nonminor dependent, and the probation officer's assessment of the child's understanding of those benefits;
9. When and how the child was informed that if juvenile court jurisdiction is terminated after he or she attains 18 years of age, he or she has the right to file a request to return to foster care; and
10. The child's Transitional Independent Living Case Plan and Transitional Independent Living Plan, which must include:
 - a. The individualized plan for the child to satisfy one or more of the criteria in section 11403(b) and the child's anticipated placement as specified in section 11402; and
 - b. The child's alternate plan for his or her transition to independence, including housing, education, employment, and a support system in the event the child does not remain under juvenile court jurisdiction after attaining 18 years of age.

IV. Findings and Orders

All judicial findings and orders must be made on the record and included in the written, signed court documentation of the hearing.

A. Transition to Independence—These findings and orders are required at the last status review hearing before the child turns 18 years of age and at any hearing to terminate delinquency jurisdiction over a child in a foster care placement as a ward who is more than 17 years, 5 months and less than 18 years old:

1. The child's Transitional Independent Living Case Plan (TILCP) includes a plan for the child to satisfy the following conditions of eligibility to remain under juvenile court jurisdiction as a nonminor dependent (*indicate all that apply*):
 - a. Attending high school or a high school equivalency (GED) certificate program;
 - b. Attending a college, a community college, or a vocational education program;
 - c. Participating in a program or activities to promote employment or to overcome barriers to employment;
 - d. Being employed at least 80 hours per month;
 - e. Having a medical condition that makes the child unable to attend high school, a GED program, college, community college, vocational education program, or a program or activities to promote employment or overcome barriers to employment, or to work 80 hours a month;
2. The child's TILCP includes an alternate plan for his or her transition to independence, including, housing, education, employment, and a support system, in the event the child does not remain under juvenile court jurisdiction after attaining 18 years of age.
3. For a child to whom the Indian Child Welfare Act applies:
 - a. The child intends to continue to be considered an Indian child for purposes of the ongoing application of ICWA to the child as a nonminor dependent; *or*
 - b. The child does not intend to continue to be considered an Indian child for purposes of the ongoing application of ICWA to the child as a nonminor dependent;
4. For a child who has an in-progress application pending for title XVI Supplemental Security Income (SSI) benefits, continuation of juvenile court jurisdiction until a final decision has been issued to ensure that the child receives continued assistance with that application process is is not in the child's best interest;
5. For a child with an in-progress application pending for Special Immigrant Juvenile Status or other legal residency application, an active juvenile court case is is not required for that application;
6. The potential benefits of remaining under juvenile court jurisdiction as a nonminor dependent were explained to the child and the child has stated that he or she understands those benefits;
7. The child was informed that he or she may decline to become a nonminor dependent;
8. The child was informed that upon reaching 18 years of age he or she may have the right to have juvenile court jurisdiction terminated following a hearing under rule 5.555;
9. The child was informed that if juvenile court jurisdiction is terminated after reaching 18 years of age, he or she may have the right to file a request to return to foster care and have the court resume jurisdiction over him or her as a nonminor dependent;

CHART E Additional requirements for (1) any hearing to terminate jurisdiction over child who is in foster care as ward or RULE 5.812 who was in foster care as dependent when declared a ward and (2) last review hearing for child approaching majority—Delinquency

Welfare and Institutions Code sections 450, 451, 727.2(i)-(j), 778

10. a. All the information, documents, and services included in section 391 have been provided to the child; *or*
b. Not all the information, documents, and services included in section 391 have been provided to the child and the barriers to providing any missing information can be overcome by the child's 18th birthday;
11. The matter being before the juvenile court on a request for termination of jurisdiction over a child currently or previously subject to an order for foster care placement, the requirements of section 607.5 were were not met.

B. Modification of Jurisdiction—These findings and orders are required (1) At the last status review hearing before the child turns 18 years old and at any hearing to terminate delinquency jurisdiction over a child in foster care as a ward who is more than 17 years, 5 months and less than 18 years old in addition to those findings and orders included in section IV A, and (2) At any hearing to terminate delinquency jurisdiction over a child who is in a foster care placement as a ward or who was in a foster care when adjudged a ward.

Consider the status of the ward to determine which findings and order apply to each individual case:

1. Dual status child with dependency suspended: rehabilitative goals met and jurisdiction over the child as a ward no longer required

- a. Finding:** A return to the home would be detrimental to the child, and juvenile court jurisdiction over the child as a dependent should be resumed.
The facts supporting this finding are (*specify*): *and*
Order: Dependency jurisdiction over the child previously suspended is resumed and delinquency jurisdiction is dismissed. The matter is continued for a status review hearing under section 366.21 or 366.3 on (*choose date within six months of the child's most recent status review hearing*): / / . *or*
- b. Finding:** A return to the child's home would not be detrimental to the child, and juvenile court jurisdiction over the child as a dependent does not need to be resumed. The facts supporting this finding are (*specify*): _____ *and*
Order: (1) The child is ordered returned to the home of the parents or legal guardian, and a progress report hearing is set on (*choose date within the next six months*): / / ; *or*
(2) The child is returned to the home of the parents or legal guardian and juvenile court jurisdiction over the child is terminated as set forth in *Petition to Terminate Wardship and Order* (form JV-794).

