

**California's Fostering Connections to
Success Act (AB 12/212)**

Legal Process Overview

Outline of Legal Process

- Basics of Eligibility for Extended Foster Care
- Placement Options
- Roles/Responsibilities
- Court Hearings and Process
- Termination of Jurisdiction
- Re-entry
- Changes to Kin-GAP

Acronyms

- EFC: Extended Foster Care
- NMD: Nonminor Dependent
- SILP: Supervised Independent Living Placement
- THP+FC: Transitional Housing Program Plus Foster Care
- TILCP: Transitional Independent Living *Case* Plan
- TILP: Transitional Independent Living Plan
- VRA: Voluntary Reentry Agreement

Extended Foster Care in the Juvenile Court: Eligibility

Non-Minor Dependents

- On or after January 1, 2012, a NMD is defined as a dependent, ward or youth on transition status who meets all of the following:
 - Was younger than 19 as of Jan 1, 2012 (younger than 20 as of Jan 1, 2013), **and**
 - Is/was under a foster care placement order on the day s/he turned 18 years old, **and**
 - Is participating in one of the five eligibility conditions per his/her transitional independent living case plan, TILCP.

WIC 366.31 & WIC 11400(e)

Age Criteria Issue During Phase-In

- Because of the age requirement, youth who turned 18 in 2011 are *partially eligible*, meaning they are eligible for AFDC-FC benefits for part of the year in 2012 (while they are 18) and part of the year in 2013 (while they are 19).
- This does NOT mean the case needs to close during the periods of ineligibility. The court still has discretion to maintain jurisdiction pursuant to WIC 303.
**This is also the case for youth who are 19 and 20 years old*

Special Eligibility Considerations for Wards

Wards Affected By AB 12/212

- AB 212 focuses on three groups of wards:
 - 1) Wards in placement over 18 who are under the jurisdiction of the delinquency court pursuant to WIC 602 and who had the order for placement in effect at their 18th birthday (“602 NMDs”).
 - 2) Wards over 17 yrs, 5 months in foster care who have met their rehabilitative goals are eligible to have delinquency jurisdiction modified to transition jurisdiction (“450 NMDs” if 18 or over, OR “transition dependents” if younger than 18).
 - 3) Wards (generally 17 years, 5 months and younger) who are eligible to have delinquency jurisdiction modified to dependency jurisdiction.

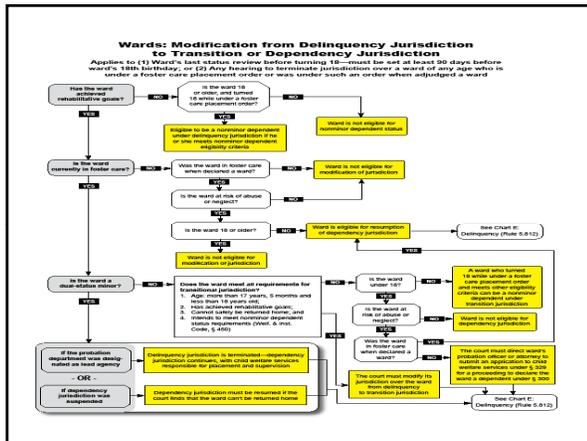
Group #1/602 NMDs: Wards Remaining Under Delinquency Jurisdiction

- If a ward has NOT met his/her rehabilitative goals at age 18 and the Delinquency Court maintains jurisdiction, the youth can receive extended foster care benefits if the youth meets the definition of a NMD:
- *NOTE: NMDs under delinquency jurisdiction continue to be subject to the terms of their probation.*
- *ALSO, if a youth over 18 does not meet the definition of a NMD, the Court still has the discretion to retain delinquency jurisdiction.*

Hypothetical 1

- Julia was declared a ward of the court under WIC 602. On her 18th birthday, she attends a delinquency court hearing. Because she has not completed her community service and her grades are terrible, the delinquency court finds she has not met her rehabilitative goals. She has an order for a foster care placement, remains on probation, and is ordered to remain in her group home.

Is Julia eligible to become a nonminor dependent?



Hypothetical 2

- Alex is a ward of the court. One month before his 18th birthday, he attends a hearing in delinquency court. He has not completed his terms of probation, and the court finds that he has not met his rehabilitative goals, and orders him into a Camp Community Placement.

Is Alex eligible to become a nonminor dependent?

Planning For Transition Jurisdiction

(Rule 5.812)

The Court can consider assuming transition jurisdiction for a ward with a foster care placement order:

1. At the **status review hearing** held closest to a ward attaining 18 years of age, which must occur at least 90 days before the ward's 18th birthday; or
2. At a **hearing to terminate jurisdiction** for ward over 17 years, 5 months of age.

