



## JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue • San Francisco, California 94102-3688

[www.courts.ca.gov](http://www.courts.ca.gov)

---

# REPORT TO THE JUDICIAL COUNCIL

*Item No. 20-186*

For business meeting on September 25, 2020

---

Title

Juvenile Law: Guardianship Rules and Forms

Rules, Forms, Standards, or Statutes Affected  
Amend Cal. Rules of Court, rules 5.510, 5.620, 5.625, 5.695, 5.725, 5.735, 5.740, 5.785, and 5.815; revise forms JV-320 and JV-418

Recommended by

Family and Juvenile Law Advisory Committee

Hon. Jerilyn L. Borack, Cochair

Hon. Mark A. Juhas, Cochair

Agenda Item Type

Action Required

Effective Date

January 1, 2021

Date of Report

August 10, 2020

Contact

Corby Sturges, 415-865-4507

[corby.sturges@jud.ca.gov](mailto:corby.sturges@jud.ca.gov)

---

### Executive Summary

The Family and Juvenile Law Advisory Committee recommends amending nine California Rules of Court that provide procedures to establish, terminate, modify, or oversee guardianships in juvenile court proceedings and revising two forms used for court orders in those proceedings. The amendments and revisions are required to conform to recent statutory amendments, resolve inconsistencies with existing statutes and other rules of court, and make technical corrections.

### Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2021:

1. Amend rule 5.510(c)(1)(A) to clarify the juvenile court's exclusive jurisdiction over guardianships in child welfare proceedings;

2. Amend rule 5.620(d) to clarify that the juvenile court may appoint a guardian in a dependency proceeding at the dispositional hearing and to correct a cross-reference to rule 5.695;
3. Amend rule 5.620(e) to clarify that it applies exclusively to existing probate guardianships and to conform its requirements to statute;
4. Amend rule 5.625(b) to clarify the procedures for appointing a guardian in a juvenile justice proceeding and indicate the court's discretion, after appointing a guardian, to continue wardship and supervision or to terminate wardship;
5. Amend rule 5.625(c) to clarify that it applies exclusively to existing probate guardianships and to conform its requirements to statute;
6. Amend rule 5.695(a) to indicate that the requirements in Welfare and Institutions Code section 360(a) must be met for the court to appoint a legal guardian at the dispositional hearing and to clarify the conditions precedent to the clerk's duty to issue letters of guardianship;
7. Amend rule 5.725(a) to add references to statutes governing the appointment of a guardian in juvenile justice proceedings;
8. Amend rule 5.735 to clarify notice requirements and specify the limits on the court's discretion to retain dependency jurisdiction when appointing a guardian;
9. Amend rule 5.740(a)(4) to clarify that the limits on the court's discretion to retain dependency jurisdiction added by AB 819 continue to apply at postpermanency review hearings;
10. Amend rule 5.785 to make a technical correction;
11. Amend rule 5.815 to (1) clarify that Welfare and Institutions Code section 366.26 supplies the procedures for appointment of a guardian in a juvenile justice proceeding; (2) specify the methods for the probation officer, the child's attorney, and the court to recommend, request, or consider appointing a guardian for a ward; and (3) replace text that duplicates statutory language with references to the appropriate code sections;
12. Revise *Orders Under Welfare and Institutions Code Sections 366.24, 366.26, 727.3, 727.31* (form JV-320) to add references to applicable statutes and rules, clarify the instructions for completing the form, replace or remove gender-specific terms, specify that the appointment of a guardian is not effective until letters of guardianship have been signed and issued, add instructions to item 15c to indicate the circumstances in which the court must terminate dependency jurisdiction, delete item 22, renumber items 23–27 as items 22–26, and make additional technical corrections; and

13. Revise *Dispositional Attachment: Appointment of Guardian* (form JV-418) to allow appointment of a guardian for a child who is not adjudged a dependent, indicate that the court has read and considered the required assessment, specify that the appointment of a guardian is not effective until letters of guardianship have been signed and issued, and make technical corrections.

