



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: May 17, 2019

Title	Agenda Item Type
Juvenile Law: Guardianship Information	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Revise forms JV-330 and JV-350; renumber form JV-350 as JV-350-INFO	September 1, 2019
Recommended by	Date of Report
Family and Juvenile Law Advisory Committee Hon. Jerilyn L. Borack, Cochair Hon. Mark A. Juhas, Cochair	April 15, 2019
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Executive Summary

The Family and Juvenile Law Advisory Committee recommends revising two forms and renumbering one of those forms to provide up-to-date legal information for a prospective guardian of a child in juvenile court proceedings, using language and a format easily understood by a person not trained in law. The proposal is needed to reflect changes to the law and comply with an ongoing statutory mandate. Specific revisions were suggested, both informally and through the spring 2018 invitation-to-comment cycle, by child welfare departments, county counsel's offices, juvenile courts, and the Judicial Council's Probate and Mental Health Advisory Committee.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective September 1, 2019:

1. Revise *Letters of Guardianship (Juvenile)* (form JV-330) to clarify the terms of the letters of guardianship, clarify and expand the information being provided to guardians appointed by the juvenile court, and reorganize the various party and clerk signature items.

2. Revise, renumber, and retitle *Guardianship Pamphlet (Juvenile)* (form JV-350) to *Becoming a Child's Guardian in Juvenile Court* (form JV-350-INFO), to clarify and update the legal information on the information sheet, and present the information in plain language and a user-friendly format.

The revised forms are attached at pages 7–13.

Relevant Previous Council Action

The Judicial Council most recently revised form JV-330, effective January 1, 2006. Form JV-350 was last revised effective January 1, 2001.

Analysis/Rationale

The Family and Juvenile Law Advisory Committee recommends revising *Letters of Guardianship (Juvenile)* (form JV-330) and revising, retitling, and renumbering *Guardianship Pamphlet* (form JV-350) as *Becoming a Child's Guardian in Juvenile Court* (form JV-350-INFO). The revisions update legal information for prospective and appointed guardians of children in juvenile court proceedings. This information addresses the procedures for establishment, modification, and termination of juvenile court guardianships as well as the substantive powers and duties of a guardian. Much of the information in form JV-350 is out of date because the pamphlet was last revised in 2001; the recommended revisions to that form are needed to reflect changes to the law over the past 19 years and comply with an ongoing statutory mandate. Specific revisions to the forms were suggested, both informally and through the spring 2018 invitation-to-comment cycle, by child welfare departments, county counsel's offices, juvenile courts, and the Judicial Council's Probate and Mental Health Advisory Committee.

Revisions to form JV-330

The revisions to form JV-330 are needed to specify the guardian's legal powers and duties. The Welfare and Institutions Code establishes the procedures for appointing, modifying, and terminating a juvenile court guardianship.¹ Section 366.4 provides that part 2 (beginning with section 1500) of division 4 of the Probate Code, related to appointment or termination of a guardian, does not apply to minors for whom a guardian is appointed under section 360 or 366.26.

¹ See Welf. & Inst. Code, §§ 360(a) (appointment of guardian at the dispositional hearing); 366.26(b)–(d) (appointment of guardian at hearing to select and implement a permanent plan); 366.3(a)–(d) (jurisdiction to modify or terminate guardianship); 366.4 (juvenile court jurisdiction over minors and nonminors for whom court appointed a guardian; application of part 4 (beginning with section 2100) of division 4 of the Probate Code to juvenile court guardianships when no provision of the Welfare and Institutions Code or California Rules of Court applies); 727.3(b)(3) (authorizing appointment of guardian as a permanent plan in juvenile justice proceedings); and 728(c)–(f) (authorizing appointment of guardian in juvenile justice proceedings and applying procedures in section 366.26 to the appointment). All further statutory references are to the Welfare and Institutions Code unless otherwise specified.

Section 366.4 goes on to specify, however, that if no provision of the code or the California Rules of Court is applicable, the provisions of part 4 (beginning with section 2100) of division 4 of the Probate Code govern so far as they are applicable to like situations.² No provision of the code or rules is applicable to the appointed guardian’s affirmation. The affirmation must therefore comply with the requirements of section 2300 of the Probate Code, which governs the oath of an appointed guardian. In a similar way, nothing in the code or the rules governs the issuance of letters of guardianship or their effect. Section 2310 of the Probate Code, which applies to letters of guardianship, governs. Finally, no provision of the code or the rules sets forth the rights and duties of a guardian. Sections 2351–2358 of the Probate Code, however, do so for guardians and conservators of the person. The committee has elected to specify in this form only those Probate Code sections—2351(a), 2352, and 2353—that apply specifically to the rights and duties of a guardian of the person, as that is almost always the type of guardian appointed by a juvenile court.³

The recommendation also revises the notice box at the foot of page one to indicate more clearly that the juvenile court, not the probate court, retains jurisdiction to regulate, modify, and terminate the guardianship, and specify that modification includes appointing a successor guardian and approving moving the child’s residence out of California.⁴ Probate courts have reported receiving frequent petitions to modify or terminate guardianships established by the juvenile court. The revised notice is intended to promote the filing of these petitions in the proper court and thereby to provide expeditious consideration of the orders requested.

The recommendation also reorganizes the form to separate the clerk’s stamp and signature on initial issuance of the letters from the clerk’s certification of a true copy, which must be completed only when the clerk prepared and provided a certified copy. Finally, the recommendation expands and clarifies the notice to the guardian of the purpose and intended use of the letters provided on the back page 2 of the form.

Revisions to form JV-350

Revisions to form JV-350 are needed to conform to the continuing mandate in section 68511.1 of the Government Code, which requires the council to develop “a pamphlet explaining the nature of a guardianship of a minor and the rights, duties, and obligations of a person serving as guardian of a minor.” (Gov. Code, § 68511.1.) Reformatting the pamphlet as an informational form, renaming it *Becoming a Child’s Guardian in Juvenile Court*, and renumbering it as form JV-350-INFO are intended to fulfill the supplemental mandate to use “language easily understood by a lay person not trained in law.” (*Ibid.*) The revisions will help persons not trained

² Welf. & Inst. Code, § 366.4. All further references to rules are to the California Rules of Court.

³ Item 2 on the form gives the court the option of granting additional powers, including powers over the minor’s property, to the guardian and imposing additional conditions on the guardian’s exercise of the rights and duties. See Prob. Code, § 2358.

⁴ *Id.*, §§ 360(a), 366.3(b), 366.4, 728(f).

in law to understand the process of appointing a guardian in a juvenile court proceeding, the court's role in overseeing the guardianship, and the duties of a guardian. Better-informed guardians will, in turn, better protect the children in the care and custody and need less court intervention after appointment.⁵

Revisions also update the information about eligibility under state and federal law for financial support and other benefits, which has changed significantly in the past five years, and inform a prospective guardian of the authority of the social worker or probation officer, added by Senate Bill 438 (Stats. 2017, ch. 307), to name a successor guardian in the assessment for appointment of an initial guardian.

Policy implications

The recommended revisions promote several Judicial Council policy objectives. The revision of form JV-350 modernizes a legally obsolete, yet mandated, form. Revisions to both forms promote access to the courts by explaining court processes to lay persons before those persons go to court, reducing the length of hearings. This function of the forms also improves the quality of justice and service to the public by informing guardians of their rights and duties, and enables juvenile courts to dispose of cases effectively and efficiently.

Comments

This recommendation was circulated for public comment to the regular list of persons interested in family and juvenile law proposals twice: first, from April 9 to June 8, 2018, as part of the regular spring comment cycle; and second, from December 11, 2018, to February 12, 2019, as part of the winter comment cycle. One superior court judge and 10 organizations, including five courts and the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee, submitted comments in spring 2018. Four of these commenters agreed with the proposal as circulated, and seven agreed and suggested further modifications to the forms.⁶

The winter 2019 circulation also elicited 11 comments, including one from a superior court judge, three from courts, and two from attorneys.⁷ Eight of these commenters agreed with the proposal and suggested further revisions. Two commenters indicated no position and suggested revisions. One commenter disagreed with the proposal. Most comments received in both cycles suggested revisions to the wording of specific information in the forms. The committee largely accommodated those suggestions.

⁵ In addition, the revisions to form JV-350-INFO would partly fulfill the council's commitment to the state Department of Social Services to promoting case closure by providing information to attorneys and judges about the funding available to guardians after juvenile court jurisdiction is terminated.

⁶ A chart with the full text of the comments received in spring 2018 with the committee's responses is attached at pages 14–26.

⁷ A chart with the full text of the comments received in winter 2019 with the committee's responses is attached at pages 27–48.

Several commenters expressed confusion regarding references to the Probate Code or forms adopted or approved for use in probate guardianship proceedings. The discussion of the revisions to form JV-330 at pages two to three, above, explains why specific provisions of the Probate Code apply to juvenile court guardianships. To reduce confusion, the committee has narrowed the references to the Probate Code to those provisions directly applicable to guardianships of the person. It has also replaced references to probate forms with references to form JV-180, *Request to Change Court Order* and form JV-350-INFO, *Becoming a Child's Guardian in Juvenile Court*. The latter form outlines the rights and duties of a guardian without referring to duties or procedures that apply only to a probate guardian.

One court suggested developing a standalone form for the juvenile court to use to appoint a guardian. Although this suggestion may have merit, it is outside the scope of this proposal. The juvenile court may currently use forms JV-415 and JV-418 to appoint a guardian for a child as part of its disposition order, or use form JV-320 to appoint a guardian as part of its order after the section and implementation hearing.

Another court expressed concern that the revisions to form JV-330 would require county counsel to prepare letters of guardianship before the appointment hearing rather than several weeks after the hearing. The committee does intend that the letters of guardianship should issue as soon as possible after the order of appointment, as the guardian has no evidence of authority without them. A delay of any length would impair the guardian's ability to perform the duties required by law for the protection of the child's well-being.

This court also expressed concern that moving the guardian's affirmation to the first page of the letters and adding "Witness" to describe the function of the first seal and clerk's signature block would impose a new requirement that the prospective guardian appear at the appointment hearing. The committee does not intend these revisions to impose a new legal requirement. It has changed "Witnessed" to "Issued" to accommodate a broader range of clerical duties, but nevertheless believes that requiring the guardian to appear at the appointment hearing and affirm acceptance of the duties of the office is appropriate and consistent with existing law.

Several commenters offered suggestions for improving the accuracy and clarity of the discussion of financial support on page 5 of form JV-350-INFO. The committee accepted most of these suggestions but, to the extent some suggestions conflicted with others, chose to incorporate those that conformed to its best understanding of the law.

The commenter who disagreed with the proposal objected to the application of the Probate Code to juvenile court guardianships. It appears that this commenter was focused on the requirements for eligibility for federal and state funding. He is quite right that the Probate Code does not impose requirements that affect that eligibility. The Probate Code does, however, impose requirements on the administration and execution of a guardianship of the person that apply whether the guardian is appointed by the juvenile court or the probate court. The committee has tried to explain the operative differences in its responses to specific comments.