NOTE: The court can also assume transition jurisdiction **at re-entry** for eligible former wards who exited foster care and wish to re-enter. 388 (e)

Rule 5.812(e), WIC 450, 451 607.2 & 727.2(i)
***Form for Findings and Orders: JV-680

Supervision of Transition Jurisdiction

- AB 212 requires that counties decide whether Probation or Child Welfare will be charged with supervising youth eligible for AB 12/212 under transition jurisdiction based on the needs of the youth.
- Counties must also decide which court will supervise.
- Each county must modify its protocol for Section 241.1 to include a provision for determining which agency and court shall supervise.

WIC 241.1 (b) (3), 300.3, 450

Hypothetical 3

- Jon was declared a ward of the court pursuant to WIC 602. He is 17 years, 8 months old, has now met his rehabilitative goals and the delinquency court is ready to terminate jurisdiction. He currently resides in a Group Home. He is at risk of abuse or neglect and can not safely be returned home.

Is Jon eligible to become a nonminor dependent?

- Same facts, but assume Jon was over 18 years old and that he had turned 18 while in a Group Home. *Would he be eligible to become a nonminor dependent?*

Hypothetical 4

- Lisa was declared a ward of the court pursuant to WIC 602. She is 17 years, 3 months old, has now met her rehabilitative goals and the delinquency judge is ready to terminate jurisdiction. Lisa's mother abused her siblings while she was in a group home. It is not safe for her to return home. Lisa has **no** history with the Dependency System.

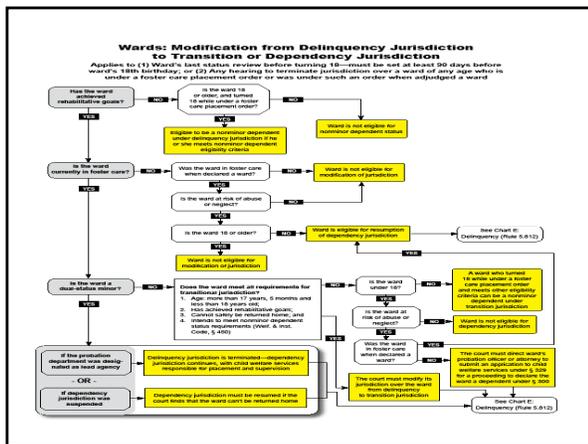
How should the Delinquency Court proceed?

- Same facts except assume Lisa is a prior dependent with an foster care placement order through the Dependency Court at the time she was adjudged a ward. How should the Delinquency Court proceed?

Hypothetical 5

- April is 16 years old and a ward of the juvenile court in a foster care placement. April has met her rehabilitative goals and the Delinquency Court is ready to terminate jurisdiction. April's mother had abused April's siblings while April was in her foster care placement, but she has complied with her case plan and it would now be safe for April to return home. April has no history with the dependency system.

How should the Delinquency Court proceed?



Dual Status Youth

- Youth under dual status are *not* eligible for transition jurisdiction.
- When a youth under dual status has met his/her rehabilitative goals but return home would be detrimental, the court can **assume dependency status** through the following procedures:
 - *If dependency jurisdiction was suspended under WIC 241.1(e)(5)(A)*: dependency jurisdiction must be resumed. *Rule 5.812(e)(1)*
 - *If dependency jurisdiction was not suspended, but probation was designated the lead agency*: the court must terminate dual status, dismiss delinquency jurisdiction and continue dependency jurisdiction with child welfare responsible for placement. *Rule 5.812(e)(2)*

Updates to 241.1 Protocol

AB 12/212 requires each county to update its 241.1 protocol to include information regarding the following:

- 1) Supervision of youth under transition jurisdiction
- 2) Supervision of youth when jurisdiction has been modified from delinquency to dependency
- 3) Supervision of youth also on adult probation

Youth Responsibility Under AB 12/212

Participation Requirements

- Youth must satisfy 1 of the following 5 requirements as documented in the youth's TILP:
 - Be enrolled in high school or equivalent
 - Be enrolled in college/vocational school
 - Work at least 80 hours/month
 - Participate in a program/activity that helps you find a job or removes barriers to employment
 - Be unable to do one of the above because of a medical or mental health condition

WIC 11400 & WIC 11403

Mutual Agreement

- In order to receive extended foster care, addition to meeting the definition of a NMD and participating in 1 of the 5 eligibility requirements, the youth must sign a mutual agreement [SOC 162, available online] within six months of turning 18.
- A Mutual Agreement is an agreement between the NMD and the agency specifying the youth's willingness to:
 - Remain under the juvenile court's jurisdiction as a NMD,
 - Remain in a "supervised placement,"
 - Report changes relevant to eligibility and placement, and
 - Work with the Agency on the implementation of the TILP participation activities.
- This is NOT a condition of payment, however it is a condition of participation and must be completed within six months...ACL 11-69