2. Dual status child with probation department as lead agency: rehabilitative goals met and jurisdiction over the child as a ward is no longer required

- a. Finding:** A return to the child's home would be detrimental to the child, and juvenile court jurisdiction over the child as a dependent is required.
The facts supporting this finding are (*specify*): _____ *and*
Order: The child's dual status is terminated, delinquency jurisdiction over the child is dismissed, and dependency jurisdiction is continued with the child welfare services department responsible for the child's placement and care. The matter is continued for a status review hearing under section 366.21 or 366.3 on (*choose date within six months of the child's most recent status review hearing*): / / *or*
- b. Finding:** A return to the child's home would not be detrimental to the child, and juvenile court jurisdiction over the child as a dual-status child is no longer required.
The facts supporting this finding are (*specify*): _____ *and*
Order: (1) The child is returned to the home of the parent or legal guardian and a progress report hearing is set on (*choose date within the next six months*): / / ; *or*
(2) The child is returned to the home of the parent or legal guardian and juvenile court jurisdiction over the child is terminated

3. Nondual status ward more than 17 years, 5 months & less than 18 years old currently in a foster care placement: Modification from delinquency to transition jurisdiction

- Findings:** The child's rehabilitative goals have been met and juvenile court jurisdiction over the child as a ward is no longer required.
The facts supporting this finding are (*specify*): _____;
For a child who was not a dependent when declared a ward: The child appears to come with the description of section 300 and cannot be returned home safely.
The facts supporting this finding are (*specify*): _____; *or*
For a child was a dependent when declared a ward: The child remains with the description of a dependent under section 300 and return to the home of the parents would create a substantial risk of detriment to the child's safety, protection, or physical or emotional well-being.
The facts supporting this finding are (*specify*): _____ *and*
For every child:
Reunification services have been terminated;
The child's case has not been set for a hearing to terminate parental rights or establish a guardianship;

**CHART E Additional requirements for (1) any hearing to terminate jurisdiction over child who is in foster care as ward or RULE 5.812
who was in foster care as dependent when declared a ward and (2) last review hearing for child approaching majority—Delinquency**

Welfare and Institutions Code sections 450, 451, 727.2(i)-(j), 778

The child intends to sign a mutual agreement for a placement in a supervised setting as a nonminor dependent;
The child comes within the juvenile court’s transition jurisdiction as described in section 450;
The child was originally removed from the physical custody of his or her parents or legal guardians on (date): / / and continues to be removed from their custody;
The removal findings “continuance in the home is contrary to the child’s welfare” & “reasonable efforts were made to prevent removal” made at that hearing remain in effect; and
The probation department child welfare services department is responsible for the child’s placement and care.

Orders: The child is adjudged a transition dependent pending turning 18 years old and assuming the status of a nonminor dependent under the transition jurisdiction of this court.
The matter is continued for a status review hearing under rule 5.903 on (choose date within six months of the most recent status review hearing): / / .

**4. Nondual status child currently in a foster care placement who was in a foster care placement when adjudged a ward, or
Nondual status child not currently in foster care placement who was in a foster care placement when adjudged a ward and does not or does not intend to meet transitional
jurisdiction requirements: Modification from delinquency jurisdiction to dependency jurisdiction**

Findings: The child’s rehabilitative goals have been met and juvenile court jurisdiction over the child as a ward is no longer required.

The facts supporting this finding are (specify): _____;

The child does not come within the juvenile court’s transition jurisdiction;

The child remains within the description of a dependent child under section 300 and a return to the home of his or her parent or legal guardian would create a substantial risk
of detriment to the child’s safety, protection, or physical or emotional well-being. The facts supporting this finding are (specify): _____;

The child was originally removed from the physical custody of his or her parents or legal guardians on (date): / / and continues to be removed from their custody;

The removal findings “continuance in the home is contrary to the child’s welfare” & “reasonable efforts were made to prevent removal” made at that hearing remain in effect; and
The probation department child welfare services department is responsible for the child’s placement and care.

Orders: The order terminating jurisdiction over the child as a dependent of the juvenile court is vacated and dependency jurisdiction over the child is resumed.
Delinquency jurisdiction is terminated.

The matter is continued for a status review hearing under section 366.21 or 366.3 on (choose date within six months of the most recent status review hearing) : / / .

5. Jurisdiction over the child was not modified from delinquency jurisdiction to dependency jurisdiction or transition jurisdiction

a. Child returned home and court maintains delinquency jurisdiction

Findings: A return to the child’s home would not be detrimental to the child. The facts supporting this finding are (specify): _____.

The child’s rehabilitative goals have not been met.

Orders: The child is ordered returned to the home of the parent or legal guardian, and a progress report hearing is set on (choose date within the next six months): / / ; **or**

b. Child returned home and juvenile court jurisdiction dismissed

Findings: A return to the child’s home would not be detrimental to the child. The facts supporting this finding are (specify): _____.

The child’s rehabilitative goals have been met and juvenile court jurisdiction over the child is no longer required.

Orders: The child is returned to the home of the parent or legal guardian and juvenile court jurisdiction is terminated; **or**

c. Child in non-foster care placement

Findings: The child’s rehabilitative goals have not been met.

Orders: Delinquency jurisdiction is continued and the order for an out-of-home placement in a non-foster care placement remains in full force and effect.

A progress report hearing is set on (choose date within the next six months): / / ; **or**

d. Child in foster care placement

Findings: A return to the child’s home would be detrimental to the child. The facts supporting this finding are (specify): _____.

The child’s rehabilitative goals have not been met.

Orders: Delinquency jurisdiction is continued and the order for an out-of-home foster care placement remains in full force and effect.

**CHART E Additional requirements for (1) any hearing to terminate jurisdiction over child who is in foster care as ward or RULE 5.812
who was in foster care as dependent when declared a ward and (2) last review hearing for child approaching majority—Delinquency
Welfare and Institutions Code sections 450, 451, 727.2(i)-(j), 778**

The matter is continued for a status review hearing under section 727.2 or 727.3 on (choose date within six months of the most recent status review hearing): __/__/__.