Alternatives considered

The committee considered recommending that the council adopt revisions to these forms as proposed and circulated for comment in spring 2018, with only minor modifications in response to comments received. After extensive reformatting of the information form and additional legal analysis, however, the committee determined that the scope of the changes made after comment was sufficient to warrant recirculation for a second round of public comment.

The committee also considered adding substantially more detail to the information form, but decided that the recommended level of detail, accompanied by suitable advisements to contact a social worker or lawyer for more information, was appropriate in a form directed to prospective guardians unlikely to have independent legal representation. A fairly high level of generality is also likely to reduce the frequency of revisions needed to conform to changes to the law.

Fiscal and Operational Impacts

The proposal would require courts to produce copies of the updated forms. Courts that issue paper copies of the guardianship information form would incur more costs than courts that distribute the form electronically. All courts would incur costs to produce hard copies of the revised *Letters of Guardianship*. Because that form should be printed and issued on a case-by-case basis, however, courts would not need to replace unused inventory. The revised form is also the same length as the existing form, so no additional printing costs are likely to be incurred. Courts would probably incur some costs integrating the new elements of the revised letters into their electronic case management systems. On the other hand, the revisions to both forms should make appointment process and the rights and duties more understandable to guardians and prospective guardians from the outset, reducing the time and cost of the appointment process, the number of modification petitions filed, and the number of failed guardianships for courts, justice partners, and attorneys.

Attachments and Links

1. Forms JV-330 and JV-350-INFO, at pages 7–13
2. Chart of spring 2018 comments and committee responses, at pages 14–26
3. Chart of winter 2019 comments and committee responses, at pages 27–48
3. Link A: Gov. Code, § 68511.1,
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=68511.1
4. Link B: Sen. Bill 438,
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB438

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
LETTERS OF GUARDIANSHIP (JUVENILE)	CASE NUMBER:

LETTERS

1. (Name): _____ is appointed guardian of the PERSON
 of (child's name): _____ (date of birth): _____
 with powers to make decisions about, and duties to provide for, the child's care, custody, control, education, residence, and medical treatment as set forth in sections 2351(a), 2352, and 2353 of the Probate Code, subject to any limits or conditions in 2.
2. Other powers granted or conditions imposed (specify):

continued on Attachment 2.

AFFIRMATION

3. I solemnly affirm (promise) that I will perform the duties of a guardian of the person as required by law. I have received and had a chance to read a copy of *Becoming a Child's Guardian in Juvenile Court* (form JV-350-INFO).
- Signed on (date): _____ at (place): _____, California.

 (TYPE OR PRINT NAME) ▶ _____
 (SIGNATURE OF APPOINTED GUARDIAN)

ISSUED, clerk of the court, with seal of the court affixed:

(SEAL)	Date: _____ Clerk, by _____, Deputy
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NOTICE

The juvenile court named above has jurisdiction over this guardianship. Any request to change or end the guardianship, including a request to move the child's residence out of California, to change a visitation order, or to appoint a successor guardian, must be filed in the juvenile court using *Request to Change Court Order* (form JV-180).

(Continued on the next page)

CHILD'S NAME:	CASE NUMBER:
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**IMPORTANT NOTICE
TO GUARDIAN OF CHILD**

This form, called *Letters of Guardianship*, is evidence of your appointment as guardian of the child. The *Letters of Guardianship* stay in effect until the guardianship ends or new *Letters of Guardianship* are issued. A guardianship ends when the child reaches 18 years of age unless any of the following events happens before then: the child dies; the child is adopted; the child is emancipated by getting married, entering active military duty, or receiving a declaration of emancipation; or the court orders the guardianship to end.

To verify your appointment and authority to school personnel, medical personnel, and other service providers, you will need to show them a certified copy of this form. Be sure to keep this form in a safe place. If you misplace this form, you will need to request a new certified copy from the clerk of the juvenile court. You may be charged a fee for the certified copy.

CERTIFICATION

I certify that this is a correct copy of the original form on file in my office and that the *Letters of Guardianship* issued to the person named on page one have not been modified, revoked, annulled, or set aside, and are still in full force and effect.

(SEAL)

Date:

Clerk, by _____, Deputy

JV-350-INFO Becoming a Child's Guardian in Juvenile Court

This form is about becoming the guardian of a child at the end of the child's juvenile court case if the child cannot return home or be adopted.

The form explains:

- Who can become a guardian;
- How to ask to become a guardian in juvenile court;
- The differences between a foster parent, a guardian, and an adoptive parent; and
- A guardian's legal rights, duties, and eligibility for financial help.

To become the guardian of a child who does *not* have a juvenile court case, you must ask the *probate* court. Read Judicial Council forms GC-205, GC-505, and GC-510 to learn more about probate guardianships.

For more information, visit the California Courts website at www.courts.ca.gov/1206.htm or talk to a lawyer with experience in juvenile court. Learn how to find a lawyer on the website at www.courts.ca.gov/selfhelp-findlawyer.htm.

1 What is a guardian?

A guardian is a person, other than a parent, who has legal and physical custody of a child and can make the decisions that a parent can about the child's care and control, residence, education, and medical treatment.

2 Who can become a guardian in juvenile court?

To become a child's court-appointed guardian, you must:

- Be an adult (18 years old or older);
- Not be the child's parent; and
- Be approved by the county child welfare agency or juvenile probation department.

3 Can a relative be appointed guardian?

Yes. The juvenile court can appoint any approved adult, including any relative except for the child's parent.

4 How does a juvenile court case start?

A social worker or prosecuting attorney files a petition asking the court to make orders to keep the child and the community safe. Sometimes, the court decides that a child cannot live safely in a parent's home. And the court cannot let the child go home unless the home is safe.

5 If the child cannot live safely at home, what happens?

If the court cannot let a child go home, the social worker or probation officer will find a safe home where the child can live. They will try to find a relative to care for the child. If they can't find a relative, they will look for a nonrelative to care for the child. The initial caregiver often becomes a foster parent if approved as a resource family.

If you want to be a child's foster parent, tell the social worker or probation officer right away. Ask how you can get approved as a resource family. A foster parent is often appointed as guardian. Waiting too long can prevent the child from ever being placed with you.

6 Is a foster parent the same as a guardian?

No. A foster parent is *not* a guardian, but the court can and often will appoint a foster parent as a guardian. Foster parents have legal rights, including:

- The right to receive notice of the child's court hearings and go to the hearings; and
- The right to give the court information about the child's needs.

7 How is a guardian different from a foster parent?

Foster parents and guardians are both responsible for taking care of other people's children. But there are important differences.

- **Permanence.** Foster care is intended to be temporary; it can end at any time. A guardianship gives a child a stable, lasting home and relationship.
- **Court supervision.** The court holds review hearings every six months for a child in foster care. A social worker or probation officer visits a foster placement regularly. In a guardianship, no regular hearings or visits are required unless the court keeps the juvenile case open.

- **Duties.** A foster parent provides food, clothing, housing, and emotional support to the child under the supervision of a social worker or probation officer. A guardian has more rights and duties toward the child, but may receive fewer services and less personal support.

8 Who else can be involved in the child’s court case?

The child’s relatives. If you are a relative, even if not the child’s foster parent or caregiver, you can still give the court important information in writing.

9 Will the child be returned to the parent?

In most cases, the social worker or probation officer works with the family by giving them services so that the child can return to live at home.

Sometimes the court decides the child will not be able to return home safely. If that happens, the court will deny or stop services for the parent. The social worker or probation officer will recommend to the court a permanent plan for the child in a written report.

10 Is guardianship a permanent plan?

Yes. A guardianship is one of three authorized permanent plans. It is intended to last until the child turns 18 years of age. If the child cannot return home, adoption is the preferred permanent plan because it is more stable and secure. (Later, this form talks more about adoption.) But if adoption is not a legally available option, the court will try to appoint a guardian for the child.

HOW CAN I BECOME THE CHILD’S GUARDIAN?

11 How do I ask to become the guardian?

If you want the court to appoint you the child’s guardian, you should:

- Tell the social worker or probation officer right away; and
- Ask the judge at a hearing as soon as you can.

Think carefully! If the court appoints you, the guardianship will last until the child turns 18. The court will not “undo” or end a guardianship unless:

- The situation has changed since appointment; and
- It is in the child’s best interests to end it.

12 What are the steps to becoming a guardian?

There are several steps to becoming a child’s guardian in juvenile court:

- a. The social worker or probation officer will interview you and visit your home to make sure you, your home, and everyone living there are safe for the child.
- b. The social worker or probation officer will write a report to the court to recommend a permanent plan for the child.
Note: If you are not recommended as guardian, ask the social worker or probation officer if they will name you as a prospective successor guardian. Then you might be assessed and appointed if the first appointed guardian can no longer serve.
- c. There will be a court hearing to decide the child’s permanent plan. You will get a notice that tells you when and where the hearing will happen.
- d. Go to the hearing and talk to the judge. The child’s parents and other people interested in the case can also go to the hearing and tell the judge what they think about you being the child’s guardian.

13 How does the court decide whether to appoint me as guardian?

The court will consider:

- Whether the child can be adopted;
- The recommendation in the agency’s report;
- What you and other people say at the hearing; and
- Any other reasons for or against appointing you as guardian.

The court will appoint you as guardian if it decides that:

- A guardianship is best for the child; *and*
- You would be a good guardian.

14 What if the court appoints me as guardian?

If the court appoints you as guardian, take the order to the clerk and ask for a certified copy of *Letters of Guardianship* (form JV-330). That form is proof that you are the child’s guardian. Make copies of this form and keep the certified copy in a safe place.



Take a copy of the form with you whenever you:

- Take the child to a doctor, dentist, or therapist;
- Sign the child up for school or go to school meetings; or
- Travel with the child.

15 Will the court oversee me as guardian?

When it appoints you, the court can give you other orders, such as to notify the court if you move or to allow the parents or siblings to visit and spend time with the child. You must obey the court's orders.

After it appoints you, the juvenile court may oversee the guardianship to make sure you perform your duties. You won't usually have to go to court unless the court keeps the juvenile case open or someone asks the court to change its orders or make new orders.

Note: Even after the juvenile case is closed, anyone, including you, can use *Request to Change Court Order* (form JV-180) to ask the juvenile court to give you directions, review your plans or actions as guardian, change its previous orders, or end the guardianship.

The social worker or probation officer might also offer permanent placement services to the child. If you're not related to the child, a social worker will visit you every six months and update a voluntary case plan. If you don't do what the case plan says, they might ask the court to order you to do it.

16 When will the guardianship end?

A guardianship lasts until the child turns 18 unless:

- The child dies before then;
- The child is adopted (by you or another adult); or
- The child is emancipated (or freed from your control) by getting married, entering active military duty, or getting a court order.

The court can order a guardianship to end before the child turns 18, but only if the proposed alternative is in the child's best interests; that is, it would be *better for the child* than continuing the guardianship.