The text of the amended rules and the revised forms are attached at pages 8–22.<sup>1</sup>

### **Relevant Previous Council Action**

The Judicial Council adopted rule 1464 of the California Rules of Court, effective January 1, 1991, to establish procedures for appointment of a guardian in a child welfare proceeding.<sup>2</sup> Rule 1464 was renumbered rule 5.735 effective January 1, 2007, and was last amended effective January 1, 2017. The council adopted rule 1496.2, effective January 1, 2004, to establish procedures for appointment of a guardian in juvenile justice proceedings. Rule 1496.2 was renumbered rule 5.815 effective January 1, 2007, and was last amended effective July 1, 2016. The other rules in this proposal have been amended multiple times since their adoption for reasons not directly relevant to the committee’s recommendation.

At the request of the state Department of Social Services, the Judicial Council adopted form JV-320, effective January 1, 1991, for the juvenile court to use to make findings and orders at a hearing under Welfare and Institutions Code section 366.26 to select and implement a permanent plan.<sup>3</sup> Form JV-320 has been revised multiple times since its adoption, most recently in 2019 in response to amendments to California’s implementation of the federal Indian Child Welfare Act (ICWA). The council approved form JV-418 in 2005 as part of a package of forms for courts to use to make findings and orders at dispositional hearings in child welfare cases. This form was also last revised in 2019 in response to the statutory amendments conforming California law to ICWA.

### **Analysis/Rationale**

The proposed rule amendments and form revisions are urgently needed to conform the rules and forms to new and existing statutory requirements. They will also promote efficiency when guardianship is considered as an option for a child under the juvenile court’s child welfare or juvenile justice jurisdiction by clarifying the procedures for appointing a guardian in both types of juvenile court proceedings.

---

<sup>1</sup> This report outlines the Family and Juvenile Law Advisory Committee’s recommended amendments to subdivision (a) of rule 5.740. In a separate report, the committee also recommends adding a new subdivision (c) to rule 5.740. See Judicial Council of Cal., Advisory Com. Rep., *Juvenile Law: Information, Documents, and Services for Youth 16 Years of Age and Older* (Aug. 10, 2020). The committee has submitted both reports for the Judicial Council’s consideration at its September 25, 2020, meeting. To prevent the inadvertent omission of either set of amendments on publication, the text of rule 5.740 attached to this report includes the amendments recommended in both reports.

<sup>2</sup> All subsequent references to rules are to the California Rules of Court unless otherwise specified.

<sup>3</sup> All subsequent statutory references are to the Welfare and Institutions Code unless otherwise specified.

The juvenile court has authority to appoint a guardian for a child in child welfare proceedings as specified in sections 360 and 366.26. Sections 727.3, 727.31, and 728 give the court analogous authority in juvenile justice proceedings. After the establishment of a guardianship in a child welfare proceeding, the court generally has discretion to continue dependency jurisdiction over the child or terminate dependency jurisdiction and retain jurisdiction over the child as a ward of the guardianship under section 366.4.<sup>4</sup>

### **Assembly Bill 819**

Until December 31, 2019, if the court appointed a relative as guardian, section 366.3(a) required the court to terminate its dependency jurisdiction and proceed under section 366.4 *if the child had been placed with the relative* for at least six months unless the guardian objected to termination or the court made a finding of exceptional circumstances. Effective January 1, 2020, [Assembly Bill 819](#) (Stats. 2019, ch. 777, § 18) amended section 366.3(a)(3) to require the juvenile court, on appointment of a relative or nonrelative extended family member (NREFM) as guardian, to dismiss dependency jurisdiction *if the guardian's home had been approved as a resource family home* for at least six months.

This statutory amendment requires conforming amendments to rules 5.735 and 5.740 and a revision to form JV-320. The amendments to rule 5.735 clarify the notice requirements in subdivision (b), spell out in paragraph (c)(4) the court's discretion to retain dependency jurisdiction or terminate dependency and retain jurisdiction over the guardianship, and specify the limits to that discretion when the court appoints a relative or NREFM as guardian, as amended by AB 819, in paragraph (c)(5). (Welf. & Inst. Code, §§ 366.26, 366.3.)