6. **A child who was not subject to the court’s dependency jurisdiction at the time he or she was adjudged a ward and is currently subject to an order for a foster care placement, including a child whose underlying adjudication is subject to vacatur under Penal Code section 236.14**
- a. Order the probation department or the child's attorney to submit an application under section 329 to the county child welfare services department to commence a proceeding to declare the child a dependent of the court by filing a petition under section 300 if the court finds:
 - (1) The child does not come within the description of section 450(a);
 - (2) The rehabilitative goals for the child included in his or her case plan have been met and delinquency jurisdiction is no longer required, or the underlying adjudication is subject to vacatur under Penal Code section 236.14; and
 - (3) The child appears to come within the description of section 300 and a return to the home of the parents or legal guardian may be detrimental to his or her safety, protection, or physical or emotional well-being.
 - b. Set a hearing to review the county child welfare services department's decision within 20 court days of the date the order to file an application under section 329 was entered and at that hearing:
 - (1) Affirm the county child welfare services department's decision not to file a petition under section 300; or
 - (2) Order the county child welfare services department to file a petition under section 300.
 - c. If the court affirms the decision not to file a petition under section 300 or a petition filed under section 300 is not sustained, the court may:
 - (1) Return the child to the home of the parents or legal guardian and set a progress report hearing within the next six months;
 - (2) Return the child to the home of the parents or legal guardian and terminate juvenile court jurisdiction over the child; or
 - (3) Continue the child's foster care placement and set a hearing under section 727.2 no more than six months from the date of the most recent hearing held under 727.2.
7. **A child or nonminor who met or would meet the criteria for section 450 jurisdiction in section 450(a)(1)(A), but for the fact that the underlying adjudication was vacated pursuant to Section 236.14 of the Penal Code, and the minor or nonminor has not attained 21 years of age; modifying to 450 jurisdiction**
- a. The order modifying the court’s jurisdiction must be made before the underlying petition is vacated;
 - b. **Findings:** Continuance in the home is contrary the child’s welfare, and reasonable efforts were made to prevent removal;
The child continues to be removed from the parents or legal guardians;
The probation department child welfare services department is responsible for the child’s placement and care.
A statement that the underlying adjudication is vacated and the arrest upon which it was based is expunged; and
An order directing the Department of Justice and any law enforcement agency that has records of the arrest to seal those records and destroy them three years from the date of the arrest or one year after the order to seal, whichever occurs later.
 - c. The following finding is not required where dismissal of delinquency jurisdiction is based on Penal Code section 236.14: whether the rehabilitative goals for this child have been met juvenile court jurisdiction over the child as a ward is no longer required.
 - d. For a child other than a dual status child who was not subject to the court's dependency jurisdiction at the time he or she was adjudged a ward and is currently subject to an order for a foster care placement, whether the child appears to come within the description of section 300 and cannot be returned home safely. The facts supporting the finding must be stated on the record.

The information on this chart is based on the provisions of Assembly Bill 12 (Beall; Stats. 2010, ch. 559), the California Fostering Connections to Success Act, as amended by Assembly Bill 212 (Beall; Stats. 2011, ch. 459), several subsequent bills, and the California Rules of Court, effective March 2023. The chart was compiled by the Juvenile Court Assistance Team, Center for Families, Children & the Courts, Judicial Council of California, 455 Golden Gate Avenue, San Francisco, California 94102-3688, 415-865-7644, cfcc@jud.ca.gov



Judicial Council of California

California's Fostering Connections to Success Act: Court Procedures¹

The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub.L. No. 110-351 (Oct. 7, 2008) 122 Stat. 3949), which amended various sections of title IV-B and title IV-E of the Social Security Act, made extensive policy and program changes to improve the well-being of and outcomes for children involved with the foster care system. The changes included provisions for:

- Federal funding of kinship guardianship assistance (Kin-GAP) payments and
- The extension of eligibility for eligible nonminors up to 19, 20, or 21 years of age of the following federally funded programs:
 - Aid to Families with Dependent Children–Foster Care (AFDC-FC) payments,
 - Adoption assistance payments, and
 - Kin-GAP payments.

Participation by a state in these programs is optional and requires the alignment of state laws and regulations with the applicable provisions of the federal act.

California chose to participate, and Assembly Bill 12 (Beall; Stats. 2010, ch. 559), the California Fostering Connections to Success Act, as amended by Assembly Bill 212 (Beall; Stats. 2011, ch.459) and Senate Bill 1013 (Stats. 2012, ch.35)² enacted changes to California statutes to comply with the applicable provisions for these optional federal programs. The Judicial Council of California adopted rules and forms to provide the procedural framework for the new and amended hearing requirements included in the Fostering Connections Act.³

This article memorandum focuses on the court procedures related to the extended foster care (EFC) program for nonminors under juvenile court jurisdiction. There is a limited discussion of several other aspects of the federal act and the state Fostering Connections Act, including the Kin-GAP programs and the extension for nonminors of Adoption Assistance Program (AAP) and Kin-GAP payments.

¹ The information in this memorandum is based on laws in effect at the time of publication, June 5, 2023.

² AB 12, AB 212, and SB 1013 are referred to as the Fostering Connections Act in this article.

³ All rule references are to the California Rules of Court unless otherwise indicated. All form references are to the juvenile forms approved by the Judicial Council unless otherwise noted.

Extended Foster Care

The enactment of the Fostering Connections Act makes extended foster care available to an eligible dependent or ward who is under an order of foster care placement by the juvenile court on his or her 18th birthday because a plan of family reunification, adoption, or guardianship has not been achieved. This extension provides the additional time and support needed for these youth to become fully independent adults.

The legislature, in recognition of the importance of this additional support and guidance, has made EFC available to nonminors remaining in foster care after their 18th birthday who are eligible for federal AFDC-FC, as well as those who are funded through the state AFDC-FC program and the California Work Opportunities and Responsibility to Kids (CalWORKs) program. The state foster care funds previously used to support children and young adults in California's Kin-GAP program will be used to support EFC because many of those children and young adults will now be eligible for funding through the federal Kin-GAP program.

Nonminor Dependent Eligibility Criteria

Nonminor dependent (NMD), the term used for a dependent or ward eligible for EFC, is defined as a nonminor within the eligible age range who was under a foster care placement order on his or her 18th birthday and is currently under juvenile court jurisdiction with a foster care placement order and meeting at least one of the EFC participation conditions. (Welf. & Inst. Code, § 11400(v).) A dependent or ward who falls within the definition of an NMD on his or her 18th birthday is deemed an NMD. No formal action is required by the juvenile court.

Eligible age range. The extension of foster care services to eligible nonminors begins when the youth attains 18 years of age. Eligibility terminates on the day the nonminor turns 21 years of age.