Note: If the child keeps living with you after turning 18, you can get financial help if the child is eligible for KinGAP or Extended Foster Care and you meet other conditions. See page 5 for more information about financial support generally.

17 Can the court replace me as guardian?

Yes. The court will consider replacing you as guardian if asked by:

- You, the guardian;
- Any other interested adult; or
- The child, if 14 years old or older.

The judge will replace you only if the situation has changed and it is in the child's best interests.

18 How is guardianship different from adoption?

Both a guardian and an adoptive parent have legal and physical custody of the child in place of the birth parents. But there are many differences.

Permanence. In a guardianship, the parent's rights are only *suspended*. The court can end a guardianship and give the parents back their rights if that would be in the child's best interests. In an adoption, parental rights are *permanently ended*. The adoptive parent is the child's legal parent. The birth parents cannot get their rights back.

Visitation. In a guardianship, the court can make an order allowing the parents or other relatives to visit a child. The guardian must obey the visitation order, as well as all other court orders. In an adoption, parents and other relatives lose their rights to visit the child unless the court and the adoptive parents agree that they can have contact after the adoption.

Duration. A guardianship lasts until the child turns 18 unless something happens to end the guardianship before then. (A court can order a guardianship to end if that is in the child's best interests.) An adoption is intended to last forever. A court can end an adoption only by terminating parental rights in a new juvenile or family law case.

Court oversight. The court controls a guardianship and can make orders, including to replace the guardian or end the guardianship, if someone asks and the request is in the child's best interests. The court does not oversee an adoption once it is final.

Inheritance. A child in a guardianship can inherit property from a parent if the parent dies without a will. If the court knows the child might inherit property, it may appoint a "guardian of the estate" to manage the property. An adopted child usually has no right to inherit from a birth parent, but may receive a gift from a birth parent's will or trust.

WHAT ARE A GUARDIAN'S RIGHTS & DUTIES?

Subject to the court's orders, a court-appointed guardian has the same rights to legal and physical custody of the child as a parent does. In general, you must care for and control the child the same way a parent would.

Specifically, that means:

19 Arrange a place for the child to live

If you move the child to a new address in California, you must notify the court in writing. To move the child out of California, you must get court approval first. Use form JV-180 to ask the court to approve. Other states have different guardianship laws. If you plan to move to another state, find out about your legal rights and duties in that state.

20 Arrange for the child's health care

You can allow (*consent to*) most medical or dental treatment for the child. But if the child is at least 14 years old and does not want to have a non-emergency surgery, you must get permission from the court first.

The law also allows older and more mature children to get some medical treatment on their own without your approval, including:

- Outpatient mental health treatment;
- Reproductive health care; and
- Drug and alcohol treatment.

21 Provide for the child's education

You can choose the child's school and learning programs just as a parent can. In special situations, the court may also be involved in these decisions. Pay attention to how the child does in school, and meet with the child's teachers. If the child needs special education or other specialized services, you can also ask the school or other providers for these services.

22 Access social services

You can get help for the child from other programs, such as:

- Head Start;
- Regional centers for persons with developmental delays or disabilities;
- Health care services; and
- After-school care.

23 Give consent to the child's marriage

You can allow the child to marry, but you must get the court's permission first. Once the child gets married, the guardianship will end.

24 Give consent to the child's military service

You can allow the child to enlist in the U.S. military. Once the child enters active duty, the guardianship will end.

25 Give consent for the child's driver's license

The child cannot get a driver's license without your written permission. (See your duties described below.)

26 Pay for harm caused by child's driving

You will have to pay for any damage the child causes when driving. The law limits how much money you can be forced to pay. If you're concerned about this duty, you should talk to a lawyer.

You must get insurance to cover the child when driving. (The child cannot get a license without your written permission.) If you change your mind later, you can sign a form at the DMV to cancel the child's driver's license.

27 Pay for harm caused by child's other acts

Willful misconduct. In most cases, a guardian can be made to pay only for harm to another person caused by the child's willful misconduct. There is usually a limit about how much you may need to pay.

Negligent conduct. You can be made to pay for harm caused by the child's negligent conduct. If you're concerned about this duty, you should talk to a lawyer.

28 Pay for the child's needs

The parents are still legally responsible for child support, but you can accept this responsibility. You can get money to help you support the child. See page 5 for more information.

29 Obey all court orders

The court may require you to accept other duties. For example, the judge may order you to take the child to visit a parent or other relative. You must do what the court orders.

WHAT FINANCIAL HELP CAN I RECEIVE?

You may be able to get financial help from the county, state, or federal government. The type of help depends on the child's eligibility and their relationship to you.

Important! Before you become the child's guardian, ask the child's social worker or probation officer or a lawyer if you will qualify for financial help.

If the child is related to you

If you become the guardian of a child who is a relative, you may qualify for financial help from these programs:

- **KinGAP program:** If the child has lived with you for at least six months after resource family approval, you sign a written agreement, and the court dismisses the case, you can qualify for KinGAP payments. KinGAP gives you the same monthly payments as a foster parent caring for a foster child, including any rate the county might pay to care for the child's special needs. You can receive KinGAP in any county or state, but the amount may change based on where you live. In California, the payments are the same amount as foster care payments.
- **Approved Relative Caregiver (ARC) or foster care program:** If the court keeps the juvenile case open after appointing you guardian, you can receive ARC or foster care payments instead of KinGAP.
- **CalWORKS (cash assistance):** In very rare situations, you may not qualify for KinGAP, foster care, or ARC payments. In those cases, you may still qualify for CalWORKS payments. If you have a low income, you may get a full CalWORKS grant. If your income is too high to qualify for a full grant, you may still receive a "child-only" CalWORKS grant.
- **Health care:** Children who qualify for KinGAP can get health care through Medi-Cal.
- **Independent living program (ILP):** Beginning at age 16, most children can receive ILP funds and services to help them become successful adults. The services available depend on the child's age when KinGAP payments started.

If the child is NOT related to you

In California, guardians who are not related to the child are eligible for foster care payments from the state. You can receive these payments in any county or state, but the

amount may change based on where you live. Before you move, ask if the rate will change! If you receive these payments, a case worker will visit you every six months.

- **Health care:** Children who qualify for foster care payments can get health care through Medi-Cal.
- **Independent living program (ILP):** Beginning at age 16, most children can receive ILP funds and services to help them become successful adults.

If you keep supporting the child after age 18

Payments can continue after the child turns 18 if you continue to care for and support the youth, the youth meets all other eligibility requirements, and you both sign written agreements.

Generally, KinGAP payments end when a child turns 18, unless the payments started after the child turned 16 (they continue until age 21) OR the child has a mental or physical disability (funding continues until 21) OR the child is in high school (funding continues until 19 or graduation).

Important! Talk to the child's social worker or probation officer or a lawyer a few months *before* the child turns 18 to make sure the child doesn't miss any payments.

Other financial help

If you do not qualify for KinGAP or foster care payments, you may be able to get social security, Supplemental Income (SSI), Medi-Cal, or other financial help.

You can also get help and information from [*List local agencies and their contact information*]:

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Juvenile Law: Guardianship Information (revise forms JV-330 and JV-350)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
1.	Hon. Tari L. Cody, Judge Superior Court of Ventura County	AM	The pamphlet should also mention that the guardian is required to follow any visitation orders the court makes and that a JV-180 would be required to change those orders also.	The committee agrees with the suggestions and has modified its recommendation to clarify the effect of visitation orders and the process for seeking to modify them.
2.	County of Los Angeles Department of Children and Family Services by Ruena Borja, Children Services Administrator I	AM	Will this pamphlet be translated in other languages, e.g., Spanish? Can it be available in electronic form for dissemination? Perhaps it can start with a more strengths-based tone, such as acknowledging and conveying their important role in caring and providing permanency for a child. We suggest that this tone is reflected throughout the document. 'supervise' might imply that the court will continue to be actively involved in the same manner as when it had/will have when jurisdiction was/remains open.	Yes, the committee intends for the form to be translated into Spanish. Yes, the committee intends for the form to be available electronically on the California Courts public website, where anyone can view, download, or print it. Local courts and agencies can link their websites to the state court website's forms page. The committee has reformatted the form to use plain language and a user-friendly presentation. The changes are intended, in part, to affirm the importance of the guardian's role in the care and custody of the child, to highlight the nature and extent of the guardian's responsibilities, and to promote the long-term stability of these relationships. No disrespect to guardians or other caregivers is intended. The committee acknowledges that, although the juvenile court retains jurisdiction over the guardianship even if dependency or delinquency jurisdiction is terminated (Welf. & Inst. Code, §§ 366.4, 728(f)), and the guardian is subject to "the regulation and control of the court" (Prob. Code, § 2102 (applied to juvenile court guardianships by Welf. & Inst. Code, § 366.4)), the juvenile court does not supervise a

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	Commentator	Position	Comment	Committee Response
			<p>Add information to state that, although the guardianship ends at 18, they may be able to receive extended foster care benefits (for non-relatives) or KinGAP if they meet certain criteria.</p> <p>Not sure what this sentence is referring to since federal and state Kin-GAP rates should be whatever the child should have received in foster care.</p> <p>It is not clear if the Guardianship Information Pamphlet is for Juvenile Dependency guardianships. The pamphlet includes the use of the GC forms and refers to the Probate Code which was confusing. For example, page 9 indicates that if the LG wishes to move out of state, the LG must provide notice via the GC-079 and GC-080; however, these are probate forms.</p>	<p>guardianship as actively as it does a dependency or wardship. No regular review hearings are required after the court terminates dependency or wardship. The court’s exercise of its oversight authority depends on the filing of a request to change a court order under section 388. The committee has replaced “supervise” with other terms to indicated this lower level of oversight.</p> <p>The committee agrees and has added information about benefits available to nonminor former dependents and wards living with former guardians.</p> <p>The committee has revised this sentence to remove the distinction.</p> <p>The committee agrees that the references to forms GC-079 and GC-080 are unnecessary. The committee intends this form to provide information about guardianships established and overseen by the juvenile court. The court has authority to establish a guardianship in a child welfare proceeding, under Welfare and Institutions Code sections 360(a) and 366.26, and in a juvenile justice proceeding, under section 728. Under section 366.4 of the Welfare and Institutions Code, juvenile court guardianships are governed by part 4 (beginning with section 2100) of division 4 of the Probate Code to the extent</p>

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Juvenile Law: Guardianship Information (revise forms JV-330 and JV-350)