The amendments to rule 5.740(a)(4) specify that the limits on the court's discretion to retain or terminate dependency jurisdiction added by AB 819 continue to apply at each postpermanency hearing until the court has terminated dependency. (*Id.*, § 366.3.) In addition, the revisions to item 15c on *Orders Under Welfare and Institutions Code Sections 366.24, 366.26, 727.3, 727.31* (form JV-320) remind the person completing the form of the limits on the court's discretion to retain dependency jurisdiction after appointing a relative or NREFM as the guardian of a dependent child.

### **Additional amendments and revisions**

In addition, review of the juvenile court rules and forms that apply to juvenile court guardianship proceedings revealed inconsistencies among the rules and with existing statutory requirements, as well as an overall lack of clarity regarding the requirements for establishing, modifying, and terminating a guardianship in juvenile court. This proposal addresses these issues by bringing the rules and forms into harmony with the law and each other. Finally, the proposal recommends technical corrections to the rules and forms.

The committee recommends several rule amendments to clarify the extent of the juvenile court's jurisdiction to modify or terminate existing probate guardianships and to establish, modify, or

---

<sup>4</sup> Welf. & Inst. Code, §§ 360(a), 366.3(a)(3).

terminate juvenile court guardianships. The amendments to rule 5.510(c)(1)(A) clarify that the juvenile court has exclusive jurisdiction to hear guardianship proceedings after a dependency petition is filed until the petition is dismissed or dependency jurisdiction is terminated. (Welf. & Inst. Code, § 304.) The amendments to rule 5.620(d) clarify the statutory source of the court's authority to appoint a guardian at the dispositional hearing in a child welfare case (*id.*, § 360(a)), while amendments to rule 5.620(e) clarify that it applies exclusively to existing probate guardianships, align the required procedures with statute, and update a statutory reference. (*Id.*, § 728(a) & (b).)

The amendments to rule 5.625(b) have a similar effect in juvenile justice proceedings by clarifying that the procedures for appointing a guardian in those proceedings are governed by section 366.26 and that the court has discretion to continue wardship and supervision of the child or to terminate wardship. (Welf. & Inst. Code, § 728(c)–(e).) The limits on the court's discretion modified by AB 819, however, do not apply to guardianships established in juvenile justice proceedings. The amendments to rule 5.625(c) clarify that it applies exclusively to probate guardianships, align the required procedures with statute, and update a statutory reference. (*Id.*, § 728(a) & (b).)

The amendments to rule 5.695(a) refer expressly to section 360(a), which spells out detailed conditions that must be met for the court to appoint a guardian for a child at the dispositional hearing, and also clarifies that the clerk's duty to issue letters of guardianship does not arise until the appointed guardian has signed the required affirmation. (*Id.*, § 360(a); Prob. Code, §§ 2300, 2310.) The amendments to rule 5.725(a), which applies both to dependent children and wards of the juvenile court, add references to the previously omitted statutes governing appointment of a guardian for a ward in juvenile justice proceedings. (Welf. & Inst. Code, §§ 366.26, 727.3, 728(c)–(e).)

In rule 5.815, the amendments clarify that the procedures for appointment of a guardian in a juvenile justice proceeding are supplied exclusively by section 366.26, which governs a hearing to select a permanent plan, including appointment of a guardian, in a child welfare proceeding. The amendments also specify the methods for the probation officer, the child's attorney, and the court, respectively, to recommend, request, or consider appointing a guardian for a ward, and replace text that duplicates statute with references to the appropriate code sections. (Welf. & Inst. Code, §§ 366.26, 727.3, 728(c)–(e).)