Under a foster care placement order on 18th birthday. A nonminor under a foster care placement order on his or her 18th birthday is in compliance with this requirement regardless of his or her location on the date of his or her 18th birthday. (Welf. & Inst. Code, § 11400(v)(1).) For example, a ward or dependent under a foster care placement order meets this eligibility requirement even though he or she is on runaway status or temporarily placed in a nontitle IV-E facility such as a locked psychiatric ward or a juvenile hall detention facility.

Under juvenile court jurisdiction. The nonminor must be under the jurisdiction of the juvenile court. The nonminor can have either remained under the juvenile court's jurisdiction when he or she turned 18 years of age or reentered the court's jurisdiction following a termination of court jurisdiction.

In a foster care placement. The nonminor must be in a foster care placement under the placement and care responsibility of a child welfare agency, probation department, or tribal agency.

The foster care placements for an NMD are those currently available including licensed or

certified foster homes, approved relative homes, and short-term residential therapeutic program (STRTP)⁴ placements.

Two additional NMD foster care placements were created by the Fostering Connections Act:

- *Transitional Housing Program-Plus-Foster Care (THP-Plus-FC)*. This foster care housing program is for NMDs who are not ready for a highly independent living situation and is similar to the housing models and supportive services available in the THP-Plus Program for former foster youth who are not under juvenile court jurisdiction.
- *Supervised Independent Living Placement (SILP)*. This new and flexible placement type will provide NMDs who are developmentally ready with the opportunity to experience independent living while receiving financial support and continuing guidance from the placing agency. SILP placements include apartments (alone or with roommates), single-room occupancy hotels with shared bathrooms and/or kitchens, rooms for rent in a house or apartment, and college dormitories. There is no caregiver or provider, as other placement types provide, and the monthly AFDC-FC funds may be paid directly to the NMD. In 2017, All County Letter 17-83 clarified that a SILP placement could include placement with the NMD's parent or guardian, even if it was the home of removal. ACL 17-83 is available at <https://www.cdss.ca.gov/portals/9/acl/2017/17-83.pdf?ver=2017-09-14-131929-100>.

An NMD may live in an out-of-state placement such as a college dormitory. The placing agency must comply with all monthly face-to-face visitation and services requirements. If the state in which the NMD is living does not accept an Interstate Compact on the Placement of Children request to provide courtesy supervision of the NMD, the placing agency must ensure that all visitation and services are provided by an employee of the placing agency or through a private agency located in the other state.

All County Letter (ACL) No. 11-77, issued by the California Department of Social Services (CDSS) on November 18, 2011, provides detailed information about the foster care placements available for the NMD. ACL No. 11-77 is available at:

<https://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2011/11-77.pdf>.

EFC participation conditions. The nonminor must be participating in at least one of the five conditions described below.

- *Completing high school or an equivalency program.* To meet this condition, the NMD has to be enrolled in a high school program such as a public high school, charter high school, alternative high school, continuation school, nonpublic school, adult education classes, or course of study leading to a high school diploma, GED test credential, California High School

⁴ Any new STRTP placement for an NMD made after October 1, 2021, requires review by the juvenile court under section 361.22 or 727.12.

Proficiency Examination Certificate of Proficiency, or High School Certification of Completion. Participation in special education activities described in the NMD's Individualized Education Plan satisfies this condition. The NMD's enrollment is considered continuous during any summer or other scheduled break in the school program.

- *Enrolled in postsecondary education or vocational education.* To meet this condition, the NMD has to be enrolled at least half time in an institution licensed to operate in California or at a comparable institution located or licensed to operate in another state. Formal admission to the educational institution is not required and includes situations where a student is enrolled in individual courses without being enrolled in the institution. Course work taken at more than one institution during a semester or quarter can be used to achieve half-time enrollment. The NMD remains in compliance with this participation condition during official school breaks such as a summer or semester break.
- *Participating in a program or activity that promotes or removes barriers to employment.* This participation condition can be met through a wide range of programs and activities, including job skill classes or training, career exploration classes or training, social skills classes or training, substance abuse treatment, mental health treatment, teen parenting classes or programs, unpaid employment, and volunteer activities. The NMD's individualized programs or activities must be specific to his or her skills and needs, developed by the NMD with input from the social worker or probation officer and others providing support and guidance to the NMD, and designed to assist the NMD in his or her efforts to advance to participation in one of the education or employment conditions.
- *Employed for at least 80 hours per month.* To meet this condition, the NMD must be engaged in paid employment activities for a minimum of 80 hours per month. Paid employment by one or more employers during a month can be combined to reach the 80-hours-per-month minimum. The NMD remains in compliance with this participation condition so long as he or she is *scheduled* to work at least 80 hours per month, even if the NMD does not do so due to holidays, illness, authorized vacation, or circumstances beyond the NMD's control.
- *Incapable of doing any of the activities described above due to a documented medical condition.* The NMD must have a medical condition—a physical or mental state—and the medical condition must make the NMD incapable of doing any of the activities of the other participation conditions described above. Written verification is required by a health-care practitioner that one of the reasons an individual is unable to meet any of the other participation conditions is due to his or her medical condition.⁵

Attachment A to ACL No. 11-61, issued by the California Department of Social Services on November 4, 2011, provides a detailed definition of each of the five participation conditions.

⁵ See *In re N.S.* (2016), 7 Cal. App. 5th 713 on the application of the psychotherapist-patient privilege in a dispute over eligibility under the fifth criteria.

ACL No. 11-61 is available at <https://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2011/11-61.pdf>.

A nonminor may still continue under juvenile court jurisdiction as a ward or dependent until his or her 21st birthday without meeting the requirements for status as an NMD. (Welf. & Inst. Code, §§ 303, 607; rule 5.900(a).) However, the nonminor who remains under juvenile court jurisdiction without attaining the status as an NMD is ineligible to receive federal AFDC-FC funding.

