



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 27–28, 2016

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Title	Agenda Item Type
Juvenile Law: Dependency Hearings	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Amend Cal. Rules of Court, rules 5.534, 5.668, 5.670, 5.674, 5.682, 5.684, 5.690, 5.695, 5.706, 5.708, 5.710, 5.715, 5.720, 5.722, 5.725, 5.726, 5.727, 5.728, 5.730, 5.735, 5.740; repeal rules 5.680, 5.686, 5.688; revise form JV-421	January 1, 2017
	Date of Report
	September 15, 2016
	Contact
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Recommended by	<a href="mailto:tracy.kenny@jud.ca.gov">tracy.kenny@jud.ca.gov</a>
Family and Juvenile Law Advisory Committee	Kerry Doyle, 415-865-8791
Hon. Jerilyn L. Borack, Cochair	<a href="mailto:kerry.doyle@jud.ca.gov">kerry.doyle@jud.ca.gov</a>
Hon. Mark A. Juhas, Cochair	

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### Executive Summary

The Family and Juvenile Law Advisory Committee recommends amending the rules in title 5 of the California Rules of Court that set forth the procedures to be followed during dependency court hearings, from the initiation of the case through each of the status review hearings, to delete unnecessary repetitions of statutory text or replace them with references to the relevant code sections. These amendments will enhance the brevity and accuracy of the rules while also consolidating some shorter rules where appropriate and reduce the frequency with which the rules need to be amended to reflect changes in the statutory text. In addition, proposed amendments clarify and update provisions in the rules concerning case plan requirements, relative placement, notice of subsequent dependency guardianship proceedings, and the legal distinctions between admitting petition allegations and submitting on the facts set forth in the petition.

## **Recommendation**

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2017, amend or repeal the following rules of the California Rules of Court (all statutory references below are to the Welfare and Institutions Code):

1. Amend rule 5.534 to delete subdivisions (a), (b), (c), (d), (o), and (p) that restate provisions of sections 349, 350, and 365;
2. Amend rule 5.668 to clarify subdivision (a) and delete language from subdivision (b) that restates provisions of sections 316.2;
3. Amend rule 5.670 to delete subdivisions (b), (c), (d), and (f) that restate provisions of sections 311, 313, 309(b), 315, and 334, and include a reference to section 309(b) in former subdivision (e);
4. Amend rule 5.674 to delete subdivision (c) that restates section 319 and substitute a reference to this deleted subdivision with a reference to section 319, and add provisions from repealed rule 5.680 concerning the procedures for detention hearings;
5. Amend rule 5.682 to delete subdivision (a) that restates section 353, delete the reference to rule 5.686, which is recommended to be repealed, delete provisions in subdivision (b) that restate provisions of section 353, and revise subdivisions (e) and (f) to clarify the differences between a parent or guardian admitting or not contesting the jurisdictional allegations, as distinguished from submitting the jurisdictional determination to the court based upon the report of the social worker;
6. Amend rule 5.684 to remove restatement of statutory text from subdivisions (c) and (d) concerning testimony of the social worker and hearsay exceptions and replace with a reference to section 355(c), and add provisions on the continuance pending a disposition hearing from repealed rule 5.686 to subdivision (f);
7. Amend rule 5.690 to update case plan finding requirements to reflect recent statutory changes, and include a provision concerning sibling placement;
8. Amend rule 5.695 to delete subdivision (b) that repeats provisions of section 360 and clarify and add clerk requirements to subdivision (a), delete specific required removal findings from subdivision (d) and replace with a reference to subdivision (c) of section 361, delete extensive text sections drawn from section 361.5 contained in subdivision (h) of the rule and replace with appropriate code references, and delete subdivision (j) that restates timing for status reviews contained in various sections, and subdivision (k) that restates section 367 timing provisions;

9. Amend rule 5.706 to delete subdivisions (a), (c), and (e) that restate provisions of section 364;
10. Amend rule 5.708 to delete all or part of subdivisions (a), (d), (e), (h), (i), (m), and (n) that restate provisions of sections 366, 366.21, 366.22, and 366.25, and incorporate recently enacted case plan requirements for older youth into the required determinations of the court concerning the case plan;
11. Amend rule 5.710 to delete all or part of subdivisions (a), (b), and (d), and redraft subdivision (c) to remove restated language from sections 364, 366, and 366.21;
12. Amend rule 5.715 to delete language from subdivisions (a) and (b) that restates sections 293 and 366.21;
13. Amend rule 5.720 to delete subdivision (a) and language in subdivision (b) that restate provisions of sections 293 and 366.22;
14. Amend rule 5.722 to delete subdivision (a) and language in subdivision (b) that restate provisions of section 366.25;
15. Amend rule 5.725 to delete language from subdivisions (a), (d), and (e) that restates language that is duplicative of section 366.26, and add a missing reference to section 727.31 to subdivision (a);
16. Amend rule 5.726 to redraft subdivisions (b), (c), and (e) to delete restatements of section 366.26(n), to change a reference to the rule to a reference to section 366.26(n)(1), and to clarify the existing procedures in the rule;
17. Amend rule 5.727 to replace references to rule 5.726 in subdivisions (a) and (b) with references to section 366.26(n)(1), and clarify the procedures in the rule;
18. Amend rule 5.728 to substitute references to rule 5.726 in subdivisions (a) and (b) with references to section 366.26(n)(1), and clarify the procedures and notice requirements in the rule;
19. Amend rule 5.730 to add code references to the title of the rule;
20. Amend rule 5.735 to delete subdivision (c) that restates section 366.26(d), update provisions on visitation in subdivision (d) to be consistent with current law, and correct an erroneous rule citation in subdivision (e);
21. Amend rule 5.740 to delete language from subdivision (b) that restates provisions of section 366.3, clarify that notice of a petition to terminate, modify, or appoint a successor guardian

shall be accomplished by the court, and not the petitioner, and include required findings concerning identifying relatives who may present placement options;

22. Repeal rule 5.680 and move its key provisions into rule 5.674;
23. Repeal rule 5.686 and add its substance to rule 5.684;
24. Repeal rule 5.688 as it simply restates section 360(b);
25. Revise *Dispositional Attachment: Removal From Custodial Parent—Placement With Nonparent* (form JV-421) to add recently enacted statutory grounds for bypassing reunification services at item 20a, conform item 32 to recent statutory changes on case plan requirements, correct legal inaccuracies concerning the date a permanency hearing must be set in item 33a, and to reflect new Judicial Council form names in items 27b and 35d.

The text of the amended or repealed rules and the revised form are attached at pages 10–96.

### **Previous Council Action**

The Judicial Council adopted rules 5.686, 5.688, 5.710, 5.715, and 5.720 effective January 1, 1990, as rules 1451, 1452, 1460, 1461, and 1462 respectively. Rules 5.534, 5.682, 5.684, 5.690, 5.695, 5.725, 5.735, and 5.740 were adopted effective January 1, 1991, as rules 1412, 1449, 1450, 1455, 1456, 1463, 1464, and 1465 respectively. Rules 5.668, 5.670, 5.674, and 5.680 were adopted effective January 1, 1998, as rules 1441, 1442, 1444, and 1447 respectively. Rules 5.726, 5.727, and 5.728 were adopted effective July 1, 2006, as rules 1463.1, 1463.3, and 1463.5 respectively. All of these rules were renumbered effective January 1, 2007. Rules 5.706, 5.708, and 5.722 were adopted effective January 1, 2010. Many of these rules have been amended numerous times, frequently to reflect amendments in the statutory text that they restate.

The Judicial Council approved optional form JV-421 effective January 1, 2006, as part of a large package of optional forms designed to assist the courts in documenting required findings and orders. It was most recently revised effective January 1, 2014, to clarify references and numbering within the form.

### **Rationale for Recommendation**

Many of the rules of court concerning juvenile dependency court hearings were adopted in the early 1990s at a time when access to statutory materials via electronic devices and online resources was far less available to judicial officers and the public than at present. To ensure that juvenile courts and the public had comprehensive information about the requirements in these cases, the original drafters of the rules paraphrased or directly included extensive sections of the relevant underlying statutes in the rules. Since that time, the statutes have become longer and more complicated, and the rules have been repeatedly amended to include the amended statutory provisions. The rule amendments frequently lag the underlying statutory amendments by a year

due to the time needed for the Judicial Council rule-making process. At the same time, the growth of online legal resources such as the California Legislative Information website allows any judicial officer or member of the public to access up-to-date statutory materials easily at no cost. This major change in the information infrastructure for juvenile courts warrants a reexamination of the roles of the rules of court in these proceedings. This proposal was spurred by recent legislation<sup>1</sup> that would have required three different proposals amending multiple rules of court to include minor statutory expansions of existing provisions, under the council's past practices. Instead, the legislative changes will be addressed by rule amendments that include statutory references rather than a paraphrase of the full statutory text or by deleting those provisions of the rule that restate the statutory text.

#### **Rule amendments to delete unnecessary statutory text**

This proposal would amend numerous juvenile dependency proceedings rules to delete unnecessary statutory text or, when necessary, replace that text with appropriate references to the underlying code sections. These changes would streamline the rules and reduce the frequency with which the rules need to be amended to reflect changes in the statutory text. Notably, legislation was enacted in the current legislative session that would have required rule changes under the current text of the rules, but would not require any rule changes if this proposal is approved.<sup>2</sup>

#### **Clarifying legal distinctions between admission and submitting on petition at jurisdiction hearing**

Rule 5.682, which concerns jurisdiction hearings, currently treats an admission or noncontest of jurisdictional allegations as equivalent to a parent or guardian entering a submission to the facts of the report of the social worker in support of the petition allegations. This blurring of the concepts implies that the court would be required to find that jurisdiction was established in all submission cases, even if the court found that the report did not support the petition allegations. To eliminate this blurring of the concepts, the committee recommends amending rule 5.682 to clarify that when a party submits to the report of the social worker, the court is still required to find that the petition allegations are true as alleged—rather than treating the submission as a waiver of any further jurisdictional hearing.

#### **Updating and streamlining case plan finding provisions**

There are many requirements placed on child welfare agencies when developing case plans for children and families in dependency proceedings, which are set forth in section 16501.1. Rule 5.708, which sets forth the general provisions that apply in dependency proceedings, sets forth a set of specific findings that the court is required to make to ensure that the agency has fulfilled its obligation. Recent amendments to section 16501.1 require that these findings be expanded. Consistent with the efforts to generally streamline the rules, the committee proposes including

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<sup>1</sup> Assem. Bill 217 (Maienschein); Stats. 2015, ch. 36; Sen. Bill 68 (Liu); Stats. 2015, ch. 284; and Sen. Bill 794 (Human Services); Stats. 2015, ch. 425.

<sup>2</sup> Assem. Bill 1702 (Stone); Stats. 2016, ch. 324.

those additional case plan findings in rule 5.708(e) by requiring the court to find that the case plan was created in compliance with section 16501.1(g), which contains the recently enacted additional requirements. For consistency, the committee also proposes amending the rule provisions concerning case plans in rules 5.725 and 5.740 to delete specific findings and instead require the court to make the relevant findings and determinations from rule 5.708.

### **Relative placement**

Legislation enacted last year<sup>3</sup> amended Family Code section 7950 to require the court to make a finding that the county child welfare agency has made diligent efforts to locate an appropriate relative, and that each relative whose name has been submitted to the agency or entity as a possible caregiver has been evaluated as an appropriate placement resource:

- At any permanency hearing in which the court terminates reunification services; or
- At any postpermanency hearing for a child not placed for adoption.

Before this amendment, the court was required to make this finding only before a child was placed in long-term foster care. Because this is such an important change in the law to help ensure both relative placement and permanency for children, and because it is in a code not often reviewed by juvenile court judges and attorneys, the committee proposes adding these new requirements to the rules governing permanency and postpermanency hearings.<sup>4</sup>

### **Clarify responsibility for service of a petition to terminate or modify dependency guardianship**

The current text of rule 5.740(c)(2), which sets forth the procedures to be followed when a petition is filed to terminate, modify, or appoint a successor guardian for a juvenile court guardianship, expressly requires the petitioner to serve notice of the hearing on the other parties. However, the rule also provides that these proceedings shall be subject to the procedures in rule 5.570, which directs the clerk of the court to cause notice to be served on the parties. This requirement is in keeping with section 297(c), which governs notice for supplemental petitions in dependency cases and also provides that the clerk must arrange for service when a hearing is set on the petition. Given this inconsistency between the two provisions, the committee opted to clarify the rule to require the clerk to cause notice to be served rather than the petitioner. The committee was concerned that the petitioner in these matters would often be the guardian who would not be well equipped or informed to accomplish this service, whereas the court regularly provides notice of hearings in analogous proceedings and has the information on who needs to be served and the best means of accomplishing that service.

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<sup>3</sup> Sen. Bill 794 (Human Services); Stats. 2015, ch. 425.

<sup>4</sup> Cal. Rules of Court, rules 5.715, 5.720, 5.722, 5.740.

### **Update and clarify *Dispositional Attachment: Removal from Custodial Parent—Placement With Nonparent* (form JV-421)**

Form JV-421 currently misstates the law. Item 33a provides the option for the court to record that it has informed all parties that, for a child under the age of three, failure to participate and make substantive progress in court-ordered treatment programs may result in the termination of reunification services at the hearing scheduled within six months from the date the child entered foster care under section 366.21(e). This language, however, does not track the requirement in section 366.21(e) that the hearing should be scheduled on a date within six months of the date of the dispositional hearing, but no later than 12 months from the date the child entered foster care, as defined by section 361.49, whichever occurs earlier. The form is therefore legally inaccurate, and the committee proposes amending it to accurately reflect the law.

The committee also proposes amending form JV-421 at item 32 to conform to changes in section 16501.1, made by Senate Bill 794—that lowered the age of children for whom the case plan must include a description of the services that will help the child transition to successful adulthood—from 16 years of age to 14 years of age or older.

The committee further proposes amending form JV-421 to reflect new Judicial Council form names at item 27(b), updating a rule reference consistent with this proposal at item 35(d), and adding two additional statutory findings to item 20 of the form to reflect recent changes in law establishing additional bases for bypassing reunification services.<sup>5</sup>

## **Comments, Alternatives Considered, and Policy Implications**

### **Comments**

This proposal circulated for comment as part of the spring 2016 invitation-to-comment cycle, from April 15, 2016, to June 14, 2016, to the standard mailing list for family and juvenile law proposals. Included on the list were appellate presiding justices, appellate court administrators, trial court presiding judges, trial court executive officers, judges, court administrators and clerks, attorneys, family law facilitators and self-help center staff, legal services attorneys, social workers, probation officers, Court Appointed Special Advocate (CASA) programs, and other juvenile and family law professionals. Four organizations provided comment: two agreed with the proposal, and two agreed with the proposal if modified; no commentators opposed the proposal. A chart with the full text of the comments received and the committee's responses is attached at pages 76–79, as well as an attachment containing one commentator's extensive proposed modifications that were too long to include verbatim in the chart at pages 80–119.

The bulk of the comments received on the proposal suggested modifications to clarify the text of the amended rules and forms, to correct statutory and rule references, and to improve the style and clarity of the rule text. The committee adopted nearly all of these suggested modifications to improve the accessibility and effectiveness of the rules proposed to be amended.

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<sup>5</sup> Assem. Bill 1702 (Stone); Stats. 2016, ch. 324, and Sen Bill 1521 (Liu); Stats. Of 2012, ch. 847.

The committee also made changes to rules 5.708, 5.725, and 5.740 regarding the findings to be made by the court concerning the case plan to make these rules internally consistent and to include recent statutory changes as suggested by a commentator. The committee opted to make these changes in a more succinct and streamlined manner than the approach proposed by the commentator by adding a provision to rule 5.708 referencing the relevant statutory case plan requirements, and then cross-referencing rule 5.708 in the subsequent case plan provisions in rules 5.725 and 5.740.

A commentator noted that the rules are currently internally inconsistent with regard to who (the court or the petitioner) should provide notice of a hearing to modify or terminate a juvenile court guardianship, and that the provision in the rule placing the responsibility for notice on the petitioner would be onerous and unrealistic if the petitioner was the child's guardian. As noted above, to remedy this inconsistency, the committee proposes to delete the requirement that the petitioner serve notice and instead require the clerk of the court to ensure that notice is provided. The committee made this change only after consulting with the Joint Rules Subcommittee (JRS) of the Trial Court Presiding Judges and Court Executives Advisory Committees to ensure that it would not impose an undue burden on the trial courts. The JRS concurred that this change would not burden the courts, and was a more workable and consistent practice than what is provided in the current rule.

### **Alternatives**

In addition to the alternatives considered in response to the public comments, initially the committee considered simply amending the existing rules of court to reflect the new statutory language, but determined that it would be preferable in the long run to abbreviate the rules by replacing unneeded text with code references in order to obviate the need for further amendments in the future when these statutes are again amended.

### **Implementation Requirements, Costs, and Operational Impacts**

Because this proposal chiefly amends rules of court to make them more concise without changing the underlying statutory requirements, it should have very little cost to the courts and the main operational impact will be limited to ensuring that stakeholders understand that the amendments do not change the underlying requirements for these proceedings but simply delete provisions duplicative of statute. The proposed revision to require the court to provide notice of hearings to terminate or modify dependency guardianships may impose a small additional workload for a task that courts are already routinely performing for notice of other juvenile



dependency hearings. In implementing the changes to form JV-421, courts that use this optional form may incur costs for reproducing the revised form.

### **Attachments and Links**

1. Cal. Rules of Court, rules 5.534, 5.668, 5.670, 5.674, 5.680, 5.682, 5.684, 5.686, 5.688, 5.690, 5.695, 5.706, 5.708, 5.710, 5.715, 5.720, 5.722, 5.725, 5.726, 5.727, 5.728, 5.730, 5.735, and 5.740 at pages 10–68.
2. Judicial Council form JV-421 at pages 69–75
3. Chart of comments, at pages 76–79
4. Attachment A: Comments from the Superior Court of San Diego County, at pages 80–99.
5. Assembly Bill 217  
[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160AB217](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB217)
6. Senate Bill 68  
[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB68](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB68)
7. Senate Bill 794  
[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB794](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB794)
8. Assembly Bill 1702  
[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160AB1702](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1702)

Rules 5.534, 5.668, 5.670, 5.674, 5.682, 5.684, 5.690, 5.695, 5.706, 5.708, 5.710, 5.715, 5.720, 5.722, 5.725, 5.726, 5.727, 5.728, 5.730, 5.735, and 5.740 of the California Rules of Court are amended, and rules 5.680, 5.686, and 5.688 are repealed, effective January 1, 2017, to read:

**Rule 5.534. General provisions—all proceedings**

**(a)—Control of proceedings (§§ 350, 680)**

~~The court must control all proceedings with a view to quickly and effectively ascertaining the jurisdictional facts and all information relevant to the present condition and welfare of the child.~~

**(b)—Conduct of proceedings (§§ 350, 680)**

~~Unless there is a contested issue of fact or law, the proceedings must be conducted in a nonadversarial atmosphere.~~

**(c)—Testimony of child in chambers (§ 350)**

~~In a hearing under section 300 et seq., a child may testify in chambers and outside the presence of the child's parent or guardian if the parent or guardian is represented by counsel who is present, subject to the right of the parent or guardian to have the court reporter read back the child's testimony, and if the court determines, based on the petitioner's report or other offers of proof or other evidence, that any of the following circumstances exist:~~

~~(1)—Testimony in chambers is necessary to ensure truthful testimony;~~

~~(2)—The child is likely to be intimidated by a formal courtroom setting; or~~

~~(3)—The child is afraid to testify in front of the parent or guardian.~~

**(d)—Burden of proof (§§ 350, 701.1)**

~~Meeting the burden of proof:~~

~~(1)—In any hearing under section 300 in which the county welfare agency has the burden of proof, the court may consider whether the burden of proof has been met only after completion of the agency's case and the presentation of any material evidence offered by the child. The court may then, on motion of any party or on the court's own motion, order whatever action the law requires if the court, based on all the evidence then before it, finds that the burden of proof has not been met.~~

1       ~~(2) In any hearing under section 601 or 602, after the completion of the~~  
2       ~~petitioner's case, the court may, on the motion of any party or on the court's~~  
3       ~~own motion, order whatever action the law requires if the court, based on all~~  
4       ~~the evidence then before it, finds that the burden of proof has not been met.~~

5  
6       ~~(e)(a)~~ \* \* \*

7  
8       ~~(f)(b)~~ \* \* \*

9  
10       ~~(g)(c)~~ \* \* \*

11  
12       ~~(h)(d)~~ \* \* \*

13  
14       ~~(i)(e)~~ \* \* \*

15  
16       ~~(j)(f)~~ \* \* \*

17  
18       ~~(k)(g)~~ **Advisement of hearing rights (§§ 301, 311, 341, 630, 702.5, 827)**

19  
20       (1) The court must advise the child, parent, and guardian in section 300 cases,  
21       and the child in section 601 or section 602 cases, of the following rights:

22  
23       (A) ~~Any~~ The right to assert the privilege against self-incrimination;

24  
25       (B) The right to confront and cross-examine the persons who prepared  
26       reports or documents submitted to the court by the petitioner and the  
27       witnesses called to testify at the hearing;

28  
29       (C) The right to use the process of the court to bring in witnesses; and

30  
31       (D) The right to present evidence to the court.

32  
33       (2) – (3) \* \* \*

34  
35       ~~(l)(h)~~ \* \* \*

36  
37       ~~(m)(i)~~ \* \* \*

38  
39       ~~(n)(j)~~ \* \* \*

40  
41       ~~(o)~~ **Periodic reports (§ 365)**

1 The court may require the petitioner or any other agency to submit reports  
2 concerning a child or youth subject to the jurisdiction of the court.  
3  
4

5 ~~(p)~~ **Presence of child (§ 349)**  
6

7 ~~(1) A child who is the subject of a juvenile court hearing is entitled to be present~~  
8 ~~at the hearing. If the child is present at the hearing, the court must allow the~~  
9 ~~child, if the child so desires, to address the court and participate in the~~  
10 ~~hearing.~~

11  
12 ~~(2) If the child is 10 years of age or older and he or she is not present at the~~  
13 ~~hearing, the court must determine whether the child was properly notified of~~  
14 ~~his or her right to attend the hearing and ask why the child is not present at~~  
15 ~~the hearing and whether the child was given an opportunity to attend. If the~~  
16 ~~court finds that the child was not properly notified or that the child wished to~~  
17 ~~be present and was not given an opportunity to be present, the court must~~  
18 ~~continue the hearing to allow the child to attend unless the court finds that it~~  
19 ~~is in the best interest of the child not to continue the hearing. Any such~~  
20 ~~continuance must be only for that period of time necessary to provide notice~~  
21 ~~and secure the presence of the child. The court may issue any and all orders~~  
22 ~~reasonably necessary to ensure that the child has an opportunity to attend.~~

23  
24 **Advisory Committee Comment**  
25

26 Because the intent of subdivision ~~(n)~~ (j) is to expand access to the courts for caregivers of  
27 children in out-of-home care, the rule should be liberally construed. To promote caregiver  
28 participation and input, judicial officers are encouraged to permit caregivers to orally address the  
29 court when caregivers would like to share information about the child. In addition, court clerks  
30 should allow filings by caregivers even if the caregiver has not strictly adhered to the  
31 requirements in the rule regarding number of copies and filing deadlines.  
32  
33

34 **Rule 5.668. Commencement of hearing—explanation of proceedings (§§ 316, 316.2)**  
35

36 **(a) Commencement of hearing**  
37

38 At the beginning of the initial hearing on the petition, whether the child is detained  
39 or not detained, the court must give advisement as required by rule 5.534 and must  
40 inform each parent and guardian present, and the child, if present:  
41

42 (1) Of the contents of the petition;  
43

- 1 (2) Of the nature of, and possible consequences of, juvenile court proceedings;  
2  
3 (3) If the child has been taken into custody, of the reasons for the initial detention  
4 and the purpose and scope of the detention hearing; and  
5  
6 (4) If the petition is sustained and the child is declared a dependent of the court  
7 and removed from the custody of the parent or guardian, the court-ordered  
8 reunification services must be considered to have been offered or provided on  
9 the date the petition is sustained or 60 days after the child's initial removal,  
10 whichever is earlier. The time for services must not exceed 12 months for a  
11 child three years of age or older ~~aged three or over~~ at the time of the initial  
12 removal and must not exceed 6 months for a child who was under ~~the age of~~  
13 three years of age or who is in a sibling group in which one sibling was under  
14 three years of age at the time of the initial removal if the parent or guardian  
15 fails to participate regularly and make substantive progress in any court-  
16 ordered treatment program.  
17

18 **(b) Parentage inquiry**  
19

20 The court must also inquire of the child's mother and of any other appropriate  
21 person present as to the identity and address of any and all presumed or alleged  
22 parents of the child as set forth in section 316.2. ~~Questions, at the discretion of the~~  
23 ~~court, may include:~~  
24

- 25 ~~(1) Has there been a judgment of parentage?~~  
26  
27 ~~(2) Was the mother married, or did she believe she was married, at or any time~~  
28 ~~after the time of conception?~~  
29  
30 ~~(3) Was the mother cohabiting at the time of conception?~~  
31  
32 ~~(4) Has the mother received support payments or promises of support for the~~  
33 ~~child or for the mother during her pregnancy?~~  
34  
35 ~~(5) Has anyone formally or informally acknowledged parentage, including~~  
36 ~~through the execution of a voluntary declaration under Family Code section~~  
37 ~~7571?~~  
38  
39 ~~(6) Have tests to determine biological parentage been administered and, if so,~~  
40 ~~what were the results?~~  
41

42 **(c) \* \* \***  
43

1 **Rule 5.670. Initial hearing; detention hearings; time limit on custody; setting**  
2 **jurisdiction hearing; visitation (§§ 309, 311, 313, 315, 362.1)**

3  
4 (a) \* \* \*

5  
6 ~~(b) —Time limit on custody, filing petition, setting hearing (§§ 311, 313)~~

7  
8 ~~If the social worker takes the child into custody, the social worker must~~  
9 ~~immediately file a petition with the clerk of the juvenile court, and the clerk must~~  
10 ~~immediately set the matter for hearing on the detention hearing calendar. A child~~  
11 ~~who is detained must be released within 48 hours, excluding noncourt days, unless~~  
12 ~~a petition has been filed.~~

13  
14 ~~(c) —Detention—child in medical facility (§ 309(b))~~

15  
16 ~~For purposes of these rules, a child is deemed taken into custody and delivered to~~  
17 ~~the social worker if the child is under medical care and cannot immediately be~~  
18 ~~moved and there is reasonable cause to believe the child is described by section~~  
19 ~~300.~~

20  
21 ~~(d) —Detention hearing—time of (§ 315)~~

22  
23 ~~Unless the child has been released sooner, the matter concerning a child who is~~  
24 ~~taken into custody must be brought before the juvenile court for a detention hearing~~  
25 ~~as soon as possible, but in any event before the end of the next court day after a~~  
26 ~~petition has been filed. At the detention hearing, the court must determine whether~~  
27 ~~the child is to continue to be detained in custody. If the detention hearing is not~~  
28 ~~commenced within that time, the child must be immediately released from custody.~~

29  
30 ~~(e)(b)~~ **Detention hearing—warrant cases, transfers in, changes in placement**

31  
32 Notwithstanding ~~(e)~~ section 309(b), and unless the child has been released sooner, a  
33 detention hearing must be held as soon as possible, but no later than 48 hours,  
34 excluding noncourt days, after the child arrives at a facility within the county if:

- 35  
36 (1) The child was taken into custody in another county and transported in  
37 custody to the requesting county under a protective custody warrant issued by  
38 the juvenile court;  
39  
40 (2) The child was taken into custody in the county in which a protective custody  
41 warrant was issued by the juvenile court; or  
42

(3) The matter was transferred from the juvenile court of another county under rule 5.610 and the child was ordered transported in custody.