Additional revisions to form JV-320 add references to applicable governing code sections and rules of court, clarify the instructions to courts or attorneys completing the form, replace or remove gender-specific terms when appropriate, clarify the standards for determining that the child is likely to be adopted, clarify that the appointment of a guardian is not effective until letters of guardianship have been signed and issued, delete item 22 because it duplicates item 4b, renumber items 23–27 as items 22–26, and make other technical corrections. (*Id.*, §§ 366.26, 366.3, 727.3, 727.31, 728(c)–(e).)

Finally, the revisions to *Dispositional Attachment: Appointment of Guardian* (form JV-418) clarify that the court may, as authorized by section 360(a), appoint a guardian for a child who is *not* adjudged a dependent; indicate that, before appointing a guardian at the dispositional hearing, the court is required to have read and considered the report and assessment completed under section 361.5(g); specify that the appointment of a guardian is not effective until letters of guardianship have been signed and issued; and make technical revisions. (*Id.*, §§ 360(a).)

### **Policy implications**

The recommended amendments and revisions promote at least three Judicial Council policy objectives—modernization of the rules of court, quality of justice and service to the public, and promotion of access to the courts—by ensuring that the Judicial Council rules and forms reflect accurate legal information to make it easier for litigants to gain access to the courts.

### **Comments**

This proposal circulated for comment as part of the spring 2020 invitation-to-comment cycle, from April 10 to June 9, 2020, 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. Of the six commenters who responded, three agreed with the proposal and three did not indicate a position. Two commenters that did not indicate a position, the Superior Court of Orange County and the Superior Court of San Diego County, expressed agreement in the body of their comments. One commenter neither indicated a position nor provided a substantive comment. A chart with the full text of the comments received and the committee’s responses is attached at pages 23–26.

The Executive Committee of the Family Law Section (FLEXCOM) of the California Lawyers Association agreed with the proposal and suggested that the committee add language to rule 5.740(a)(4) to clarify that the juvenile court is not required to terminate dependency jurisdiction over a child for whom the court has appointed a relative or nonrelative extended family member (NREFM) as guardian if the relative or nonrelative extended family member guardian objects, or upon a finding of exceptional circumstances.

The committee agreed that more specificity was needed and modified its recommendation to add language to rule 5.735(c)(4) to (1) specify the court’s discretion to retain dependency jurisdiction or terminate dependency jurisdiction and retain jurisdiction under section 366.4 over a child for whom it has appointed a guardian (2) add paragraph (5) to rule 5.735(c) to specify the requirements for terminating jurisdiction over a child after the court has appointed a relative or NREFM as the child’s guardian, and (3) add the suggested language to rule 5.740(a)(4) to clarify that these requirements continue to apply at a postpermanency hearing when the court has retained dependency jurisdiction over a child for whom it has appointed a guardian.

The Superior Court of Orange County raised a question about the language “guardian of the person of the ward” in rule 5.625(b), interpreting “of the person” and “of the ward” as equivalent alternatives. To clarify the terminology, the committee modified the recommended language of the rule to read, “At any time during wardship of a child under 18 years of age, the court may appoint a legal guardian of the person for the child ....” This language is intended to clarify that the rule—like section 728(c), the statute it implements—applies to a “guardian of the person”; that is, a guardian who has legal and physical custody of the child. This term is intended to distinguish that guardian from a guardian of the estate, who would be responsible for the management of the child’s property.

The Superior Court of San Diego County suggested that rule 5.815(b)(1) list all the elements required by statute to be included in the assessment referred to in section 366.26(d). Based on the Judicial Council drafting style and committee policy not to repeat statutory language in rules and the absence of corresponding statutory language in rule 5.735, which applies to appointment of a guardian for a dependent child, the committee decided not to list each required element. Instead, the committee has modified the language of the rule to specify that the assessment must include the elements required by section 727.31(b), which applies to the assessment prepared for a selection and implementation hearing in a juvenile justice proceeding.

### **Alternatives considered**

In addition to the alternatives considered in response to the comments received, the committee also considered limiting its recommendation to the amendments and revisions required by AB 819. After deliberation, however, the committee determined that the additional rule amendments and form revisions were needed to conform to existing statutory requirements and resolve uncertainty about the authority and procedures for establishment of guardianships in juvenile court proceedings.