Additional Requirement for Participation in EFC

Because remaining in foster care under juvenile court jurisdiction with the placing agency maintaining placement and care responsibility is voluntary after one turns 18 years old, the NMD and the placing agency must sign CDSS form SOC 162, *Mutual Agreement for Extended Foster Care* (mutual agreement), within six months of the NMD's 18th birthday.⁶ By signing the agreement, the NMD agrees to remain under juvenile court jurisdiction in a supervised foster care placement.⁷ This requirement is a condition for ongoing participation in EFC, and an NMD's failure to sign the mutual agreement could cause the placing agency to file a request with the court to terminate its jurisdiction over the NMD. However, the completion of the mutual agreement is not a condition for payment of foster care funds, and the NMD would remain eligible for funding until the court terminated its jurisdiction.

Nonminor Dependent as Legal Adult

As an individual over the age of 18 years, the NMD is a legal adult and holds the rights and privileges of that status. (Welf. & Inst. Code, § 303(d).)⁸ Protective custody warrants may not issue because the placing agency does not hold legal custody. Permission for access to medical, dental, mental health, educational, and all other confidential information and records must be obtained from the NMD, and consent must be obtained from the NMD for medical, dental, mental health, and educational testing or treatment. The placing agency may obtain this information only if the NMD consents, and as set forth in the CDSS placement agreement forms, the information obtained by the placing agency may be provided, with the NMD's consent, to the NMD's foster care provider.⁹ The NMD's personal rights require that caregivers keep all medical information confidential and not release information to another party without written consent from the NMD.

⁶ Form SOC 162 is available at <https://www.cdss.ca.gov/cdssweb/entres/forms/English/SOC162.pdf>.

⁷ An NMD who continues under the juvenile court's delinquency jurisdiction because he or she has not completed his or her rehabilitative goals and remains subject to the terms and conditions of probation is not remaining in foster care on a voluntary basis, and entering into a mutual agreement is not required.

⁸ A nonminor under juvenile court jurisdiction who is ineligible for status as an NMD is also a legal adult with the rights and privileges of an adult; however, a nonminor or NMD under the juvenile court's delinquency jurisdiction who has not achieved his rehabilitative goals is still subject to the terms and conditions of probation.

⁹ The CDSS placement agreement forms, *Agency– Foster Family Agency Agreement* (SOC 153), *Agency– Group Home Agreement* (SOC 154B) and *Agency – Foster Parents Placement Agreement* (SOC 156A), are available at <https://www.cdss.ca.gov/inforesources/forms-brochures/forms-alphabetic-list/q-t>.

The NMD's Court Appointed Special Advocate (CASA) must also obtain the NMD's consent for access to confidential records and information and cannot release records and information to another party without the written consent of the NMD.

An NMD does retain all the personal rights of a foster child enumerated in section 16001.9.

Responsibilities

The goal of extended foster care is to provide each NMD with the opportunity to make decisions regarding his or her housing, education, employment, and leisure activities while ensuring the availability of ongoing support and assistance when difficulties arise. Achieving this goal requires a change in the responsibilities of the NMD and the other participants in the juvenile court process.

As an adult, the NMD is voluntarily remaining in foster care and enters into a mutual agreement with the placing agency in which both parties agree to fulfill their respective responsibilities. The purpose of the mutual agreement is to ensure that the NMD's status as a legal adult is recognized and to provide clear expectations to both the NMD and the case manager of what the responsibilities are for each party. The mutual agreement further specifies what services and assistance the NMD will receive from the agency.

The NMD's responsibilities include participating in a face-to-face monthly visit with the placing agency caseworker; reporting changes in income, placement and meeting eligibility conditions; working collaboratively with the caseworker to resolve any problems he or she is experiencing with placement or in meeting eligibility conditions; demonstrating a gradual increase in his or her level of individual responsibility; and participating in the regularly scheduled six-month status review hearings either in person, telephonically, or through his or her attorney.

The caseworker's responsibilities include meeting with the NMD for a face-to-face monthly visit; certifying the NMD's initial and ongoing eligibility for EFC; providing the NMD with contact information for his or her attorney and notification of the regular six-month status review hearings; preparing reports for those hearings; and providing the NMD with the services, guidance, and assistance necessary for the NMD's gradual increase in individual responsibility and successful transition to independence.

The NMD and the caseworker share responsibility for participating in ongoing collaborative case planning to develop, implement, and update the NMD's Transitional Independent Living Case Plan (TILCP) and Transitional Independent Living Plan (TILP). The TILP is the written document with an individualized service plan for the nonminor or minor that is mutually agreed upon with the social worker and identifies the nonminor's or minor's emancipation goals and specific skills needed to prepare the nonminor or minor to live independently upon leaving foster care.¹⁰ The goals of the TILP should be specific skills that are needed to prepare the nonminor or

¹⁰ Rule 5.502(44).

minor for independent living. It is imperative that the court look at the TILP goals to ensure that these youth are getting the services they need to succeed when they are no longer under the court's jurisdiction.

The NMD who remains in foster care after his or her 18th birthday will continue to be represented by an attorney. In addition, an attorney will be appointed for a nonminor who files a request to return to the jurisdiction of the juvenile court and foster care when the court determines there is a prima facie showing of eligibility to return and grants the request for a hearing. If the request is granted, the appointed attorney will continue to represent the NMD. When counsel is appointed to represent a nonminor dependent, counsel is charged with representing the wishes of the nonminor dependent except when advocating for those wishes conflicts with the protection or safety of the nonminor dependent. If the court finds that a nonminor dependent is not competent to direct counsel, the court shall appoint a guardian ad litem for the nonminor dependent. (Welf. & Inst. §317(e).) The NMD may designate the attorney to appear at the status review hearing on his or her behalf. Representation of an NMD by a court-appointed attorney is at no cost to the nonminor.

The child's caretaker and the caseworker have a responsibility to discuss with the child as part of the development of the child's TILP the extended foster care options available and the benefits of those options. The caretaker for an NMD must continue to support the NMD in his or her efforts to maintain a stable housing environment, to participate in the activities and achieve the goals of the TILP, and to demonstrate an incremental increase in the exercise of adult responsibility. The caretaker must recognize that the NMD is an adult and treat him or her as an adult by respecting the NMD's rights to privacy and autonomy.