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	Commentator	Position	Comment	Committee Response
			<p>Remove 'for developmentally disabled children' to be inclusive of regional center services such as Early Start for children with developmental <i>delay</i>.</p> <p>It may be better to separate information related to KinGAP extended benefits from foster care extended benefits. For KinGAP, it can mention the 2 requirements, i.e., 16 or older at the time child entered KinGAP or having a disability.</p> <p>This section should include information about the Approved Relative Caregiver (ARC) program, and reflect that relative guardians may be eligible to receive foster care or ARC payments if jurisdiction has to remain open.</p>	<p>that that part applies and is not preempted by provisions of the Welfare and Institutions Code or the juvenile rules of court. Part 4 includes statutes that establish the powers and duties of guardian. The Judicial Council probate forms that implement the requirements of part 4 could therefore apply to juvenile court guardianships. In addition to the forms mentioned by the commentator, a newly appointed guardian would benefit from receiving and reading a copy of form GC-248, <i>Duties of Guardian</i>, regardless of jurisdiction of the court of appointment. Nevertheless, the committee has replaced the references to forms GC-079, GC-080, and GC-085 with a reference to form JV-180.</p> <p>The committee has replaced “for developmentally disabled children” with “developmental delays or disabilities.”</p> <p>The committee has added a section about extended benefits to the end of the form, including separate information about eligibility for extended KinGAP. See also the committee’s response to this commentator’s last comment, below.</p> <p>The committee has revised its recommendation to add a paragraph about the ARC program. See the committee’s response to this commentator’s last comment, below.</p>

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			<p>It should be noted, however, that state KinGAP is an option when a child does not qualify for federal KinGAP. KinGAP allows a family to close their case, which should offer a better sense of normalcy for children/families when it is otherwise safe and appropriate to do so.</p> <p>You may want to add how to obtain the services and whom to contact.</p> <p>Related guardianships are not eligible for transitional housing services if less than 16 years when entered KinGAP.</p> <p>In some situations, they may receive both, or Social Security/SSI may be the first option.</p> <p>There are many information left out that may be important for a prospective legal guardian to know such as tax implications, name change, required RFA reassessments for foster care, etc. However, it is a delicate balance between providing comprehensive advisements and the length of the Pamphlet, as an outside person may find it overwhelming to have all that information. An option would be to hyperlink some of the information and direct them to go to appropriate materials/websites such as ILP,</p>	<p>The information on the form does not foreclose this option. For more detail, please see the committee’s response to this commentator’s last comment, below.</p> <p>The committee believes that the appropriate agencies and contact information will vary by county. The committee has therefore inserted blank space at the end of the form where each county can identify the appropriate local agencies and provide their contact information.</p> <p>See the committee’s response to this commentator’s last comment, below.</p> <p>See the committee’s response to this commentator’s last comment, below.</p> <p>The committee recognizes that this form does not provide exhaustive information to a prospective guardian. As the commentator suggests, the requirements applying to funding eligibility, resource family approval, etc., are too complex and voluminous to explain properly in a short form of this type. The committee has attempted to provide enough information to make a prospective guardian aware of the issues to be considered, and has advised the prospective guardian to contact the child’s social worker or probation officer, a</p>

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	Commentator	Position	Comment	Committee Response
			etc. Another example: LA County has recently updated the DCFS 5620 that has comparisons of the different permanency plans. If CDSS or Judicial Council wants to adopt a version of it, commits to regularly updating the information, and post in a public website, perhaps they can then hyperlink and be able to shorten this pamphlet.	lawyer, or the appropriate local agency, as identified at the end of the form, to find out what kind of benefits might be available in their specific circumstances.
3.	County of Santa Clara Office of the County Counsel by Hilary Kerrigan, Deputy County Counsel	AM	On page 9 of the guardianship pamphlet, it advises that the guardian will need to use form GC-085 to seek the court’s permission to move the child out of state. This is in conflict with the advisement at the bottom of the JV-330 form, which states that the guardian must use form JV-180 to request that the child be allowed to move out of state.	The committee appreciates the suggestion and has modified its recommendation to remove the reference to form GC-085.
4.	Executive Committee, Family Law Section (FLEXCOM) California Lawyers Association by Stephen D. Hamilton, Arroyo Grande & Saul Bercovitch, San Francisco	A	The Executive Committee of the Family Law Section of the California Lawyers Association agrees with this proposal. Providing current and prospective guardians with clarity in both the Letters of Guardianship and the Information Pamphlet is important for long-term stability of the guardianship. We also offer some comments below with an eye toward strengthening an already sound proposal. a. On page 6, in the first paragraph under the heading “How to Become the Legal Guardian of a Child in a Juvenile Court Case,” we recommend the first sentence be rewritten to state: “The juvenile court decides petitions, filed by social workers or probation officers,	The committee appreciates FLEXCOM’s comments. The committee agrees with the commentator’s analysis of the law and has modified its recommendation to clarify that removal is not always the agency’s goal. Nevertheless, the committee believes that keeping the form focused on the consequences of removal is appropriate.

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	Commentator	Position	Comment	Committee Response
			<p>asking the court to adjudge a child a victim of abuse, neglect, or abandonment.” The language proposed in the Invitation to Comment is potentially confusing, given the nature of the juvenile court proceedings. That language suggests the petition is filed in order to remove a child. This language should be changed for two reasons. First, the child welfare agency does not always want a child removed when it files a petition. Second, the petition is not what causes removal. A removal can occur only during a disposition hearing, which happens after a court sustains a petition.</p> <p>b. The section headers at the bottom of page 7 and the top of page 8 should not be changed. In the current version of the JV-350 they read “Difference Between Guardianship and Adoption” and “Difference Between Guardianship and Long-Term Foster Care.” We believe the current phrasing is easier for proposed guardians to understand.</p> <p>c. Near the bottom of page 11, in the paragraph that starts with the word NOTE in bold font, a quotation mark is needed after the phrase “permanent connection.”</p> <p>d. On Page 12, a proposed section header reads “If the Child is not related to you.” We believe this proposed header can be confusing for guardians that are not considered relatives, under a commonly held definition of the term.</p>	<p>This form is directed to prospective guardians. Absent parental consent, the court will only consider appointing a guardian if the child has been removed from the parent’s physical custody and the court determines that the child cannot return home.</p> <p>The committee has revised these headings to make them easier to understand.</p> <p>The committee has addressed this concern through the reformatting process.</p> <p>The committee recognizes that the legal definition of “relative” for purposes of juvenile court guardianships is confusing. The committee has removed the extensive definition of “relative.”</p>

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	Commentator	Position	Comment	Committee Response
			<p>As noted on page 11, California law defines “relative”—for purposes of legal guardianships—broadly to include non-related caregivers that have developed a substantial connection with the child. A relative meeting this standard might be confused about the disparate language on pages 11 and 12. To remedy this problem, we recommend adding a sentence at the beginning of the paragraph that reads: “This section applies if you do not meet the definition of a ‘relative’ found on page 11.”</p> <p>e. On Page 12, we believe the information on Independent Living Services eligibility should be modified. It says that a child living with a non-related guardian may qualify for independent living services beginning at age 16. This is true, but only if the guardianship was ordered on or after the child’s 18th birthday. See Welfare and Institutions Code section 10609.45. The language in this paragraph should be amended to include that caveat.</p>	<p>The committee understands section 10609.45(b) to restrict eligibility for ILP services to children whose guardianships were ordered after their <i>eighth</i> birthdays. Section 10609.45(a) appears to include additional restrictions on eligibility. The committee has modified its recommendation to indicate that <i>most</i> children in nonrelative guardianships can receive ILP funding and services.</p>
5.	Orange County Bar Association Newport Beach by Nikki P. Miliband, President	AM	<p>The proposal sufficiently meets the purpose to provide information to proposed legal guardians, in language easily understood, about the nature of a legal guardianship and the rights and obligations of a legal guardian.</p> <p>The Important Notice on page 2 of the JV-330 should be clarified by rewording it to read “...or adoption by you or adoption by another person. The present wording could be interpreted to mean the guardianship could be</p>	<p>The committee appreciates the bar association’s comments.</p> <p>The committee has revised the language of the notice to avoid this possible confusion.</p>

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Juvenile Law: Guardianship Information (revise forms JV-330 and JV-350)

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	Commentator	Position	Comment	Committee Response
			<p>ended “by you or by another person.”</p> <p>The section in the Guardianship Pamphlet (Juvenile Court) entitled “Medical Care” should be clarified to indicate the need to get court approval may vary depending upon whether or not the legal guardianship is part of an open dependency case, as opposed to those cases in which dependency jurisdiction has been terminated.</p>	<p>The committee understands that many factors (e.g., the child’s age and maturity, the nature of the procedure or treatment) and statutory provisions (see, e.g., Fam. Code, §§ 6920–6929; Prob. Code, §§ 2353, 2356, 2357) govern a child’s authority to consent to medical care and the parent’s or guardian’s authority to compel medical treatment against the child’s wishes. The committee has used the term “older and more mature children” to capture the law’s general tendency to afford those children more autonomy with respect to medical decisions.</p>
6.	Superior Court of Los Angeles County (no name provided)	AM	<p>We propose that an order be created and implemented, similar to Probate GC-240, in conjunction with the proposed forms JV 330 and JV 350. This will allow for a judicial officer to review and order appointing guardianship.</p>	<p>The committee recognizes the potential benefit of the suggested form, but believes that it is beyond the scope of this proposal. Currently, the court may use forms JV-415, <i>Findings and Orders After Dispositional Hearing</i>, and form JV-418, <i>Dispositional Attachment: Appointment of Guardian</i>, to appoint a guardian under Welfare and Institutions Code section 360(a). The court must use form JV-320, <i>Orders Under Welfare and Institutions Code Sections 366.24, 366.26, 727.3, 727.31</i>, to make the findings and orders required to select a permanent plan, including guardianship. The development of the suggested form would require parallel revisions to those forms.</p>
7.	Superior Court of Orange County (no name provided)	A	<p><i>Does the proposal appropriately address the stated purpose?</i> Yes, it also informs a party in lay terms of their</p>	<p>The committee appreciates the court’s comments. No specific response is required.</p>

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SPR18-29

Juvenile Law: Guardianship Information (revise forms JV-330 and JV-350)

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	Commentator	Position	Comment	Committee Response
			<p>rights and responsibilities.</p> <p><i>Would proposal provide cost savings?</i> There would be minimal cost savings for the court. The savings forecasted would be in Self-Help Center resources. This lay term document and revised pamphlet would give parties more information and may reduce the need for a party to access the Self-Help Services with questions regarding juvenile guardianship.</p> <p><i>What would the implementation requirements be for courts?</i> The court would need to replace any pre-printed forms. As for the court’s case management system, codes do not need to be revised as they are already utilized in the system. Procedures would need to be revised to show the new document review requirements.</p> <p>No additional comments.</p>	<p>No specific response is required.</p> <p>No specific response is required.</p> <p>No response is required.</p>
8.	Superior Court of Riverside County by Susan Ryan, Chief Deputy of Legal Services	A	<p><i>Does the proposal appropriately address the stated purpose?</i> Yes.</p> <p><i>Would the proposal provide cost savings?</i> No.</p> <p><i>What would the implementation requirements be for courts?</i> Judicial officers and staff would need to be notified of the changes. Minimal additional training would be needed. If updates to minute codes were required for the updates to the Letters of Guardianship it would be minimal.</p>	<p>The committee appreciates the court’s comments. No specific response is required.</p> <p>No specific response is required.</p> <p>No specific response is required.</p>