WIC11400,11403

Placement Options

Supervised Placement Settings

- Traditional placement options still available to youth including:
 - Approved home of relative or NREFM
 - FFA or Foster Family Home
 - Group Home (with limitations)
 - Home of a Nonrelated Legal Guardian
 - Small Family Home/Dual Agency Regional Center Homes
 - THPP (with limitations)
- 2 NEW Placement Options:
 - THP-Plus Foster Care NOT CURRENTLY AVAILABLE
 - Supervised Independent Living (SILP)

Guidance on Placement Decisions from ACL 11-77

- It is expected that NMDs will be provided placements that are the least restrictive and encourage as much independence as possible, based on the NMDs' developmental needs and readiness for independence.”
- Decisions regarding continuation of current placements or moves to new placements shall be made in consultation with the NMDs.”

Group Homes for NMDs

- Youth can remain in group home if:
 - Under age 19 AND
 - Continuing in group home is in NMD's best interest in order to complete high school or equivalent.
- Once NMD completes high school or turns 19, whichever is first, continuing in a group home is prohibited UNLESS:
 - NMD has a medical or mental health condition (participation condition #5) and continuing in group home functions as a short-term placement
 - The group home placement is a short term transition to lower level of care.
 - Case plan must be a youth driven, team-based planning process, addressing why a group home placement is **necessary** and **best alternative** and how it will contribute to the successful transition to independent living. It must contain a target date for transition and be reviewed on a regular basis.

WIC 16501.1(c)(1)

THP-PLUS Foster Care

- Modeled after existing THP-Plus programs and will offer affordable housing and supportive services. *Not designed to replace Transitional Housing Placement Program.* Comparison:

Existing THP-Plus	New THP-Plus Foster Care
1. Not under child welfare supervision	1. Under child welfare supervision – contact with SW/PO
2. Dependency/delinquency dismissed	2. Remain under dependent/delinquent/transition jurisdiction
3. Youth ages 18 – 24	3. Youth ages 18 – 21, as phased in
4. No participation conditions	4. Must meet participation conditions
5. Participation up to 24 months	5. No maximum time – participation up to age limits (19, 20 or 21)

WIC 11400 & 11403.2

Supervised Independent Living Placement “SILP”

- No service provider/no caregiver.
- Settings may include but not limited to:
 - Apartment living
 - Room and board arrangements (including w/ a relative or family friend)
 - Shared roommate settings,
 - Dorms
 - NOTE: SILP may *not* include living with biological parents.
- NMD may receive the foster care benefit directly – limited to basic rate (currently \$776.00/month).
- There is a continuity of payment while youth is transitioning from current placement to SILP.

WIC 11400, 11403(g), 16501.1 & 11402.2

Approval of SILP...2 Step Process

- Must meet basic health and safety standards.**
 - Social Worker must conduct a physical walk-through with the youth.
 - Social Worker must assess SILP within 10 days of request.
 - NMD may temporarily reside in a SILP pending approval.
 - The privacy of the youth is a key aspect to the SILP placement option -- it is not required that background checks be conducted on **roommates**.

AND
- Youth must be deemed ready to live independently.**
 - Social Workers conduct a readiness assessment jointly with the youth to determine if NMD developmentally “ready” to handle daily tasks on his/her own (such as preparing meals, budgeting finances, paying bills, etc.).

SILP Readiness Assessment

- Possible reasons for denial of SILP Readiness:
 - Rent & utilities exceed income
 - Unstable income
 - No knowledge of how to manage money
 - Unable to care for self due to medical/mental health condition
- If assessment determines NMD not ready for SILP, areas of improvement *should* be turned into goals in TILP.
- Reason for denial should be documented on the assessment and provided to NMD.

Placement Grievance Procedures

- Relative placement approvals/denials:
 - Grievance process currently exists – defined in Division 31. Will not change.
- SILP approvals/denials:
 - Could be denial of SILP placement or SILP readiness.
 - If NMD disagrees with the denial, s/he has the right to a grievance process.
 - Process will vary county to county.

Special Consideration: Youth in College

- Settings where there are already health and safety standards (i.e. dorms or college housing) are deemed to have met the standard required of a SILP. They do not require assessments.
- Any SILP payment youth receive directly should not effect financial aid, as extended foster care payments are NOT considered “income” for purposes of financial aid determinations.