Indian Child Welfare Act (ICWA)

Effective January 1, 2011, the definition of an Indian child was revised for the purposes of the application of ICWA to include an unmarried person who is 18 to 20 years old. All ICWA requirements apply to an Indian child who remains in or returns to a foster care placement on or after his or her 18th birthday unless the nonminor elects not to be considered an Indian child for the purposes of the application of ICWA. (Welf. & Inst. Code, § 224.1.)

Wardship

Under section 607.2(b)(4), if the youth does not qualify for transition jurisdiction and will remain a ward of the court and will remain in a foster care placement past their 18th birthday, the court is required to continue delinquency jurisdiction over a ward as an NMD. While a ward is considered an NMD, there are some important differences that distinguish them from an NMD under the dependency or transition jurisdiction of the court. An NMD who remains under the delinquency jurisdiction of the court to complete his or her rehabilitative goals is not free of any probation conditions as it relates to their care and custody. His or her adult decision-making authority may be limited by and subject to the care, supervision, custody, conduct, and

maintenance orders as described in section 727.¹¹ NMDs who continue under 602 delinquency jurisdiction are not voluntarily remaining in foster care; thus, he or she is not required to complete the *Mutual Agreement for Extended Foster Care* (SOC 162).¹²

Court Procedures for Extended Foster Care

The Fostering Connections Act created two new hearing types—one for a nonminor’s request to return to foster care and the other for a nonminor dependent status review—and made extensive amendments to three existing hearing types—the last status review hearing before a court dependent or court ward in a foster care placement attains 18 years of age, the hearing to terminate juvenile court jurisdiction over a ward who is or was subject to an order for a foster care placement, and the hearing to terminate jurisdiction over a nonminor. In addition, a process to hold a disposition hearing for a nonminor was created in 2019.

The rules and forms effective as of January 1, 2012, provide a uniform procedural framework to support the extension of foster care services to NMDs and help ensure the consistent application of the Fostering Connections Act to dependents and wards throughout the state.

Planning for Transition from Foster Care to Independence

Planning for a successful transition from foster care to independent living is a difficult and complex process that must begin before a child’s 14th birthday and continue throughout his or her stay in foster care.

Rule and form for dependents—Rule 5.707 and form JV–460. To confirm that a dependent in a foster care placement has the information needed to make a thoughtful decision about remaining in foster care, the court must ensure that at the last status review hearing held before a dependent turns 18 years old, the child understands the options available, including the potential benefits of remaining in foster care and how that can be accomplished; the right to exit foster care and have juvenile court jurisdiction terminated; and the right to request to have that jurisdiction resumed and to return to foster care. Rule 5.707 of the California Rules of Court states the information that must be included in the social worker’s report and the required findings and orders, which are found on an optional form: *Attachment: Additional Findings and Orders for Child Approaching Majority—Dependency* (form JV-460).

Chart A, *Review Hearing Requirements for Child Approaching Majority*, provides detailed information about the report requirements and the appropriate findings and order for this hearing type. The chart is available at <http://www.courts.ca.gov/7988.htm>.

Rule and forms for wards—Rule 5.812 and forms JV–680, JV–681. In addition to ensuring that a ward in a foster care placement has the information necessary to make a thoughtful

¹¹ § 303(d)(2).

¹² *Id.*

decision about remaining in foster care at the last status review hearing, the juvenile court is required to consider at this hearing whether the court's jurisdiction should be modified from delinquency jurisdiction to transition or dependency jurisdiction. This requirement also applies to any other hearing during which the court will consider terminating its jurisdiction over a ward under a foster care order or a ward who was a juvenile court dependent under a foster care order when he or she was adjudged a ward.

Transition jurisdiction is described in section 450 and applies to a ward who meets the following criteria:

- Age and foster care status:
 - Older than 17 years and 5 months of age and younger than 18 years of age and in foster care placement; or
 - Subject to an order for foster care placement on his or her 18th birthday.
- Removal status:
 - Removed from the physical custody of a parent or legal guardian, adjudged to be a ward, and ordered into foster care placement as a ward; or
 - Removed from the custody of his or her parent or legal guardian as a dependent of the court with an order for foster care placement as a dependent in effect at the time the court adjudged him or her to be a ward.
- Rehabilitative goals of the minor or nonminor have been met, and juvenile court jurisdiction over him or her as a ward is no longer required.
- If the ward is a minor:
 - Reunification services have been terminated;
 - Hearing for termination of parental rights or establishment of guardianship has not been set;
 - A return of the minor to the physical custody of the parents or legal guardian would create a substantial risk of detriment to the minor's safety, protection, or physical or emotional well-being; and
 - The minor has indicated an intent to sign a mutual agreement for placement in a supervised setting as a nonminor dependent.
- If the ward is a nonminor, he or she has signed a mutual agreement or a voluntary reentry agreement for placement in a supervised setting as a nonminor dependent.

Rule 5.812 includes alternative court procedures, depending on the minor ward's specific circumstances, for when a determination is made that the rehabilitative goals were achieved and the minor ward cannot be returned to a safe home.

Rule 5.812 also sets out the additional information that must be included in the probation officer's report and the required findings and orders for:

- The last review hearing held before the minor attains 18 years of age; and
- Any hearing to terminate jurisdiction over a ward of any age who is under a foster care placement order, or was under a foster care placement order as a dependent when adjudged a

ward.

Findings and orders after a hearing for a ward approaching majority, including those related to modification of jurisdiction, may be made on the optional *Attachment: Additional Findings and Orders for Minor Approaching Majority—Delinquency* (form JV-680). The findings and orders after a hearing to consider terminating jurisdiction held for a ward of 17 years and 5 months or younger may be made on the optional *Attachment: Hearing for Dismissal—Additional Findings and Orders—Foster Care Placement—Delinquency* (form JV-681).

Chart E, *Additional requirements for (1) any hearing to terminate jurisdiction over child who is in foster care as ward or who was in foster care as dependent when declared a ward and (2) last review hearing for child approaching majority—Delinquency*, and the flowchart, *Modification from Delinquency Jurisdiction to Transition or Dependency Jurisdiction*, provide detailed information about when the court can modify delinquency jurisdiction, report requirements and the appropriate findings and order for a rule 5.812 hearing. The charts are available at <http://www.courts.ca.gov/7988.htm>.