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Juvenile Law: Guardianship Information (revise forms JV-330 and JV-350)

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	Commentator	Position	Comment	Committee Response
			<p><i>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i> Yes.</p> <p><i>How well would this proposal work in courts of different sizes?</i> The proposal should work well for courts of any size.</p>	<p>No specific response is required.</p> <p>No specific response is required.</p>
9.	Superior Court of San Bernardino County (no name provided)	AM	<p>Currently, the Department of Children and Family Services/County Counsel prepares and submits the “Letters of Guardianship” to the court sometimes weeks after the hearing, and the “Affirmation” by the guardian is signed. This will require County Counsel to prepare the Letters of Guardianship prior to the court hearing, and require the guardian to appear at the court hearing to sign the “letters.” CFS should also ensure that the Duties of Guardian Form GC-248 are provided to the guardian at the hearing.</p> <p>The guardian will now be required to appear at the court hearing or in person for the “Court Clerk” to witness the signing of the “Letters of Guardianship & Duties of Guardian Form GC-248.”</p> <p>The impact to the court staff would be that the “court clerk” is required to “witness” that the guardian signed the “Affirmation Portion of the</p>	<p>The committee has modified its recommendation in response to the comment by removing the requirement that the clerk witness the oath or affirmation. This will allow the prospective guardian to take the oath and acknowledge receipt of form GC-248 (<i>Duties of Guardian</i>) without attending the hearing. Because the guardian’s appointment is not effective until the oath is taken and letters are issued (Prob. Code, §§ 2300 & 2310), however, any delay in submitting the letters for issuance will postpone the guardian’s ability to act on behalf of the child and the court’s authority to dismiss the juvenile court case.</p> <p>See response above.</p> <p>See response above. The committee intends the revisions to form JV-330 to clarify existing law. To the extent the revisions modify the duties of</p>

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	Commentator	Position	Comment	Committee Response
			<p>Letters of Guardianship” and that they were provided the “Letters of Guardianship & Duties of Guardian Form GC-248 by the Department of Children & Families Services/County Counsel.</p> <p>Additional Procedure changes and staff training would be required, as the parties are required to submit any requests to change or end the guardianship, including requests to move the child’s residence to the court on the JV-180 Request to Change Court Order along with “Notice” to the appropriate parties.</p> <ul style="list-style-type: none"> • Address changes must be submitted with the JV-180 form 15 days before the move is planned on Guardianship Form GC-079 Pre-Move Notice of Proposed Change of Personal Residence of Conservatee or Ward. • Notice of Address change within 30 days after the move on Guardianship Form GC-080 Change of Residence Notice and Attachment to Post Move Notice of Change of Residence of Conservatee or Ward GC-080(MA) • Address changes that are “Out of State” require the juvenile courts permission and must be submitted on Guardianship form GC-085 Petition to Fix Residence Outside the State of California and Order Fixing Residence Outside the State of California. 	<p>the department, county counsel, or the clerk of the court, the committee believes that the modifications would affect the time and place of the performance of the duties, but would not impose any new substantive duties.</p> <p>The committee has revised the forms to remove references to forms GC-079, GC-080, and GC-085. Form JV-180 provides space to include all necessary information. If guardians do not provide the necessary information on form JV-180, and time and resources permit, the committee may consider developing attachments that directly solicit that information.</p>
10.	Superior Court of San Diego County	AM	<i>Q: Does the proposal appropriately address the</i>	The committee appreciates the court’s comments.

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Juvenile Law: Guardianship Information (revise forms JV-330 and JV-350)

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	Commentator	Position	Comment	Committee Response
	by Mike Roddy, Executive Officer		<p><i>stated purpose?</i> A: Yes. Should have a form number on it.</p> <p><i>Q: Would the proposal provide cost savings?</i> A: Unknown.</p> <p><i>Q: What would the implementation requirements be for courts?</i> A: Replacing old versions of the Guardianship Pamphlet and training staff to use the new version.</p> <p><i>Q: Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i> A: Yes.</p> <p><i>Q: How well would this proposal work in courts of different sizes?</i> A: It should work well no matter what the size of the court.</p> <p><i>General Comments:</i> Form JV-330 *Add reference to Probate Code sections 2351–2358 to the footer.</p> <p>Form JV-350 *Correction of typos, grammatical and technical errors. One suggestion of note: Replace “they” with “he or she” or “him or her,” as appropriate, when referring to a child.</p>	<p>The revised form is numbered JV-350-INFO.</p> <p>No specific response is required.</p> <p>No specific response is required.</p> <p>No specific response is required.</p> <p>No specific response is required.</p> <p>The committee agrees and has added the suggested reference to form JV-330.</p> <p>The committee has tried to correct all typos and grammatical or technical errors in this form. Many of these were addressed in the reformatting process. The committee does not, however, recommend replacing “they” with “he or she.”</p>

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SPR18-29**Juvenile Law: Guardianship Information** (revise forms JV-330 and JV-350)

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	Commentator	Position	Comment	Committee Response
				The committee has intentionally used gender-neutral language to recognize that persons may identify as male, female, or nonbinary. The committee has attempted to replace gendered pronouns with gender-neutral nouns as needed.
11.	Trial Court Presiding Judges Advisory Committee (TCPJAC) & Court Executives Advisory Committee (CEAC) Joint Rules Subcommittee (JRS)	A	Revising the forms is necessary to comply with an ongoing statutory mandate, and the new form and pamphlet will give interested persons a much greater understanding of guardianships in juvenile court.	The committee appreciates the JRS's comments. No specific response is required.

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

W19-07

Juvenile Law: Guardianship Information (revise form JV-330; revise form JV-350 and renumber as JV-350-INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
1.	Alliance for Children’s Rights by Kristin Power Senior Policy Associate Los Angeles	AM	<p>The Alliance for Children’s Rights appreciates the opportunity to comment on proposed revisions to forms JV-330 Letters of Guardianship (Juvenile) and JV-350 Guardianship Pamphlet (Juvenile) to promote better understanding of the process of appointing a guardian in a juvenile court proceeding, the court’s role in overseeing the guardianship, and the duties of a guardian. We wholeheartedly agree that better-informed guardians will reduce the need for court intervention after appointment and further believe that better-informed guardians will result in improved support of the children and youth in their care.</p> <p>Our experience representing caregivers provides a breadth of information on the knowledge caregivers would find most useful in understanding the court processes and their duties. We offer these comments to further the intention to “fulfill the statutory mandate to use ‘language easily understood by a lay person not trained in law.’ (<i>Ibid.</i>)”</p> <p>JV-330 * We suggest changing “Case Name” in the caption block to “Guardianship of the Person of ...” to clarify that the guardianship is of the person (or the estate, if applicable).</p>	<p>The committee appreciates the Alliance’s comments. Please see below for responses to specific issues.</p> <p>The caption refers to the name and number of the proceeding filed in the juvenile court. Because the letters are issued and filed in the juvenile court proceeding, and the guardianship remains under juvenile court jurisdiction even if the underlying juvenile court proceeding is dismissed, the committee does not recommend changing the caption of the form. The committee has added language to the form to clarify the scope of the</p>

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	Commenter	Position	Comment	Committee Response
			<p>Recommend that form JV-350-INFO be provided to guardians in lieu of form GC-248. Some items on form GC-248 are not relevant to dependency court guardians and may cause confusion. For example, Page 2, item g. of form GC-248 discusses financial support options, such as TANF, but most dependency court guardians will receive Kin-GAP and are not eligible for TANF. There is also a guardianship of the estate section that is irrelevant if the dependency court does not have jurisdiction to grant guardianship of the estate. Finally, the last page on form GC-248 contains signature blocks which may give the guardian the false impression that they must sign and file the form with the court.</p> <p>An alternative would be to copy the relevant information from form GC-248 to form JV-350-INFO and have the guardian acknowledge receipt of JV-350 instead. Most of the duties of a guardian listed in GC-248 already mirror those listed under the Guardian's Rights and Responsibilities section of form JV-350-INFO.</p> <p>JV-350-INFO [Comments were submitted on the face of the circulated form. Comments that might not be understandable if reported verbatim are expanded with added text in brackets.]</p> <p>Recommend reordering the information [on the form] to provide greater clarity [by placing it in rough chronological order.]</p>	<p>appointment.</p> <p>The committee agrees with this suggestion and has revised its recommendation accordingly.</p> <p>The committee has chosen the first suggested alternative and does not therefore recommend this one.</p> <p>The committee agrees with this suggestion to some extent, but has not recommended reordering most questions on the form. For example, the committee has not recommended moving the first three questions to later in the form. The committee believes that the form will often be used by persons unfamiliar with the role and</p>

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	Commenter	Position	Comment	Committee Response
			<p>There are certain things that guardians have to get approval or consent to or to do - specifically residence. We question the use of the word “same” [in the answer to “What Is a Guardian?”]</p> <p>After [“Are resource families/foster parents the same as guardians?”] we recommend adding a question: “What is a resource family?” Resource Family Approval is the process through which caregivers (related and non-related) of children in foster care are approved and prepared to parent vulnerable children, whether temporarily or permanently. Resource family may be used interchangeably with foster parent.</p> <p>Recommend moving [“If the child cannot live safely at home, what happens?”] to become the first or second question.</p> <p>Recommend deleting [language in the first paragraph of question 5 implying that a relative must be approved as a resource family when they are identified as a potential placement.] The relative does not have to be approved as a resource family at the time that they are identified as a potential placement.</p> <p>Recommend [consistently using the term resource family when foster parent is used.] It</p>	<p>responsibilities of a guardian, including persons whose first contact with the idea will be a suggestion by a child’s attorney or social worker. Those persons will benefit from the placement of general information about guardianship at the beginning of the form where it is easy to find.</p> <p>The committee agrees with the suggestion and has removed the term “same” from its recommendation.</p> <p>The committee has chosen not to use “resource family” interchangeably with “foster parent.” It believes that usage would lead to confusion among caregivers. Foster parent is the colloquial term used to describe the caregiving relationship at issue. The committee has revised the form to emphasize the importance of asking the social worker about starting the resource family approval process as soon as possible.</p> <p>This question is currently the second question following the three introductory questions and the question about the beginning of a juvenile court case. The committee does not recommend moving it earlier in the form.</p> <p>The committee agrees and has modified the language to remove the implication that the caregiver must be approved before serving as an emergency placement while continuing to emphasize the importance of starting the resource family approval process as soon as possible.</p> <p>The committee agrees in part with the suggestion and has added a reference to “resource family”</p>