At the hearing the court must determine whether the child is to continue to be detained in custody. If the hearing is not commenced within that time, the child must be immediately released from custody.

**~~(f)~~ — Setting jurisdiction hearing (§ 334)**

~~If the child is not detained, the court must set a jurisdiction hearing to be held within 30 days of the date the petition is filed. If the court orders the child to be detained, the court must set a jurisdiction hearing within 15 court days of the order of detention.~~

**~~(g)~~(c) \* \* \***

**Rule 5.674. Conduct of hearing; admission, no contest, submission**

**(a) – (b) \* \* \***

**~~(e)~~ — Detention hearing; examination by court (§ 319)**

~~Subject to (d), the court must examine the child's parent, guardian, or other person having knowledge relevant to the issue of detention and must receive any relevant evidence that the petitioner, the child, a parent, a guardian, or counsel for a party wishes to present.~~

**~~(d)~~(c) Detention hearing; rights of child, parent, or guardian (§§ 311, 319)**

At the detention hearing, the child, the parent, and the guardian have the right to assert the privilege against self-incrimination and the right to confront and cross-examine:

- (1) The preparer of a police report, probation or social worker report, or other document submitted to the court; and
- (2) Any person examined by the court under ~~(e)~~ section 319. If the child, parent, or guardian asserts the right to cross-examine preparers of documents submitted for court consideration, the court may not consider any such report or document unless the preparer is made available for cross-examination.

**(d) No parent or guardian present and not noticed (§ 321)**

1 If the court orders the child detained at the detention hearing and no parent or  
2 guardian is present and no parent or guardian has received actual notice of the  
3 detention hearing, a parent or guardian may file an affidavit alleging the failure of  
4 notice and requesting a detention rehearing. The clerk must set the rehearing for a  
5 time within 24 hours of the filing of the affidavit, excluding noncourt days. At the  
6 rehearing the court must proceed under rules 5.670–5.678.

7  
8 **(e) Hearing for further evidence; prima facie case (§ 321)**

9  
10 If the court orders the child detained, and the child, a parent, a guardian, or counsel  
11 requests that evidence of the prima facie case be presented, the court must set a  
12 prima facie hearing for a time within 3 court days to consider evidence of the prima  
13 facie case or set the matter for jurisdiction hearing within 10 court days. If at the  
14 hearing the petitioner fails to establish the prima facie case, the child must be  
15 released from custody.

16  
17 **Rule 5.680. Detention rehearings; prima facie hearings**

18  
19 **(a) — No parent or guardian present and not noticed (§ 321)**

20  
21 ~~If the court orders the child detained at the detention hearing and no parent or~~  
22 ~~guardian is present and no parent or guardian has received actual notice of the~~  
23 ~~detention hearing, a parent or guardian may file an affidavit alleging the failure of~~  
24 ~~notice and requesting a detention rehearing. The clerk must set the rehearing for a~~  
25 ~~time within 24 hours of the filing of the affidavit, excluding noncourt days. At the~~  
26 ~~rehearing the court must proceed under rules 5.670–5.678.~~

27  
28 **(b) — Parent or guardian noticed, not present (§ 321)**

29  
30 ~~If the court determines that the parent or guardian received adequate notice of the~~  
31 ~~detention hearing, and the parent or guardian fails to appear at the hearing, the~~  
32 ~~request of the parent or guardian for a detention rehearing must be denied absent a~~  
33 ~~finding that the failure to appear at the hearing was due to good cause.~~

34  
35 **(c) — Parent or guardian present; preparers available (§ 321)**

36  
37 ~~If a parent or guardian has received notice of the detention hearing, is present at the~~  
38 ~~hearing, and the preparers of any reports or other documents relied on by the court~~  
39 ~~in its order detaining the child are present in court or otherwise available for cross-~~  
40 ~~examination, the request for a detention rehearing must be denied.~~

41  
42 **(d) — Hearing for further evidence; prima facie case (§ 321)**



1 If the court orders the child detained, and the child, a parent, a guardian, or counsel  
2 requests that evidence of the prima facie case be presented, the court must set a  
3 prima facie hearing for a time within 3 court days to consider evidence of the prima  
4 facie case or set the matter for jurisdiction hearing within 10 court days. If at the  
5 hearing petitioner fails to establish the prima facie case, the child must be released  
6 from custody.

7  
8 **Rule 5.682. Commencement of jurisdiction hearing—advisement of trial rights;**  
9 **admission, no contest, submission**

10  
11 **~~(a)~~ Petition read and explained (§ 353)**

12  
13 At the beginning of the jurisdiction hearing, the petition must be read to those  
14 present. On request of the child or the parent, guardian, or adult relative, the court  
15 must explain the meaning and contents of the petition and the nature of the hearing,  
16 its procedures, and the possible consequences.

17  
18 **~~(b)~~(a) Rights explained (§§ 341, 353, 361.1)**

19  
20 After giving the advisement required by rule 5.534, the court must advise the parent  
21 or guardian of the following rights:

22  
23 (1) The right to a hearing by the court on the issues raised by the petition; and

24  
25 ~~(2) The right to assert any privilege against self incrimination;~~

26  
27 ~~(3) The right to confront and to cross examine all witnesses called to testify;~~

28  
29 ~~(4) The right to use the process of the court to compel attendance of witnesses on~~  
30 ~~behalf of the parent or guardian; and~~

31  
32 ~~(5)~~(2) \* \* \*

33  
34 **~~(e)~~(b) Admission of allegations; prerequisites to acceptance**

35  
36 The court must then inquire whether the parent or guardian intends to admit or  
37 deny the allegations of the petition. If the parent or guardian neither admits nor  
38 denies the allegations, the court must state on the record that the parent or guardian  
39 does not admit the allegations. If the parent or guardian wishes to admit the  
40 allegations, the court must first find and state on the record that it is satisfied that  
41 the parent or guardian understands the nature of the allegations and the direct  
42 consequences of the admission, and understands and waives the rights in ~~(b)~~ (a) and  
43 (e)(3).

~~(d)~~(c) \* \* \*

~~(e)~~(d) **Admission, no contest, submission**

The parent or guardian may elect to admit the allegations of the petition, or plead no contest, ~~or submit the jurisdictional determination to the court based on the information provided to the court~~ and waive further jurisdictional hearing. The parent or guardian may elect to submit the jurisdictional determination to the court based on the information provided to the court and choose whether to waive further jurisdictional hearing. If the parent or guardian submits to the jurisdictional determination in writing, Waiver of Rights—Juvenile Dependency (form JV-190) may must be completed by the parent or guardian and counsel and submitted to the court.

~~(f)~~(e) **Findings of court (§ 356)**

After admission, plea of no contest, or submission, the court must make the following findings noted in the order of the court:

(1) – (6) \* \* \*

(7) Those allegations of the petition as admitted are true as alleged; or ~~and~~

(8) Whether the allegations of the petition as submitted are true as alleged; and

~~(8)~~(9) The child is described ~~under~~ by one or more specific subdivisions of section 300.

~~(g)~~(f) **Disposition**

After accepting an admission, plea of no contest, or submission, the court must proceed to a disposition hearing under rules ~~5.686 and 5.690~~.

**Rule 5.684. Contested hearing on petition**

(a) \* \* \*

(b) **Admissibility of evidence—general (§§ 355, 355.1)**

Except as provided in sections 355(c) and 355.1 and (c), ~~(d)~~, and ~~(e)~~ (d) of this rule, the admission and exclusion of evidence must be in accordance with the Evidence Code as it applies to civil cases.

1  
2 **(c) Reports**

3  
4 (1) A social study, with hearsay evidence contained in it, is admissible ~~and is~~  
5 ~~sufficient to support a finding that the child is described by section 300. as~~  
6 provided in section 355.

7  
8 ~~(1)~~ (2) The social study must be provided to all parties and their counsel by the  
9 county welfare department within a reasonable time before the hearing.

10  
11 ~~(2)~~ ~~The preparer of the report must be made available for cross examination on~~  
12 ~~the request of any party. The preparer may be on telephone standby if the~~  
13 ~~preparer can be present in court within a reasonable time.~~

14  
15 ~~(d)~~ **Hearsay in the report (§ 355)**

16  
17 ~~If a party makes an objection with reasonable specificity to particular hearsay in the~~  
18 ~~report and provides petitioner a reasonable period to meet the objection, that~~  
19 ~~evidence must not be sufficient in and of itself to support a jurisdictional finding,~~  
20 ~~unless:~~

21  
22 ~~(1)~~ ~~The hearsay is admissible under any statutory or judicial hearsay exception;~~

23  
24 ~~(2)~~ ~~The hearsay declarant is a child under 12 years of age who is the subject of~~  
25 ~~the petition, unless the objecting party establishes that the statement was~~  
26 ~~produced by fraud, deceit, or undue influence and is therefore unreliable;~~

27  
28 ~~The hearsay declarant is a peace officer, a health practitioner, a social worker, or a~~  
29 ~~teacher and the statement would be admissible if the declarant were testifying in~~  
30 ~~court; or~~

31  
32 ~~—The hearsay declarant is available for cross examination.~~

33  
34 ~~(e)(d)~~ \* \* \*

35  
36 ~~(f)(e)~~ **Findings of court—allegations true (§ 356)**

37  
38 If the court determines by a preponderance of the evidence that the allegations of  
39 the petition are true, the court must make findings on each of the following, noted  
40 in the minutes:

41  
42 (1) \* \* \*

1 (2) \* \* \*

2  
3 (3) \* \* \*

4  
5 (4) The child is described ~~under~~ by one or more ~~specific~~ subdivisions of section  
6 300.

7  
8 **(g)(f) Disposition and continuance pending disposition hearing (§§ 356, 358)**  
9

10 After making the findings in ~~(f)~~ (e), the court must proceed to a disposition hearing  
11 under rules ~~5.686 and~~ 5.690. The court may continue the disposition hearing as  
12 provided in section 358.

13  
14 **(h)(g)\* \* \***  
15

16 **Rule 5.686. Continuance pending disposition hearing**  
17

18 **(a) — Continuance pending disposition hearing (§ 358)**  
19

20 Except as provided in (b), the court may ~~continue the disposition hearing to a date~~  
21 ~~not to exceed 10 court days if the child is detained or, if the child is not detained, to~~  
22 ~~a date not to exceed 30 calendar days from the date of the finding under section~~  
23 ~~356. The court may for good cause continue the hearing for an additional 15~~  
24 ~~calendar days if the child is not detained.~~

25  
26 **(b) — Continuance if nonreunification is requested**  
27

28 If ~~petitioner alleges that section 361.5(b) is applicable, the court must continue the~~  
29 ~~proceedings not more than 30 calendar days. The court must order the petitioner to~~  
30 ~~notify each parent or guardian of the contents of section 361.5(b) and must inform~~  
31 ~~each parent that if reunification is not ordered at the disposition hearing, a section~~  
32 ~~366.26 implementation hearing will be held and parental rights may be terminated.~~

33  
34 **(c) — Detention pending continued hearing (§ 358)**  
35

36 The court in its discretion may ~~order release or detention of the child during the~~  
37 ~~continuance.~~

38  
39 **Rule 5.688. Failure to cooperate with services (§ 360(b))**  
40

41 **(a) — Petition**  
42

1 If the court has ordered services under section 360(b), and within the time period  
2 consistent with section 301 the family is unable or unwilling to cooperate with the  
3 services provided, a petition may be filed as provided in section 360(c).  
4

5 ~~(b)~~ **Order**

6  
7 ~~At the hearing on the petition the court must dismiss the petition or order a new~~  
8 ~~disposition hearing to be conducted under rule 5.690.~~  
9

10 **Rule 5.690. General conduct of disposition hearing**

11  
12 **(a) Social study (§§ 280, 358, 358.1, 360, 361.5, 16002(b))**

13  
14 The petitioner must prepare a social study of the child. The social study must  
15 include a discussion of all matters relevant to disposition and a recommendation for  
16 disposition.  
17

- 18 (1) The petitioner must comply with the following when preparing the social  
19 study:  
20

21 (A) – (B) \* \* \*

- 22  
23  
24  
25 (C) The social study ~~should~~ must include a discussion of the social  
26 worker's efforts to comply with rule 5.637, including but not limited to:  
27

28 (i) – (iv) \* \* \*

- 29  
30 (D) If siblings are not placed together, the social study must include an  
31 explanation of why they have not been placed together in the same  
32 home, what efforts are being made to place the siblings together, or  
33 why making those efforts would be contrary to the safety and well-  
34 being of any of the siblings.  
35

36 ~~(D)~~(E) \* \* \*

37  
38 ~~(E)~~(F) \* \* \*

39  
40 (2) \* \* \*

41 (b) \* \* \*

1 (c) **Case plan (§ 16501.1)**

2  
3 Whenever child welfare services are provided, the social worker must prepare a  
4 case plan.

5  
6 (1) – (2)\* \* \*

7  
8 (3) For a child 12 years of age or older and in a permanent placement, the court  
9 must consider the case plan and must find as follows:

10  
11 (A) – (B)\* \* \*

12  
13  
14  
15 (C) Whether the case plan was developed in compliance with and meets  
16 the requirements of section 16501.1(g). If the court finds that the  
17 development of the case plan does not comply with section 16501.1(g)  
18 the court must order the agency to comply with the requirements of  
19 section 16501.1(g).  
20

21 **Rule 5.695. Findings and orders of the court—disposition**

22  
23 (a) **Orders of the court (§§ 245.5, 358, 360, 361, 361.2, 390)**

24  
25 At the disposition hearing, the court may:

26  
27 (1) \* \* \*

28  
29 (2) Place the child under a program of supervision ~~as provided in~~ for a time  
30 period consistent with section 301 and order that services be provided;

31  
32 (3) Appoint a legal guardian for the child without declaring dependency and  
33 order the clerk to issue letters of guardianship, which are not subject to the  
34 confidential protections of juvenile court documents as described in section  
35 827;

36  
37 (4) Declare dependency and appoint a legal guardian for the child if the  
38 requirements of section 360 are met and order the clerk to issue letters of  
39 guardianship, which are not subject to the confidential protections of juvenile  
40 court documents as described in section 827;

41  
42 (5) – (7)\* \* \*

1  
2  
3 **(b) Appointment of a legal guardian (§ 360)**  
4

5 (1) ~~At the disposition hearing, the court may appoint a legal guardian for the~~  
6 ~~child if:~~

7  
8 (A) ~~The parent has advised the court that the parent does not wish to~~  
9 ~~receive family maintenance services or family reunification services;~~

10  
11 (B) ~~The parent has executed and submitted *Waiver of Reunification*~~  
12 ~~*Services (Juvenile Dependency)* (form JV 195);~~

13  
14 (C) ~~The court finds that the parent, and the child if of sufficient age and~~  
15 ~~comprehension, knowingly and voluntarily waive their rights to~~  
16 ~~reunification services and agree to the appointment of the legal~~  
17 ~~guardian; and~~

18  
19 (D) ~~The court finds that the appointment of the legal guardian is in the best~~  
20 ~~interest of the child.~~

21  
22 (2) ~~If the court appoints a legal guardian, it must:~~

23  
24 (A) ~~State on the record or in the minutes that it has read and considered the~~  
25 ~~assessment;~~

26  
27 (B) ~~State on the record or in the minutes its findings and the factual bases~~  
28 ~~for them;~~

29  
30 (C) ~~Advise the parent that no reunification services will be offered or~~  
31 ~~provided;~~

32  
33 (D) ~~Make any appropriate orders regarding visitation between the child and~~  
34 ~~the parent or other relative, including any sibling; and~~

35  
36 (E) ~~Order the clerk to issue letters of guardianship, which are not subject to~~  
37 ~~the confidential protections of juvenile court documents as described in~~  
38 ~~section 827.~~

39  
40 (3) ~~The court may appoint a legal guardian without declaring the child a~~  
41 ~~dependent of the court. If dependency is declared, a six month review hearing~~  
42 ~~must be set.~~  
43

1 ~~(e)(b)~~ \* \* \*

2  
3 ~~(d)~~(c) Removal of custody—required findings (§ 361)  
4

5 The court may not order a dependent removed from the physical custody of a  
6 parent or guardian with whom the child resided at the time the petition was filed,  
7 unless the court ~~finds~~ makes one or more of the findings in subdivision (c) of  
8 section 361 by clear and convincing evidence, ~~any of the following:~~  
9

- 10 ~~(1) — There is a substantial danger to the physical health, safety, protection, or~~  
11 ~~physical or emotional well-being of the child, or will be if the child is~~  
12 ~~returned home, and there is no reasonable alternative means to protect that~~  
13 ~~child;~~  
14  
15 ~~(2) — The parent or guardian is unwilling to have physical custody of the child and~~  
16 ~~has been notified that if the child remains out of the parent's or guardian's~~  
17 ~~physical custody for the period specified in section 366.26, the child may be~~  
18 ~~declared permanently free of his or her custody and control;~~  
19  
20 ~~(3) — The child is suffering severe emotional damage, as indicated by extreme~~  
21 ~~anxiety, depression, withdrawal, or untoward aggressive behavior toward self~~  
22 ~~or others, and no reasonable alternative means to protect the child's~~  
23 ~~emotional health exists;~~  
24  
25 ~~(4) — The child has been sexually abused by a parent or guardian or member of the~~  
26 ~~household or other person known to his or her parent and there is no~~  
27 ~~reasonable alternative means to protect the child or the child does not wish to~~  
28 ~~return to the parent or guardian; or~~  
29  
30 ~~(5) — The child has been left without any provisions for his or her support and there~~  
31 ~~is no parent or guardian available to maintain or provide for the care, custody,~~  
32 ~~and control of the child.~~  
33

34 ~~(e)(d)~~ Reasonable efforts finding  
35

36 The court must consider whether reasonable efforts to prevent or eliminate the need  
37 for removal have been made and make one of the following findings:  
38

- 39 (1) Reasonable efforts have been made to prevent removal; or  
40  
41 (2) Reasonable efforts have not been made to prevent removal.  
42



1 **~~(f)~~(e) Family-finding determination (§ 309)**

- 2
- 3 (1) If the child is removed, the court must consider and determine whether the
- 4 social worker has exercised due diligence in conducting the required
- 5 investigation to identify, locate, and notify the child's relatives. The court
- 6 may consider the activities listed in ~~(g)~~(f) as examples of due diligence. The
- 7 court must document its determination by making a finding on the record.
- 8

9 If the dispositional hearing is continued, the court may set a hearing to be

10 held 30 days from the date of removal or as soon as possible thereafter to

11 consider and determine whether the social worker has exercised due diligence

12 in conducting the required investigation to identify, locate, and notify the

13 child's relatives.

14

- 15 (2) \* \* \*
- 16

17 **~~(g)~~(f) Due diligence (§ 309)**

18

19 When making the determination required in ~~(f)~~(e), the court may consider, among

20 other examples of due diligence, whether the social worker has done any of the

21 following:

22

- 23 (1) – (7) \* \* \*
- 24
- 25

26 **~~(h)~~(g) Provision of reunification services (§ 361.5)**

27

- 28 (1) Unless the court makes a finding that reunification services need not be
- 29 provided under subdivision (b) of section 361.5 ~~Except as provided in (6),~~ if a
- 30 child is removed from the custody of a parent or legal guardian, the court
- 31 must order the county welfare department to provide reunification services to
- 32 the child and the child's mother and statutorily presumed parent, or the
- 33 child's legal guardian, to facilitate reunification of the family as required in
- 34 section 361.5. ~~For a child who was three years of age or older on the date of~~
- 35 ~~initial removal, services must be provided during the time period beginning~~
- 36 ~~with the dispositional hearing and ending 12 months after the date the child~~
- 37 ~~entered foster care, as defined by section 361.49. For a child who was under~~
- 38 ~~three years of age on the date of initial removal, services must be provided~~
- 39 ~~for a period of 6 months from the dispositional hearing, but no longer than 12~~
- 40 ~~months from the date the child entered foster care, as defined by section~~
- 41 ~~361.49. The time period for the provision of family reunification services~~
- 42 ~~must be calculated consistent with section 361.5(a). The court must inform~~
- 43 ~~the parent or legal guardian of a child who was under three when initially~~

1 removed that failure to participate regularly and make substantive progress in  
2 court-ordered treatment programs may result in the termination of  
3 reunification efforts after 6 months from the date of the dispositional hearing.  
4

5 ~~(2) — If a child is a member of a sibling group removed from parental custody at~~  
6 ~~the same time, and one member of the sibling group was under three at the~~  
7 ~~time of the initial removal, reunification services for some or all members of~~  
8 ~~the sibling group may be limited to 6 months from the dispositional hearing,~~  
9 ~~and no later than 12 months from the date the children entered foster care.~~  
10 ~~The court must inform the parent or legal guardian of a child who is a~~  
11 ~~member of such a sibling group that failure to participate regularly and make~~  
12 ~~substantive progress in court-ordered treatment programs may result in~~  
13 ~~termination of reunification efforts after 6 months for one or more members~~  
14 ~~of the sibling group.~~

15  
16 ~~(3)(2)~~ \* \* \*

17  
18 ~~(4) — Any motion to terminate reunification services before the permanency~~  
19 ~~hearing set under section 366.21(f) for a child age three or older, or before~~  
20 ~~the 6-month review hearing set under section 366.21(e) for a child under age~~  
21 ~~three, must follow the requirements in section 388(c) and rule 5.570. A~~  
22 ~~motion to terminate reunification services at the 6-month review hearing is~~  
23 ~~not required if the court finds by clear and convincing evidence that one or~~  
24 ~~more of the circumstances described in section 361.5(a)(2) and rule~~  
25 ~~5.710(c)(1)(A) is true.~~

26  
27 ~~(5)(3)~~ \* \* \*

28  
29 ~~(6)(4) Reunification services must not be provided when the parent has voluntarily~~  
30 ~~relinquished the child and the relinquishment has been filed with the State~~  
31 ~~Department of Social Services, or if the court has appointed a guardian under~~  
32 ~~section 360. Reunification services need not be provided to a parent or~~  
33 ~~guardian if the court finds, by clear and convincing evidence, any of the~~  
34 ~~following:~~

35  
36 ~~(A) — The whereabouts of the parent or guardian are unknown. This finding~~  
37 ~~must be supported by a declaration or by proof that a reasonably~~  
38 ~~diligent search has failed to locate the parent. Posting or publishing~~  
39 ~~notice is not required.~~

40  
41 ~~(B) — The parent or guardian is suffering from a mental disability described~~  
42 ~~in chapter 2 (commencing with section 7820) of part 4 of division 12 of~~

1 the Family Code that renders the parent incapable of using those  
2 services.