Roles/Responsibilities

NMD's Responsibilities

- Work with the social worker/probation officer to ensure ongoing participation in the TILP
- Report changes of eligibility and placement.
- Demonstrate incremental responsibility.
- Participate in hearings in person or telephonically.
- Make health care decisions, including decisions regarding medications.
- Participate in placement decisions/responsibilities (i.e. Shared Living Agreement).

Social Workers/Probation Officers Responsibility

- Continue to have monthly, face-to-face meetings.
- Collaborative case planning focusing on the **TILCP**, which should include:
 - Services that ensure meaningful participation to maintain eligibility, including a back-up plan.
 - A plan for NMD's supervised placement setting.
 - A permanent plan for transitioning to living independently.
 - A plan for obtaining and maintaining permanent connections with caring, committed adults.
- Transitional Independent Living Case Plan and TILP updated every 6 months.

WIC 11400 (y), 16501.1 (f) (16)

NMD Attorney's Role

- NMDs continue to have legal counsel.
- Traditional role maintained except:
 - NMD's counsel will now work on behalf of the NMD's stated interest, no longer "hybrid model" as defined in WIC 317.
- NMD can designate attorney to appear on behalf of NMD. *Rule 5.900(d)(3)*
- Upon re-entry, youth can request former attorney to represent him/her for re-entry. *Rule 5.90(b)(2)(F)*

Court Process/Hearings

Overview of Hearings

Primary AB 12/212 Related Hearings:

1. **Last Status Review Hearing Before a Youth Turns 18**
 - Dependency (Rule 5.707)
 - Delinquency (Rule 5.812)
2. **NMD Review Hearings** (Rule 5.900, 5.903)
3. **Hearing to Terminate Jurisdiction for a Minor Ward Under a Foster Care Placement Order** (Rule 5.812, WIC 607.2 & 727.2(i))
4. **Hearing to Terminate Jurisdiction for a Nonminor** (Rule 5.555)
 - Dependency (WIC 391)
 - Delinquency (WIC 607.2)
 - Transition (WIC 452)
5. **Hearing to Petition for Re-Entry** (Rule 5.906)

**Last Status Review Hearing
Before a Dependent/Ward
Turns 18**

**Report Requirements: Last Status Review
Hearing Before a DEPENDENT Turns 18**
(Rule 5.707)

**Transitional Independent Living Case Plan
(TILCP)**

In addition to other requirements (see CHART A), Social Worker must submit the youth's TILP, which must include

- Individualized plan for the youth to satisfy the extended care participation criteria AND Anticipated placement.

AND

- **An alternate plan for transition** in the event the youth does not remain under court jurisdiction after turning 18.

***Form for Findings and Orders: JV-460

**Findings: Last Status Review Hearing Before a
DEPENDENT Turns 18**
(Rule 5.707)

In addition to other requirements (see CHART A), findings must include whether:

1. TILP includes a plan and back-up plan for youth to satisfy 1 of the 5 participation requirements.
2. Youth has an application pending for SSI
3. Youth has an application pending for Special Juvenile Immigration Status
4. Youth has been informed of his/her right to have juvenile court jurisdiction terminated
5. You understands the benefits of remaining under court jurisdiction as a NMD
6. Youth has been informed of his/her right to re-entry

***Form for Findings and Orders: JV-460

**Orders: Last Status Review Hearing Before a
DEPENDENT Turns 18**

(Rule 5.707)

In addition to other requirements (see CHART A):

- **For youth who intends to remain in care as NMD:**
 - The court must set a nonminor dependent review hearing within six months from the date of the current hearing.
- **For youth who does not intend to remain in care as NMD and requests that jurisdiction be terminated:**
 - The court must set a hearing for termination of jurisdiction pursuant to WIC 391 within one month after the youth's 18th birthday.
- **For youth who will remain in care but will not be eligible for status as NMD:**
 - The court must set a regular status review hearing within six months from the date of the current hearing.

***Form for Findings and Orders: JV-460

**Last Status Review Hearing Before a
WARD Turns 18**

(Rule 5.812/WIC 727.2 & 727.3)

- Court must hold hearing for a **ward in suitable placement:**
 - At least 90 days before the child turns 18,
AND
 - Within 6 months of the previous hearing.

**Report Requirements: Last Status Review Hearing Before a WARD
Turns 18** (Rule 5.812/WIC 727.2 & 727.3)

- Court must hold hearing for a **ward in foster care** at least 90 days before the child turns 18 (and within 6 months of the previous hearing)
- In addition to other requirements (see CHART E), the court report must include:
 - A **Transitional Independent Living Case Plan (TILP)** addressing:
 1. A plan for the youth to satisfy the extended care participation criteria,
AND
 2. Anticipated placement. *WIC 11400(y), 11402 & 11403 (b)*
 - AND
 - An **Alternative Transition Plan**: this is the plan for transition to independence if a youth is expressing she or he does NOT plan to remain under court jurisdiction after turning 18.