Termination of Juvenile Court Jurisdiction

Rule 5.555 provides the procedures for the hearing under section 391 or 607.3, which must be held to consider the termination of juvenile court jurisdiction over a nonminor who is a ward, dependent, or nonminor dependent subject to an order for a foster care placement. The rule addresses the procedures for calendaring a hearing, the information that the social worker or probation officer must include in the report prepared for the hearing, and the related findings and orders.

Findings and Orders After Hearing to Consider Termination of Juvenile Court Jurisdiction Over a Nonminor (form JV-367) is a mandatory form for use in a hearing under section 391 or section 607.3 held on behalf of a nonminor who is appearing before a judicial officer exercising juvenile court jurisdiction under section 300, 450, 601, or 602.

The revised and renamed, mandatory *Termination of Juvenile Court Jurisdiction—Nonminor* (form JV-365) incorporates several new requirements related to the documentation that must be provided to the nonminor.

Chart C, *Hearing to Consider Termination of Juvenile Court Jurisdiction Over a Dependent or Ward Age 18 or Older in a Foster Care Placement or Over a Nonminor Dependent*, provides detailed information about report requirements and the appropriate findings and order for a rule 5.555 hearing. The chart is available at <http://www.courts.ca.gov/7988.htm>.

Nonminor Dependent

Chapter 14 of Title 5 of the California Rules of Court includes four rules related to a nonminor in

a foster care placement under juvenile court jurisdiction as a nonminor dependent and to the resumption of juvenile court jurisdiction over nonminors.

General Provisions: Rule 5.900

This rule states the general provisions related to this group of nonminors, including a nonminor's status as an adult, the general conduct of hearings, and the nonminor's appearance at a court hearing by telephone. (Welf. & Inst. Code, §§ 303, 366(f), 366.3(m), 388(e)(3).)

Nonminor Dependent Status Review Hearing: Rule 5.903

This rule sets out the purpose of the hearing that must be held every six months to review the status of an NMD who has chosen to remain under juvenile court jurisdiction upon reaching majority or to return to foster care and have juvenile court jurisdiction resumed. This hearing is focused on the goals and services in the NMD's Transitional Independent Living Case Plan, including efforts to maintain or obtain permanent connections with caring and committed adults. The hearing is intended to be a collaborative effort involving the NMD, the social worker or probation officer, the judicial officer, and other participants whom the NMD may have invited. The rule includes the procedures for setting, noticing, and conducting the hearing; the contents and filing of the report prepared by the child welfare agency or probation department; and the related findings and orders. The use of the optional *Findings and Orders After Nonminor Dependent Review Hearing* (form JV-462) will ensure compliance with the requirements related to the findings and orders at the review hearing for a nonminor dependent.

Chart B, *Status Review Hearing for Nonminor Dependent*, provides detailed information about report requirements and the appropriate findings and order for a rule 5.903 hearing. The chart is available at <http://www.courts.ca.gov/7988.htm>.

Request to Return to Juvenile Court Jurisdiction: Rule 5.906

A nonminor who has not yet reached 21 years of age is able to return to foster care if he or she meets the eligibility requirements for status as a nonminor dependent.¹³ There is no limitation on the number of times a nonminor may exit and subsequently return to juvenile court jurisdiction and foster care. This flexibility is important because the NMD's circumstances and needs may change several times between the ages of 18 and 21 years.

Rule 5.906 states the procedures for the juvenile court to resume jurisdiction over a nonminor, including those related to the contents of the request; the filing and, if necessary when submitted to the court in the county where the nonminor resides, the forwarding of the request for filing to the juvenile court that retained general jurisdiction; providing notice; appointment of an attorney for the nonminor; the contents of the report; and related findings and orders. The rule also

¹³ Under section 303, when the court terminates dependency, transition, or delinquency jurisdiction, the nonminor dependent automatically remains under the general jurisdiction of the court in order to allow the nonminor to petition under section 388(e) for a hearing to resume the dependency or transition jurisdiction of the court.

includes provisions to provide additional information for the nonminor whose petition was denied.

The following are mandatory forms that will ensure that information needed for the juvenile court to resume jurisdiction is presented in a concise and simple fashion and that the nonminor's contact information will be able to remain confidential when desired: *How to Ask to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-464-INFO), *Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-466), and *Confidential Information—Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-468).

Chart D, *Request by Nonminor for the Juvenile Court to Resume Jurisdiction*, provides detailed information about report requirements and the appropriate findings and order for a rule 5.906 hearing. The chart is available at <http://www.courts.ca.gov/7988.htm>.

Nonminor disposition hearing: Rule 5.967

Assembly Bill 748 (Gipson; Stats. 2019, ch. 682) created a procedure for a new version of a disposition proceeding, specifically tailored for young adults who turned 18 years old before a disposition hearing could be held.¹⁴ Under section 358(d), for this disposition hearing to be held, the nonminor must have been found to be a minor described by section 300 at a hearing under section 355 before turning 18 and must have remained continuously detained under section 319(c). The nonminor must also provide “informed consent” for the disposition proceeding. If these conditions are met, the court is required to hold a disposition hearing and determine by clear and convincing evidence if one of the conditions of section 361(c) existed *immediately before the youth turns 18*. If the court makes this finding, the youth meets the legal definition of an NMD under section 11400(v) and is eligible for extended foster care. If the court does not make this finding, or the youth does not give informed consent, section 358(d)(5)(A) requires that dependency or general jurisdiction not be retained. Rule 5.697 addresses *inter alia* the process required for the nonminor's informed consent, the scope of a parent's or guardian's standing at the hearing and required findings and orders.

The following are mandatory forms that are to be used when a nonminor disposition hearing is ordered: *Findings and Orders After Nonminor Disposition Hearing* (form JV-461), *Dispositional Attachment: Nonminor Dependent* (form JV-461(A)), and *Nonminor's Informed Consent to Hold Disposition Hearing* (form JV-463).