3  
4 (C) — The child had been previously declared a dependent under any  
5 subdivision of section 300 as a result of physical or sexual abuse;  
6 following that adjudication the child had been removed from the  
7 custody of the parent or guardian under section 361; the child has been  
8 returned to the custody of the parent or guardian from whom the child  
9 had been taken originally; and the child is being removed under section  
10 361 because of additional physical or sexual abuse.

11  
12 (D) — The parent or guardian of the child has caused the death of another  
13 child through abuse or neglect.

14  
15 (E) — The child was brought within the jurisdiction of the court under (e) of  
16 section 300 because of the conduct of that parent or guardian.

17  
18 (F) — The child is a dependent as a result of the determination that the child, a  
19 sibling, or a half sibling suffered severe sexual abuse, as defined in  
20 section 361.5(b)(6), by the parent or guardian or that the parent or  
21 guardian inflicted severe physical harm, as defined in section  
22 361.5(b)(6), on the child, a sibling, or a half sibling, and the court finds  
23 that attempts to reunify would not benefit the child. The court must  
24 specify on the record the basis for the finding that the child suffered  
25 severe sexual abuse or the infliction of severe physical harm.

26  
27 (G) — The parent or guardian is not receiving reunification services for a  
28 sibling or half sibling of the child, for reasons under (C), (E), or (F).

29  
30 (H) — The child was conceived as a result of the parent having committed an  
31 offense listed in Penal Code section 288 or 288.5, or by an act  
32 described by either section but committed outside California.

33  
34 (I) — The court has found that the child is described by (g) of section 300,  
35 that the child was willfully abandoned by the parent or guardian, and  
36 that the abandonment constituted serious danger to the child as defined  
37 in section 361.5(b)(9).

38  
39 (J) — The court has terminated reunification services for a sibling or half  
40 sibling of the child because the parent failed to reunify with the sibling  
41 or half sibling, and the parent or guardian has not made a reasonable  
42 effort to treat the problems that led to the removal of the sibling or half  
43 sibling from that parent or guardian.

1  
2 (K) — The parental rights of a parent over any sibling or half sibling of the  
3 child have been terminated, and the parent has not subsequently made a  
4 reasonable effort to treat the problem that led to the removal of the  
5 sibling or half sibling.

6  
7 (L) — The parent or guardian has been convicted of a violent felony as  
8 defined in Penal Code section 667.5(c).

9  
10 (M) — The parent or guardian has a history of extensive, abusive, and chronic  
11 use of alcohol or other drugs and has not sought or participated in  
12 treatment during the three years immediately prior to the filing of the  
13 petition under section 300, or has failed, on at least two prior occasions,  
14 to comply with an available and accessible treatment program  
15 described in the case plan required by section 358.1, and the removal of  
16 the child is based in whole or in part on the risk to the child presented  
17 by the use of alcohol or other drugs.

18  
19 (N) — The parent or guardian, who must be represented by counsel, has  
20 advised the court through the execution and submission of *Waiver of*  
21 *Reunification Services (Juvenile Dependency)* (form JV 195) that that  
22 parent or guardian does not wish to receive family maintenance or  
23 reunification services and does not wish the child returned or placed in  
24 the custody of that parent or guardian. The court may accept the waiver  
25 only on a finding on the record that the parent or guardian has  
26 knowingly and intelligently waived the right to services.

27  
28 (O) — On at least one occasion, the parent or guardian has abducted the child  
29 or a sibling or half sibling from placement and has refused to disclose  
30 the abducted child's whereabouts or has refused to return custody of the  
31 abducted child to the placement or to the social worker.

32  
33 (7) — In deciding whether to order reunification in any case in which petitioner  
34 alleges that section 361.5(b) applies, the court must consider the report  
35 prepared by petitioner, which must discuss the factors contained in section  
36 361.5(c).

37  
38 (8) — If the petitioner alleges that section 361.5(c) applies, the report prepared for  
39 disposition must address the issue of reunification services. At the disposition  
40 hearing, the court must consider the factors stated in section 361.5.

41  
42 (9) — If the court finds under (6)(A) that the whereabouts of the parent or guardian  
43 are unknown and that a diligent search has failed to locate the parent or

guardian, the court may not order reunification services and must set the matter for a 6-month review hearing. If the parent or guardian is located prior to the 6-month review and requests reunification services, the welfare department must seek a modification of the disposition orders. The time limits for reunification services must be calculated from the date of the initial removal, and not from the date the parent is located or services are ordered.

(10) If the court finds that allegations under (6)(B) are proved, the court must nevertheless order reunification services unless evidence by mental health professionals establishes by clear and convincing evidence that the parent is unlikely to be able to care for the child within the next 12 months.

(11) If the court finds that the allegations under (6)(C), (D), (F), (G), (H), (I), (J), (K), (L), (M), (N), or (O) have been proved, the court may not order reunification services unless the party seeking the order for services proves by clear and convincing evidence that reunification is in the best interest of the child. If (6)(F) is found to apply, the court must consider the factors in section 361.5(h) in determining whether the child will benefit from services and must specify on the record the factual findings on which it based its determination that the child will not benefit.

(12) If the court finds that the allegations under (6)(E) have been proved, the court may not order reunification services unless it finds, based on consideration of factors in section 361.5(b) and (c), that services are likely to prevent reabuse or continued neglect or that failure to attempt reunification will be detrimental to the child.

(13) If the parent or guardian is institutionalized, incarcerated, or detained by the United States Department of Homeland Security, or has been deported to his or her country of origin, the court must order reunification services unless it finds by clear and convincing evidence that the services would be detrimental to the child, with consideration of the factors in section 361.5(e). The court may order reunification services with an institutionalized, incarcerated, detained, or deported biological father whose paternity has been declared by the juvenile court or another court of competent jurisdiction, if the court determines that such services would benefit the child, with consideration of the factors in section 361.5(e).

(14) (5) If, with the exception of (6)(A) Except when the order is made under paragraph (1) of subdivision (b) of section 361.5, if the court orders no reunification services for every parent otherwise eligible for such services under (1) and (2), the court must conduct a hearing under section 366.26 within 120 days and:

(A) – (B) \* \* \*

~~(15)~~ (6) A judgment, order, or decree setting a hearing under section 366.26 is not an immediately appealable order. Review may be sought only by filing a Notice of Intent to File Writ Petition and Request for Record (California Rules of Court, Rules 8.450) (form JV-820) or other notice of intent to file a writ petition and request for record, and a Petition for Extraordinary Writ (California Rules of Court, Rules 8.452, 8.456) (form JV-825) or other petition for extraordinary writ. If a party wishes to preserve any right to review on appeal of the findings and orders made under this rule, the party must seek an extraordinary writ under rules 8.450 and 8.452.

~~(16)~~ (7) A judgment, order, or decree setting a hearing under section 366.26 may be reviewed on appeal following the order of the 366.26 hearing only if the following have occurred:

(A) An extraordinary writ was sought by the timely filing of a Notice of Intent to File Writ Petition and Request for Record (California Rules of Court, Rules 8.450) (form JV-820) or other notice of intent to file a writ petition and request for record and a Petition for Extraordinary Writ (California Rules of Court, Rules 8.452, 8.456) (form JV-825) or other petition for extraordinary writ; and

(B) \* \* \*

~~(17)~~ (8) \* \* \*

~~(18)~~ (9) Failure to file a notice of intent to file a writ petition and request for record and a petition for extraordinary writ review within the period specified by rules 8.450 and 8.452, to substantively address the issues challenged, or to support the challenge by an adequate record precludes subsequent review on appeal of the findings and orders made under this rule.

~~(19)~~ (10) \* \* \*

~~(i)(h)~~ \* \* \*

~~(j) — Setting 6-month review (§§ 361.5, 366)~~

~~Review of the status of every dependent child must be performed within 6 months after the date of the original disposition order, and no later than 6 months after the date the child is determined to have entered foster care; the review must be~~

1 scheduled on the appearance calendar. The court must advise the dependent child  
2 of the child's right to petition for modifications of court orders as required in  
3 section 353.1.  
4

5 **(k) Fifteen-day reviews (§ 367)**  
6

7 If a child is detained pending the execution of the disposition order, the court must  
8 review the case at least every 15 calendar days to determine whether the delay is  
9 reasonable. During each review the court must inquire about the action taken by the  
10 probation or welfare department to carry out the court's order, the reasons for the  
11 delay, and the effect of the delay on the child.  
12

13 **(i) \* \* \***  
14

15 **Rule 5.706. Family maintenance review hearings (§ 364)**  
16

17 **(a) Setting of hearing (§ 364)**  
18

19 If the child remains in the custody of the parent or legal guardian, a review hearing  
20 must be held within six months after the date of the original dispositional hearing  
21 and no less frequently than once every six months thereafter as long as the child  
22 remains a dependent.  
23

24 **(a) \* \* \***  
25

26 **(c) Reports (§ 364)**  
27

28 At least 10 calendar days before the hearing, the petitioner must file a supplemental  
29 report with the court describing the services offered to the family, the progress  
30 made by the family in eliminating the conditions or factors requiring court  
31 supervision, and the petitioner's recommendation regarding the necessity of  
32 continued supervision. A copy of the report must be provided to all parties at least  
33 10 calendar days before the hearing.  
34

35 **(b) \* \* \***  
36

37 **(c) Conduct of hearing (§ 364)**  
38

39 (1) The court must determine whether continued supervision is necessary. The  
40 court must terminate its dependency jurisdiction unless the court finds that  
41 the petitioner has established by a preponderance of the evidence that existing  
42 conditions would justify initial assumption of jurisdiction under section 300  
43 or that such conditions are likely to exist if supervision is withdrawn. Failure

1 of the parent or legal guardian to participate regularly in any court-ordered  
2 treatment program constitutes prima facie evidence that the conditions that  
3 justified initial assumption of jurisdiction still exist and that continued  
4 supervision is necessary.  
5

- 6 (2) If the court retains jurisdiction, the court must order continued services and  
7 set a review hearing within six months, under this rule. The court must  
8 determine whether continued supervision is necessary under section 364(c).  
9

10 ~~(f)~~(d) \* \* \*

11  
12 ~~(g)~~(e) **Child's education (§§ 361, 366, 366.1)**  
13

14 The court must consider the child's education, including whether it is necessary to  
15 limit the right of the parent or legal guardian to make educational or  
16 developmental-services decisions for the child, following the requirements and  
17 procedures in rules 5.649, 5.650, and 5.651 and in section 361(a).  
18

19 **Rule 5.708. General review hearing requirements**  
20

21 ~~(a)~~ **Setting of review hearings (§ 366)**  
22

23 ~~The status of every dependent child who has been removed from the custody of the~~  
24 ~~parent or legal guardian must be reviewed periodically but no less frequently than~~  
25 ~~once every 6 months until the section 366.26 hearing is completed. Review~~  
26 ~~hearings must be set as described in rule 5.710 (for 6-month review hearings), rule~~  
27 ~~5.715 (for 12-month permanency hearings), rule 5.720 (for 18-month permanency~~  
28 ~~review hearings), or rule 5.722 (for 24-month subsequent permanency review~~  
29 ~~hearings).~~  
30

31 ~~(b)~~(a) **Notice of hearing (§ 293)**  
32

33 The petitioner or the clerk must serve written notice of review hearings on *Notice*  
34 *of Review Hearing* (form JV-280), in the manner provided in sections 224.2 or 293  
35 as appropriate, to all persons or entities entitled to notice under sections 224.2 and  
36 293 and to any CASA volunteer, educational rights holder, or surrogate parent  
37 appointed to the case.  
38

39 ~~(e)~~(b) \* \* \*

40  
41 ~~(d)~~ **Return of child—detriment finding (§§ 366.21, 366.22, 366.25)**  
42



- (1) — ~~If the child was removed from the custody of the parent or legal guardian, the court must order the child returned unless the court finds by a preponderance of the evidence that return of the child to the parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker has the burden of establishing that detriment.~~
- (2) — ~~The court must consider whether the child can be returned to the custody of his or her parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent.~~
- (3) — ~~Failure of the parent or legal guardian to regularly participate and make substantive progress in any court-ordered treatment program is prima facie evidence that continued supervision is necessary or that return would be detrimental.~~
- (4) — ~~In making its determination about whether returning the child would be detrimental, the court must consider the following:~~
- ~~(A) — The social worker's report and recommendations and the report and recommendations of any CASA volunteer who has been appointed on the case;~~
  - ~~(B) — The efforts or progress demonstrated by the parent or legal guardian; and~~
  - ~~(C) — The extent to which the parent or legal guardian availed himself or herself of the services provided, taking into account the particular barriers to an incarcerated or institutionalized parent or legal guardian's access to court-mandated services and the ability to maintain contact with his or her child.~~
- (5) — ~~If the parent or legal guardian agreed to submit fingerprints to obtain criminal history information as part of the case plan, the court must consider the criminal history of the parent or legal guardian after the child's removal to the extent that the criminal record is substantially related to the welfare of the child or the parent's or legal guardian's ability to exercise custody and control regarding his or her child.~~
- (6) — ~~Regardless of whether the child is returned home, the court must specify the factual basis for its conclusion that the return would or would not be detrimental.~~

1 ~~(e)~~(c) Reasonable services (§§ 366, 366.21, 366.22, 366.25, 366.3)

2  
3 (1) If the child is not returned to the custody of the parent or legal guardian, the  
4 court must consider whether reasonable services have been offered or  
5 provided. The court must find that:

6  
7 ~~(A)~~ Reasonable services have been offered or provided; or

8  
9 ~~(B)~~ Reasonable services have not been offered or provided.

10 (2) If the child is not returned to the custody of the parent or legal guardian, the  
11 court must consider the safety of the child and make the findings listed in  
12 sections 366(a) and 16002.

13  
14 ~~(2) The following factors are not sufficient, in and of themselves, to support a~~  
15 ~~finding that reasonable services have not been offered or provided:~~

16  
17 ~~(A) The child has been placed in a preadoptive home or with a family that~~  
18 ~~is eligible to adopt the child;~~

19  
20 ~~(B) The case plan includes services to achieve legal permanence for the~~  
21 ~~child if reunification cannot be accomplished; or~~

22  
23 ~~(C) Services to achieve legal permanence for the child if reunification~~  
24 ~~efforts fail are being provided concurrently with reunification services.~~

25  
26 ~~(f)~~(d) \* \* \*

27  
28 ~~(g)~~(e) Case plan (§§ 16001.9, 16501.1)

29  
30 The court must consider the case plan submitted for the hearing and must  
31 determine:

32  
33 (1) Whether the child was actively involved, as age- and developmentally  
34 appropriate, in the development of ~~his or her own~~ the case plan and plan for  
35 permanent placement. If the court finds ~~that~~ the child ~~or youth~~ was not  
36 appropriately involved, the court must order the agency to actively involve  
37 the child in the development of ~~his or her own~~ the case plan and plan for  
38 permanent placement, unless the court finds ~~that~~ the child is unable,  
39 unavailable, or unwilling to participate.

40  
41 (2) Whether each parent or legal guardian was actively involved in the  
42 development of the case plan and plan for permanent placement. If the court  
43 finds that any parent or legal guardian was not actively involved, the court

1 must order the agency to actively involve that parent or legal guardian in the  
2 development of the case plan and plan for permanent placement, unless the  
3 court finds that the parent is unable, unavailable, or unwilling to participate.  
4

5 (3) – (4)\* \* \*

6  
7  
8  
9 (5) Whether the case plan was developed in compliance with and meets the  
10 requirements of section 16501.1(g). If the court finds that the development of  
11 the case plan does not comply with section 16501.1(g), the court must order  
12 the agency to comply with the requirements of section 16501.1(g).  
13

14 ~~(h) — Out-of-state placement (§§ 361.21, 366)~~

15  
16 ~~If the child has been placed out of the state, the court must consider whether the~~  
17 ~~placement continues to be the most appropriate placement for the child and in the~~  
18 ~~child's best interest. If the child is in an out-of-state group home, the court must~~  
19 ~~follow the requirements in section 361.21.~~  
20

21 ~~(i) — Title IV-E findings (§ 366)~~

22  
23 ~~Regardless of whether or not the child is returned home, the court must consider the~~  
24 ~~safety of the child and must determine all of the following:~~

25  
26 ~~(1) — The continuing necessity for and appropriateness of the placement;~~

27  
28 ~~(2) — The extent of the agency's compliance with the case plan in making reasonable~~  
29 ~~efforts or, in the case of an Indian child, active efforts as described in section~~  
30 ~~361.7, to return the child to a safe home and to complete any steps necessary~~  
31 ~~to finalize the permanent placement of the child. These steps include efforts to~~  
32 ~~maintain relationships between a child who is 10 years or older who has been~~  
33 ~~in an out-of-home placement for 6 months or longer and individuals other than~~  
34 ~~the child's siblings who are important to the child, consistent with the child's~~  
35 ~~best interest;~~  
36

37 ~~(3) — The extent of progress that has been made by the parents or legal guardians~~  
38 ~~toward alleviating or mitigating the causes necessitating placement in foster~~  
39 ~~care; and~~  
40

41 ~~(4) — The likely date by which the child may be returned to and safely maintained in~~  
42 ~~the home or placed for adoption, legal guardianship, or in another planned~~  
43 ~~permanent living arrangement.~~

1  
2 ~~(j)(f)~~ \* \* \*

3  
4 ~~(k)(g)~~ \* \* \*

5  
6 ~~(l)(h)~~ \* \* \*

7  
8 ~~(m) — Setting a hearing under section 366.26; reasonable services requirement (§§~~  
9 ~~366.21, 366.22)~~

10  
11 ~~At any 6 month, 12 month, or 18 month hearing, the court may not set a hearing~~  
12 ~~under section 366.26 unless the court finds by clear and convincing evidence that~~  
13 ~~reasonable services have been provided or offered to the parent or legal guardian.~~

14  
15 ~~(n)(i)~~ Requirements on setting a section 366.26 hearing (§§ 366.21, 366.22, 366.25)

16  
17 The court must make the following orders and determinations when setting a  
18 hearing under section 366.26:

19  
20 ~~(1) The court must terminate reunification services to the parent or legal guardian~~  
21 ~~and:~~

22  
23 ~~(A) — Order that the social worker provide a copy of the child's birth~~  
24 ~~certificate to the caregiver as consistent with sections 16010.4(e)(5) and~~  
25 ~~16010.5(b) (c); and~~

26  
27 ~~(B) — Order that the social worker provide a child 16 years of age or older~~  
28 ~~with a copy of his or her birth certificate unless the court finds that~~  
29 ~~provision of the birth certificate would be inappropriate.~~

30  
31 ~~(2) — The court must continue to permit the parent or legal guardian to visit the~~  
32 ~~child, unless it finds that visitation would be detrimental to the child;~~

33  
34 ~~(3) — If the child is 10 years of age or older and is placed in an out-of-home~~  
35 ~~placement for 6 months or longer, the court must enter any other appropriate~~  
36 ~~orders to enable the child to maintain relationships with other individuals~~  
37 ~~who are important to the child, consistent with the child's best interest.~~  
38 ~~Specifically, the court:~~

39  
40 ~~(A) — Must determine whether the agency has identified individuals, in~~  
41 ~~addition to the child's siblings, who are important to the child and will~~  
42 ~~maintain caring, permanent relationships with the child, consistent with~~  
43 ~~the child's best interest;~~

1  
2 (B) — ~~Must determine whether the agency has made reasonable efforts to~~  
3 ~~nurture and maintain the child's relationships with those individuals,~~  
4 ~~consistent with the child's best interest; and~~

5  
6 (C) — ~~May make any appropriate order to ensure that those relationships are~~  
7 ~~maintained.~~

8  
9 (4) — ~~The court must direct the county child welfare agency and the appropriate~~  
10 ~~county or state adoption agency to prepare an assessment under section~~  
11 ~~366.21(i), 366.22(c), or 366.25(b);~~

12  
13 (5)(1) The court must ensure that notice is provided as required by section 294.

14  
15 (6)(2) The court must follow all procedures in rule 5.590 regarding writ petition  
16 rights, advisements, and forms.

17  
18 (e)(i) \* \* \*

19  
20 **Rule 5.710. Six-month review hearing**

21  
22 (a) — ~~Setting 6-month review; notice (§§ 364, 366, 366.21)~~

23  
24 ~~The case of any dependent child whom the court has removed from the custody of~~  
25 ~~the parent or legal guardian under section 361 or 361.5 must be set for a review~~  
26 ~~hearing within 6 months of the date of the dispositional hearing, but no later than~~  
27 ~~12 months from the date the child entered foster care, as defined by section 361.49,~~  
28 ~~whichever occurs earlier. Notice must be provided as described in section 293 and~~  
29 ~~rule 5.708.~~

30  
31 (b)(a) **Determinations and conduct of hearing (§§ 364, 366, 366.1, 366.21)**

32  
33 At the hearing, the court and all parties must comply with all relevant requirements  
34 and procedures in rule 5.708, General review hearing requirements. The court must  
35 make all appropriate findings and orders specified in rule 5.708 and proceed under  
36 section 366.21(e) and as follows:

37  
38 (1) *Order return of the child or find that return would be detrimental*

39  
40 ~~The court must order the child returned to the custody of the parent or legal~~  
41 ~~guardian unless the court finds that the petitioner has established by a~~  
42 ~~preponderance of the evidence that return would create a substantial risk of~~  
43 ~~detriment to the safety, protection, or physical or emotional well-being of the~~

1 child. The requirements in rule 5.708(d) must be followed in establishing  
2 detriment. The requirements in rule 5.708(e) must be followed in entering a  
3 reasonable services finding. If the child is returned, the court may order the  
4 termination of dependency jurisdiction or order continued dependency  
5 services and set a review hearing within 6 months.

6  
7 (2) *Place with noncustodial parent*

8  
9 If the court has previously placed or at this hearing places the child with a  
10 noncustodial parent, the court must follow the procedures in rule 5.708(k)(g)  
11 and section 361.2.

12  
13 (3) *Set a section 366.26 hearing*

14  
15 If the court does not return custody of the child to the parent or legal  
16 guardian, the court may set a hearing under section 366.26 within 120 days,  
17 as provided in ~~(e)~~(b).

18  
19 (4) *Continue the case for a 12-month permanency hearing*

20  
21 If the child is not returned and the court does not set a section 366.26 hearing,  
22 the court must order that any reunification services previously ordered will  
23 continue to be offered to the parent or legal guardian, if appropriate. The  
24 court may modify those services as appropriate or order additional services  
25 reasonably believed to facilitate the return of the child to the parent or legal  
26 guardian. The court must set a date for the next hearing no later than 12  
27 months from the date the child entered foster care as defined in section  
28 361.49.

29  
30 ~~(e)~~(b) **Setting a section 366.26 hearing (§§ 366.21, 366.215)**

- 31  
32 (1) The court may set a hearing under section 366.26 within 120 days if any of  
33 the conditions in section 366.21(e) are met; or ÷

34  
35 ~~(A) The child was removed under section 300(g) and the court finds by~~  
36 ~~clear and convincing evidence that the parent's whereabouts are still~~  
37 ~~unknown, or the parent has failed to contact and visit the child, or the~~  
38 ~~parent has been convicted of a felony indicating parental unfitness. The~~  
39 ~~court must take into account any particular barriers to a parent's ability~~  
40 ~~to maintain contact with his or her child due to the parent's~~  
41 ~~incarceration or institutionalization;~~  
42

- 1           ~~(B) The court finds by clear and convincing evidence that the parent has~~  
2           ~~been convicted of a felony indicating parental unfitness;~~  
3  
4           ~~(C) The parent is deceased; or~~  
5  
6           ~~(D) The child was under the age of three when initially removed, or a~~  
7           ~~member of a sibling group described in section 361.5(a)(1)(C), and the~~  
8           ~~court finds by clear and convincing evidence that the parent has failed~~  
9           ~~to participate regularly and make substantive progress in any court-~~  
10           ~~ordered treatment plan. If, however, the court finds a substantial~~  
11           ~~probability that the child may be returned within 6 months or within 12~~  
12           ~~months of the date the child entered foster care, whichever is sooner, or~~  
13           ~~that reasonable services have not been offered or provided, the court~~  
14           ~~must continue the case to the 12-month permanency hearing.~~  
15  
16           ~~(i) In order to find a substantial probability that the child may be~~  
17           ~~returned within the applicable time period, the court should~~  
18           ~~consider the following factors along with any other relevant~~  
19           ~~evidence:~~  
20  
21                   ~~a. Whether the parent or legal guardian has consistently and~~  
22                   ~~regularly contacted and visited the child;~~  
23  
24                   ~~b. Whether the parent or legal guardian has made significant~~  
25                   ~~progress in resolving the problems that led to the removal~~  
26                   ~~of the child; and~~  
27  
28                   ~~c. Whether the parent or legal guardian has demonstrated the~~  
29                   ~~capacity and ability to complete the objectives of the~~  
30                   ~~treatment plan and to provide for the child's safety,~~  
31                   ~~protection, physical and emotional health, and special~~  
32                   ~~needs.~~  
33  
34           ~~(ii) The court, in determining whether court-ordered services may be~~  
35           ~~extended to the 12-month point, must take into account any~~  
36           ~~particular barriers to a parent's or guardian's ability to maintain~~  
37           ~~contact with his or her child due to the parent's or guardian's~~  
38           ~~incarceration, institutionalization, detention by the United States~~  
39           ~~Department of Homeland Security, or deportation. The court may~~  
40           ~~also consider, among other factors, whether the incarcerated,~~  
41           ~~institutionalized, detained, or deported parent or guardian has~~  
42           ~~made good faith efforts to maintain contact with the child and~~

1 whether there are any other barriers to the parent's or guardian's  
2 access to services.