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			<p>may be confusing to sometimes use the term “foster parent” and other times use the term “resource family.”</p> <p>Recommend moving information [in question 18 about the differences between a guardian and a resource family/foster parent] earlier in the document with the other introductory questions.</p> <p>Recommend deleting this language [from page 4 under Financial Help: “Be sure to ask whether you qualify as a relative. The law treats more people as relatives than you might think!] 1) It incorrectly puts the onus on caregivers to ask the county to clarify relative status, and 2) There is no financial advantage to legal guardians to be classified as relatives under California law.</p> <p>Recommend adding language on page 4 to clarify the benefits and applicability of the KinGAP, ARC or Foster Care, and CalWORKS programs, including the rarity in which a child will not be eligible for KinGAP or Foster Care payments.</p> <p>Recommend adding language [on page 5] to make clear that KinGAP ineligibility is rare and that it is imperative for caseworkers and courts to collaborate to ensure applicable higher levels of funding are identified, as appropriate.</p> <p>Recommend deleting this sentence [from page</p>	<p>near the beginning of the form. The committee has not, however, added references to a resource family every time the form refers to a foster parent. The committee believes that the critical information—about the need for a foster parent to be approved as a resource family—is properly conveyed in the second paragraph of question five. Excessive use of the technical term might mislead persons seeking placement of a child into thinking they needed to go through multiple separate approval processes.</p> <p>The committee agrees with this suggestion and has moved the question about the differences between a guardian and a foster parent to follow the question about whether the two are the same.</p> <p>The committee agrees with the suggestion and has revised its recommendation accordingly.</p> <p>The committee agrees with this suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees and has modified its recommendation to add the language suggested on page 5 of the form.</p> <p>The committee agrees and has deleted the</p>

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			<p>5]: “However, if the child moves to another state, those payments will end. The other state might not offer the same payments.”</p> <p>We are unable to identify the statute that supports the conclusion that funding for a non-relative legal guardian terminates when the child moves out of state. See WIC 11401 and WIC 11405.</p> <p>Furthermore, a non-related legal guardian is entitled to receive state foster care funding until the youth turns 21, regardless of when the guardianship occurred, as long as the youth remains in the guardian’s care. The County may change the source of funding for the youth from KinGAP to AFDC to ensure continued eligibility for funding until the age of 21.</p> <p>In addition to the revisions noted on the attached, we further request that Judicial Council of California undertake a revision of the probate guardianship pamphlet (GC-205), last revised in 2001. Critical information regarding the differences between probate and dependency should be addressed and the probate guardianship pamphlet is an ideal vehicle for such information. We welcome the opportunity to participate in such an update and provided recommended edits for your consideration on the attached.</p>	<p>language as suggested.</p> <p>The committee agrees that an eligible youth is entitled to receive state foster care funding until the youth turns 21 as long as the youth remains in the guardian’s care. The committee has revised the form to reflect this entitlement.</p> <p>This suggestion is beyond the scope of both the proposal and this committee’s charge. The committee has forwarded the suggestion to the Probate and Mental Health Advisory Committee for its consideration.</p>
2.	Hon. Tari L. Cody Judge Superior Court of Ventura County	AM	I would re-word paragraph 25 on the proposed JV-350-INFO. As it reads it seems to require that a guardian “must” give his/her permission i.e., they have no choice. Instead I propose it be worded the same as it is stated in paragraph 26: The child cannot get a license without your written permission.	The committee agrees with the suggestion and has revised its recommendation to reflect
3.	Maria P. Diaz, Esq. Conflict Attorney	NI	It would be helpful to <u>add</u> a Note section to JV-350-INFO, section 16 as follows: A <i>Request to</i>	The committee agrees and has separated the advisement about using form JV-180 as a note on

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	Children’s Legal Services of San Diego		<i>Change a Court Order</i> (JV-180) must be filed with the juvenile court to change any court orders in the legal guardianship.	page 3 of the form.
4.	Executive Committee of the Family Law Section, California Lawyers Association by John Nieman, Dependency Counsel Saul Bercovitch, Director of Governmental Affairs	AM	<p>The Executive Committee of the Family Law Section of the California Lawyers Association (FLEXCOM) agrees in general with the proposed revisions to the two Judicial Council forms, but has some suggested revisions, as discussed below.</p> <p>JV-330</p> <p>1. The new form includes a reference to the Probate Code that is generally applicable to both guardianships <i>and conservatorships</i>. However, since JV-330 is exclusively related to guardianships made out of the Juvenile Court, we do not believe it should make a reference as it does in “1” on page 1 to Probate Code sections 2351-8. Instead it should reference only the applicable code sections: 2351, 2352, 2353, 2356, 2357, and 2358. This would make the form more accurate and simpler. Notably, were a nonlawyer to read the code, section 2351 talks about “guardian or conservator” and “ward or conservatee” and does not indicate that they are different entities, potentially inviting the person to mistakenly think the terms are merely interchangeable. We suggest that this same change be made to the fine reference print at the bottom of the first page on the right side of the form.</p> <p>2. The advisory box on page 2 initially and correctly refers to itself as “<i>Letters of Guardianship</i>” but then goes on to shorten this to “<i>Letters</i>”. We are concerned that a nonlawyer might think that “<i>Letters</i>” is something different. In addition, the advisory box, which is headed with “IMPORTANT NOTICE,” arguably has four different names: “<i>Letters of</i></p>	<p>The committee appreciates FLEXCOM’s comments. Please see below for responses to specific issues.</p> <p>The committee agrees and has modified its recommendation to indicate that appointment as guardian confers only the powers and duties in sections 2351(a) (care, custody, and control), 2352 (residence), and 2353 (medical care and treatment). The committee has decided not to refer to sections 2356, 2357, and 2358, which do not, by themselves, confer any powers or duties. Section 2356 sets limits on the forms of medical treatment a guardian may authorize under division 4 of the Probate Code. Sections 2357 and 2358 require further court order to grant additional powers. In a juvenile court guardianship, the guardian may file form JV-180 to request modification of the powers and duties ordered by the court on appointment.</p> <p>The committee agrees and has modified its recommendation accordingly.</p>

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		<p><i>Guardianship</i>"; "<i>Letters</i>"; "the form"; and "this form". We recommend that "<i>Letters of Guardianship</i>" replace "<i>Letters</i>" and "this form" replace the instance of "the form." Alternatively, there are places where "<i>Letters</i>" could as well be replaced with "this form" instead of "<i>Letters of Guardianship</i>," which is certainly clear and shorter than "<i>Letters of Guardianship</i>.". Ideally, as well, "<i>Letters of Guardianship</i>" should replace "<i>Letters</i>" in the CERTIFICATION section on page 2.</p> <p>JV-350-INFO Our comments on the numbered statements are set forth below.</p> <p><u>No. 5</u> Welfare and Institutions Code section 360(a) allows the Juvenile Court to place a child in a guardianship "in lieu of adjudging the child a dependent..." In light of that, we believe No. 5 should be modified to read as follows: "If the court cannot let a child go home, the social worker or probation officer will find a safe home where the child can live temporarily. They will try to find a relative who is approved as a resource family to be the child's foster parent <u>care for the child</u>. If they can't find an approved relative, they will look for an approved nonrelative to be the foster parent <u>care for the child</u>. Usually initial care providers become foster parents. Being a foster parent is one of the most common first steps to becoming a guardian.</p> <p>If you want to be a child's foster parent, tell the child's social worker or probation officer as soon as you can. Ask how you can get approved as a resource family."</p>	<p>The committee agrees generally with the suggestion and has modified its recommendation in response. See also the response to the comment by Alliance for Children's Rights, above.</p>

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			<p>We recognize that the last sentence in the first paragraph would makes part of No. 6 redundant but believe there is no harm in repeating that foster parents frequently become guardians.</p> <p><u>No. 8</u> We suggest the following modification:</p> <p>“Will the child be returned to the parent?”</p> <p>In most cases, the social worker or probation officer works with the family by giving them services so that the child can return to live at home. Sometimes the court decides the child cannot will not be able to return home safely. If that happens, the court will deny or stop services for the parent.”</p> <p>We understand that the difference between “cannot” and “will not be able to” may seem minor but believe there is a meaningful distinction in the context to No. 8. The word “cannot” speaks to an immediate circumstance, so if a court thought that a child cannot return home today, but could tomorrow, it probably would not deny or terminate services. In contrast, “will not be able to” speaks about the future, which is what the court is essentially saying when either a denial or termination of services is made.</p> <p><u>No. 9</u> There are only two possible permanent plans that are “intended to last until the child turns 18,” namely guardianship and adoption. We recommend that No. 9 make that clear, replacing the current “several” with “two.”</p>	<p>The committee agrees and has modified its recommendation accordingly.</p> <p>Welfare and Institutions Code section 366.26(b)(6) authorizes the court to order “that the child be permanently placed with a fit and willing relative, subject to the periodic review of the juvenile court under section 366.3.” Section 366.26(c)(4)(B)(i) further specifies the circumstances in which “the court shall order a permanent plan of placement with a fit and willing</p>

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			<p><u>No. 11</u> Paragraph B refers to a “report to the court.” The Note then goes on to say: “If the report does not recommend you as guardian, ask the social worker or probation officer if they will name you as a prospective successor guardian.”</p> <p>FLEXCOM is concerned that this language suggests that the person seeking to become a child’s guardian will have direct access to the content of the report to the court, notwithstanding Welfare and Institutions Code section 827. We therefore recommend that the Note be modified to read as follows: “If the report does not recommend you are <u>not recommended</u> as guardian, ask the social worker or probation officer if they will name you as a prospective successor guardian. Then you might be assessed and appointed if the first appointed guardian can no longer serve.”</p> <p><u>No. 13</u> As in proposed JV-330, this form shortens “<i>Letters of Guardianship</i>” to “Letters” without qualification. We recommend that <i>Letters of Guardianship</i> be written out each time or that “it” be used after the initial reference to <i>Letters of Guardianship</i>.</p> <p><u>No. 17</u> The last sentence in the “Inheritance.” section states: “An adopted child usually cannot inherit from a birth parent.” As stated in the Form, the language is potentially confusing and overly broad because it relates only to intestate succession. We recommend that the sentence be modified to read as follows: “An adopted child usually cannot inherit from a birth parent if the</p>	<p>relative.” The committee therefore does not recommend the suggested change.</p> <p>The committee agrees with the suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees and has modified its recommendation to replace “letters” with “this form” to avoid confusion.</p> <p>The committee recognizes that the distinction between an inheritance and a devise, though still material to issues in the law of estates, is no longer widely understood among members of the public and the legal profession, and has therefore modified its recommendation to indicate more clearly that that an adopted child usually has <i>no right</i> to inherit from a birth parent, but may</p>