Kin-GAP Programs

State-funded Kin-GAP payments have been available in California for children exiting the juvenile court's *dependency* jurisdiction to live with a relative legal guardian since January 1, 2000, and for those children exiting the juvenile court's *delinquency* jurisdiction to live with a

¹⁴ The legislation was partially in response to *In re David B.* (2017) 12 Cal.App.5th 633, in which an appellate court “reluctantly” agreed that the trial court's denial of dependency jurisdiction for a wheelchair-bound diabetic youth just before he turned 18 prevented the appellate court from reversing the decision.

relative legal guardian since October 1, 2006. The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 included provisions for the creation of a new optional program of federal funding for kinship guardianship assistance payments to children eligible for title IV-E AFDC-FC payments who exit the jurisdiction of the juvenile court and the foster care system to live with a relative legal guardian.

California has chosen to participate in the optional federal Kin-GAP program, and with the enactment of the Fostering Connections Act, effective January 1, 2011, established the federal Kin-GAP program funded through title IV-E for foster children placed with a relative guardian who meet the title IV-E eligibility requirements. (Welf. & Inst. Code, § 11386.) The California Legislature, recognizing the importance of providing all children with permanent, stable homes, also created a parallel state-funded Kin-GAP program for foster children placed in a relative guardianship through the juvenile court who do not meet the title IV-E eligibility requirements. (Welf. & Inst. Code, § 11360.)

As of January 1, 2011, placing agencies began to convert existing Kin-GAP cases to the new state or federally funded Kin-GAP programs, and new Kin-GAP cases are now placed in the appropriate Kin-GAP program.

The enactment of the Fostering Connections Act and the establishment of the new state or federally funded Kin-GAP programs have resulted in numerous improvements in the programs now available for relative guardianship, including:

- Reduction—from 12 consecutive months to 6 consecutive months—in the length of time a child must reside in the prospective guardian’s home while under the jurisdiction of the juvenile court or a voluntary placement agreement;
- Continued eligibility for Kin-GAP regardless of the state of residence of the relative guardian and child;
- Requirement for the placing agency to enter into a binding written agreement with the relative guardian;
- Authorization of the renegotiation of the payment amount based on the changing needs of the child and the circumstances of the relative; and
- Allowing for entry into the Kin-GAP program of a relative guardianship established under section 360 that began with a voluntary placement agreement with an approved relative.

ACL No. 11-15, issued by the CDSS on January 31, 2011, provides detailed information about the Kin-GAP programs. The letter is available at

https://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2011/11_15.pdf.

Extension of AAP, Kin-GAP, and Nonrelated Legal Guardianship AFDC-FC Payments for Nonminors

Extended eligibility for Adoption Assistance Program payments, Kin-GAP payments, or nonrelated legal guardianship AFDC-FC payments is available to a young adult who was removed from the home under a voluntary placement agreement or by order of the juvenile court as a dependent or as a ward subject to an order for foster care if the young adult:

- Resides with his or her adoptive parent and attained 16 years of age before the adoptive parent and the placing agency signed the adoption assistance agreement (Welf. & Inst. Code, § 16120(d)(3)); or
- Resides with a relative legal guardian and attained 16 years of age before the guardian began receiving the state-funded or federally funded Kin-GAP payments (Welf. & Inst. Code, §§ 11363(d), 11386(h)); or
- Resides with a nonrelated legal guardian in a guardianship that was ordered by the juvenile court under section 360(a) or 366.26, regardless of his or her age when the guardianship was created (Welf. & Inst. Code, § 11405(e)).

References

This memorandum is based on information included in the following:

- Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub.L. No. 110-351 (Oct. 7, 2008) 122 Stat. 3949), available at <https://www.govinfo.gov/content/pkg/PLAW-110publ351/pdf/PLAW-110publ351.pdf>
- Assembly Bill 12 (Beall; Stats. 2010, ch. 559), available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=200920100AB12
- Assembly Bill 212 (Beall; Stats. 2011, ch.459), available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120AB212
- Senate Bill 1013 (Stats. 2012, ch. 35) available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120SB1013
- Assembly Bill 748 (Gipson; Stats. 2019, ch. 682), available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB748
- California Rules of Court, rules 5.555, 5.707, 5.812, 5.900, 5.903, 5.906 and 5.967, available at <http://www.courts.ca.gov/rules.htm>.
- California Judicial Council forms, JV-365, JV-367, JV-460, JV-461, JV-461(A), JV-463, JV-462, JV-464-INFO, JV-466, JV-468, JV-680, and JV-681, available at <http://www.courts.ca.gov/forms.htm?filter=JV>.
- California Department of Social Services All County Information Notice I-40-11 (July 1, 2011) Program Information Regarding Assembly Bill (AB) 12 and the Extension of Foster Care to Age 20, available at https://www.cdss.ca.gov/lettersnotices/entres/getinfo/acin/2011/I-40_11.pdf.
- The following California Department of Social Services All County Letters, which are available at <https://www.cdss.ca.gov/inforesources/letters-regulations/letters-and-notices/all-county-letters>:
 - ACL No. 11-15 New Kinship Guardianship Assistance Payment (Kin-Gap) Program Requirements
 - ACL No. 11-61 Extended Foster Care (EFC)
 - ACL No. 11-69 Extension Of Foster Care Beyond Age 18: Part One
 - ACL No. 11-77 Extension Of Foster Care Beyond Age 18: Part Two (Placement)
 - ACL No. 11-85 Extension Of Foster Care Beyond Age 18: Part Three (Probation)
 - ACL No. 12-12 Re-entry Into Extended Foster Care (EFC)

Additional information about the California Fostering Connections to Success Act is available at:

- California Fostering Connections to Success
<https://www.cdss.ca.gov/inforesources/foster-care/extended-foster-care-ab-12>

- California Social Work Education Center
<https://calswec.berkeley.edu/fostering-connections-after-18-ab-12>
- California Courts Juvenile Portal (JCART)
<https://jcart.courts.ca.gov>.

For more information, please contact the
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455 Golden Gate Avenue; San Francisco, CA 94102-3688
415-865-7739