### **Fiscal and Operational Impacts**

The committee does not anticipate that the proposal will have significant fiscal or operational impacts on the judicial branch, justice partners, attorneys, self-represented litigants, or others. The proposal may require courts to alter their minute order templates or local forms. Some of these changes would be required by the statutory amendments regardless of the proposal. Other elements of the proposal are intended to clarify procedures, and these clarifications should promote more efficient case management and court proceedings.

### **Attachments and Links**

1. Cal. Rules of Court, rules 5.510, 5.620, 5.625, 5.695, 5.725, 5.735, 5.740, 5.785, and 5.815, at pages 8–16
2. Forms JV-320 and JV-418, at pages 17–22
3. Chart of comments, at pages 23–26

Rules 5.510, 5.620, 5.625, 5.695, 5.725, 5.735, 5.740, 5.785, and 5.815 of the California Rules of Court are amended, effective January 1, 2021, to read:

**Rule 5.510. Proper court; determination of child’s residence; exclusive jurisdiction**

**(a)–(b) \* \* \***

**(c) Exclusive jurisdiction (§§ 304, 316.2, 726.4)**

(1) Once a petition has been filed under section 300, the juvenile court has exclusive jurisdiction of the following:

(A) All issues regarding custody and visitation of the child, including legal guardianship; and

(B) \* \* \*

(2) \* \* \*

**Rule 5.620. Orders after filing under section 300**

**(a) Exclusive jurisdiction (§ 304)**

Once a petition has been filed alleging that a child is described by section 300, and until the petition is dismissed or dependency is terminated, the juvenile court has exclusive jurisdiction to hear proceedings relating to the custody of the child and visitation with the child and establishing a legal guardianship for the child.

**(b)–(c) \* \* \***

**(d) Appointment of a legal guardian ~~of the person~~ (§§ 360, 366.26)**

If the court finds that the child is described by section 300, it may appoint a legal guardian at the disposition hearing, as described in section 360(a) and rule 5.695(b)(a), or at the hearing under section 366.26, as described in that section and rule 5.735. The juvenile court maintains jurisdiction over the guardianship, and a petitions to terminate or modify ~~such that~~ guardianships must be heard in juvenile court under rule 5.740(c).

**(e) Termination or modification of previously established probate guardianships (§ 728)**

At any time after the filing of a petition under section 300 and until the petition is dismissed or dependency is terminated, the court may terminate or modify a



guardianship of the person previously established by the juvenile court or the probate court under the Probate Code.

If The social worker may recommends to the court, by filing *Juvenile Dependency Petition (Version One)* (form JV-100) and *Request to Change Court Order* (form JV-180), in a report accompanying an initial or supplemental petition that an existing probate guardianship be modified or terminated, the court must order the appropriate county agency to file the recommended motion. The probate guardian or the child's attorney may also file a motion to modify or terminate an existing probate guardianship.

(1) The hearing on the petition or motion may be held simultaneously with any regularly scheduled hearing regarding the child. Notice The notice requirements under in Probate Code section 1511 294 apply.

(2) \* \* \*

#### **Rule 5.625. Orders after filing of petition under section 601 or 602**

(a) \* \* \*

#### **(b) Appointment of a legal guardian of the person (§§ 727.3, 728)**

At any time during wardship of a person child under 18 years of age, the court may appoint a legal guardian of the person, or may terminate or modify a previously established guardianship, for the child in accordance with the requirements in section 366.26 and rule 5.815.

(1) On appointment of a legal guardian, the court may continue wardship and conditions of probation or may terminate wardship.

(2) The juvenile court retains jurisdiction over the guardianship. All proceedings to modify or terminate the guardianship must be held in juvenile court.