3  
4 (2) \* \* \*

5  
6 **(d) — Sibling groups (§ 366.21)**

7  
8 In determining whether to set a hearing under section 366.26 for one or more  
9 members of a sibling group when one member of that group was under the age of  
10 three at the time of the initial removal, the court may terminate or continue services  
11 for any or all members of the group, based on the following considerations and for  
12 reasons specified on the record:

13  
14 (1) — Whether the siblings were removed as a group;

15  
16 (2) — The closeness and strength of the sibling bond;

17  
18 (3) — The ages of the siblings;

19  
20 (4) — The appropriateness of maintaining the sibling group together;

21  
22 (5) — The detriment to the child if sibling ties are not maintained;

23  
24 (6) — The likelihood of finding a permanent home for the group;

25  
26 (7) — Whether the group is placed together in a preadoptive home, if there is a  
27 concurrent plan for permanency for all siblings in the same home;

28  
29 (8) — The wishes of each child; and

30  
31 (9) — The best interest of each member of the sibling group.

32  
33 **Rule 5.715. Twelve-month permanency hearing**

34  
35 **(a) Requirement for 12-month review; setting of hearing; notice (§§ 293, 366.21)**

36  
37 The case of any dependent child whom the court has removed from the custody of  
38 the parent or legal guardian must be set for a permanency hearing within 12 months  
39 of the date the child entered foster care, as defined in section 361.49, and no later  
40 than 18 months from the date of the initial removal. Notice of the hearing must be  
41 provided as described in section 293 and rule 5.708.  
42



1 (b) **Determinations and conduct of hearing (§§ 309(e), 361.5, 366, 366.1, 366.21)**

2  
3 At the hearing, the court and all parties must comply with all relevant requirements  
4 and procedures in rule 5.708, General review hearing requirements. The court must  
5 make all appropriate findings and orders specified in rule 5.708 and proceed under  
6 section 366.21(f) and as follows:

7  
8 ~~(1) — The court must order the child returned to the custody of the parent or legal~~  
9 ~~guardian unless the court finds the petitioner has established, by a~~  
10 ~~preponderance of the evidence, that return would create a substantial risk of~~  
11 ~~detriment to the safety, protection, or physical or emotional well-being of the~~  
12 ~~child. Failure of the parent or legal guardian to regularly participate and make~~  
13 ~~substantive progress in a court-ordered treatment program is prima facie~~  
14 ~~evidence that return would be detrimental. The requirements in rule 5.708(d)~~  
15 ~~must be followed in establishing detriment.~~

16  
17 ~~(2)(1)~~ The requirements in rule 5.708(e)(c) must be followed in entering a  
18 reasonable services finding.

19  
20 ~~(3)(2)~~ If the court has previously placed or at this hearing places the child with a  
21 noncustodial parent, the court must follow the procedures in rule 5.708(k)(g)  
22 and section 361.2.

23  
24 ~~(4)(3)~~ If the court does not order return of the child to the parent or legal guardian  
25 and the time period for providing court-ordered services has been met or  
26 exceeded, as provided in section 361.5(a)(1), the court must specify the  
27 factual basis for its finding of risk of detriment to the child and proceed as  
28 follows in selecting a permanent plan:

29  
30 ~~(A) — If the court finds that there is a substantial probability that the child will~~  
31 ~~be returned within 18 months or that reasonable services have not been~~  
32 ~~offered or provided, the court must continue the case for a permanency~~  
33 ~~review hearing to a date not later than 18 months from the date of the~~  
34 ~~initial removal. If the court continues the case for an 18-month~~  
35 ~~permanency review hearing, the court must inform the parent or legal~~  
36 ~~guardian that if the child cannot be returned home by the next hearing,~~  
37 ~~a proceeding under section 366.26 may be instituted.~~

38  
39 ~~(i) — In order to find a substantial probability that the child will be~~  
40 ~~returned within the 18-month period, the court must find all of~~  
41 ~~the following:~~  
42

- 1 a. ~~The parent or legal guardian has consistently and regularly~~  
2 ~~contacted and visited the child;~~  
3  
4 b. ~~The parent or legal guardian has made significant progress in~~  
5 ~~resolving the problems that led to the removal of the child;~~  
6 ~~and~~  
7  
8 c. ~~The parent or legal guardian has demonstrated the capacity~~  
9 ~~and ability to complete the objectives of the treatment plan~~  
10 ~~and to provide for the child's safety, protection, physical~~  
11 ~~and emotional health, and special needs.~~

12  
13 (ii) ~~In determining whether court ordered services may be extended~~  
14 ~~to the 18 month point, the court must consider the special~~  
15 ~~circumstances of a parent or legal guardian who is incarcerated,~~  
16 ~~institutionalized or court ordered to a residential substance abuse~~  
17 ~~treatment program, or arrested and issued an immigration hold,~~  
18 ~~detained by the United States Department of Homeland Security,~~  
19 ~~or deported to his or her country of origin, including, but not~~  
20 ~~limited to, barriers to the parent's or legal guardian's access to~~  
21 ~~services and ability to maintain contact with his or her child. The~~  
22 ~~court must also consider, among other factors, good faith efforts~~  
23 ~~that the parent or legal guardian has made to maintain contact~~  
24 ~~with the child.~~

25  
26 (B) ~~If (1), (4)(A), or (4)(C) do not apply, the court must terminate~~  
27 ~~reunification services and order a hearing under section 366.26 within~~  
28 ~~120 days. The court and all parties must comply with all relevant~~  
29 ~~requirements, procedures, findings, and orders related to section 366.26~~  
30 ~~hearings in rule 5.708.~~

31  
32 (C) ~~If the court finds by clear and convincing evidence, including a~~  
33 ~~recommendation by the appropriate state or county adoption agency,~~  
34 ~~that there is a compelling reason for determining that a section 366.26~~  
35 ~~hearing is not in the best interest of the child because the child is not a~~  
36 ~~proper subject for adoption and has no one willing to accept legal~~  
37 ~~guardianship:~~

38  
39 (i) ~~The court must terminate reunification services and order that the~~  
40 ~~child remain in a planned permanent living arrangement.~~  
41

- 1                   (ii) ~~If the court orders that the child remain in a planned permanent~~  
2                   ~~living arrangement, it must identify the foster care setting by~~  
3                   ~~name and identify a specific permanency goal for the child.~~  
4  
5                   (iii) The court may order that the name and address of the foster home  
6                   remain confidential.  
7  
8                   (iv) ~~The court must continue to permit the parent or legal guardian to~~  
9                   ~~visit the child, unless it finds that visitation would be detrimental~~  
10                  ~~to the child.~~  
11  
12                  (v) ~~If the child is 10 years of age or older and is placed in out-of-~~  
13                  ~~home placement for six months or longer, the court must enter~~  
14                  ~~any other appropriate orders to enable the child to maintain~~  
15                  ~~relationships with other individuals who are important to the~~  
16                  ~~child, consistent with the child's best interest. Specifically, the~~  
17                  ~~court:~~  
18  
19                  a. ~~Must determine whether the agency has identified~~  
20                  ~~individuals, in addition to the child's siblings, who are~~  
21                  ~~important to the child and will maintain caring, permanent~~  
22                  ~~relationships with the child, consistent with the child's best~~  
23                  ~~interest;~~  
24  
25                  b. ~~Must determine whether the agency has made reasonable~~  
26                  ~~efforts to nurture and maintain the child's relationships~~  
27                  ~~with those individuals, consistent with the child's best~~  
28                  ~~interest; and~~  
29  
30                  c. ~~May make any appropriate order to ensure that those~~  
31                  ~~relationships are maintained.~~  
32

33                  ~~(5)(4)~~ In the case of an Indian child, if the child is not returned to his or her parent  
34                  or legal guardian, the court must consider and state, for the record, in state  
35                  and out of state options for permanent placement, including, in the case of an  
36                  Indian child, determine whether:

- 37  
38                  (A) The agency has consulted the child's tribe about tribal customary  
39                  adoption;  
40  
41                  (B) The child's tribe concurs with tribal customary adoption; and  
42

(C) Tribal customary adoption is an appropriate permanent plan for the child.

(5) If the child is not returned to his or her parent or legal guardian and the court terminates reunification services, the court must find as follows:

(A) The agency has made diligent efforts to locate an appropriate relative;  
or

(B) The agency has not made diligent efforts to locate an appropriate relative. If the court makes such a finding, the court or administrative review panel must order the agency to make diligent efforts to locate an appropriate relative; and

(C) Each relative whose name has been submitted to the agency as a possible caregiver has been evaluated as an appropriate placement resource; or

(D) Each relative whose name has been submitted to the agency as a possible caregiver has not been evaluated as an appropriate placement resource. If the court makes such a finding, the court must order the agency to evaluate as an appropriate placement resource, each relative whose name has been submitted to the agency as a possible caregiver.

#### **Rule 5.720. Eighteen-month permanency review hearing**

~~(a) — Requirement for 18-month permanency review hearing; setting of hearing; notice (§§ 293, 366.22)~~

~~For any dependent child whom the court has removed from the custody of the parent or legal guardian, and who was not returned at the 6 or 12 month review hearing, a permanency review hearing must be held no later than 18 months from the date of the initial removal. Notice of the hearing must be given as provided in section 293 and rule 5.708(b).~~

~~(b)~~**(a) Determinations and conduct of hearing (§§ 309(e), 361.5, 366.22)**

At the hearing the court and all parties must comply with all relevant requirements and procedures in rule 5.708, General review hearing requirements. The court must make all appropriate findings and orders specified in rule 5.708, and proceed under section 366.22 and as follows:

1       (1) The court must order the child returned to the custody of the parent or legal  
2 guardian unless the court finds the petitioner has established, by a  
3 preponderance of the evidence, that return would create a substantial risk of  
4 detriment to the safety, protection, or physical or emotional well-being of the  
5 child. Failure of the parent or legal guardian to regularly participate and make  
6 substantive progress in a court-ordered treatment program is prima facie  
7 evidence that continued supervision is necessary or that return would be  
8 detrimental. The requirements in rule 5.708(d) must be followed in  
9 establishing detriment. The requirements in rule 5.708(e) must be followed in  
10 entering a reasonable services finding.

11  
12       (2)(1) If the court has previously placed or at this hearing places the child with a  
13 noncustodial parent, the court must follow the procedures in rule 5.708(k)(g)  
14 and section 361.2.

15  
16       (3)(2) If the court does not order return of the child to the custody of the parent or  
17 legal guardian, the court must specify the factual basis for its finding of risk  
18 of detriment and do one of the following:

19  
20       (A) — Continue the case for a subsequent permanency review hearing not  
21 later than 24 months from the date of the initial removal if the court  
22 finds that there is a substantial probability that the child will be  
23 returned within that time or that reasonable services have not been  
24 offered or provided. To extend services to the 24-month point, the court  
25 must also find by clear and convincing evidence that additional  
26 reunification services are in the best interest of the child and that the  
27 parent or legal guardian is making significant and consistent progress in  
28 a substance abuse treatment program, or a parent or legal guardian has  
29 recently been discharged from incarceration, institutionalization, or the  
30 custody of the United States Department of Homeland Security and is  
31 making significant and consistent progress in establishing a safe home  
32 for the child's return. The court must also inform the parent or legal  
33 guardian that, if the child cannot be returned home by the subsequent  
34 permanency review hearing, a hearing under section 366.26 may be  
35 instituted.

36  
37       In order to find a substantial probability that the child will be returned  
38 within the 24-month period, the court must find all of the following:

39  
40       (i) — The parent or legal guardian has consistently and regularly  
41 contacted and visited the child;  
42

1                   (ii) ~~The parent or legal guardian has made significant and consistent~~  
2                   ~~progress in the prior 18 months in resolving the problems that led~~  
3                   ~~to the removal of the child; and~~

4  
5                   (iii) ~~The parent or legal guardian has demonstrated the capacity and~~  
6                   ~~ability both to complete the objectives of his or her substance~~  
7                   ~~abuse treatment plan as evidenced by reports from a substance~~  
8                   ~~abuse provider, as applicable, or to complete a treatment plan~~  
9                   ~~postdischarge from incarceration, institutionalization, or~~  
10                  ~~detention or following deportation to his or her country of origin~~  
11                  ~~or his or her return to the United States, and to provide for the~~  
12                  ~~child's safety, protection, physical and emotional health, and~~  
13                  ~~special needs.~~

14  
15               (B) ~~Terminate reunification services and order that the child remain in a~~  
16               ~~planned permanent living arrangement, if it finds by clear and~~  
17               ~~convincing evidence already presented, including a recommendation by~~  
18               ~~the appropriate state or county adoption agency, that there is a~~  
19               ~~compelling reason for determining that a section 366.26 hearing is not~~  
20               ~~in the best interest of the child because the child is not a proper subject~~  
21               ~~for adoption and has no one willing to accept legal guardianship.~~

22  
23               (i) ~~If the court orders that the child remain in a planned permanent~~  
24               ~~living arrangement, it must identify the foster care setting by~~  
25               ~~name and identify a specific permanency goal for the child.~~

26  
27               (ii)   The court may order that the name and address of the foster home  
28               remain confidential.

29  
30               (iii) ~~The court must continue to permit the parent or legal guardian to~~  
31               ~~visit the child, unless it finds that visitation would be detrimental~~  
32               ~~to the child;~~

33  
34               (iv) ~~If the child is 10 years of age or older and is placed in out-of-~~  
35               ~~home placement for six months or longer, the court must enter~~  
36               ~~any other appropriate orders to enable the child to maintain~~  
37               ~~relationships with other individuals who are important to the~~  
38               ~~child, consistent with the child's best interest. Specifically, the~~  
39               ~~court:~~

40  
41               a. ~~Must determine whether the agency has identified~~  
42               ~~individuals, in addition to the child's siblings, who are~~  
43               ~~important to the child and will maintain caring, permanent~~

relationships with the child, consistent with the child's best interest;

b.—Must determine whether the agency has made reasonable efforts to nurture and maintain the child's relationships with those individuals, consistent with the child's best interest; and

e.—May make any appropriate order to ensure that those relationships are maintained.

(C)—If (1), (3)(A), or (3)(B) do not apply, the court must terminate reunification services and order a hearing under section 366.26 within 120 days. The court and all parties must comply with all relevant requirements, procedures, and findings and orders related to section 366.26 hearings in rule 5.708.

(4)(3) In the case of an Indian child, if the child is not returned to his or her parent or legal guardian, the court must consider and state, for the record, in state and out-of-state options for permanent placement, including, in the case of an Indian child, determine whether:

(A) The agency has consulted the child's tribe about tribal customary adoption;

(B) The child's tribe concurs with tribal customary adoption; and

(C) Tribal customary adoption is an appropriate permanent plan for the child.

(4) If the child is not returned to his or her parent or legal guardian and the court terminates reunification services, the court must find as follows:

(A) The agency has made diligent efforts to locate an appropriate relative;  
or

(B) The agency has not made diligent efforts to locate an appropriate relative. If the court makes such a finding, the court must order the agency to make diligent efforts to locate an appropriate relative; and

(C) Each relative whose name has been submitted to the agency as a possible caregiver has been evaluated as an appropriate placement resource; or

(D) Each relative whose name has been submitted to the agency as a possible caregiver has not been evaluated as an appropriate placement resource. If the court makes such a finding, the court must order the agency to evaluate as an appropriate placement resource, each relative whose name has been submitted to the agency as a possible caregiver.

**Rule 5.722. Twenty-four-month subsequent permanency review hearing**

**(a) — Requirement for 24-month subsequent permanency review hearing; setting of hearing; notice (§ 366.25)**

~~For any dependent child whom the court has removed from the custody of the parent or legal guardian, and whose case has been continued under section 366.22(b), the subsequent permanency review hearing must be held no later than 24 months from the date of initial removal. Notice must be provided as described in rule 5.708.~~

**~~(b)~~(a) Determinations and conduct of hearing (§§ 309(e), 366, 366.1, 366.25)**

At the hearing, the court and all parties must comply with all relevant requirements and procedures in rule 5.708, General review hearing requirements. The court must make all appropriate findings and orders specified in rule 5.708, and proceed under section 366.25 and as follows:

(1) ~~The court must order the child returned to the custody of the parent or legal guardian unless the court finds that petitioner has established by a preponderance of the evidence that return would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. Failure of the parent or legal guardian to regularly participate and make substantive progress in a court-ordered treatment program is prima facie evidence that return would be detrimental. The requirements in rule 5.708(d) must be followed in establishing detriment. The requirements in rule 5.708(e)(c) must be followed in entering a reasonable services finding.~~

(2) If the court does not order the return of the child to the custody of the parent or legal guardian, the court must specify the factual basis for its finding of risk of detriment ~~and do one of the following:~~

(A) ~~If the court finds by clear and convincing evidence, including a recommendation by the appropriate state or county adoption agency, that there is a compelling reason for determining that a section 366.26 hearing is not in the best interest of the child because the child is not a~~



proper subject for adoption and has no one willing to accept legal guardianship, the court must terminate reunification services and order that the child remain in a planned permanent living arrangement.

(i) ~~If the court orders that the child remain in a planned permanent living arrangement, it must identify the foster care setting by name and identify a specific permanency goal for the child.~~

~~(ii)~~(3) The court may order that the name and address of the foster home remain confidential.

~~(iii)~~ The court must continue to permit the parent or legal guardian to visit the child, unless it finds that visitation would be detrimental to the child.

~~(iv)~~ If the child is 10 years of age or older and is placed in out-of-home placement for six months or longer, the court must enter any other appropriate orders to enable the child to maintain relationships with other individuals who are important to the child, consistent with the child's best interest. Specifically, the court:

a. ~~Must determine whether the agency has identified individuals, in addition to the child's siblings, who are important to the child and will maintain caring, permanent relationships with the child, consistent with the child's best interest;~~

b. ~~Must determine whether the agency has made reasonable efforts to nurture and maintain the child's relationships with those individuals, consistent with the child's best interest; and~~

c. ~~May make any appropriate order to ensure that those relationships are maintained.~~

~~(B)~~ If (1) or (2)(A) do not apply, the court must terminate reunification services and order that a hearing be held under section 366.26 within 120 days. The court and all parties must comply with all relevant requirements, procedures, findings, and orders related to section 366.26 hearings in rule 5.708~~(f)~~ ~~(e)~~. ~~(h)~~ ~~(j)~~.

1       ~~(3)~~(4) In the case of an Indian child, if the child is not returned to his or her parent  
2       or legal guardian, the court must consider and state, for the record, in-state  
3       and out-of-state options for permanent placement, including, in the case of an  
4       Indian child, determine whether:

5  
6       (A) The agency has consulted the child's tribe about tribal customary  
7       adoption;

8  
9       (B) The child's tribe concurs with tribal customary adoption; and

10  
11       (C) Tribal customary adoption is an appropriate permanent plan for the  
12       child.

13  
14       (5) If the child is not returned to his or her parent or legal guardian and the court  
15       terminates reunification services, the court must find as follows:

16  
17       (A) The agency has made diligent efforts to locate an appropriate relative;  
18       or

19  
20       (B) The agency has not made diligent efforts to locate an appropriate  
21       relative. If the court makes such a finding, the court must order the  
22       agency to make diligent efforts to locate an appropriate relative; and

23  
24       (C) Each relative whose name has been submitted to the agency as a  
25       possible caregiver has been evaluated as an appropriate placement  
26       resource; or

27  
28       (D) Each relative whose name has been submitted to the agency as a  
29       possible caregiver has not been evaluated as an appropriate placement  
30       resource. If the court makes such a finding, the court must order the  
31       agency to evaluate as an appropriate placement resource, each relative  
32       whose name has been submitted to the agency as a possible caregiver.

33  
34       **Rule 5.725. Selection of permanent plan (§§ 366.24, 366.26, 727.31)**

35  
36       **(a) Application of rule**

37  
38       This rule applies to children who have been declared dependents or wards of the  
39       juvenile court.

40  
41       (1) ~~Only section 366.26 and division 12, part 3, chapter 5 (commencing with~~  
42       ~~section 7660) of the Family Code or Family Code sections 8604, 8605, 8606,~~

1 and 8700 apply for the termination of parental rights. Part 4 (commencing  
2 with section 7800) of division 12 of the Family Code does not apply.

3  
4 ~~(2)~~(1) The court may not terminate the rights of only one parent under section  
5 366.26 unless that parent is the only surviving parent; or unless the rights of  
6 the other parent have been terminated under division 12, part 3, chapter 5  
7 (commencing with section 7660), or division 12, part 4 (commencing with  
8 section 7800) of the Family Code, or Family Code sections 8604, 8605, or  
9 8606 by a California court of competent jurisdiction or by a court of  
10 competent jurisdiction of another state under the statutes of that state; or  
11 unless the other parent has relinquished custody of the child to the welfare  
12 department.

13  
14 ~~(3)~~(2) Only sections 366.26 and 727.31 apply applies for establishing legal  
15 guardianship.

16  
17 ~~(4)~~(3) For termination of the parental rights of an Indian child, the procedures in  
18 this rule and in rule 5.485 must be followed.

19  
20 **(b) Notice of hearing (§ 294)**

21  
22 In addition to the requirements stated in section 294, notice must be given to any  
23 CASA volunteer, the child's present caregiver Indian custodian, and any de facto  
24 parent on *Notice of Hearing on Selection of a Permanent Plan* (form JV-300).