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			<p>birth parent dies without a will or trust naming the adopted child.”</p> <p><u>No. 18</u> We recommend that the second sentence under “Duties” be modified to read as follows, as the categorical statement in the Form is overly broad: “A guardian has more rights and duties to the child, but receives may receive fewer services and less personal support.”</p> <p><u>No. 20</u> We recommend modifying the first sentence, to read as follows: “You can allow (<i>consent to</i>) to most medical or dental treatment for the child.”</p>	<p>receive a gift on the birth parent’s death if named in the birth parent’s will or testamentary trust.</p> <p>The committee agrees with the suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the suggestion and has modified its recommendation accordingly.</p>
5.	Los Angeles Dependency Lawyers, Inc. by Dennis Smeal, Chair, Legislation Committee	AM	<p>Los Angeles Dependency Lawyers, Inc. submits the following changes to the proposed JV-350.</p> <p>Section 5 – One of the biggest barriers to relative placement is the relative who thinks they can wait and see if the parents get their children back on their own, thinking there is plenty of time. We suggest “as soon as you can” be changed to “immediately” and that an additional sentence be added that “Waiting too long can prevent children from ever being placed with you.”</p> <p>Section 9 – The current wording does not account for several common situations such as those contemplated by WIC §366.26(c)(1)(A), 366.26(c)(1)(B)(ii) etc. We suggest adding “or desirable” after “possible” to clarify this.</p> <p>Section 10 – Cases where relatives have delayed beginning the process to become legal guardians can be heartbreaking. The message that time is</p>	<p>The committee appreciates LADL’s comments. See below for responses to specific issues.</p> <p>The committee agrees with the suggestion and has modified its recommendation to reflect the urgency of See also the responses to comments on item 5 by the Alliance for Children’s Rights and FLEXCOM, above.</p> <p>The committee understands that “possible” could be misunderstood as applying both factually and legally. The committee has therefore modified its recommendation to use the term “authorized” to describe the range of statutory permanent plans. No implication is intended that every permanent plan is legally or factually possible in every set of circumstances.</p> <p>The committee agrees with the suggestion and has modified its recommendation to convey the suggested message.</p>

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			<p>of the essence cannot be overemphasized. We suggest changing “Tell the social worker or probation officer;” to “Immediately tell the social worker or probation officer;” and “Ask in the courtroom at a hearing” to “Ask in the courtroom at the first opportunity.”</p> <p>Section 10 – The current wording misstates WIC §388 and case law based thereon. The standard for modification of Juvenile Court judgments and orders is “changed circumstances” and we ask that “Something really important has changed;” be amended to read “Something has changed;” or “Circumstances have changed;” This comports with section 16 which accurately states the requirements for a 388.</p> <p>Section 11 – A common barrier to placement arises due to friends or relatives in the home. A minor amendment would give readers of this pamphlet notice of this potentially troubling area. We suggest changing 11A to read “The social worker or probation officer will interview you and visit your home to make sure you, your home and all who live there are considered safe for the child.”</p> <p>Section 17 – The paragraph that begins with “Important!” presents the same difficulty as the similar discussion in Section 9, addressed above. We suggest these three lines be omitted. If they are retained, we propose that WIC §366.26 would be more accurately stated if these lines were amended to read “In some circumstances, if guardianship and adoption are both possible, the law prefers adoption because it is more stable.”</p>	<p>The committee agrees and has modified its recommendation to accommodate this concern.</p> <p>The committee agrees and has modified its recommendation reflect this concern.</p> <p>The committee agrees that restatement of this language is not needed and has removed it.</p>
6.	Orange County Children and Family Services	N	Orange County would like to offer the following comments regarding the Judicial Council	The committee appreciates the comments from Orange County CFS. Please see below for

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Committer	Position	Comment	Committee Response
by Chuck Griffin, Policy Analyst		<p>Invitation to Comment W19-07, Juvenile Law, Guardianship Information.</p> <p>Use of the Probate Code In a response by the Judicial Council to prior comments, WIC § 366.4 was stated as the basis for using the Probate Code. WIC § 366.4 Subsection (a) states:</p> <p>“(a) Any minor for whom a guardianship has been established resulting from the selection or implementation of a permanency plan pursuant to Section 366.26, or for whom a related guardianship has been established pursuant to Section 360, or, on and after the date that the director executes a declaration pursuant to Section 11217, a nonminor who is receiving Kin-GAP payments pursuant to Section 11363 or 11386, or, on or after January 1, 2012, a nonminor former dependent child of the juvenile court who is receiving AFDC-FC benefits pursuant to Section 11405, is within the jurisdiction of the juvenile court.</p> <p>For those minors, Part 2 (commencing with Section 1500) of Division 4 of the Probate Code, relating to guardianship, shall not apply.</p> <p>If no specific provision of this code or the California Rules of Court is applicable, the provisions applicable to the administration of estates under Part 4 (commencing with Section 2100) of Division 4 of the Probate Code govern so far as they are applicable to like situations.”</p> <p>The first paragraph references Kin-GAP and Extended Kin-GAP Guardianships. (underline is my emphasis) The second paragraph states that the Probate Code, commencing with Section 1500 does not apply.</p>	<p>responses to specific issues.</p> <p>Welfare and Institutions Code section 366.4 exempts minor children in juvenile court guardianships from the application of part 2—that is, sections 1500–1611—of division 4 of the Probate Code. This exemption is appropriate because those sections of the Probate Code govern the establishment and termination of probate guardianships. The Welfare and Institutions Code provides separate procedures for establishing and terminating guardianships in juvenile court. Those procedures are primarily set forth in sections 360, 366.26, 366.3, 366.4, and 728. Yet the need to rely on the Probate Code for certain aspects of the operation of the guardianship remains. The Welfare and Institutions Code does not define a guardianships, specify a guardian’s powers and duties, or provide a detailed mechanism for the court to administer a guardianship. Reliance on part 4 of division 4 of the Probate Code, as invited by Welfare and Institutions Code section 366.4, fills those gaps without requiring restatement. For example, section 366.26(b)(1) & (3) and (d) require that “letters of guardianship” issue. The Welfare and Institutions Code does not otherwise discuss letters of guardianship. The description of those letters, both their form and function, is found in section 2310 and 2311 of the Probate Code.</p>

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			<p>The third paragraph states that the Probate Code only applies as it relates to the administration of estates, so far as they are applicable. My understanding is that this might be used in situations where the minor has a property interest.</p> <p>Subsection (b) states: (b) Nonrelated legal guardians of the person of a guardianship pursuant to Section 360 or 366.26 shall be exempt from the provisions of Sections 2850 and 2851 of the Probate Code.</p> <p>Again, the Probate Code is excluded.</p> <p>Changes to JV-330 Letters of Guardianship Item 1. As stated previously, I don't believe that the Probate Code is appropriate to Juvenile Court (Kin-GAP and Nonrelated Legal Guardianship) Guardianships</p> <p>Item 3. Providing the guardian with this Duties of Guardian (form GC-248) would be very confusing. See review of form below.</p> <p>Notice Box. It states that the guardian must file a JV-180 if planning to move out of state [which] is incorrect if it's a Kin-GAP guardianship. They may move without notification to the Court.</p>	<p>Sections 2850 and 2851 of the Probate Code which established a statewide registry of professional fiduciaries, were repealed by AB 1550 (Stats. 2006, ch. 491). These sections never applied to private nonprofessional guardians and no longer apply to anyone. The exemption of guardians from their application does not seem to mean anything.</p> <p>See responses above. The committee believes that the appropriate question is not whether the Probate Code applies to juvenile court guardianships, but rather which provisions apply and how they apply. In this respect, the commenter makes valuable points.</p> <p>The committee agrees that GC-248 includes too much information that does not apply to juvenile court guardianships too be useful. The committee instead recommends requiring that every appointed guardian be given a copy of form JV-350-INFO, which specifies the rights and duties of a guardian appointed by the juvenile court.</p> <p>Although the guardian may not need to notify the court of a change to the child's residence to maintain eligibility for funding, the guardian must notify the court (in-state) or request court approval (out-of-state) to allow the court to oversee the guardianship and monitor the safety and welfare of the child.</p>

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			<p>Duties of Guardian (form GC-248) This introductory section tells the prospective guardian they are an “officer of the court”. This will have little meaning to them. It also states that they will receive Guardianship Pamphlet (for Guardianships of Children in Probate Court) (Form GC-205) which is incorrect since they will receive Guardianship Pamphlet JV-350-INFO which is specific to Juvenile Court.</p> <p>1. GUARDIANSHIP OF THE PERSON d. Residence The first paragraph indicates that the child is not required to always live with the guardian who is allowed to make other arrangements if in the best interest of the child. Both Kin-GAP and AFDC funding require the child to live in the approved home of the guardian. The only exception would be if a child was able to attend college while still a minor in which case they would be allowed to live in a dorm. The second paragraph indicates that the guardian cannot leave the state without notifying Court and then if they do receive permission, they must re-establish the guardianship in the other state. This is not true for Kin-GAP which allows the guardian to relocate within the U.S.</p> <p>f. Financial Support. The statement that the guardian may take action to obtain child support is incorrect. At the time that the guardianship is created, the assigned social worker must determine if it’s appropriate to make a referral to Child Support Services or if action should be deferred. The information regarding the availability of funding isn’t very accurate as the primary sources of funds are AFDC and Kin-GAP. Only a small number of cases remain TANF There are not really Indian Child Welfare benefits per</p>	<p>Given the committee’s decision to replace the requirement to provide form GC-248 with provision of form JV-350-INFO, no further response to comments about the application of form GC-248 to juvenile court guardianships is required.</p>

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			<p>se though tribal membership may provide some benefit to the child.</p> <p>h. Visitation Details regarding proposed visitation are provided on JV-400 m. Court visitors and status reports.</p> <p>Does not apply</p> <p>2. GUARDIANSHIP OF THE ESTATE Doesn't apply</p> <p>3. OTHER GENERAL INFORMATION</p> <p>b. Legal Documents. My understanding is that we do not use Order Appointing Guardian of the Minor (GC-240). Other comments regarding use of Duties of Guardian (form GC-248). Presently, the process used to create a Kin-GAP guardianship utilizes Agency-Relative Guardianship Disclosure (SOC 369) and Guardianship Pamphlet (JV-350). This process was developed by the state. In tandem, these documents provide an accurate description of the roles, responsibilities, financial benefits and other miscellaneous issues involving a Kin-GAP guardianship. They are tailored to Juvenile Dependency and therefore less confusing than the GC-248. For Non-Related Legal Guardianships, the prospective guardian is provided the Guardianship Pamphlet (JV-350). Funding in the form of AFDC continues at its dependency level. In contrast to Kin-GAP where contact with the agency ceases, AFDC requires that we have face to face contact with the legal guardian every six months. At this point of contact, questions regarding responsibilities and services available can be addressed. Based on the above, it would be problematic to just hand the Duties of Guardian (form GC-248) to the guardian without some follow-up. Having the social worker engage in this task places</p>	