AND

- The PO's recommendation regarding modification of the juvenile court's jurisdiction over the child from that of a ward to that of a transition dependent under section 450.

***Form for Findings and Orders: JV-680

**Findings: Last Status Review Hearing Before a
WARD Turns 18**

(Rule 5.812/WIC 727.2 & 727.3)

In addition to other requirements (see CHART E), findings must include whether:

1. Rehabilitative goals have been met
2. Return home would be detrimental (for dual status youth only) OR child is at risk of abuse or neglect (for all youth other than dual status youth)
3. Youth has an application pending for SSI
4. Youth has an application pending for Special Juvenile Immigration Status
5. You understands the benefits of remaining under court jurisdiction as a NMD
6. Youth has been informed of his/her right to re-entry

***Form for Findings and Orders: JV-680

**Orders: Last Status Review Hearing Before a
WARD Turns 18**

(Rule 5.812/WIC 727.2 & 727.3)

Court must either(see CHART E):

- Return child home and set a progress report
- Return child home and terminate jurisdiction
- Continue foster care placement and:
 - If the child intends to meet 1 of the 5 participation requirements – set a nonminor dependent review hearing,
- OR
- If the child does not intend to meet 1 of the 5 participation requirements – set a hearing to terminate delinquency jurisdiction pursuant to 607.2 within one month after the child's 19th birthday,
- OR
- If the child will remain under delinquency jurisdiction in a foster care placement – set a review hearing no more than 6 months from the date of the most recent review hearing

NMD Status Review Hearings

Status Review Hearings for NMD

- IV-E case plan review requirements are still in place, so NMDs continue to have 366.3 hearings every 6 months.
- NMD may appear telephonically or may designate attorney to appear on his/her behalf.*
- Hearing should be conducted in a manner that respects the person's legal status as an adult.
- Should facilitate candid conversations between NMD and the SW/PO.
- When necessary, the court should resolve disputes regarding: Placement, Participation & Other issues that may arise

*This may not apply to 602 NMDs.

***Form for Findings and Orders: JV-462,
(Rule 5.900, 5.903 & WIC 366.3)

Content of Status Review Hearing for NMDS

- At each review hearing, the Court is to:
 - Ensure that the youth is meeting one or more of the participation conditions as described in the TILCP.
 - Ensure reasonable efforts made by SW/PO to help NMD establish and maintain compliance with eligibility requirements.
 - Review the SW/PO efforts to assist the youth in obtaining permanent connections with caring and committed adults.
 - Inform the youth of his/her right to have court jurisdiction terminated.*

*This may not apply to 602 NMDs.

WIC 366, 366.3 & 16503; Rule 5.903

Case Plan Goal for NMDs

- As a NMD, the young adult is in a Planned Permanent Living Arrangement (PPLA) with the goal of successfully transitioning to independence with caring, committed adults who can serve as lifelong connections. Rule 5.903(e)
- Because NMD is legal adult:
 - No Reunification
 - No WIC 366.26 hearings
 - No termination of parental rights
 - No guardianship

WIC 366.21, 366.22 & 366.25

More Effects of Legal Adult Status*

- Hearings can only be attended by parties or persons “invited” by the youth.
- Parents no longer provided notice, participate in a case plan or are entitled to counsel. *WIC 295*
- No Protective Custody Warrants. *WIC 303(d)*
- Court does not consent to psychotropic medication. *WIC 303(d)*
- No Caregiver consent for medical/education decisions. *WIC 303(d)*
 - NMD holds own educational rights.
 - NMD has **privacy rights** about medical information.

However, personal rights of foster children do still apply. *WIC 16001.9*

CAVEAT Re: Effects of Legal Adult Status

- Because 602 NMDs remain under delinquency jurisdiction and are still subject to the terms of their probation, a number of the points on the previous slide do not apply to that population of youth.
- This is the same for transition dependents, who are still minors.
- For example, if a 602 NMD leaves his/her placement without permission, presumably the court would issue a warrant.
- Similarly, if a transition dependent left his/her placement, presumably the court would issue a warrant. However, because that youth is considered a “dependent,” the warrant would be a protective custody warrant, not an arrest warrant.