25  
26 **(c) \* \* \***

27  
28 **(d) Conduct of hearing**

29  
30 At the hearing, the court must state on the record that the court has read and  
31 considered the report of petitioner, the report of any CASA volunteer, the case plan  
32 submitted for this hearing, any report submitted by the child's caregiver under  
33 section 366.21(d), and any other evidence, and must proceed under section 366.26  
34 and as follows:

35  
36 (1) In the case of an Indian child, after the agency has consulted with the tribe,  
37 when the court has determined with the concurrence of the tribe that tribal  
38 customary adoption is the appropriate permanent plan for the child, order a  
39 tribal customary adoption in accordance with section 366.24; ~~or~~

40  
41 ~~(2) Order parental rights terminated and the child placed for adoption if the court~~  
42 ~~determines, by clear and convincing evidence, that it is likely the child will~~  
43 ~~be adopted, unless:~~

- 1  
2       (A) ~~At each and every hearing at which the court was required to consider~~  
3       ~~reasonable efforts or services, the court has found that reasonable~~  
4       ~~efforts were not made or that reasonable services were not offered or~~  
5       ~~provided; or~~  
6  
7       (B) ~~The child is living with a relative who is unable or unwilling to adopt~~  
8       ~~the child because of circumstances that do not include an unwillingness~~  
9       ~~to accept legal or financial responsibility for the child, but who is~~  
10       ~~willing and capable of providing the child with a stable and permanent~~  
11       ~~environment through legal guardianship, and removal from the home of~~  
12       ~~the relative would be detrimental to the emotional well-being of the~~  
13       ~~child. For an Indian child, "relative" includes an "extended family~~  
14       ~~member," as defined in the federal Indian Child Welfare Act (25 U.S.C.~~  
15       ~~§1903(2)); or~~  
16  
17       (C) ~~The court finds a compelling reason to determine that termination~~  
18       ~~would be detrimental to the child because of the existence of one of the~~  
19       ~~following circumstances:~~  
20  
21           (i) ~~The parents or guardians have maintained regular visitation and~~  
22           ~~contact with the child and the child would benefit from~~  
23           ~~continuing the relationship;~~  
24  
25           (ii) ~~A child 12 years of age or older objects to termination of parental~~  
26           ~~rights;~~  
27  
28           (iii) ~~The child is placed in a residential treatment facility and adoption~~  
29           ~~is unlikely or undesirable while the child remains in that~~  
30           ~~placement, and continuation of parental rights will not prevent~~  
31           ~~the finding of an adoptive home if the parents cannot resume~~  
32           ~~custody when residential care is no longer needed;~~  
33  
34           (iv) ~~The child is living with a foster parent or Indian custodian who is~~  
35           ~~unable or unwilling to adopt the child because of exceptional~~  
36           ~~circumstances, but who is willing and capable of providing the~~  
37           ~~child with a stable and permanent home, and removal from the~~  
38           ~~home of the foster parent or Indian custodian would be~~  
39           ~~detrimental to the emotional well-being of the child. This~~  
40           ~~exception does not apply to (1) a child under 6 or (2) a child who~~  
41           ~~has a sibling under 6 who is also a dependent and with whom the~~  
42           ~~child should be placed permanently; or~~  
43

1                   (v) ~~There would be a substantial interference with the child's~~  
2                   ~~relationship with a sibling, taking into consideration the nature~~  
3                   ~~and extent of the relationship. To make this determination, the~~  
4                   ~~court may consider whether the child was raised in the same~~  
5                   ~~home as the sibling, whether the child and the sibling shared~~  
6                   ~~common experiences or have close and strong bonds, and~~  
7                   ~~whether ongoing contact with the sibling is in the child's best~~  
8                   ~~interest. For purposes of this subdivision, determination of the~~  
9                   ~~child's best interest may include a comparison of the child's~~  
10                  ~~long-term emotional interest with the benefit of legal permanence~~  
11                  ~~in an adoptive home.~~

12  
13                  (vi) ~~The child is an Indian child and termination of parental rights~~  
14                  ~~would substantially interfere with the child's connection to his or~~  
15                  ~~her tribal community or the child's tribal membership rights, or~~  
16                  ~~the child's tribe has identified guardianship, long-term foster care~~  
17                  ~~with a fit and willing relative, tribal customary adoption, or~~  
18                  ~~another planned permanent living arrangement as the appropriate~~  
19                  ~~permanent plan for the child.~~

20  
21                  (3) ~~The court must not fail to find that the child is likely to be adopted based on~~  
22                  ~~the fact that the child is not yet placed in a preadoptive home or with a~~  
23                  ~~relative or foster family willing to adopt the child.~~

24  
25                  (4)(2) ~~The party claiming that termination of parental rights would be detrimental~~  
26                  ~~to the child has the burden of proving the detriment.~~

27  
28                  (5) ~~If the court finds termination of parental rights to be detrimental to the child~~  
29                  ~~for reasons stated in (2)(B), the court must state the reasons in writing or on~~  
30                  ~~the record.~~

31  
32                  (6) ~~If termination of parental rights would not be detrimental to the child, but the~~  
33                  ~~child is difficult to place for adoption because the child (1) is a member of a~~  
34                  ~~sibling group that should stay together; (2) has a diagnosed medical, physical,~~  
35                  ~~or mental handicap; or (3) is 7 years of age or older and no prospective~~  
36                  ~~adoptive parent is identified or available, the court may, without terminating~~  
37                  ~~parental rights, identify adoption as a permanent placement goal and order~~  
38                  ~~the public agency responsible for seeking adoptive parents to make efforts to~~  
39                  ~~locate an appropriate adoptive family for a period not to exceed 180 days.~~  
40                  ~~During the 180-day period, in order to identify potential adoptive parents, the~~  
41                  ~~agency responsible for seeking adoptive parents for each child must, to the~~  
42                  ~~extent possible, ask each child who is 10 years of age or older and who is~~  
43                  ~~placed in out-of-home placement for six months or longer to identify any~~

1 individuals who are important to the child. The agency may ask any other  
2 child to provide that information, as appropriate. After that period the court  
3 must hold another hearing and proceed according to (1), (2), or (7).  
4

5 ~~(7)~~(3) If the court finds that ~~(2)(A) or (2)(B)~~ section 366.26(c)(1)(A) or section  
6 366.26(c)(2)(A) applies, the court must appoint the present custodian or other  
7 appropriate person to become the child's legal guardian or must order the  
8 child to remain in foster care.  
9

10 (A) ~~If the court orders that the child remain in foster care, it must identify~~  
11 ~~the foster care setting by name and identify a specific permanency goal~~  
12 ~~for the child. If the court orders that the child remain in foster case, The~~  
13 ~~court~~ it may order that the name and address of the foster home remain  
14 confidential.  
15

16 (B) ~~Legal guardianship must be given preference over foster care when it is~~  
17 ~~in the interest of the child and a suitable guardian can be found.~~  
18

19 (C) ~~A child who is 10 years of age or older who is placed in a out of home~~  
20 ~~placement for six months or longer must be asked to identify any adults~~  
21 ~~who are important to him or her in order for the agency to investigate~~  
22 ~~and the court to determine whether any of those adults would be~~  
23 ~~appropriate to serve as legal guardians. Other children may be asked for~~  
24 ~~this information, as age and developmentally appropriate.~~  
25

26 (D)(B) If the court finds that removal of the child from the home of a foster  
27 parent or relative who is not willing to become a legal guardian for the  
28 child would be seriously detrimental to the emotional well-being of the  
29 child, then the child must not be removed. The foster parent or relative  
30 must be willing to provide, and capable of providing, a stable and  
31 permanent home for the child and must have substantial psychological  
32 ties with the child.  
33

34 (E) ~~The court must make an order for visitation with each parent or~~  
35 ~~guardian unless the court finds by a preponderance of the evidence that~~  
36 ~~the visitation would be detrimental to the child.~~  
37

38 ~~(8)~~(4) The court must consider the case plan submitted for this hearing and must  
39 ~~find as follows:~~ make the required findings and determinations in rule  
40 5.708(e).  
41

42 (A) ~~The child was actively involved in the development of his or her own~~  
43 ~~case plan and plan for permanent placement as age and~~

developmentally appropriate, including being asked for a statement regarding his or her permanent placement plan, and the case plan contains the social worker's assessment of those stated wishes; or

(B) ~~The child was not actively involved in the development of his or her own case plan and plan for permanent placement, including being asked for a statement regarding his or her permanent placement plan and the case plan does not contain the social worker's assessment of those stated wishes. If the court makes such a finding, the court must order the agency to actively involve the child in the development of his or her own case plan and plan for permanent placement, including asking the child for a statement regarding his or her permanent plan, unless the court finds that the child is unable, unavailable, or unwilling to participate. If the court finds that the case plan does not contain the social worker's assessment of the child's stated wishes, the court must order the agency to submit the assessment to the court; and~~

(C) ~~In the case of an Indian child, the agency consulted with the child's tribe and the tribe was actively involved in the development of the case plan and plan for permanent placement, including consideration of whether tribal customary adoption is an appropriate permanent plan for the child if reunification is unsuccessful; or~~

(D) ~~In the case of an Indian child, the agency did not consult with the child's tribe. If the court makes such a finding, the court must order the agency to consult with the tribe, unless the court finds that the tribe is unable, unavailable, or unwilling to participate.~~

(9) ~~For a child 12 years of age or older and in a permanent placement, the court must consider the case plan and must find as follows:~~

(A) ~~The child was given the opportunity to review the case plan, sign it, and receive a copy; or~~

(B) ~~The child was not given the opportunity to review the case plan, sign it, and receive a copy. If the court makes such a finding, the court must order the agency to give the child the opportunity to review the case plan, sign it, and receive a copy.~~

(10) ~~If no adult is available to become legal guardian, and no suitable foster home is available, the court may order the care, custody, and control of the child transferred to a licensed foster family agency, subject to further orders of the court.~~

1  
2 **(e) Procedures—adoption**  
3

4 (1) The court must follow the procedures in section 366.24 or 366.26, as  
5 appropriate.  
6

7 ~~(1) The court may not terminate parental rights or order adoption if a review of~~  
8 ~~the prior findings and orders reveals that at each and every prior hearing at~~  
9 ~~which the court was required to consider reasonable efforts or services the~~  
10 ~~court found that reasonable efforts had not been made or that reasonable~~  
11 ~~services had not been offered or provided. If at any prior hearing the court~~  
12 ~~found that reasonable efforts had been made or that reasonable services had~~  
13 ~~been offered or provided, the court may terminate parental rights.~~  
14

15 (2) An order of the court terminating parental rights, ordering adoption under  
16 section 366.26, or, in the case of an Indian child, ordering tribal customary  
17 adoption under section 366.24 is conclusive and binding on the child, the  
18 parent, and all other persons who have been served under the provisions of  
19 section 294. The order may not be set aside or modified by the court, except  
20 as provided in section 366.26(i)(3) and rules 5.538, 5.540, and 5.542 with  
21 regard to orders by a referee.  
22

23 ~~(3) If the court declares the child free from custody and control of the parents,~~  
24 ~~the court must at the same time order the child referred to a licensed county~~  
25 ~~adoption agency for adoptive placement. A petition for adoption of the child~~  
26 ~~may be filed and heard in the juvenile court but may not be granted until the~~  
27 ~~appellate rights of all parents have been exhausted.~~  
28

29 ~~(4) In the case of an Indian child for whom tribal customary adoption has been~~  
30 ~~ordered in accordance with section 366.24, the court may continue the~~  
31 ~~hearing for up to 120 days to permit the tribe to complete the process for~~  
32 ~~tribal customary adoption. In its discretion, the court may grant a further~~  
33 ~~continuance not exceeding 60 days.~~  
34

35 ~~(A) No less than 20 days before the date set for the continued hearing, the~~  
36 ~~tribe must file the completed tribal customary adoption order with the~~  
37 ~~court.~~  
38

39 ~~(B) The social worker must file an addendum report with the court at least~~  
40 ~~7 days before the hearing.~~  
41



1                   ~~(C) If the tribe does not file the tribal customary adoption order within the~~  
2                   ~~designated time period, the court must make new findings and orders~~  
3                   ~~under section 366.26(b) and select a new permanent plan for the child.~~

4  
5       (f) – (h) \* \* \*

6  
7  
8  
9       **Rule 5.726. Prospective adoptive parent designation (§§ 366.26(n), 16010.6)**

10  
11       (a)     \* \* \*

12  
13       (b)     ~~Criteria for designation as prospective adoptive parent~~ **Facilitation steps**

14  
15             ~~A caregiver must meet the following criteria to be designated as a prospective~~  
16             ~~adoptive parent:~~

17  
18             ~~(1) The child has lived with the caregiver for at least six months;~~

19  
20             ~~(2) The caregiver currently expresses a commitment to adopt the child; and~~

21  
22             ~~(3) The caregiver has taken at least one step to facilitate the adoption process.~~  
23             Steps to facilitate the adoption process include: those listed in section  
24             366.26(n)(2) and, in

25  
26             ~~(A) Applying for an adoption home study;~~

27  
28             ~~(B) Cooperating with an adoption home study;~~

29  
30             ~~(C) Being designated by the court or the licensed adoption agency as the~~  
31             ~~adoptive family;~~

32  
33             ~~(D) In the case of an Indian child when tribal customary adoption has been~~  
34             ~~identified as the child's permanent plan, the child's identified Indian~~  
35             ~~tribe has designated the caregiver as the prospective adoptive parent;~~

36  
37             ~~(E) Requesting de facto parent status;~~

38  
39             ~~(F) Signing an adoptive placement agreement;~~

40  
41             ~~(G) Discussing a postadoption contact agreement with the social worker,~~  
42             ~~child's attorney, child's CASA volunteer, adoption agency, or court;~~

1                   ~~(H) Working to overcome any impediments that have been identified by the~~  
2                   ~~California Department of Social Services and the licensed adoption~~  
3                   ~~agency; and~~  
4

5                   ~~(I) Attending any of the classes required of prospective adoptive parents.~~  
6

7       **(c) Hearing on request for prospective adoptive parent designation**  
8

9           (1) The court must ~~evaluate~~ determine whether the caregiver meets the criteria in  
10           ~~(b)~~ section 366.26(n)(1).

11  
12          ~~(1) The petitioner must show on the request that the caregiver meets the criteria~~  
13          ~~in (b).~~

14  
15          (2) If the court finds ~~that the petitioner does not show~~ that the caregiver does not  
16          meets the criteria in ~~(b)~~, section 366.26(n)(1), the court may deny the request  
17          without a hearing.

18  
19          (3) If the court finds ~~that the petitioner has shown~~ that the ~~current~~ caregiver  
20          meets the criteria in ~~(b)~~, section 366.26(n)(1), the court must set a hearing as  
21          set forth in (4) below.

22  
23          (4) If it appears to the court that the request for designation as a prospective  
24          adoptive parent will be contested, or if the court wants to receive further  
25          evidence on the request, the court must set a hearing.

26  
27           (A) If the request for designation is made at the same time ~~as an objection a~~  
28           petition is filed to object to removal of the child from the caregiver's  
29           home, the court must set a hearing as follows:

30  
31                   (i) The hearing must be set as soon as possible and not later than  
32                   five court days after the ~~objection~~ petition objecting to removal is  
33                   filed with the court.

34  
35                   (ii) If the court for good cause ~~is unable to~~ cannot set the matter for  
36                   hearing five court days after the petition objecting to removal is  
37                   filed, the court must set the matter for hearing as soon as  
38                   possible.

39  
40                   (iii) The matter may be set for hearing more than five court days after  
41                   the ~~objection~~ petition objecting to removal is filed if this delay is  
42                   necessary to allow participation by the child's identified Indian  
43                   tribe or the child's Indian custodian.

1  
2 (B) If the request for designation is made before ~~a request for removal is~~  
3 filed the agency serves notice of a proposed removal or before an  
4 emergency removal has occurred, the court must ~~order that the set a~~  
5 hearing ~~be set at a time~~ within 30 calendar days after the ~~filing of the~~  
6 request for designation is made.

7  
8 (5) If all parties stipulate to the ~~request for~~ designation of the caregiver as a  
9 prospective adoptive parent, the court may order the designation without a  
10 hearing.

11  
12 **(d) Notice of designation hearing**

13  
14 After the court has ordered a hearing on a request for prospective-adoptive-parent  
15 designation, notice of the hearing must be as described below.

16  
17 (1) \* \* \*

18  
19 (2) If the request for designation ~~was~~ is made at the same time as a request for  
20 hearing on a proposed or emergency removal, notice of the designation  
21 hearing must be provided with notice of the hearing on proposed removal  
22 ~~hearing~~, as stated in rule 5.727(f).

23  
24 (3) If the request for designation ~~was~~ is made before ~~a request for removal was~~  
25 filed the agency serves notice of a proposed removal or before an emergency  
26 removal occurred, notice must be as follows:

27  
28 (A) – ((E) \* \* \*

29  
30  
31  
32 **(e) Termination of designation**

33  
34 If the prospective adoptive parent no longer meets the criteria in ~~rule 5.726(b),~~  
35 section 366.26(n)(1), a request to vacate the order designating the caregiver as a  
36 prospective adoptive parent may be filed under section 388 and rule 5.570.

37  
38 **(f)** \* \* \*

39 **Rule 5.727. Proposed removal (§ 366.26(n))**

40  
41 **(a) Application of rule**

1 This rule applies, after termination of parental rights or, in the case of tribal  
2 customary adoption, modification of parental rights, to the removal by the  
3 Department of Social Services (DSS) or a licensed adoption agency of a dependent  
4 child from a prospective adoptive parent ~~under rule 5.726(b)~~ or from a caregiver  
5 who may meet the criteria for designation as a prospective adoptive parent ~~under~~  
6 ~~rule 5.726(b)~~ in section 366.26(n)(1). This rule does not apply if the caregiver  
7 requests the child's removal.  
8

9 **(b) Participants to be served with notice**

10  
11 Before removing a child from the home of a prospective adoptive parent ~~under rule~~  
12 ~~5.726(b)~~ as defined in section 366.26(n)(1) or from the home of a caregiver who  
13 may meet the criteria of a prospective adoptive parent ~~under rule 5.726(b)~~ in  
14 section 366.26(n)(1), and as soon as possible after a decision is made to remove the  
15 child, the agency must notify the following participants of the proposed removal:  
16

17 (1) \* \* \*

18  
19 (2) The current caregiver, if that caregiver either is a designated prospective  
20 adoptive parent or, on the date of service of the notice, meets the criteria in  
21 ~~rule 5.726(b)~~ section 366.26(n)(1);  
22

23 (3) – (7) \* \* \*  
24

25 **(c) Form of notice**

26  
27 DSS or the agency must provide notice on *Notice of Intent to Remove Child* (form  
28 JV-323). A blank copy of *Objection to Removal* (form JV-325) and *Request for*  
29 *Prospective Adoptive Parent Designation* (form JV-321) must also be provided to  
30 all participants listed in (b) except the court.  
31

32 **(d) Service of notice**

33  
34 DSS or the agency must serve notice of its intent to remove a child as follows:  
35

36 (1) – (2) \* \* \*  
37

38 (3) Notice to the child's identified Indian tribe and Indian custodian must ~~be~~  
39 ~~given under rule 5.481~~ comply with the requirements of section 224.2.  
40

41 (4) ~~Proof of service of the notice on~~ *Proof of Notice* (form JV-326) must be filed  
42 with the court before the hearing on the proposed removal.  
43

1   **(e)   Objection to proposed removal**

2  
3       Each participant who receives notice under (b) may object to the proposed removal  
4       of the child and may request a hearing.

5  
6       (1)   \* \* \*.

7  
8       (2)   A request for hearing on the proposed removal must be made within five  
9       court or seven calendar days from the date of notification, whichever is  
10       longer. If service of the notification is by mail, time to ~~respond~~ request a  
11       hearing is extended by five calendar days.

12  
13       (3)   The court must ~~order~~ set a hearing as follows:

14  
15           (A) – (C) \* \* \*

16  
17   **(f)   Notice of hearing on proposed removal**

18  
19       After the court has ordered a hearing on a proposed removal, notice of the hearing  
20       must be as follows:

21  
22       (1) – (2) \* \* \*

23  
24       (3)   Notice must be ~~either~~ by personal service or by telephone. Notice by personal  
25       service must include a copy of the completed forms *Notice of Intent to*  
26       *Remove Child* (form JV-323) and *Objection to Removal* (form JV-325).  
27       Telephone notice must include the reasons for and against the removal, as  
28       indicated on forms JV-323 and JV-325.

29  
30       (4)   ~~Proof of notice on~~ *Proof of Notice* (form JV-326) must be filed with the court  
31       before the hearing on the proposed removal.

32  
33   **(g) – (h) \* \* \***

34  
35   **(i)   Appeal**

36  
37       If the court order made after a hearing on an intent to remove a child is appealed,  
38       the appeal must be ~~made~~ brought as petition for writ review under rules 8.454 and  
39       8.456.

1 **Rule 5.728. Emergency removal (§ 366.26(n))**

2  
3 **(a) Application of rule**

4  
5 This rule applies, after termination of parental rights or, in the case of tribal  
6 customary adoption, modification of parental rights, to the removal by the  
7 Department of Social Services (DSS) or a licensed adoption agency of a dependent  
8 child from the home of a prospective adoptive parent under rule 5.726(b) or ~~from~~ a  
9 caregiver who may meet the criteria for designation as a prospective adoptive  
10 parent ~~under rule 5.726(b)~~ in section 366.26(n)(1) when the DSS or the licensed  
11 adoption agency has determined a removal must occur immediately due to a risk of  
12 physical or emotional harm. This rule does not apply if the child's removal is  
13 ~~carried out~~ is removed at the request of the caregiver.

14  
15 **(b) Participants to be noticed**

16  
17 After removing a child from the home of a prospective adoptive parent ~~under rule~~  
18 ~~5.726(b)~~, or from the home of a caregiver who may meet the criteria of a  
19 prospective adoptive parent ~~under rule 5.726(b)~~ in section 366.26(n)(1), because of  
20 ~~immediate~~ risk of physical or emotional harm, the agency must notify the following  
21 participants of the emergency removal:

22  
23 (1) \* \* \*

24  
25 (2) The ~~current~~ caregiver, ~~if that caregiver either~~ who is a ~~designated~~ prospective  
26 adoptive parent or who, on the date of service of the notice, ~~meets~~ may meet  
27 the criteria in ~~rule 5.726(b)~~ section 366.26(n)(1);

28  
29 (3) – (7) \* \* \*

30  
31 **(c) Form and service of notice**

32  
33 *Notice of Emergency Removal* (form JV-324) must be used to provide notice of an  
34 emergency removal, as described below.

35  
36 (1) – (3) \* \* \*

37  
38 (4) Whenever possible, the agency, at the time of the removal, must give a blank  
39 copy of ~~the form~~ *Request for Prospective Adoptive Parent Designation* (form  
40 *JV-321*) and a blank copy of *Objection to Removal* (form JV-325) to the  
41 caregiver and, if the child is 10 years of age or older, to the child.  
42

(5) Notice to the court must be served by filing ~~of the form~~ Notice of Emergency Removal (form JV-324) and Proof of Notice (form JV-326) with the court. ~~The proof of notice included on the form must be completed when the form is filed with the court.~~

(6) Proof of Notice (form JV-326) must be filed with the court before the hearing on the proposed removal.

**(d) Objection to emergency removal**

Each participant who receives notice under (b) may object to the removal of the child and may request a hearing.

(1) \* \* \*

(2) The court must ~~order~~ set a hearing as follows:

(A) The hearing must be set as soon as possible and not later than five court days after the ~~objection~~ petition objecting to removal is filed with the court.

(B) If the court for good cause ~~is unable to~~ cannot set the matter for hearing within five court days after the petition objecting to removal is filed, the court must set the matter for hearing as soon as possible.

(C) The matter may be set for hearing more than five court days after the ~~objection~~ petition objecting to removal is filed if this delay is necessary to allow participation by the child's identified Indian tribe or the child's Indian custodian.

**(e) Notice of ~~emergency removal~~ hearing on emergency removal**

After the court has ordered a hearing on an emergency removal, notice of the hearing must be as follows:

~~(1) Notice must be either by personal service or by telephone. Notice by personal service must include a copy of Notice of Emergency Removal (form JV-324). Telephone notice must include the reasons for and against the removal, as indicated on forms JV-324 and JV-325.~~

~~(2)~~(1) The clerk must provide notice of the hearing to the agency and the participants listed in (b) above, if the court, ~~the~~ caregiver, or ~~the~~ child requested the hearing.

~~(3)~~(2) \* \* \*

(3) Notice must be by personal service or by telephone. Notice by personal service must include a copy of the completed *Notice of Emergency Removal* (form JV-324). Telephone notice must include the reasons for and against the removal, as indicated on forms JV-324 and JV-325.

(4) ~~Proof of notice on~~ *Proof of Notice* (form JV-326) must be filed with the court before the hearing on the emergency removal.

(f) – (g) \* \* \*

**Rule 5.730. Adoption ( §§ 366.24, 366.26(e), Fam. Code, § 8600 et seq.)**

\* \* \*

**Rule 5.735. Legal guardianship**

(a) – (b) \* \* \*

~~(e)~~ **Conduct of hearing**

~~(1) Before appointing a guardian, the court must read and consider the social study report specified in section 366.26 and note its consideration in the minutes of the court.~~

~~(2) The preparer of the social study report may be called in and examined by any party to the proceedings.~~

~~(d)~~(c) **Findings and orders**

(1) If the court finds that legal guardianship is the appropriate permanent plan, the court must appoint the guardian and order the clerk to issue letters of guardianship, which will not be subject to the confidentiality protections of ~~juvenile court documents~~ as described in section 827.

(2) The court ~~may~~ must issue orders regarding visitation of the child by a parent or ~~other relative~~ former guardian, unless the court finds that visitation would be detrimental to the physical or emotional well-being of the child.

(3) The court may issue orders regarding visitation of the child by a relative.



1           ~~(3)~~ (4) On appointment of a guardian under section 366.26, the court may terminate  
2           dependency.  
3

4   ~~(e)~~(d) **Notification of appeal rights**  
5

6           The court must advise all parties of their appeal rights as provided in rule ~~5.585~~  
7           5.590.  
8

9   **Rule 5.740. Hearings subsequent to a permanent plan (§§ 366.26, 366.3, 160501.1)**  
10

11   **(a) Review hearings—adoption and guardianship**  
12

13           Following an order for termination of parental rights or, in the case of tribal  
14           customary adoption, modification of parental rights, or a plan for the establishment  
15           of a guardianship under section 366.26, the court must retain jurisdiction and  
16           conduct review hearings at least every 6 months to ensure the expeditious  
17           completion of the adoption or guardianship.  
18

19           (1)   \* \* \*

20  
21           (2)   The court or administrative review panel must consider the case plan and  
22           make the findings and determinations concerning the child in rule 5.708(e).  
23

24           ~~(2)~~(3) \* \* \*

25  
26           ~~(3)~~(4) \* \* \*

27  
28           ~~(4)~~(5) \* \* \*

29  
30           (6)   If the child is not placed for adoption, the court or administrative review  
31           panel must find as follows:  
32

33           (A)   Whether the agency has made diligent efforts to locate an appropriate  
34           relative. If the court or administrative review panel finds the agency has  
35           not made diligent efforts to locate an appropriate relative, the court or  
36           administrative review panel must order the agency to do so.  
37

38           (B)   Whether each relative whose name has been submitted to the agency as  
39           a possible caregiver has been evaluated as an appropriate placement  
40           resource. If the court or administrative review panel finds the agency  
41           has not evaluated each relative whose name has been submitted as a  
42           possible caregiver, the court or administrative review panel must order  
43           the agency to do so.

1  
2 **(b) Review hearings—relative care or foster care**

3  
4 Following the establishment of a plan other than those provided for in (a), review  
5 hearings must be conducted at least every 6 months by the court or by a local  
6 administrative review panel.