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		<p>another burden on the worker plus training regarding how to interpret the form would be required.</p> <p>JV-350 INFO Comments Page [2], # 11, B It states that the guardian should ask the social worker if they will name them as a successor guardian. The social worker’s permission isn’t required. Presently, the prospective guardian can indicate a successor guardian when signing the Kinship Guardianship Assistance Payment (Kin-GAP) Program Agreement Amendment (SOC 369A) which is then submitted to Court. Successor Guardian (Fed-GAP) and Alternate/Co-Guardian are described in WIC §§ 11386(i) and 11363(e), respectively.</p> <p>Page 3, #18, Court Supervision Though technically not Court Supervision, for Nonrelated legal guardianships, the social worker is required to make a visit to the guardian and child every six months in addition to updating a voluntary case plan. This occurs post termination and is a requirement of AFDC funding (WIC § 11405)</p> <p>Page 4, #19 The requirement of notifying Court when the guardian moves out of state is not applicable to Kin-GAP guardianships (WIC § 11364 & 11387)</p>	<p>The committee believes that the advice in item 11B is an accurate statement of the law. SB 438 (Stats. 2017, ch. 307) amended section 366.26(d) to provide that the assessment of a prospective guardian prepared, for example, under section 361.5(g), “may also include the naming of a prospective successor guardian, if one is identified. In the event of the incapacity or death of the appointed guardian, the named successor guardian may be assessed and appointed pursuant to this section.” The social worker or probation officer (under section 728(d), which incorporates section 366.26) is responsible for preparing the assessment and may name a successor guardian therein. The committee reads sections 11363(e) and 11386(i) to authorize naming an alternate or successor guardian if one has not already been named in the assessment, but not to authorize the prospective or appointed guardian unilaterally to name one.</p> <p>The committee understands that regular case worker visits are a condition of eligibility for receipt of AFDC funding. They are not, however, required as a condition of guardianship unless ordered by the court.</p> <p>The committee understands that the guardian may not need to notify the court of a change of the youth’s residence to maintain eligibility for funding. The requirement is intended to allow the</p>

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			<p>Page 5 Kin-GAP Program It's incorrect to state that you can qualify for Kin-GAP payments if the juvenile case is closed by signing a written agreement. This ignores the requirement that the child be placed with the relative in an approved home for six consecutive months prior to the establishment of the guardianship at a WIC § 366.26 or 360 hearing (WIC § 11363, 11386)</p> <p>Page 5 Approved Relative Caregiver (ARC) This is true since Kin-GAP payments don't begin until dependency is terminated. I'm not sure this should be considered a benefit since the goal is to terminate dependency upon creation of the guardianship. The necessity for ARC or Foster Care payments reflects that continued efforts are required to finalize the permanent plan. The review of these efforts occurs at the WIC § 366.3 hearing with the hope that dependency can now be terminated.</p> <p>Page 5 If the child is NOT Related to YOU</p> <p>Foster Care Payments As stated previously, AFDC funding requires that a social worker visit the guardian and child every six months (WIC§ 11405). Reassessment of the rate occurs every twelve months. (WIC §11401.5)</p> <p>Page 5 If the child keeps living with you after turning 18</p> <p>The extension of benefits should read: Kin-GAP payments can continue after age 18 if the initial Kin-GAP payment began after age 16. (WIC §§ 11363, 11386) For nonrelated</p>	<p>court to oversee the guardianship and monitor the safety and welfare of the child.</p> <p>The committee agrees that the statement on the form was incomplete and has added the six-month residency requirement.</p> <p>The committee agrees with the comment. No further response is required.</p> <p>The committee agrees with the comment. No further response is required.</p> <p>The committee agrees that the language as circulated for comment is too vague, and has added references to some of the basic</p>

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			<p>guardians, payments may continue if the youth enters into a mutual agreement with the agency on their 18th birthday. (WIC § 11405)</p> <p>Comments regarding the JV-350 INFO</p> <p>We presently use the JV-350, and soon its successor JC-350 INFO, to provide the caregiver information regarding the permanency option of guardianship. The guardian also receives information that compares the various permanency options in terms of rights, responsibilities and financial benefits as required by statute (WIC §§ 11364, 11367). Internally, policies specific to the type of guardianship are used to guide social worker activity.</p>	<p>requirements for continued funding eligibility.</p> <p>The committee appreciates this comment. No further response is required.</p>
7.	Orange County Bar Association by Deirdre Kelly, President Newport Beach	AM	Include the words “and <input type="checkbox"/> estate” in item 1 of JV-330 so that “estate” may be included (i.e., checked off) where applicable.	The committee does not recommend the suggested change. Under most circumstances, a guardian of the estate is not needed. If the child has or is likely to acquire—e.g., through inheritance, devise, or judgment—property, the social worker may recommend appointment of a guardian of the estate. In the even less likely event that the court appoints the caregiver as guardian of both the child’s person and estate, the court can indicate the grant of estate powers in item 2.
8.	Karen Prosek, Esq., MSW, CWLS Firm 2 Supervising Attorney Children’s Legal Services of San Diego	NI	It would be helpful to <u>add</u> the following information regarding Extended Foster Care funding to the JV-350-INFO, page 5 : Relative guardianships established prior to age 16 do NOT qualify for funding past the youth’s 18th birthday even if they meet Extended Foster Care criteria. However, those relative guardianships established AFTER age 16, can receive funding to continue to support the youth between ages 18 through 21 as long as the youth continues to meet the Extended Foster Care criteria.	The committee has revised the discussion of funding eligibility beyond a youth’s 18th birthday to address these issues.
9.	Superior Court of Los Angeles County		Form JV-350 Info On page 1 of the form under the section "The	The committee has added language to the fourth

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			<p>form explains:" an additional bullet should be added referencing eligibility for financial help and other benefits. This information is frequently requested.</p> <p>Form JV-330 Letters of Guardianship Item 3 This form now refers to form GC-248 Duties of Guardian. Although not specifically addressed by this proposal, it should be noted that form GC-248 references probate guardianship duties but makes no mention of the juvenile legal guardianship. GC-248 should be updated to include references for juvenile guardianship as well as probate.</p> <p><i>Does the proposal appropriately address the stated purpose?</i> Yes, the proposal addresses the stated purpose.</p> <p><i>What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.</i> Minimal operational impact including training and maintenance of forms.</p>	<p>bullet to refer to eligibility for financial help.</p> <p>The committee has revised its recommendation to require provision of form JV-350-INFO to the appointed guardian instead of form GC-248.</p> <p>No further response required.</p> <p>No further response required.</p>
10.	Superior Court of Orange County	AM	<p>Letters of Guardianship (Juvenile) - JV-330 Since one of the stated purposes for revising the form was to use language that is easily understood by a person not trained in law, the following recommendations are being made:</p> <ul style="list-style-type: none"> ▪ On page 1, section 3, update the affirmation to read, "I promise that I will perform the duties of a guardian according to the law." Instead of, "I solemnly affirm that I will perform the duties of a guardian according 	<p>The committee agrees that simpler language would be appropriate. Consistent with Code of Civil Procedure, section 2015.6, the committee has inserted "promise" in parentheses following the mandatory language "I solemnly affirm."</p>

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			<p>to the law.” This language is consistent with recent revisions to other forms such as the <i>TR-320 – Can’t Afford to Pay Fine: Traffic and Other Infractions</i>.</p> <ul style="list-style-type: none"> ▪ Update the “Signature of Appointee” to “Signature of Appointed Guardian”. <p><i>Becoming a Child’s Guardian in Juvenile Court</i></p> <p>No comments.</p> <p><i>Does the proposal appropriately address the stated purpose?</i> Yes</p> <p><i>Would the proposal provide cost savings?</i> No</p> <p><i>What would implementation requirements be for courts?</i> The changes would be informational for staff and judges. Any pre-printed forms would need to be replaced. No changes would be needed to the case management system.</p> <p><i>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i> Yes</p>	<p>The committee agrees with the suggestion and has modified its recommendation accordingly.</p> <p>No response required.</p> <p>No response required.</p> <p>No response required.</p> <p>No response required.</p> <p>No response required.</p>
11.	Superior Court of San Diego County by Mike Roddy, Court Executive Officer	AM	<p>FORM JV-330 Page 1, item 3: ... I have received a copy of <i>Duties of Guardian (Probate)</i> (form GC-248).</p> <p>FORM JV-350-INFO Page 3, item 15: • The child is emancipated (or freed from your</p>	<p>The committee has revised its recommendation to require provision of form JV-350-INFO instead of form GC-248 to the appointed guardian.</p> <p>The committee agrees with the suggestion and has</p>

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			<p>control) by getting married, entering on active military duty, or getting a court order. (See Form JV-330, p. 2 [“... the child is emancipated by getting married, entering active military duty, or receiving a declaration of emancipation; or the court orders the guardianship to end”].)</p> <p>The court can also order a guardianship to end before the child turns 18, but only if it is in the child’s best interests—even if the <u>a</u> parent asks for custody and their home is safe.</p> <p>Page 3, item 16: The judge will only replace you <u>only</u> if something has changed and it is in the child’s best interests.</p> <p>Page 3, item 17: A court can only end an adoption <u>only</u> by terminating parental rights in a new juvenile or family law case.</p> <p>Page 4, first paragraph and heading: GUARDIAN’S RIGHTS AND RESPONSIBILITIES DUTIES (See Form GC-248, “DUTIES OF GUARDIAN.”) Subject to the court’s orders, a court-appointed guardian has the same rights to legal and physical custody of the child as a parent does. In general, you must care for and control the child the same way a parent would. Specifically, that means you must: (Items 19–29 include some rights along with the duties, i.e., “you may ...” or “you can.” See items 21-24, 28.)</p> <p>Page 4, item 20: You can allow (<i>consent to</i>) to most medical or dental treatment for the child.</p>	<p>modified its recommendation accordingly.</p> <p>The committee agrees with the suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the suggestion and has modified its recommendation accordingly.</p>

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			<p>Page 4, item 24: Once the child enters on active duty, the guardianship will end.</p> <p>Page 4, item 25: (See responsibilities <u>duties</u> listed below <u>in 26.</u>)</p> <p>Page 4, item 26: If you're concerned about this responsibility <u>duty</u>, you should talk to a lawyer.</p> <p>Page 4, item 27: Willful misconduct. In most cases, a guardian could <u>can</u> be made to pay only for harm to another person caused by the child's willful misconduct. There is usually a limit about how much you could be made <u>may have</u> to pay. Negligent conduct. You could <u>can</u> be made to pay for harm caused by the child's negligent conduct. If you're concerned about this responsibility <u>duty</u>, you should talk to a lawyer.</p> <p>Page 5, for consistency between subheadings: <i>If the Child Is Related to You</i></p> <p><i>If the Child Is NOT Related to You</i></p> <p><i>If the Child Keeps Living with You After Turning 18</i></p> <p>Page 5, query: What "department"? Should this specify the California Department of Social Services or some other department? If the child keeps living with you after turning 18 KinGAP or extended foster care payments can continue after the child turns 18 if the young adult continues to live with you and is otherwise eligible, and you both sign agreements with the department.</p>	<p>The committee agrees with the suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the suggestion and has modified its recommendation accordingly.</p> <p>The committee has addressed the inconsistency by placing the headings in sentence case.</p> <p>The committee has addressed the query by deleting "the department" from page 5.</p>