#### **(c) Termination or modification of previously established probate guardianships (§ 728)**

At any time after the filing of a petition under section 601 or 602 and until the petition is dismissed or wardship is terminated, the court may terminate or modify a guardianship of the person previously established under the Probate Code. The probation officer may recommend to the court in a report accompanying an initial or supplemental petition that an existing probate guardianship be modified or

1 terminated. The guardian or the child's attorney may also file a motion to modify or  
2 terminate the guardianship.

3  
4 (1) The hearing on the petition or motion may be held simultaneously with any  
5 regularly scheduled hearing regarding the child. The notice requirements in  
6 section 294 apply.

7  
8 (2) If the court terminates or modifies a previously established probate  
9 guardianship, the court must provide notice of the order to the probate court  
10 that made the original appointment. The clerk of the probate court must file  
11 the notice in the probate file and send a copy of the notice to all parties of  
12 record identified in that file.

13  
14  
15 **Rule 5.695. Findings and orders of the court—disposition**

16  
17 **(a) Orders of the court (§§ 245.5, 358, 360, 361, 361.2, 390)**

18  
19 At the disposition hearing, the court may:

20  
21 (1)–(2) \* \* \*

22  
23 (3) If the requirements of section 360(a) are met, appoint a legal guardian for the  
24 child without declaring dependency and order the clerk, as soon as the  
25 guardian has signed the required affirmation, to issue letters of guardianship,  
26 which are not subject to the confidential protections of juvenile court  
27 documents as described in section 827;

28  
29 (4) If the requirements of section 360(a) are met, declare dependency, and  
30 appoint a legal guardian for the child, ~~if the requirements of section 360(a)~~  
31 ~~are met~~ and order the clerk, as soon as the guardian has signed the required  
32 affirmation, to issue letters of guardianship, which are not subject to the  
33 confidential protections of juvenile court documents as described in section  
34 827;

35  
36 (5)–(7) \* \* \*

37  
38 **(b)–(i) \* \* \***

39  
40  
41 **Rule 5.725. Selection of permanent plan (§§ 366.24, 366.26, 727.3, 727.31)**

1   **(a) Application of rule**

2  
3       This rule applies to children who have been declared dependents or wards of the  
4       juvenile court.

5  
6       (1)   \* \* \*

7  
8       (2)   ~~Only Sections 360, 366.26, and 727.3, 727.31, and 728 apply provide the~~  
9       exclusive authority and procedures for the juvenile court to establishing  
10       establish a legal guardianship for a dependent child or ward of the court.

11  
12       (3)   \* \* \*

13  
14   **(b)–(e)       \* \* \***

15  
16   **(f) Procedures—legal guardianship**

17  
18       ~~The proceedings for appointment of a legal guardian for a dependent child of the~~  
19       ~~juvenile court must be in the juvenile court as provided in rule 5.735.~~

20  
21   ~~(g)(f)~~       \* \* \*

22  
23   ~~(h)(g)~~       \* \* \*

24  
25  
26   **Rule 5.735. Legal guardianship**

27  
28   **(a) Proceedings in juvenile court (§§ 360, 366.26~~(d)~~)**

29  
30       The proceedings for the appointment of a legal guardian for a dependent child must  
31       be held in the juvenile court. The ~~request~~ recommendation for appointment of a  
32       guardian must be included in the social study report prepared by the county welfare  
33       department or in the assessment prepared for the hearing under section 366.26.  
34       Neither a separate petition nor a separate hearing is required.

35  
36   **(b) Notice; hearing**

37  
38       Unless the court proceeds under section 360(a) at the dispositional hearing, notice  
39       for the guardianship of the hearing at which the court considers appointing a legal  
40       guardian must be given under section 294, and the hearing must proceed be  
41       conducted under the procedures in section 366.26.  
42

1 (c) Findings and orders

2  
3 (1) If the court finds that legal guardianship is the appropriate permanent plan,  
4 the court must appoint the guardian and order the clerk to issue letters of  
5 guardianship; (Letters of Guardianship (Juvenile) (form JV-330)) as soon as  
6 the guardian has signed the required affirmation. which will not be These  
7 letters are not subject to the confidentiality protections ~~described~~ in section  
8 827.