7  
8 (1) At the review hearing, the court or administrative review panel must consider  
9 the report of the petitioner, the report of any CASA volunteer, the case plan  
10 submitted for this hearing, and any report submitted by the child's caregiver  
11 under section 366.21(d); inquire about the progress being made to provide a  
12 permanent home for the child; consider the safety of the child; and enter  
13 findings ~~regarding each item listed in~~ as required by section 366.3(e).

14  
15 (2) The court or administrative review panel must consider the case plan  
16 submitted for this hearing and ~~must find as follows:~~ make the findings and  
17 determinations concerning the child in rule 5.708(e).

18  
19 ~~(A) The child was actively involved in the development of his or her own~~  
20 ~~case plan and plan for permanent placement as age and~~  
21 ~~developmentally appropriate; or~~

22  
23 ~~(B) The child was not actively involved in the development of his or her~~  
24 ~~own case plan and plan for permanent placement as age and~~  
25 ~~developmentally appropriate. If the court or administrative review~~  
26 ~~panel makes such a finding, the court must order the agency to actively~~  
27 ~~involve the child in the development of his or her own case plan and~~  
28 ~~plan for permanent placement, unless the court finds that the child is~~  
29 ~~unable, unavailable, or unwilling to participate.~~

30  
31 ~~(3) For a child 12 years of age or older and in a permanent placement, the court~~  
32 ~~must consider the case plan and must find as follows:~~

33  
34 ~~(A) The child was given the opportunity to review the case plan, sign it, and~~  
35 ~~receive a copy; or~~

36  
37 ~~(B) The child was not given the opportunity to review the case plan, sign it,~~  
38 ~~and receive a copy. If the court makes such a finding, the court must~~  
39 ~~order the agency to give the child the opportunity to review the case~~  
40 ~~plan, sign it, and receive a copy.~~

41  
42 (3) If the child is not placed for adoption, the court or administrative review  
43 panel must find as follows:

1  
2 (A) Whether the agency has made diligent efforts to locate an appropriate  
3 relative. If the court or administrative review panel finds the agency has  
4 not made diligent efforts to locate an appropriate relative, the court or  
5 administrative review panel must order the agency to do so.

6  
7 (B) Whether each relative whose name has been submitted to the agency as  
8 a possible caregiver has been evaluated as an appropriate placement  
9 resource. If the court or administrative review panel finds the agency  
10 has not evaluated each relative whose name has been submitted as a  
11 possible caregiver, the court or administrative review panel must order  
12 the agency to do so.

13  
14 (4) \* \* \*

15  
16 (5) If circumstances have changed since the permanent plan was ordered, the  
17 court may order a new permanent plan under section 366.26 at any  
18 subsequent hearing, or any party may seek a new permanent plan by a motion  
19 filed under section 388 and rule 5.570.

20  
21 (6) – (7) \* \* \*

22  
23 (8) ~~At a review held 12 months after an original or subsequent order for the child~~  
24 ~~to remain in foster care, the court must consider all permanency planning~~  
25 ~~options, including whether the child should be returned to a parent or~~  
26 ~~guardian, placed for adoption, or appointed a legal guardian. If the court~~  
27 ~~orders that the child remain in foster care, it must identify the foster care~~  
28 ~~setting by name and identify a specific permanency goal for the child. The~~  
29 ~~court may order that the name and address of the foster home remain~~  
30 ~~confidential.~~

31  
32 (9) ~~At a review held 12 months after an original or subsequent order for the child~~  
33 ~~to remain in foster care, the court must order a hearing under section 366.26~~  
34 ~~unless the court finds by clear and convincing evidence that there is a~~  
35 ~~compelling reason for determining that a section 366.26 hearing is not in the~~  
36 ~~child's best interest because the child is being returned to the home of the~~  
37 ~~parent, the child is not a proper subject for adoption, or there is no one~~  
38 ~~available to assume guardianship.~~

39  
40 (10) ~~If the court makes the findings in (9), the court may order that the child~~  
41 ~~remain in foster care.~~  
42

1 (c) **Hearing on petition to terminate guardianship or modify guardianship orders**

2  
3 A petition to terminate a guardianship established by the juvenile court, to appoint  
4 a successor guardian, or to modify or supplement orders concerning ~~the~~ a  
5 guardianship must be filed in the juvenile court. The procedures described in rule  
6 5.570 must be followed, and *Request to Change Court Order* (form JV-180) must  
7 be used.  
8

9 (1) \* \* \*

10  
11 (2) Not less than 15 court days before the hearing date, the ~~petitioner must serve~~  
12 clerk must cause notice of the hearing ~~on~~ to be given to the department of  
13 social services; the guardian; the child, if 10 years or older; parents whose  
14 parental rights have not been terminated; the court that established the  
15 guardianship, if in another county; and counsel of record for those entitled to  
16 notice.  
17

18 (3) – (5) \* \* \*

CHILD'S NAME:

CASE NUMBER:

**DISPOSITIONAL ATTACHMENT:  
REMOVAL FROM CUSTODIAL PARENT—PLACEMENT WITH NONPARENT  
(Welf. & Inst. Code, §§ 361, 361.2)**

1. ☐ The child is a person described by Welf. & Inst. Code, § 300 (check all that apply):

☐ 300(a)    ☐ 300(c)    ☐ 300(e)    ☐ 300(g)    ☐ 300(i)  
☐ 300(b)    ☐ 300(d)    ☐ 300(f)    ☐ 300(h)    ☐ 300(j)

**and is adjudged a dependent of the court.**

**Circumstances justifying removal from custodial parent**

2. ☐ There is clear and convincing evidence of the circumstances stated in Welf. and Inst. Code, § 361 regarding the persons specified below (check all that apply):

	<u>361(c)(1)</u>	<u>361(c)(2)</u>	<u>361(c)(3)</u>	<u>361(c)(4)</u>	<u>361(c)(5)</u>
a. <input type="checkbox"/> Mother	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. <input type="checkbox"/> Presumed father	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. <input type="checkbox"/> Biological father	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. <input type="checkbox"/> Legal guardian	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. <input type="checkbox"/> Indian custodian	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. <input type="checkbox"/> Other (specify):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3. ☐ The child ☐ is ☐ may be an Indian child, and, by clear and convincing evidence, including testimony of a qualified expert witness, continued physical custody by the following person is likely to cause that child serious emotional or physical damage.

☐ mother                      ☐ biological father                      ☐ legal guardian  
☐ presumed father                      ☐ Indian custodian  
☐ other (specify):

4. Reasonable efforts ☐ were ☐ were not made to prevent or eliminate the need for removal from the home.

5. ☐ The child ☐ is ☐ may be an Indian child, and,
- a. ☐ by clear and convincing evidence, active efforts were made to provide remedial services and rehabilitative programs designed to prevent the breakup of this Indian family, and these efforts were unsuccessful.
- b. ☐ active efforts were not made to provide remedial services and rehabilitative programs designed to prevent the breakup of this Indian family.
- c. ☐ there has been consultation with the child's identified Indian tribe regarding whether tribal customary adoption is an appropriate permanent plan for the child if reunification is unsuccessful.

6. **Based on the facts stated on the record, continuance in the home is contrary to the child's welfare and physical custody is removed from** (check all that apply):

☐ Mother                      ☐ Biological father                      ☐ Legal guardian  
☐ Presumed father                      ☐ Indian custodian  
☐ Other (specify):

**Family finding and engagement**

7. a. ☐ The county agency has made diligent efforts to identify, locate, and contact the child's relatives.
- b. ☐ The county agency has not made diligent efforts to identify, locate, and contact the child's family members.
- (1) ☐ The county agency is ordered to make such diligent efforts, except for individuals the agency has determined to be inappropriate to contact because of their involvement with family or domestic violence.
- (2) ☐ The county agency must submit a report to the court on or before (date):  
detailing the diligent efforts made and the results of such efforts.

CHILD'S NAME:

CASE NUMBER:

**Case plan development**

8. a. ☐ The county agency solicited and integrated into the case plan the input of the ☐ child ☐ mother ☐ father ☐ representative of child's identified Indian tribe ☐ other (*specify*):
- b. ☐ The county agency did not solicit and integrate into the case plan the input of the ☐ child ☐ mother ☐ father ☐ representative of child's identified Indian tribe ☐ other (*specify*):  
and the agency is ordered to do so and submit an updated case plan within 30 days of the date of this hearing.
- c. ☐ The county agency did not solicit and integrate into the case plan the input of the ☐ child ☐ mother ☐ father ☐ representative of child's identified Indian tribe ☐ other (*specify*):  
and the agency is not required to do so because these persons are unable, unavailable, or unwilling to participate.

**Custody and Placement**

9. ☐ The ☐ mother ☐ presumed father ☐ biological father did not reside with the child at the time the petition was filed and ☐ does ☐ does not desire custody of the child.
- a. ☐ By clear and convincing evidence, placement with the following parent would be detrimental to the safety, protection, or physical or emotional well-being of the child:  
☐ Mother ☐ Presumed father ☐ Biological father
- b. The factual basis for the findings in this item is stated on the record.
10. ☐ **The care, custody, control, and conduct of the child is under the supervision of the county agency for placement**
- a. ☐ in the approved home of a relative.
- b. ☐ in the approved home of a nonrelative extended family member.
- c. ☐ in the foster home in which the child was placed before an interruption in foster care because that placement is in the child's best interest and space is available.
- d. ☐ with a foster family agency for placement in a foster family home.
- e. ☐ in a suitable licensed community care facility.
- f. ☐ in a home or facility in accordance with the federal Indian Child Welfare Act.
11. ☐ **Placement with the child's relative, (name):**  
has been independently considered by the court and is denied for the reasons stated on the record.
12. ☐ **The statutory preference order for placement in a suitable Indian home is modified for good cause as**
- a. ☐ stated on the record.
- b. ☐ described in the social worker's report.
- c. ☐ Other (*specify*):
13. ☐ **The child's out-of-home placement is necessary.**
14. ☐ **The child's current placement is appropriate.**
15. ☐ **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.
- a. ☐ The matter is continued to the date and time indicated in form JV-415, item 17 for a ☐ written ☐ oral report by the county agency on the progress made in locating an appropriate place.
- b. ☐ Other (*specify*):

CHILD'S NAME:

CASE NUMBER:

16. ☐ **The child is placed outside the state of California and that out-of-state placement**

- a. ☐ continues to be the most appropriate placement for the child and is in the best interest of the child.
- b. ☐ is not the most appropriate placement for the child and is not in the best interest of the child.

The matter is continued to the date and time indicated in form JV-415, item 17 for a ☐ written ☐ oral report by the county agency on the progress made toward

- (1) ☐ returning the child to California and locating an appropriate placement within California.
- (2) ☐ locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
- (3) ☐ other (specify):

**Reunification services**

17. ☐ **Provision of reunification services to the biological father** ☐ will ☐ will not benefit the child.

18. ☐ **The mother is incarcerated** and is seeking to participate in the Department of Corrections and Rehabilitation community treatment program.

- a. ☐ Participation in the program ☐ is ☐ is not in the child's best interest.
- b. ☐ The program ☐ is ☐ is not suitable to meet the needs of the mother and child.

19. ☐ **The following person is incarcerated:**

☐ mother ☐ legal guardian ☐ other (specify):  
☐ presumed father ☐ Indian custodian

and reasonable reunification services are

- a. ☐ granted.
- b. ☐ denied, because, by clear and convincing evidence, providing reunification services would be detrimental to the child.

20. ☐ **As provided in Welf. & Inst. Code, § 361.5(b), by clear and convincing evidence:**

- a. The ☐ mother ☐ legal guardian ☐ other (specify):  
☐ presumed father ☐ Indian custodian

is a person described in Welf. & Inst. Code, § (specify):

☐ 361.5(b)(3) ☐ 361.5(b)(4) ☐ 361.5(b)(7) ☐ 361.5(b)(8)  
☐ 361.5(b)(9) ☐ 361.5(b)(10) ☐ 361.5(b)(11) ☐ 361.5(b)(12)  
☐ 361.5(b)(13) ☐ 361.5(b)(15) ☒ 361.5(b)(16) ☒ 361.5(b)(17)

and reunification services are

- (1) ☐ granted, because, by clear and convincing evidence, reunification is in the best interest of the child.
- (2) ☐ denied.

- b. The ☐ mother ☐ legal guardian ☐ other (specify):  
☐ presumed father ☐ Indian custodian

is a person described in Welf. & Inst. Code, § 361.5(b)(1), and a reasonably diligent search has failed to locate the person. Reunification services are denied.

- c. The ☐ mother ☐ legal guardian ☐ other (specify):  
☐ presumed father ☐ Indian custodian

is a person described in Welf. & Inst. Code, § 361.5(b)(2), and reunification services are

- (1) ☐ granted.
- (2) ☐ denied, because the person, even with the provision of services, is unlikely to be capable of adequately caring for the child within the statutory time limits.

CHILD'S NAME:	CASE NUMBER:
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20. d. The ☐ mother ☐ legal guardian ☐ other (specify):  
☐ presumed father ☐ Indian custodian

is a person described in Welf. & Inst. Code, § 361.5(b)(5), and reunification services are

(1) ☐ granted, because

(a) ☐ reunification services are likely to prevent reabuse or neglect.

(b) ☐ the failure to try reunification will be detrimental to the child because the child is closely and positively bonded to the person.

(2) ☐ denied.

- e. The ☐ mother ☐ legal guardian  
☐ presumed father ☐ Indian custodian  
☐ other person who is a legal parent of the child (name):

is a person described in Welf. & Inst. Code, § 361.5(b)(6), and reunification services are

(1) ☐ granted, because, by clear and convincing evidence, reunification is in the best interest of the child.

(2) ☐ denied, because the child or the child's sibling suffered severe sexual abuse or the infliction of severe physical harm by the person, and it would not benefit the child to pursue reunification with that person.

(3) ☐ The factual basis for the findings in this item is stated on the record.

- f. The ☐ mother ☐ legal guardian ☐ other (specify):  
☐ presumed father ☐ Indian custodian

is a person described in Welf. & Inst. Code, § 361.5(b)(14). The court advised the person of any right to services and the possible consequences of a waiver. The person executed the *Waiver of Reunification Services (Juvenile Dependency)* (form JV-195), and the court accepts the waiver, the person having knowingly and intelligently waived the right to services. Reunification services are denied.

21. a. ☐ **The county agency must provide reunification services**, and the following must participate in the reunification services stated in the case plan:

☐ mother ☐ biological father ☐ legal guardian ☐ other (specify):  
☐ presumed father ☐ Indian custodian

- b. ☐ **The likely date** by which the child may be returned to and safely maintained in the home or another permanent plan selected is (specify):

## Efforts

### 22. The county agency

- a. ☐ has  
b. ☐ has not

complied with the case plan by making reasonable efforts to return the child to a safe home through the provision of reasonable services designed to aid in overcoming the problems that led to the initial removal and continued custody of the child and by making reasonable efforts to complete any steps necessary to finalize the permanent placement of the child.

### 23. The following persons have made the indicated level of progress toward alleviating or mitigating the causes necessitating placement:

	<u>None</u>	<u>Minimal</u>	<u>Adequate</u>	<u>Substantial</u>	<u>Excellent</u>
a. <input type="checkbox"/> Mother	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. <input type="checkbox"/> Presumed father	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. <input type="checkbox"/> Biological father	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. <input type="checkbox"/> Legal guardian	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. <input type="checkbox"/> Indian custodian	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. <input type="checkbox"/> Other (specify):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



CHILD'S NAME:

CASE NUMBER:

**Siblings**

24. ☐ **The child does not have siblings under the court's jurisdiction.**
25. ☐ **The child has siblings under the court's jurisdiction.** *Sibling Attachment: Contact and Placement* (form JV-403) is attached and incorporated by reference.

**Health and education**

26. ☐ The ☐ mother ☐ biological father ☐ Indian custodian  
☐ presumed father ☒ legal guardian ☐ other (*specify*):  
 is ☐ unable ☐ unwilling ☐ unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.
27. a. ☐ A limitation on the right of the parents to make educational decisions for the child is **not** necessary. The parents hold educational rights and responsibilities in regard to the child's education, including those described in rule 5.650(e)-(f) of the California Rules of Court. A copy of the rule 5.650(e)-(f) may be obtained from the court clerk.
- b. ☐ A limitation on the right of the parents to make educational decisions for the child is necessary and those rights are limited as stated in *Order Designating Educational Rights Holder* (form JV-535) filed in this matter. The rights and responsibilities of the educational rights holder are described in rule 5.650(e)-(f) of the California Rules of Court. A copy of rule 5.650(e)-(f) may be obtained from the court clerk.
28. a. The child's educational needs ☐ are ☐ are not being met.
- b. The child's physical needs ☐ are ☐ are not being met.
- c. The child's mental health needs ☐ are ☐ are not being met.
- d. The child's developmental needs ☐ are ☐ are not being met.
29. ☐ The additional services, assessments, and/or evaluations the child requires to meet the unmet needs specified in item 28 or other concerns are:
- a. ☐ stated in the social worker's report.
- b. ☐ specified here:
30. ☐ The following persons are ordered to take the steps necessary for the child to begin receiving the services, assessments, and/or evaluations identified in item 29:
- a. ☐ social worker.
- b. ☒ parent or legal guardian (*name*):
- c. ☐ surrogate parent (*name*):
- d. ☒ educational rights holder (*name*):
- e. ☐ other (*name*):
31. ☐ The child's education placement has changed since the date the child was physically removed from the home.
- a. The child's educational records, including any evaluation regarding a disability, ☐ were ☐ were not requested by the child's new school within two business days of the request to enroll, and those records were provided by the child's former school to the child's new school within two business days of the receipt of the educational records request.
- b. The child ☐ is ☐ is not enrolled in school.
- c. The child ☐ is ☐ is not attending school.

CHILD'S NAME:	CASE NUMBER:
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32. ☐ **Child 14 years of age or older:**

- a. ☐ The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
- b. ☐ The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.
- c. ☐ To assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services.
- (1) ☐ stated on the record
- (2) ☐ as follows:

**Advisements**33. ☐ **Child under three years of age or a member of a sibling group as described in Welf. & Inst. Code, § 361.5(a)(1)(C).**  
The court informed all parties present at the time of the hearing and further advises all parties that, because the child was under three years of age on the date of initial removal or is a member of a sibling group in which one member was under three years of age on the date of initial removal:

- a. **Failure to participate regularly and make substantive progress in court-ordered treatment programs may result in the termination of reunification services** for all or some members of the sibling group at the hearing scheduled on a date within six months from the date of the dispositional hearing, but no later than twelve months from the date the child entered foster care, as defined by section 361.49, whichever occurs earlier.

<b>Six-month hearing date:</b>
--------------------------------

- b. **At the six-month hearing** under Welf. & Inst. Code, § 366.21(e), the court will consider the following factors in deciding whether to limit reunification services to six months for all or some members of the sibling group:
- Whether the sibling group was removed from parental care as a group;
  - The closeness and strength of the sibling bond;
  - The ages of the siblings;
  - The appropriateness of maintaining the sibling group;
  - The detriment to the child if sibling ties are not maintained;
  - The likelihood of finding a permanent home for the sibling group;
  - Whether the sibling group is currently placed in the same preadoptive home or has a concurrent plan goal of legal permanency in the same home;
  - The wishes of each child whose age and physical and emotional condition permits a meaningful response; and
  - The best interest of each child in the sibling group.
- c. **At the six-month hearing** under Welf. & Inst. Code, § 366.21(e), if the child is not returned to the custody of a parent, the case may be referred to a selection and implementation hearing under Welf. & Inst. Code, § 366.26. The selection and implementation hearing **may result in the termination of parental rights and adoption of the child and other members of the sibling group or, in the case of an Indian child for whom tribal customary adoption under section 366.24 is selected as the permanent plan goal, modification of parental rights and the adoption of the child and other members of the sibling group.**

CHILD'S NAME:	CASE NUMBER:
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34. ☐ **Child three years of age or older who is not a member of a sibling group as described in Welf. & Inst. Code, § 361.5 (a)(1)(C).** The court informed all parties present at the time of the hearing and further advises all parties that, because the child was three years of age or older with no siblings under the age of three years at the time of initial removal, if the child is not returned to the custody of a parent at the Welf. & Inst. Code, § 366.21(f) permanency hearing set on a date within 12 months from the date the child entered foster care, the case may be referred to a selection and implementation hearing under Welf. & Inst. Code, § 366.26. The selection and implementation hearing **may result in the termination of parental rights and adoption of the child or, in the case of an Indian child for whom tribal customary adoption under section 366.24 is selected as the permanent plan goal, modification of parental rights and the adoption of the child.**

**Twelve-month permanency hearing date:**

35. ☐ a. **The matter is ordered set for hearing under Welf. & Inst. Code, § 366.26 to select the most appropriate permanent plan for the child.**
- b. By clear and convincing evidence, the court found that reunification services were not to be provided to the child's parents, legal guardian, or Indian custodian under Welf. & Inst. Code, § 361.5(b).
- c. The county agency and the licensed county adoption agency or the California Department of Social Services acting as an adoption agency will prepare and serve an assessment report as described in Welf. & Inst. Code, § 361.5(g).
- d. The court advised all parties present in court that to preserve any right to review on appeal of this order, a party must seek an extraordinary writ by filing a notice of intent to file a writ petition and a request for the record, which may be submitted on *Notice of Intent to File Writ Petition and Request for Record* (form JV-820), and a petition for extraordinary writ, which may be submitted on *Petition for Extraordinary Writ* (form JV-825). A copy of each form is available in the courtroom. The court further advised all parties present in court that, as to them, a notice of intent to file a writ petition and request for record must be filed with the juvenile court clerk within seven days of the date of this hearing. The clerk of the court is directed to provide written notice as stated in rule 5.695(h)(19) of the California Rules of Court to any party not present.
- e. ☐ The court orders that no notice of the hearing set under Welf. & Inst. Code, § 366.26 be provided to the persons named below, who is a mother, a presumed father, or an alleged father and who has relinquished the child for adoption where the relinquishment has been accepted and filed with notice under Fam. Code, § 8700, or an alleged father who has denied paternity and has executed section 2 of *Statement Regarding Parentage (Juvenile)* (form JV-505).
- (1) (name):
- (2) (name):
- (3) (name):
- (4) (name):
- f. **The likely date** by which the child may be placed for adoption, or by which another permanent plan may be selected, is (specify date):

## Spring 16-20

**Juvenile Law: Dependency Hearings** (Amend Cal. Rules of Court, rules 5.534, 5.668, 5.670, 5.674, 5.682, 5.684, 5.690, 5.695, 5.706, 5.708, 5.710, 5.715, 5.720, 5.722, 5.725, 5.726, 5.727, 5.728, 5.735, 5.740; repeal rules 5.680, 5.686, and 5.688; revise form JV-421)

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

	Commentator	Position	Comment	Committee Response
1.	Orange County Bar Association Todd G. Friedland President	AM	<p>The proposed changes in SPR16-20 would eliminate confusion by referencing the statutes and deleting recitation and/or summary of the statutes in individual rules. The following items are suggested for clarity.</p> <p>Rule 5.695 Findings and Orders of the Court -- Disposition Recommend adding to (a)(4):</p> <p>(a)(4) Declare dependency and appoint a legal guardian for the child <i>if the requirements of section 360 are met</i> [instead of “as provided in section 360”]</p> <p>Recommend adding to (g)(1):</p> <p>(g)(1) Unless the court makes a finding that reunification services need not be provided under subdivision (b) of section 361.5, <i>or if the disposition is pursuant to a petition filed under section 387 or section 342 and the statutory time for reunification has expired</i> (See D.T. v. Superior Court (2015) 241 Cal.App.4th 1017, 1034-1035).</p> <p>Rule 5.706. Family Maintenance Review Hearings (c) Conduct of Hearing</p> <p>Recommend adding to this section a reference</p>	<p>No response required.</p> <p>The committee has adopted this suggestion.</p> <p>The committee views rule 5.695 as applying at the initial disposition hearing, and thus does not believe it is necessary to add the unusual fact specific holding of this case into the rule provisions that are focused on section 361.5.</p> <p>The committee has adopted the proposed modification.</p>

## Spring 16-20

**Juvenile Law: Dependency Hearings** (Amend Cal. Rules of Court, rules 5.534, 5.668, 5.670, 5.674, 5.682, 5.684, 5.690, 5.695, 5.706, 5.708, 5.710, 5.715, 5.720, 5.722, 5.725, 5.726, 5.727, 5.728, 5.735, 5.740; repeal rules 5.680, 5.686, and 5.688; revise form JV-421)

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

	Commentator	Position	Comment	Committee Response
			to § 364, subdivision (c) to address the statutory finding required at a family maintenance review hearing. <i>The court shall determine whether continued supervision is necessary pursuant to section 364, subdivision (c).</i>	
2.	Los Angeles Superior Court	A	<ul style="list-style-type: none"> <li>• Does the proposal appropriately address the stated purpose? <i>Yes</i></li> <li>• Are there statutory provisions that were deleted that should be restored? <i>No Comment</i></li> <li>• Are there additional statutory provisions that should be deleted? <i>No Comment</i></li> <li>• Would the proposal provide cost savings? If so please quantify. <i>Yes, by reducing the frequency in which the rules would need to be amended is a cost savings for the court. If courts choose to use the optional JV-421, printing costs would apply.</i></li> <li>• 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</li> </ul>	<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>