**Terminating Jurisdiction
for a Minor Ward**

***Minor Wards With Foster Care
Placement Orders/Former
Dependents***

Hearing to Terminate Jurisdiction
(Rule 5.812 & 5.555)

- AB 12/212 provides new requirements for hearings that must be held *prior* to terminating jurisdiction for:
 - Minor wards with foster care placement orders. WIC 607.2 & 727.2(i), Rule 5.812
 - Minor wards who are former dependents & had orders for foster care placement through the dependency court at the time they were adjudged wards. WIC 607.2, Rule 5.812

Report Requirements
(Rule 5.812, WIC 607.2 & 727.2(i))

- **Report requirements** – in addition to other requirements listed in 5.812(c), PO must include information regarding:
 - Ward's compliance toward meeting his/her rehabilitative goals,
 - If FR not previously terminated, parent's/guardian's progress toward compliance with case plan, AND
 - The current ability of the ward's parent/guardian to provide the child with a safe and healthy home.

Orders
(Rule 5.812, WIC 607.2 & 727.2(i))

- Courts options:
 - Continue delinquency jurisdiction for youth who have not met their rehabilitative goals.
 - For youth who have met their rehabilitative goals:
 - Return home if safe.
 - Youth under dual jurisdiction: If not safe, court must terminate dual status, dismiss delinquency jurisdiction and continue dependency jurisdiction.
 - Youth who come within the description of 450 transition jurisdiction: the court must modify delinquency to transition.
 - Look into modification to dependency (through procedures described previously) if it appears home is not safe.

**Terminating Jurisdiction for
a Nonminor**

***Under Dependency, Transition or
Delinquency Jurisdiction with a
Foster Care Placement Order***

Hearing to Terminate Jurisdiction

- There are a number of reasons the court may terminate jurisdiction over a nonminor, including:
 - Youth opting-out
 - Youth exiting because of age
 - Ineligibility
 - Youth completing the terms of their probation

- A hearing must be held *prior* to terminating jurisdiction pursuant to:
 - WIC 391 – youth under dependency jurisdiction
 - 607.2 – wards in foster care placement
 - 452 – youth under transition jurisdiction

Ineligibility

- Examples of reasons why a youth may be deemed ineligible:
 - Failure to meet one of five participation requirements
 - Not residing in a licensed or approved placement
 - Youth is AWOL

**Failure to Meet
Participation Requirements**

- It is the Court’s role to determine if NMD is not participating in a reasonable TILCP. *Rule 5.555(d)(2)(A)(ii)*
- The *burden of proof* of nonparticipation/ noncompliance is on the SW/PO. *Rule 5.555(c)*
- SW/PO must document *reasonable efforts* to provide NMD with assistance to meet/maintain participation in TILP activities.
Rule 5.903(e)(1)(k & g)

What Must Occur at the Hearing...

- SEE CHART C
- SW/PO to ensure NMD is present unless NMD chooses to **participate in the hearing telephonically.**
- Court **shall** continue jurisdiction, unless
 - NMD does not wish to remain in care, or
 - NMD is not participating in reasonable and appropriate TILCP, or
 - NMD cannot be located and social worker documents reasonable efforts to locate him/her.
- Prior to the Court terminating jurisdiction, the court must find that youth was informed of:
 - His/her right to remain in care
 - The benefits of remaining in care
- The court must also find the NMD has been informed of his/her right to reenter care if under the age limits

Necessary Documentation

- **Transitional Independent Living Case Plan** *WIC 11400 (y)*
- Most recent **Transitional Independent Living Plan** (TILP)
- **Completed 90-day Exit Transition Plan.** *WIC 16501.1(f)(16).* Developed with the youth. Should be as personalized and detailed as the youth directs. Must discuss:
 - Options for housing, health insurance, education, local opportunities for mentors and continuing support services & workforce and employment services.
 - Information regarding the advance health care directive form
 - Information regarding any current applications for SSI and Special Juvenile Immigration Status.

General Jurisdiction

- If the Court terminates jurisdiction, it will maintain **general jurisdiction** until the youth no longer meets the age eligibility requirements of a NMD.
- This allows for re-entry into foster care without a new finding of abuse or neglect.
- There is no court or agency supervision of the youth (for all practical purposes the case is closed, but can be re-opened).

WIC 303(b) & WIC 366.31(c)

Reentry

The Basics of Reentry

- Youth who have their case closed can reenter unlimited times prior to no longer meeting the age eligibility requirements of NMD's.
- Youth must be informed of right to reentry at termination hearing.
- Reentry process is intended to be as accessible and easy as possible.
- This is a major change to the current law.

****The goal of reentry is to permit youth to experience independence, while allowing a safety net.**

Path to Initiate Reentry (Rule 5.906)

*Reentry is initiated by either:

- o The signing of a **Voluntary Reentry Agreement** (VRA)
 - The youth first contacts the agency (child welfare or probation) directly and requests to re-enter.
 - The youth must then signs a **VRA** with the agency to initiate services.
 - The VRA documents a youth's willingness and intention to:
 - Be placed in a supervised placement setting
 - Participate in eligibility requirements.
 - Have a transitional independent living case plan.
 - Participate in the filing of the 388, if applicable.
 - Re-enter foster care.

** If a VRA is signed, a mutual agreement is NOT required*

OR

- o **A 388 (e) petition (JV-466) is filed** by the youth or other interested party in the county of general jurisdiction or the petition is submitted in the county of residence.

WIC 11400 (e), 388 (e), 11403 (e); Forms related to re-entry: JV-464, JV-466, JV-468

CAVEAT

Path Recommended to Ensure IV-E Eligibility pending passage of new clean-up legislation

First step: Youth meets with social worker and completes VRA

- And then

Second step: 388 (e) petition (Form JV-466) is filed by SW or the youth or other interested person assisting the youth

Why?

Section 388(e) permits filing of petition (JV-466) before or after signing of the VRA

Section 11403(e) authorizes the resumption of aid at the youth's request by completing a VRA followed by, or concurrently with the filing of a 388 (e) petition (JV-466)

VRA Timelines

- Once the Voluntary Reentry Agreement (VRA) is signed, the placing agency i.e. county child welfare agency, probation or Indian tribe, is **required** to file a 388 (e) petition (Form JV-466) requesting the court to resume jurisdiction within **15 court days** of the signing of the VRA.

➤ A nonminor may elect to file a 388(e) petition sooner by filing directly with the court

- The beginning date of aid can be the date the VRA is signed or the date of placement, whichever is later.

388 (e) Timelines

388(e) is filed: Court must review 388(e) and determine whether prima facie showing has been made that youth **intends** to satisfy one of the participation conditions.

Within 3 court days →

- If denied: Court must enter a written order listing the issue and inform the nonminor.
- If a prima facie showing has been made: Court directs the clerk to set the matter for a hearing within 15 court days of the date the request was filed.

Within 5 court days → Clerk must set hearing on the calendar within 15 court days from the date the request was filed.

Within 10 court days → Clerk must serve notice on nonminor, nonminor's attorney and supervising agency.

Within 15 court days → Court must hold a hearing to determine whether to resume jurisdiction over the nonminor. The nonminor may appear telephonically. If jurisdiction resumed:

- Supervising agency has **60 days** to submit the new TILCP to the court.
- Court must set a nonminor dependent review hearing within **6 months from the date the VRA was signed**.

County of Jurisdiction vs. Residence (Tentative)

- The youth may sign the VRA in either the county of residence or the county of general jurisdiction, BUT it is the supervising agency in the county of general juris that must sign the VRA.*
- If youth signs in the county of residence, two possible scenarios exist depending on whether the county of residence provides courtesy supervision:*
 - If YES: County of residence will assist youth with forms and scan/fax VRA to county of general juris that same day for signing.*
 - If NO: County of residence will provide youth with contact information of county of general juris, as well as blank forms.*
- The 388(e) can be filed in the county of general juris **OR** can be submitted in the county of residence.
 - If submitted in county of residence, the court has **2** court dates from the submission to forward the 388(e) to county of general juris for filing.
- For a nonminor living outside CA, the 388 (e) **must** be filed in the county of general juris.

**ACL still in draft form. This process is subject to change until final ACL released.
 WIC 17.1.11400 (z), 388 (e), Rule 5.906(c)(2)(b)(ii), 11403 (e).
 Forms related to re-entry: JV-464, JV-466, JV-468*

Important Facts About Re-entry

- Youth must meet the age limits of 388(e).
- A background check on the petitioning youth *may* be completed to assess appropriateness and safety of placing the youth in foster care with minor dependents. *WIC 16504.5(a)(1)(D)*
 - **However, convictions are NOT a bar to re-entry.**
- If a former ward files for re-entry, the court may access a sealed file for limited purpose of verifying prior 602 status. *WIC 781(e)*
- IV-E eligibility for youth re-entering is based on "child-only case," not parental income.
- If the NMD had a Court Appointed Special Advocate (CASA) as a dependent/ward of the court, the CASA can receive notice of the filing of the 388 (e) and the hearing if requested by the NMD. *Rule 5.906(b)(2)(H)*
- If the court determines that a prima facie showing has **not** been made and denies the request, the young adult is provided an opportunity to consult with an attorney. *Rule 5.906(d)(2)(A)(iv)*

**Other AB 12/212 Issues
That May Arise**

SSI/Disability Payments

- County serves as the representative payee for *minors* in foster care eligible for SSI benefits.
- When the youth turns age 18, the county needs to assist the NMD to file to become their own payee, unless it is not in his/her best interest.
- If the NMD is ineligible for SSI payments due to receipt of federal AFDC-FC, the county will switch to state FC once every 12 months so SSI remains available to the NMD upon exit.