## Spring 16-20

**Juvenile Law: Dependency Hearings** (Amend Cal. Rules of Court, rules 5.534, 5.668, 5.670, 5.674, 5.682, 5.684, 5.690, 5.695, 5.706, 5.708, 5.710, 5.715, 5.720, 5.722, 5.725, 5.726, 5.727, 5.728, 5.735, 5.740; repeal rules 5.680, 5.686, and 5.688; revise form JV-421)

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

	Commentator	Position	Comment	Committee Response
			management systems. <i>Agreed, that there will be minimal operational impact by the deletion of duplicative statute.</i> • Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? <i>Yes</i>	No response required.
3.	Superior Court of Riverside County Marita Ford Senior Management Analyst	A	No specific comment.	No response required.
4.	Superior Court of San Diego County Michael M. Roddy Executive Officer	AM	<ul style="list-style-type: none"> <li>• Does the proposal appropriately address the stated purpose? <i>Yes.</i></li> <li>• Are there statutory provisions that were deleted that should be restored? <i>No.</i></li> <li>• Are there additional statutory provisions that should be deleted? <i>Yes. See below.</i></li> <li>• General comment: The first page of the proposal does not mention that revisions to form JV-421 are part of the proposal. Query: Have other Judicial Council forms been checked for necessary revisions?</li> </ul> <p>[This commentator then went on to list numerous modifications to be made for consistency and clarity that can be viewed in Attachment A.]</p>	<p>No response required.</p> <p>No response required.</p> <p>See response to attached comments below.</p> <p>The committee proposed and circulated for comment changes to the JV-421 because they were needed for accuracy related to the content of this proposal and needed for accuracy of the form. Other forms will be monitored for accuracy as changes to them are considered on an ongoing basis.</p> <p>The committee has adopted almost all of the many suggested modifications to the rules and form suggested by this commentator as they will enhance the clarity and accuracy of the underlying</p>

## Spring 16-20

**Juvenile Law: Dependency Hearings** (Amend Cal. Rules of Court, rules 5.534, 5.668, 5.670, 5.674, 5.682, 5.684, 5.690, 5.695, 5.706, 5.708, 5.710, 5.715, 5.720, 5.722, 5.725, 5.726, 5.727, 5.728, 5.735, 5.740; repeal rules 5.680, 5.686, and 5.688; revise form JV-421)

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

	Commentator	Position	Comment	Committee Response
				rules and the form. The committee has also modified the rules in response to the substantive suggestions of this commentator to: <ul style="list-style-type: none"><li>• revise and update case plan related provisions in rules 5.708, 5.725, and 5.740 by adding statutory references to rule 5.708(e) and cross-references to rule 5.708(e) in rules 5.725 and 5.740; and</li><li>• amend rule 5.740(c)(2) to require the court, rather than the petitioner, to serve notice of a hearing concerning a petition to modify or terminated a juvenile court guardianship.</li></ul>

## Item SPR16-20 Response Form

**Title:** Juvenile Law: Dependency Hearings

- ☐ **Agree** with proposed changes
- ☒ **Agree** with proposed changes **if modified**
- ☐ **Do not agree** with proposed changes

**Comments:**

- Does the proposal appropriately address the stated purpose? **Yes.**
- Are there statutory provisions that were deleted that should be restored? **No.**
- Are there additional statutory provisions that should be deleted? **Yes. See below.**
- General comment: The first page of the proposal does not mention that revisions to form JV-421 are part of the proposal. Query: Have other Judicial Council forms been checked for necessary revisions?
- Additional comments:

CRC 5.534(g) p. 12	<b>(g) Advisement of hearing rights (§§ <u>301</u>, 311, 341, <u>353</u>, 630, <u>633</u>, 702.5, 827)</b>
CRC 5.534(g)(1)(A) p. 12	See, e.g., CRC 5.682(e)(3).  <b><u>Any The</u></b> right to assert the privilege against self-incrimination;
CRC 5.534(j)(4) p. 14	(A) If filing in person, the caregiver must bring the original document and <b><u>8 eight</u></b> copies to the court clerk's office for filing no later than five calendar days before the hearing.  (B) If filing by mail, the caregiver must mail the original document and <b><u>8 eight</u></b> copies to the court clerk's office for filing no later than seven calendar days before the hearing.
CRC 5.534(j)(5) p. 14	When form JV-290 or a caregiver letter is received by mail, <b><u>the</u></b> the court clerk must immediately file it.
CRC 5.534(j)(6) p. 14	When form JV-290 or a caregiver letter is filed, the court clerk must provide the social worker, all unrepresented parties, <b><u>and</u></b> and all attorneys with a copy of the completed form or letter immediately upon receipt. The clerk also must complete, file, and distribute <i>Proof of Service—Juvenile</i> (form JV-510). The clerk may use any technology designed to speed the distribution process, including drop boxes in the courthouse, e-mail, <b><u>or</u></b> or fax, <b><u>to</u></b> to distribute the JV-290 form or letter and proof of



	service form.
CRC 5.668(a)(4) p. 16	For consistency of style and language with WIC § 361.5(a)(1):  ... The time for services must not exceed 12 months for a child <u>aged three years of age</u> or <u>over older</u> at the time of the initial removal and must not exceed <u>6 six</u> months for a child who was under <u>the three years of age of three or who is in a sibling group in which one sibling was under three years of age</u> at the time of the initial removal if the parent or guardian fails to participate regularly and make substantive progress in any court-ordered treatment program.
CRC 5.670 p. 17	<b>Initial hearing; detention hearings; time limit on custody; setting jurisdiction hearing; visitation</b> <u>(§§ 309, 311, 313, 315, 362.1)</u>
CRC 5.674(c)(1) p. 19	The preparer of a police <u>report</u> , probation <u>officer</u> , or social worker report, or other document submitted to the court; and
CRC 5.676(b) p. 20	In making the findings required to support an order of detention, the court may rely solely on written police <u>reports</u> , probation <u>officer</u> , or social worker reports, or other documents.
CRC 5.682(a) p. 21	Because the rights in (2), (3), (4), are already required by rule 5.534, they should be deleted, and (5) should be renumbered.  After giving the advisement required by rule 5.534, the court must advise the parent or guardian of the following rights: (1) The right to a hearing by the court on the issues raised by the petition; <u>and</u> (2) <u>The right to assert any privilege against self-incrimination;</u> (3) <u>The right to confront and to cross-examine all witnesses called to testify;</u> (4) <u>The right to use the process of the court to compel attendance of witnesses on behalf of the parent or guardian; and</u> (5)(2) The right, if the child has been removed, to have the child returned to the parent or guardian within two working days....
CRC 5.682(b) p. 22	... If the parent or guardian wishes to admit the allegations, the court must first find and state on the record that it is satisfied that the parent or guardian understands the nature of the allegations and the direct consequences of the admission, and understands and waives the rights in <u>(b)(a) and (e)(3)</u> .
CRC 5.682(e)(8) p. 23	The child is described <u>under by</u> one or more <del>specific</del> subdivisions of section 300.
CRC 5.684(b) p. 23	Except as provided in section 355.1 and (c), (d), and (e) <u>of this rule</u> , the admission and exclusion of evidence must be in accordance with the Evidence Code as it applies to civil cases.
CRC 5.684(d) pp. 23-24	Per WIC § 355(c)(1):  ... that evidence must not be sufficient in and of itself to support a jurisdictional <u>finding or any ultimate fact upon which a jurisdictional finding is based</u> , unless:
CRC 5.684(e)	The privilege not to testify or to be called as a witness against a spouse or domestic

p. 24	partner, and the confidential marital communication privilege, does not apply to dependency proceedings.
CRC 5.684(f)(4) p. 24	The child is described under by one or more specific subdivisions of section 300.
CRC 5.684(g) p. 24	<b>(g) Disposition and Continuance pending disposition hearing (§§ 356, 358)</b>
CRC 5.695(e)(1) p. 32	... The court may consider the activities listed in (e)(f) as examples of due diligence. ...
CRC 5.695(f) p. 32	When making the determination required in (f)(e), the court may consider ...
CRC 5.695(g)(1) p. 33	Unless the court makes a finding that reunification services need not be provided under subdivision (b) of section 361.5, ...
CRC 5.695(g)(6) p. 37	See CRC 5.590(b) and CRC 5.695(g)(10):  A judgment, order, or decree setting a hearing under section 366.26 is not an immediately appealable order. Review may be sought only by filing a <i>Notice of Intent to File Writ Petition and Request for Record (California Rules of Court, Rules 8.450) (form JV-820) or other notice of intent to file a writ petition and request for record and a Petition for Extraordinary Writ (California Rules of Court, Rules 8.452, 8.456) (form JV-825) or other petition for extraordinary writ</i> . If a party wishes to preserve any right to review on appeal of the findings and orders made under this rule, the party must seek an extraordinary writ under rules 8.450 and 8.452.
CRC 5.695(g)(7)(A) p. 38	An extraordinary writ was sought by the timely filing of a <i>Notice of Intent to File Writ Petition and Request for Record (California Rules of Court, Rules 8.450) (form JV-820) or other notice of intent to file a writ petition and request for record and a Petition for Extraordinary Writ (California Rules of Court, Rules 8.452, 8.456) (form JV-825) or other petition for extraordinary writ</i> ; and
CRC 5.695(g)(9) p. 38	Failure to file a <i>notice of intent to file a writ petition and request for record and a petition for extraordinary writ review within the periods specified by rules 8.450 and 8.452, to substantively address the issues challenged, or to support the challenge by an adequate record precludes subsequent review on appeal of the findings and orders made under this rule.</i>
CRC 5.706(a) p. 40	... and to any CASA volunteer that who has been appointed on the case.
CRC 5.706(e) p. 41	The court must consider the child's education, including whether it is necessary to limit the right of the parent or legal guardian to make educational or developmental-services decisions for the child, following the requirements and procedures in rules 5.649, 5.650, and 5.651 and in section 361(a).
CRC 5.708(a) p. 42	The petitioner or the clerk must serve written notice of review hearings on <i>Notice of Review Hearing (form JV-280)</i> , in the manner provided in section 224.2 or 293 as appropriate, to all persons or entities entitled to notice under sections 224.2 and 293 and to any CASA volunteer, educational rights holder, or surrogate parent

	appointed to the case.
CRC 5.708(b)(2) pp. 42-43	At least 10 calendar days before the hearing, the social worker must file the report and provide copies to the parent, <u>or legal guardian, or Indian custodian</u> and his or her counsel, to counsel for the child, to any CASA volunteer, and, in the case of an Indian child, to the child's identified Indian tribe.
CRC 5.708(c) p. 44	<p>If par. (2) is added, subd. (f) could be deleted, and the subsequent subdivisions would need to be re-lettered accordingly:</p> <p><b><u>Reasonable services Required findings (§§ 366, 366.21, 366.22, 366.25, 366.3, 16002)</u></b></p> <p>(1) If the child is not returned to the custody of the parent or legal guardian, the court must consider whether reasonable services have been offered or provided. The court must find that:</p> <p><u>(A) Reasonable services have been offered or provided;</u> or</p> <p><u>(B) Reasonable services have not been offered or provided.</u></p> <p><b><u>(2) If the child is not returned to the custody of the parent or legal guardian, the court must consider the safety of the child and make the findings listed in sections 366(a) and 16002.</u></b></p>
<p>CRC 5.708(e)<sup>1</sup> p. 45</p> <p>See WIC § 16501.1(g)(12)(A)</p> <p>See WIC §</p>	<p>(1) Whether the child was actively involved, as age- and developmentally appropriate, in the development of <u>his or her own the</u> case plan and plan for permanent placement. If the court finds <u>that</u> the child <u>or youth</u> was not appropriately involved, the court must order the agency to actively involve the child in the development of <u>his or her own the</u> case plan and plan for permanent placement, unless the court finds <u>that</u> the child is unable, unavailable, or unwilling to participate.</p> <p>(2) Whether each parent <u>or legal guardian</u> was actively involved in the development of the case plan and plan for permanent placement. If the court finds that any parent <u>or legal guardian</u> was not actively involved, the court must order the agency to actively involve that parent <u>or legal guardian</u> in the development of the case plan and plan for permanent placement, unless the court finds <u>that</u> the parent <u>or legal guardian</u> is unable, unavailable, or unwilling to participate.</p> <p>(3) In the case of an Indian child, ...</p> <p>(4) For a child 12 years of age or older in a permanent placement...</p>

<sup>1</sup> WIC §§ 16001.9 and 16501.1 are cited as authority for the case plan findings required by CRC 5.708(e), but there is nothing in those statutes requiring a court to make the findings listed in the rule. (E.g., § 16501.1(g)(12)(A) states, “**Whenever possible**, parents and legal guardians shall participate in the development of the case plan.” But CRC 5.708(e)(2) provides, “If the court finds that any parent was not actively involved, the court must order the agency to actively involve that parent ..., unless the court finds that the parent is unable, unavailable, or unwilling to participate.” Presumably, a decision was made that a juvenile court should make those findings at review hearings notwithstanding the absence of any statutory requirement. In light of that decision, new rules are proposed for CRC 5.708(e)(5) & (6) to reflect SB 794 amendments.

<p>16501.1(g)(13)</p> <p>See WIC § 16501.1(g)(12)(A)</p> <p>See WIC § 16501.1(g)(17) &amp; (18)</p>	<p>(5) For a nonminor dependent, whether the youth signed and was actively involved in the development of the transitional independent living case plan. If the court finds the youth was not involved in or did not sign the transitional independent living case plan, the court must order the agency to involve the youth in the development of, or obtain the youth's signature on, the transitional independent living case plan, unless the court finds the youth is unable, unavailable, or unwilling to do so.</p> <p>(6) For a youth 14 years of age or older or a nonminor dependent, whether the case plan was developed in consultation with the youth and the youth's case planning team and whether the case plan includes the documents described in section 16501.1(g)(18). If the court finds the youth and the youth's case planning team were not consulted, the court must order the agency to develop the case plan in consultation with the youth and the case planning team, unless the court finds the youth or the case planning team is unable, unavailable, or unwilling to do so. If the court finds the case plan does not include the required documents, the court must order the agency to add the missing documents to the case plan.</p>
CRC 5.710(a)(3)	If the court does not return custody of the child to the parent or legal guardian, the court may set a hearing under section 366.26 within 120 days, as provided in <del>(e)</del> (b).
CRC 5.715(b) p. 52	<b>(b) Determinations and conduct of hearing (§§ 309(e). 361.5, 366, 366.1, 366.21)</b>
CRC 5.715(b) p. 55	CRC 5.715(a)(3) is on pp. 53-54 ("order...foster home remain confidential").  <del>(3)</del> (4) In the case of an Indian child, if the child is not returned to his or her parent or legal guardian, the court must, <del>in the case of an Indian child,</del> determine whether:
CRC 5.715(b) p. 55	<del>(4)</del> (5) If the child is not returned to his or her parent or legal guardian and the court terminates reunification services, the court must find as follows:
CRC 5.720(a) p. 56	<b>(a) Determinations and conduct of hearing (§§ 309(e). 361.5, 366.22)</b>
CRC 5.720(a) p. 59	(3) <del>In the case of an Indian child,</del> if the child is not returned to his or her parent or legal guardian, the court must, <del>in the case of an Indian child,</del> determine whether:
CRC 5.722(a) p. 60	Determinations are required by 5.722(a)(4) and (5).  <b>(a) Determinations and Conduct of hearing (§309(e). 366, 366.1, 366.25)</b>

<p>CRC 5.722(a) pp. 61-62</p>	<p>CRC 5.722(a)(3) is on lines 5-6 of page 61 ("order...foster home remain confidential"), so (a)(3) and (a)(4) on pages 61 and 62 must be renumbered.</p> <p><del>(3)(4)</del> In the case of an Indian child, if the child is not returned to his or her parent or legal guardian, the court must, <del>in the case of an Indian child,</del> determine whether:</p> <p>... [11] ...</p> <p><del>(4)(5)</del> If the child is not returned to his or her parent or legal guardian and the court terminates reunification services, the court must find as follows:</p>
<p>CRC 5.725 p. 62</p>	<p>Per suggested deletion of 5.725(e)(2), which repeats WIC § 366.24(c)(6):</p> <p><b>Rule 5.725. Selection of permanent plan (§§ <del>366.24</del>, 366.26, 727.31)</b></p>
<p>CRC 5.725(a)(1) p. 63</p>	<p>Suggest using language from CRC 5.708(h)(2).</p> <p>(1) The court may not terminate the rights of only one parent under section 366.26 unless that parent is the only surviving parent; or unless the rights of the other parent have been terminated <del>under division 12, part 3, chapter 5</del> (commencing with section 7660), or division 12, part 4 (commencing with section 7800) of the Family Code, or Family Code sections 8604, 8605, or <del>8606</del> by a California court of competent jurisdiction or by a court of competent jurisdiction of another state under the statutes of that state; or unless the other parent has relinquished custody of the child to the welfare department.</p>
<p>CRC 5.725(b) p. 63</p>	<p>Child's caregiver is already listed in WIC § 294(a)(8).</p> <p>In addition to the requirements stated in section 294, notice must be given to any CASA volunteer, <del>the child's present caregiver</del> Indian custodian, and <del>any</del> de facto parent on <i>Notice of Hearing on Selection of a Permanent Plan</i> (form JV-300).</p>
<p>CRC 5.725(d)(3) p. 66</p>	<p>Per this proposal, "(2)(A)" and "(2)(B)" are to be deleted (see p. 64).</p> <p>If the court finds that <del>(2)(A) or (2)(B)</del> section 366.26(c)(1)(A) or section <del>366.26(c)(2)(A)</del> applies, the court must appoint the present custodian or other appropriate person to become the child's legal guardian or must order the child to remain in foster care.</p> <p>(A) <del>If the court orders that the child remain in foster care, it</del> The court may order that the name and address of the foster home remain confidential.</p>

CRC 5.725(d)(4)-(5)  
pp. 66-67

Suggested changes for consistency with CRC 5.708(e) (p. 45):

(4) The court must consider the case plan submitted for this hearing and must find as follows:

(A) The child was actively involved in the development of his or her own case plan and plan for permanent placement as age and developmentally appropriate, including being asked for a statement regarding his or her permanent placement plan, and the case plan contains the social worker's assessment of those stated wishes; or

(B) The child was not actively involved in the development of his or her own case plan and plan for permanent placement, including being asked for a statement regarding his or her permanent placement plan and the case plan does not contain the social worker's assessment of those stated wishes. If the court makes such a finding, the court must order the agency to actively involve the child in the development of his or her own case plan and plan for permanent placement, including asking the child for a statement regarding his or her permanent plan, unless the court finds that the child is unable, unavailable, or unwilling to participate. If the court finds that the case plan does not contain the social worker's assessment of the child's stated wishes, the court must order the agency to submit the assessment to the court; and

(A) Whether the child was actively involved, as age- and developmentally appropriate, in the development of the case plan and plan for permanent placement, including being asked for a statement regarding the permanent placement plan, and whether the case plan contains the social worker's assessment of those stated wishes. If the court finds ~~that~~ the child was not appropriately involved, the court must order the agency to actively involve the child in the development of the case plan and plan for permanent placement, unless the court finds that the child is unable, unavailable, or unwilling to participate. If the court finds ~~that~~ the case plan does not contain the social worker's assessment of the child's stated wishes, the court must order the agency to submit the assessment to the court.

(C) In the case of an Indian child, the agency consulted with the child's tribe and the tribe was actively involved in the development of the case plan and plan for permanent placement, including consideration of whether tribal customary adoption is an appropriate permanent plan for the child if reunification is unsuccessful; or

(D) In the case of an Indian child, the agency did not consult with the child's tribe. If the court makes such a finding, the court must order the agency to consult with the tribe, unless the court finds that the tribe is unable, unavailable, or unwilling to participate.

	<p>(B) In the case of an Indian child, whether the agency consulted with the child's tribe and the tribe was actively involved in the development of the case plan and plan for permanent placement, including consideration of tribal customary adoption as an appropriate permanent plan for the child if reunification is unsuccessful. If the court finds <del>that</del> the agency did not consult the child's tribe, the court must order the agency to do so, unless the court finds <del>that</del> the tribe is unable, unavailable, or unwilling to participate.</p> <p><del>(5)(C) For a child 12 years of age or older and in a permanent placement, the court must consider the case plan and must find as follows:</del></p> <p><del>(A) Whether the child was given the opportunity to review the case plan, sign it, and receive a copy, or</del></p> <p><del>(B) The child was not given the opportunity to review the case plan, sign it, and receive a copy. If the court makes such a finding finds the child was not given the opportunity to review the case plan, sign it, and receive a copy, the court must order the agency to give the child the that opportunity to review the case plan, sign it, and receive a copy.</del></p>
CRC 5.725(d)(6) p. 67	<p>Per SB 794 amendment to WIC § 366.26(c)(5), delete entirely (to avoid repetition of statutory language) or change as indicated:</p> <p><del>(6)(5) If no adult is available to become legal guardian and no suitable foster home is available, the court finds that the child should not be placed for adoption, that legal guardianship shall not be established, that placement with a fit and willing relative is not appropriate as of the hearing date, and that there are no suitable foster parents, the court may order the care, custody, and control of the child transferred to a licensed foster family agency, subject to further orders of the court.</del></p>
CRC 5.725(e)(1) p. 68	<p>(1) An order of the court terminating parental rights, ordering adoption under section 366.26, or, in the case of an Indian child, ordering tribal customary adoption under section 366.24 is conclusive and binding on the child, the parent, and all other persons who have been served under the provisions of section 294. The order may not be set aside or modified by the court, except as provided in <u>section 366.26(i)(3) and in</u> rules 5.538, 5.540, and 5.542 with regard to orders by a referee.</p>
CRC 5.725(e)(2) p. 68	<p>Delete entirely (to avoid repetition of language in WIC § 366.24(c)(6)). If deleted, change 5.725(e)(1) to 5.725(e).</p> <p><del>In the case of an Indian child for whom tribal customary adoption has been ordered in accordance with section 366.24, the court may continue the hearing for up to 120 days to permit the tribe to complete the process for tribal customary adoption. In its discretion, the court may grant a further continuance not exceeding 60 days.</del></p> <p><del>(A) No less than 20 days before the date set for the continued hearing, the tribe must file the completed tribal customary adoption order with the court.</del></p> <p><del>(B) The social worker must file an addendum report with the court at least 7 days before the hearing.</del></p>

	<p>(C) If the tribe does not file the tribal customary adoption order within the designated time period, the court must make new findings and orders under section 366.26(b) and select a new permanent plan for the child.</p>
CRC 5.726 p. 69	<b>Rule 5.726. Prospective adoptive parent designation (§§ 366.26(n), 16010.6)</b>
CRC 5.726(b) p. 70	<p>Steps to facilitate the adoption process include those listed in <u>section</u> 366.26(n)(2) and <u>in</u></p> <p><u>In</u> the case of an Indian child when tribal customary adoption has been identified as the child's permanent plan, the child's identified Indian tribe has designated the caregiver as the prospective adoptive parent.</p>
<p>CRC 5.726(c) p. 71</p> <p>"must show on the request" – What if request is made orally per CRC 5.726(a)(2)?</p>	<p>(1) The court must <u>evaluate determine</u> whether the caregiver meets the criteria in (b).</p> <p>(1) The petitioner must show on the request that the caregiver meets the criteria in <u>section</u> 366.26(n)(1).</p> <p>(2) If the court finds that <u>the petitioner does not show that</u> the caregiver meets the criteria in <u>section</u> 366.26(n)(1), the court may deny the request without a hearing.</p> <p>(3) If the court finds that <u>the petitioner has shown that</u> the <u>current</u> caregiver meets the criteria in <u>section</u> 366.26(n)(1), the court must set a hearing as set forth in (4) below.</p> <p>(4) If it appears to the court that the request for designation as a prospective adoptive parent will be contested, or if the court wants to receive further evidence on the request, the court must set a hearing.</p> <p>(A) If the request for designation is made at the same time <u>as an objection a petition is filed to object</u> to removal <u>of the child from the caregiver's home</u>, the court must set a hearing as follows:</p> <p>(i) The hearing must be set as soon as possible and not later than five court days after the <u>objection petition objecting to removal</u> is filed with the court.</p> <p>(ii) If the court for good cause <u>is unable to cannot</u> set the matter for hearing five court days after the petition <u>objecting to removal</u> is filed, the court must set the matter for hearing as soon as possible.</p> <p>(iii) The matter may be set for hearing more than five court days after the <u>objection petition objecting to removal</u> is filed if this delay is necessary to allow participation by the child's identified Indian tribe or the child's Indian custodian.</p> <p>(B) If the request for designation is made before <u>a request for removal is filed the agency serves notice of a proposed removal</u> or before an</p>

See 366.26(n)(3),  
(3)(A) – Agency



services notice of proposed removal; it does not file a request for removal.	<p>emergency removal has occurred, the court must <u>order that the set a hearing be set at a time</u> within 30 calendar days after the <u>filing of the request for designation is made</u>.</p> <p>(5) If all parties stipulate to the <u>request for</u> designation of the caregiver as a prospective adoptive parent, the court may order the designation without a hearing.</p>
CRC 5.726(d)(2) p. 72	<p>(2) If the request for designation <u>was is</u> made at the same time as a request for hearing on a proposed or emergency removal, notice of the designation hearing must be provided with notice of the <u>hearing on</u> proposed removal, <u>hearing</u>, as stated in rule 5.727(f).</p> <p>(3) If the request for designation <u>was is</u> made before <u>a request for removal was filed the agency services notice of a proposed removal</u> or before an emergency removal occurs, notice must be as follows:</p>
CRC 5.727(a) p. 73	<p>This rule applies, after termination of parental rights or, in the case of tribal customary adoption, modification of parental rights, to the removal by the Department of Social Services (DSS) or a licensed adoption agency of a dependent child from a prospective adoptive parent <u>under rule 5.726(b)</u> or from a caregiver who may meet the criteria for designation as a prospective adoptive parent <u>under rule 5.726(b) in section 366.26(n)(1)</u>. This rule does not apply if the caregiver requests the child's removal.</p>
CRC 5.727(b) p. 73	<p>Before removing a child from the home of a prospective adoptive parent <u>under rule 5.726(b)</u> or from the home of a caregiver who may meet the criteria of a prospective adoptive parent <u>under rule 5.726(b) in section 366.26(n)(1)</u>, and as soon as possible after a decision is made to remove the child, the agency must notify the following participants of the proposed removal:</p>
CRC 5.727(c) p. 74	<p>DSS or the agency must provide notice on <i>Notice of Intent to Remove Child</i> (form JV-323). A blank copy of <i>Objection to Removal</i> (form JV-325) and <i>Request for Prospective Adoptive Parent Designation</i> (form JV-321) must also be provided <u>to all participants listed in (b) except the court</u>.</p>
CRC 5.727(d)(3) p. 74	<p>(3) Notice to the child's identified Indian tribe and Indian custodian must <u>be given under rule 5.481 comply with the requirements of section 224.2</u>.</p>
CRC 5.727(d)(4) p. 74	<p>For consistency with 5.726(d)(3)(E):</p> <p>(4) <u>Proof of notice on-Proof of Notice</u> (form JV-326) must be filed with the court <u>before the hearing on the proposed removal</u>.</p>
<p>CRC 5.727(e)(2) p. 74</p> <p>Language highlighted in green: Not sure which one is correct.</p>	<p>Second sentence is unclear: service of the notification of the proposed removal or service of the request for hearing on the proposed removal?</p> <p>(2) A request for hearing on the proposed removal must be made within five court or seven calendar days from <u>the</u> date of notification, whichever is longer. If service</p>

	<p><u>of the notification</u> is by mail, time to <u>respond request a hearing</u> is extended by five calendar days.</p> <p>(2) A request for hearing on the proposed removal must be made within five court or seven calendar days from <u>the</u> date of notification, whichever is longer. If service <u>of the request for hearing</u> is by mail, time to <u>respond make the request</u> is extended by five calendar days.</p>
CRC 5.727(e)(3) pp. 74-75	<p>For consistency with CRC 5.726(c)(4)(A):</p> <p>(3) The court must <u>order set</u> a hearing as follows:</p> <p>(A) The hearing must be set as soon as possible and not later than five court days after the <u>objection petition objecting to removal</u> is filed with the court.</p> <p>(B) If the court for good cause <u>is unable to cannot</u> set the matter for hearing five court days after the petition <u>objecting to removal</u> is filed, the court must set the matter for hearing as soon as possible.</p> <p>(C) The matter may be set for hearing more than five court days after the <u>objection petition objecting to removal</u> is filed if this delay is necessary to allow participation by the child's identified Indian tribe or the child's Indian custodian.</p>
CRC 5.727(f) p. 75	<p><b>(f) Notice of hearing on proposed removal</b></p> <p>(1) ...</p> <p>(2) ...</p> <p>(3) Notice must be <u>either</u> by personal service or by telephone. Notice by personal service must include a copy of the <u>completed</u> forms <i>Notice of Intent to Remove Child</i> (form JV-323) and <i>Objection to Removal</i> (form JV-325). Telephone notice must include the reasons for and against the removal, as indicated on forms JV-323 and JV-325.</p> <p>(4) <u>Proof of notice on</u> <i>Proof of Notice</i> (form JV-326) must be filed with the court before the hearing on the proposed removal.</p>

CRC 5.727(g) p. 75	<p>For consistency with the rest of CRC 5.727:</p> <p>At a hearing on <u>an intent to remove the child a proposed removal</u>, the agency intending to remove the child must prove by a preponderance of the evidence that the proposed removal is in the best interest of the child.</p>
CRC 5.727(h) p. 75	Not addressed: Whether the <u>child's identified Indian tribe or Indian custodian</u> should have access to confidential information. (See CRC 5.727(b) & (f).)
CRC 5.727(i) p. 76	<p>For consistency with the rest of CRC 5.727:</p> <p>If the court order made after a hearing on <u>an intent to remove a child a proposed removal</u> is appealed, the appeal must be <u>made brought as a petition for writ review</u> under rules 8.454 and 8.456.</p>
CRC 5.728(a) p. 76	<p>This rule applies, after termination of parental rights or, in the case of tribal customary adoption, modification of parental rights, to the removal by the Department of Social Services (DSS) or a licensed adoption agency of a dependent child from <u>the home of</u> a prospective adoptive parent <u>under rule 5.726(b)</u> or <u>from a caregiver who may meet the criteria for designation as a prospective adoptive parent under rule 5.726(b) in section 366.26(n)(1)</u> when the DSS or the licensed adoption agency has determined a removal must occur immediately due to a risk of physical or emotional harm. This rule does not apply if the child's <u>removal is carried out removed</u> at the request of the caregiver.</p>
CRC 5.728(b) p. 76	<p>"Immediate" does not modify "risk of physical or emotional harm" in the statute. (See WIC § 366.26(n)(4).)</p> <p>After removing a child from the home of a prospective adoptive parent <u>under rule 5.726(b)</u>, or <u>from the home of</u> a caregiver who may meet the criteria of a prospective adoptive parent <u>under rule 5.726(b), in section 366.26(n)(1)</u> because of <u>immediate</u> risk of physical or emotional harm, the agency must notify the following participants of the emergency removal:</p> <ol style="list-style-type: none"> <li>(1) The court;</li> <li>(2) <u>The current caregiver, if that caregiver either who</u> is a <u>designated</u> prospective adoptive parent or <u>who</u>, on the date of service of the notice, <u>meets may meet</u> the criteria in section 366.26(n)(1);</li> </ol>
CRC 5.728(c) p. 77	<p>The instructions on form JV-324 state, "<i>This notice must be served with a blank copy of form JV-321, Request for Prospective Adoptive Parent Designation, and a blank copy of form JV-325, Objection to Removal.</i>" How would these blank copies be provided to the caregiver and the child (10 or older) if notice is given by telephone per CRC 5.728(c)(2)?</p> <p><b>(c) Form <u>and service</u> of notice</b></p>
Isn't notice "by	

<p>telephone” contrary to the rule stating that form JV-324 must be used to provide notice?</p> <p>There is <b>no proof of notice</b> included on form JV-324 (currently 1 page, as revised 1-1-08).</p>	<p><i>Notice of Emergency Removal</i> (<b>form JV-324</b>) must be used to provide notice of an emergency removal, as described below.</p> <p>(1) ...</p> <p>(2) Notice must be either <b>by telephone or</b> by personal service of the form.</p> <p>(3) ...</p> <p>(4) Whenever possible, the agency, at the time of the removal, must give a blank copy of <del>the form</del> <b><i>Request for Prospective Adoptive Parent Designation</i> (form JV-321)</b> and a blank copy of <b><i>Objection to Removal</i> (form JV-325)</b> to the caregiver and, if the child is 10 years of age or older, <b>to</b> the child.</p> <p>(5) Notice to the court must be <b>served</b> by filing <b>of the <i>Notice of Emergency Removal</i> (form JV-324) and <i>Proof of Notice</i> (form JV-326)</b> with the court. <del>The proof of notice included on the form must be completed when the form is filed with the court.</del></p> <p>(6) <i>Proof of Notice</i> (form JV-326) must be filed with the court before the hearing on the proposed removal.</p>
<p>CRC 5.728(d)(2) p. 77</p>	<p>For consistency with CRC 5.726(c)(4)(A) and CRC 5.727(e)(3):</p> <p>(2) The court must <b>order set</b> a hearing as follows:</p> <p>(A) The hearing must be set as soon as possible and not later than five court days after the <b>objection petition objecting to removal</b> is filed with the court.</p> <p>(B) If the court for good cause <b>is unable to cannot</b> set the matter for hearing <b>within</b> five court days after the petition <b>objecting to removal</b> is filed, the court must set the matter for hearing as soon as possible.</p> <p>(C) The matter may be set for hearing more than five court days after the <b>objection petition objecting to removal</b> is filed if this delay is necessary to allow participation by the child’s identified Indian tribe or the child’s Indian custodian.</p>
<p>CRC 5.728(e) p. 78</p>	<p>For consistency with CRC 5.727(f):</p> <p><b>(e) Notice of emergency removal hearing on emergency removal</b></p> <p>After the court has ordered a hearing on an emergency removal, notice of the hearing must be as follows:</p> <p><b>(2)(1)</b> The clerk must provide notice of the hearing to the agency and the participants listed in (b) above, if the court, <b>the</b> caregiver, or <b>the</b> child requested the hearing.</p> <p><b>(3)(2)</b> The child’s attorney must provide notice of the hearing to the agency and the</p>

	<p>participants listed in (b) above, if the child’s attorney requested the hearing.</p> <p><del>(4)</del>(3) Notice must be <del>either</del> by personal service or by telephone. Notice by personal service must include a copy of <u>the completed</u> <i>Notice of Emergency Removal</i> (form JV-324). Telephone notice must include the reasons for and against the removal, as indicated on forms JV-324 and JV-325.</p> <p>(4) <del>Proof of notice on</del> <i>Proof of Notice</i> (form JV-326) must be filed with the court before the hearing on the emergency removal.</p>
CRC 5.728(g) p. 78	<p>Not addressed: Whether <u>the child’s identified Indian tribe or Indian custodian</u> should have access to confidential information. (See CRC 5.728(b) &amp; (e).)</p> <p>For consistency with CRC 5.727(h):</p> <p>If the telephone or address of the caregiver or the child is confidential, all forms must be kept in the court file under seal. Only the court, the child’s attorney, the agency, and the child’s CASA volunteer <del>and program</del> may have access to this information.</p>
CRC 5.728 p. 78	<p>Should a provision for appeal be added (see CRC 5.727(i)? E.g.:</p> <p><u>If the court order made after a hearing on an emergency removal is appealed, the appeal must be brought as a petition for writ review under rules 8.454 and 8.456.</u></p>
p. 78	<b>Rule 5.730. Adoption</b> <u>(§§ 366.24, 366.26(e); Fam. Code § 8600 et seq.)</u>
CRC 5.735(c) p. 81	Merely repeats what is already in WIC § 366.26(d). Delete (and re-letter subsequent subdivisions)?
CRC 5.735(d) p. 81	<p>(1) If the court finds that legal guardianship is the appropriate permanent plan, the court must appoint the guardian and order the clerk to issue letters of guardianship, which will not be subject to the confidentiality protections <del>of juvenile court documents as</del> described in section 827.</p> <p>(2) The court must issue orders regarding visitation of the child by a parent or <del>former</del> guardian, unless the court finds that visitation would be detrimental to the physical or emotional well-being of the child.</p>

CRC 5.735(e) p. 81	<p>Wrong rule.</p> <p>The court must advise all parties of their appeal rights as provided in rule <b>5.585</b> <b>5.590</b>.</p>
CRC 5.740 p. 82	<b>Rule 5.740. Hearings subsequent to a permanent plan (§§ 366.26, 366.3, <b>16501.1</b>)</b>
CRC 5.740(a) p. 82	<p>Suggested changes for consistency with CRC 5.708(e) (p. 45) and 5.725(d) (pp. 66-67) (see also WIC § 16501.1(g)(15)(A) and suggested changes below for CRC 5.740(b)(2):</p> <p><b>(2) The court or administrative review panel must consider the case plan submitted for this hearing and must find as follows:</b></p> <p><b>(A) Whether the child was actively involved, as age- and developmentally appropriate, in the development of the case plan and plan for permanent placement, including being asked for a statement regarding the permanent placement plan, and whether the case plan contains the social worker’s assessment of those stated wishes. If the court finds the child was not appropriately involved, the court must order the agency to actively involve the child in the development of the case plan and plan for permanent placement, unless the court finds that the child is unable, unavailable, or unwilling to participate. If the court finds the case plan does not contain the social worker’s assessment of the child’s stated wishes, the court must order the agency to submit the assessment to the court.</b></p> <p><b>(B) Whether the agency has documented the steps it is taking to finalize the adoption or legal guardianship, has identified any barriers to achieving legal permanency, and has described the steps it will take to address those barriers. If the court finds the case plan does not contain this information, the court must order the agency to submit the missing information to the court.</b></p> <p><b>(2)(3)</b> When adoption is granted, the court must terminate its jurisdiction.</p> <p><b>(3)(4)</b> When legal guardianship is granted, the court may continue dependency jurisdiction if it is in the best interest of the child, or the court may terminate dependency jurisdiction and retain jurisdiction over the child as a ward of the guardianship.</p> <p><b>(4)(5)</b> Notice of the hearing must be given as provided in section 295.</p>
CRC 5.740(b) p. 82	<p>Suggested change to reflect amendments made by SB 794:</p> <p><b>(b) Review hearings—<b>relative care or</b> foster care</b></p>

<p>CRC 5.740(b)(1) p. 82</p>	<p>For consistency with 5.740(a)(1):  ... and enter findings <u>regarding each item listed in as required by</u> section 366.3(e).</p>
<p>CRC 5.740(b)(2)-(3) pp. 82-83</p> <p>Note: If court finds child was not involved, <b>JV-446 item 14.b.(1)</b> orders agency to submit updated case plan within 30 days.</p> <p>Note: If court finds child was not given opportunity, <b>JV-446 item 15.b.(1)</b> orders agency to submit written confirmation within 30 days that child was given opportunity.</p>	<p>Suggested changes for consistency with CRC 5.708(e) (p. 45) and 5.725(d) (pp. 66-67):<sup>2</sup></p> <p>(2) The court or administrative review panel must consider the case plan submitted for this hearing and must find as follows:</p> <p><u>(A) The child was actively involved in the development of his or her own case plan and plan for permanent placement as age and developmentally appropriate; or</u>  <u>(B) The child was not actively involved in the development of his or her own case plan and plan for permanent placement as age and developmentally appropriate. If the court or administrative review panel makes such a finding, the court must order the agency to actively involve the child in the development of his or her own case plan and plan for permanent placement, unless the court finds that the child is unable, unavailable, or unwilling to participate.</u></p> <p><u>(A) Whether the child was actively involved, as age- and developmentally appropriate, in the development of the case plan and plan for permanent placement. If the court finds the child was not appropriately involved, the court must order the agency to actively involve the child in the development of the case plan and plan for permanent placement, unless the court finds the child is unable, unavailable, or unwilling to participate.</u></p> <p><u>(B) In the case of an Indian child, whether the agency consulted with the child's tribe and the tribe was actively involved in the development of the case plan and plan for permanent placement, including consideration of tribal customary adoption as an appropriate permanent plan for the child if reunification is unsuccessful. If the court finds the agency did not consult the child's tribe, the court must order the agency to do so, unless the court finds the tribe is unable, unavailable, or unwilling to participate.</u></p> <p><u>(3) For a child 12 years of age or older and in a permanent placement, the court must consider the case plan and must find as follows:</u>  <u>(A) The child was given the opportunity to review the case plan, sign it, and receive a copy; or</u>  <u>(B) The child was not given the opportunity to review the case plan, sign it, and receive a copy. If the court makes such a finding, the court must order the agency to give the child the opportunity to review the case plan, sign it, and receive a copy.</u></p> <p><u>(C) For a child 12 years of age or older and in a permanent placement, whether the child was given the opportunity to review the case plan, sign it, and receive a copy.</u></p>

<sup>2</sup> The additions suggested in CRC 5.740(b)(2)(D)-(J) are based on the case plan requirements set forth in WIC § 16501.1(g)(15)-(19). Although § 16501.1 does not require the court to make such findings on the record, the current rule requires the court to make other findings regarding the case plan. (See CRC 5.740(b)(2)(A)-(C).)

If the court finds the child was not given the opportunity to review the case plan, sign it, and receive a copy, the court must order the agency to give the child that opportunity.

(D) For a child 16 years of age or older and in a permanent placement, whether the case plan identifies the intensive and ongoing efforts made to return the child to the home of the parent, place the child for adoption or tribal customary adoption in the case of an Indian child, establish a legal guardianship, or place the child with a fit and willing relative, as appropriate, including the use of technology and social media to find relatives of the child. If the court finds the case plan does not include this information, the court must order the agency to submit the missing information to the court.

(E) For a child who is 14 or 15 years of age, whether the case plan describes the programs and services that will help the child, consistent with the child's best interests, to prepare for the transition from foster care to successful adulthood. If the court finds the case plan does not include this information, the court must order the agency to submit the missing information to the court.

(F) For a youth 16 years of age or older or a nonminor dependent, whether the case plan includes the youth's transitional independent living plan. If the court finds that the case plan does not include this plan, the court must order the agency to submit the missing plan to the court.

(G) For a youth 14 years of age or older, whether the case plan documents that a consumer credit report was requested annually and any results were provided to the youth, identifies any barriers to obtaining the credit reports, and details how the county ensured the youth received assistance with interpreting the credit report and resolving any inaccuracies. If the court finds the case plan does not include this information, the court must order the agency to submit the missing information to the court.

(H) For a youth 14 years of age or older or a nonminor dependent, whether the case plan includes a document that describes the youth's rights with respect to education, health, visitation, and court participation, the right to be annually provided with copies of his or her credit reports at no cost while in foster care, and the right to stay safe and avoid exploitation. If the court finds that the case plan does not include this document, the court must order the agency to submit the missing document to the court.

(I) For a youth 14 years of age or older or a nonminor dependent, whether the case plan includes a signed acknowledgment by the youth that he or she has received a copy of the document described in (H) and that the rights described in the document were explained to the youth in an age-appropriate manner. If the court finds that the case plan does not include this acknowledgment, the court must order the agency to submit it to the court.



<p>Note: <b>JV-446 item 27.d.</b> does not provide for finding that the agency has <u>not</u> made diligent efforts to find relatives or has <u>not</u> evaluated relatives as caregivers and does not provide for ordering the agency to do so (or to submit proof of same to the court).</p>	<p><u>(J) For a child or nonminor dependent who is, or who is at risk of becoming, a victim of commercial sexual exploitation, whether the case plan documents the services provided to address that issue.</u></p> <p><u>(4)(3)</u> If the child is not placed for adoption, the court or administrative review panel must find as follows:</p> <p>(A) <u>Whether t</u>The agency has made diligent efforts to locate an appropriate relative;<u>;</u> <del>or</del></p> <p><del>(B) The agency has not made diligent efforts to locate an appropriate relative.</del> If the court or administrative review panel <del>makes such a finding</del> finds the agency has not made diligent efforts to locate an appropriate relative, the court or administrative review panel must order the agency to <del>make diligent efforts to locate an appropriate relative;</del> and <u>do so.</u></p> <p><del>(C)(B) Whether e</del>Each relative whose name has been submitted to the agency as a possible caregiver has been evaluated as an appropriate placement resource;<u>;</u> <del>or</del></p> <p><del>(D) Each relative whose name has been submitted to the agency as a possible caregiver has not been evaluated as an appropriate placement resource.</del> If the court or administrative review panel <del>makes such a finding</del> finds the agency has not evaluated each relative whose name has been submitted as a possible caregiver, the court or administrative review panel must order the agency to <del>evaluate as an appropriate placement resource, each relative whose name has been submitted to the agency as a possible caregiver</del> <u>do so.</u></p> <p><del>(5)(4) ...</del></p> <p><del>(6)(5) ...</del></p> <p><del>(7)(6) ...</del></p> <p><del>(8)(7) ...</del></p>
<p>CRC 5.740(c) p. 85</p>	<p>A petition to terminate a guardianship established by the juvenile court, to appoint a successor guardian, or to modify or supplement orders concerning <u>the a</u> guardianship must be filed in <u>the</u> juvenile court. The procedures described in rule 5.570 must be followed, and <i>Request to Change Court Order</i> (form JV-180) must be used.</p>
<p>CRC 5.740(c)(2) p. 85</p>	<p>Comment: The requirement for the petitioner to serve notice of the hearing is in conflict with <b>WIC § 297(c)</b> ["the court ... shall give prior notice"] and <b>CRC 5.570(g)</b> [clerk must cause notice of hearing to be given per CRC 5.524, which references both WIC § 290.1 and WIC § 290.2]. (The second sentence in 5.740(c) states, "The procedures described in rule 5.570 must be followed....") Also, if the petitioner is the guardian who wishes to terminate the guardianship (and who might be acting in pro per), can he or she realistically be expected to serve notice of the hearing?</p> <p>(2) Not less than 15 court days before the hearing date, <u>the petitioner must serve notice of the hearing</u> on the department of social services; the guardian; the child, if 10 years or older; parents whose parental rights have not been terminated; the</p>

	court that established the guardianship, if in another county; and counsel of record for those entitled to notice.
JV-421, p. 1 Right footer	<i>Shouldn't the citations be to WIC §§ 361, 361.2 (rather than §§ 366, 366.3) and CRC 5.695 (rather than CRC 5.707)?</i>
JV-421: item 16b	Delete period after "made toward."
JV-421: item 20	Add a finding for § 361.5(b)(16).
JV-421: item 20c, 20d, 20e	... is a person described in Welf. & Inst. Code, § 361.5(b)(2), and <b>and</b> reunification services are ...
JV-421: item 20f	... and the court accepts the waiver, the person having knowingly and intelligently waived the right to <b>serves services</b> .
JV-421: item 21b	Per "Gray Chart" (Recommended Title IV-E Findings and Orders), rev. 2-1-16, finding D4. ("Achieved" is in D6.)  <b>The likely date</b> by which the child may be returned to and safely maintained in the home or another permanent plan <b>achieved selected</b> is (specify):
JV-421: item 26	For consistency with rest of form: <b>Legal guardian</b> ... Welf. & Inst. Code, § 369
JV-421: item 27b	The <b>educational</b> rights and responsibilities of the educational <b>representative rights holder</b> are described in rule 5.650(e)-(f) ...
JV-421: item 30	The following persons are ordered to <b>make take</b> the steps necessary for ... a. social worker. b. parent <b>or legal guardian</b> (name): c. surrogate parent (name): d. educational <b>representative rights holder</b> (name): e. other (name):
JV-421: item 31	a. <input type="checkbox"/> The child's educational records, including any evaluation regarding a disability, <input type="checkbox"/> were <input type="checkbox"/> <b>were not</b> requested by the child's new school within two business days of the request to enroll, and those records were provided by the child's former school to the child's new school within two business days of the receipt of the educational records request. b. <input type="checkbox"/> The child <input type="checkbox"/> is <input type="checkbox"/> is not enrolled in school. c. <input type="checkbox"/> The child <input type="checkbox"/> is <input type="checkbox"/> is not attending school.
JV-421: item 33	<b>Child under the age of three years of age or a member of a sibling group as described in Welf. &amp; Inst. Code, § 361.5(a)(1)(C)</b> The court informed all parties present at the time of the hearing and further advises all parties that, because the child was under <b>the age of three years of age</b> on the date of initial removal or is a member of a sibling group <b>in which one member was under three years of age on the date of initial removal</b> :
JV-421: item 35d	The court advised all parties present in court that to preserve any right to review on appeal of this order, a party must seek an extraordinary writ by filing <b>a</b> notice of intent to file a writ petition and a request for the record, .... The clerk of the court is directed to provide written notice as stated in rule 5.695 <b>(g)(10)(h)(19)</b> of the California Rules of Court to any party not present.
JV-421: item 35e	The court orders that no notice of the hearing set under Welf. & Inst. Code, § 366.26 be provided to the person <b>(s)</b> named below
JV-421: item 35f	<b>The likely date</b> by which the child may be placed for adoption, or <b>by which</b> another permanent plan <b>may be</b> selected, is (specify date):

**Name:** Mike Roddy **Title:** Executive Officer

**Organization:** Superior Court of California, County of San Diego

☒ Commenting on behalf of an organization

**Address:** County Courthouse, 220 West Broadway

**City, State, Zip:** San Diego, California 92101

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**Mail:** Judicial Council of California  
Attn: Invitations to Comment  
455 Golden Gate Avenue  
San Francisco, CA 94102

**DEADLINE FOR COMMENT: 5:00 p.m., Tuesday, June 14, 2016.**