WIC 13754 & 13757

ICWA for NMDs

- Definition of Indian child changed to include:
 - Unmarried person who is 18 years of age or over, but under 21 years of age, who is a member of an Indian tribe or eligible for membership in an Indian tribe, and is the biological child of a member, and who is under the jurisdiction of the dependency court *unless that person/counsel elects not to be so considered...*
- Hearings on ICWA to respect the status of the person as legal adult.
- If the NMD elects to continue their Indian child status after age 18, the tribe will continue to be noticed of hearings pursuant to WIC 224.2

ICPC for NMDs

- Extension of foster care to older youth is optional for states; not all states are choosing to opt in.
- Further, the Interstate Compact for Placement of Children does *not* mandate that a state that chooses not to opt in must provide ICPC services to California’s NMDs.
- However, youth living out of state are eligible for extended foster care and there is a federal mandate for the county agency to visit NMDs in-person monthly.
 - May need to contract with out-of-state private agencies.

MORE HYPOS...

Hypothetical 6

- Sarah is 17 ½ and doing well in the foster home where she lives. She is attending high school full time and working after school at a pizza store. Sarah does not want to move out of her foster home until she finishes high school and has found a stable place to live.
- At Sarah’s status review hearing:
 - What should be included in the court report ?
 - What findings must the Dependency Court make?
 - What should the Court do if the info is not in the reports?
 - What is the next hearing the that should be set?
 - Would your answers different if Sarah had just turned 17?

Hypothetical 7

- Assume at Sarah’s status review hearing held closest to Sarah’s 18th birthday, she states that she changed her mind about staying in care. Even though she likes her foster home, she declares she does not want to be in foster care even one day after her 18th birthday. Her plan is to move to New York City.

What should the Dependency Court do?

Hypothetical 8

- Assume a few weeks before the status review hearing , Sarah tells her foster mom she wants to go see her bio mom in Nevada. She leaves her placement without permission and the Dependency Court issues a protective custody order.

What should the next hearing be?

Hypothetical 9

- Andrew, a nonminor dependent, recently turned 18 years old and has an open dependency case in Los Angeles County. He is currently living in a shared apartment that has been approved as a SILP.

What type of review hearings will be held and what are the report requirements?

Hypothetical 10

- Andrew calls the social worker to tell her he is no longer staying in his approved SILP placement. He would not disclose ANY details about where he was now living. Further, Andrew tells the social worker that he actually wants his case closed. He is tired of being in the system, likes where he is now living, and feels like he can support himself. Andrew has his next 6 month status review hearing in 2 ½ weeks.

What should be included in the court report?

Hypothetical 11

- Assume the court terminated jurisdiction over Andrew's case, but he now can't afford his rent without help and is at risk of being homeless.
 - What options are available to Andrew?
 - If Andrew decides he wants to try to reenter foster care, what are his options to initiate reentry?
 - What is the *recommended* path for re-entry?

Hypothetical 12

- Andrew moves back to LA. He signs a voluntary reentry agreement in LA County with DCFS. After he signs the voluntary reentry agreement, he also meets with the social worker to help complete the 388 (e) petition.
 - If Andrew wants his old attorney and CASA to be involved, what options are available to him?
 - What is the next step after Andrew's 388 (e) petition is filed in Los Angeles?
 - What is the time frame for the court to set a hearing?

Hypothetical 13

- The court has set a hearing on Andrew’s petition. Andrew attends the hearing.
 - Does the social worker need to submit a report? What does it need to contain?
 - What findings and orders does the court need to make?
 - What is the next hearing the court must set?

Resources



- Children’s Law Center of California
www.clcla.org/train_fostering.htm
- California Fostering Connections to Success
www.cafosteringconnections.org/index.html
- California Social Work Education Center
http://calswec.berkeley.edu/CalSWEC/OtherTraining_AB12.html
- California Judicial Branch Website
www.courts.ca.gov/7988.htm
- CalDOG
www.courts.ca.gov/dependencyonlineguide

Resources Continued

- California Rules of Court and forms
www.courts.ca.gov/formsrules.htm
 - CDSS All County Letters
 - ACL 11-15 New Kinship Guardianship Assistance Payment (Kin-Gap) Program Requirements
 - ACL11 -61 Extended Foster Care (EFC)
 - ACL 11-69 Extension Of Foster Care Beyond Age 18: Part 1
 - ACL11-77 Extension Of Foster Care Beyond Age 18: Part 2 (Placement)
 - ACL11-85 Extension Of Foster Care Beyond Age 18: Part 3 (Probation)
- www.dss.cahwnet.gov/lettersnotices/Pg2438.htm

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