9  
10 (2)–(3) \* \* \*

11  
12 (4) Except as provided in (5), on appointment of a legal guardian under section  
13 360 or 366.26, the court may retain dependency jurisdiction or terminate  
14 dependency jurisdiction and retain jurisdiction over the child as a ward of the  
15 guardianship under section 366.4.

16  
17 (5) If the court appoints a relative or nonrelative extended family member as the  
18 child's legal guardian and the other requirements in section 366.3(a)(3)  
19 apply, the court must terminate dependency jurisdiction and retain  
20 jurisdiction over the child under section 366.4 unless the guardian objects or  
21 the court finds that exceptional circumstances require it to retain dependency  
22 jurisdiction.

23  
24 (d) \* \* \*

25  
26  
27 **Rule 5.740. Hearings ~~subsequent to~~ after selection of a permanent plan (§§ 366.26,**  
28 **366.3, 16501.1)**

29  
30 (a) Review hearings—adoption and guardianship

31  
32 Following an order for termination of parental rights or, in the case of tribal  
33 customary adoption, modification of parental rights, or a plan for the establishment  
34 of a legal guardianship under section 366.26, the court must retain jurisdiction and  
35 conduct review hearings at least every 6 months to ensure the expeditious  
36 completion of the adoption or guardianship.

37  
38 (1)–(3) \* \* \*

39  
40 (4) ~~When~~ After a legal guardianship is granted established, the court may  
41 continue dependency jurisdiction ~~if it is in the best interest of the child, or the~~  
42 ~~court may~~ terminate dependency jurisdiction and retain jurisdiction over the  
43 child as a ward of the guardianship under section 366.4. If the court appoints

1           a relative or nonrelative extended family member as the child’s guardian and  
2           the other requirements in section 366.3(a)(3) apply, the court must terminate  
3           dependency jurisdiction and retain jurisdiction over the child under section  
4           366.4 unless the guardian objects or the court finds that exceptional  
5           circumstances require it to retain dependency jurisdiction.

6  
7           (5)–(6)       \* \* \*

8  
9           (b)       \* \* \*

10  
11          **(c)   Review hearings—youth 16 years of age and older**

12  
13           If the youth is 16 years of age or older, the procedures in section 391 must be  
14           followed.

15  
16           (1)   If it is the first review hearing after the youth turns 16 years of age, the social  
17           worker must provide the information, documents, and services required by  
18           section 391(a) and must use *First Review Hearing After Youth Turns 16 years*  
19           *of Age—Information, Documents, and Services* (form JV-361).

20  
21           (2)   If it is the last review hearing before the youth turns 18 years of age, the  
22           social worker must provide the information, documents, and services required  
23           by section 391(b)–(c) and must use *Review Hearing for Youth Approaching*  
24           *18 Years of Age—Information, Documents, and Services* (form JV-362).

25  
26           (3)   If it is a review hearing after the youth turns 18 years of age, the social  
27           worker must provide the information, documents, and services required by  
28           section 391(c) and must use *Review Hearing for Youth 18 Years of Age or*  
29           *Older—Information, Documents, and Services* (form JV-363). If the court is  
30           terminating jurisdiction at this review hearing, the social worker must also  
31           provide the information, documents, and services required by section 391(h),  
32           must follow the procedures in rule 5.555, and must use *Termination of*  
33           *Juvenile Court Jurisdiction—Nonminor* (form JV-365).

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

36  
37  
38          **Rule 5.785. General conduct of hearing**

39  
40          **(a)–(b)       \* \* \***

41  
42          **(c)   Case plan**

1           \* \* \*

2  
3           (1)–(2)       \* \* \*

4  
5           (3)   For a child 12 years of age or older and in a permanent placement, the court  
6               must consider the case plan and must find as follows:

7  
8               (A)   \* \* \*

9  
10              (B)   The child was not given the opportunity to review the case plan, sign it,  
11                      and receive a copy. If the court makes such a finding, the court must  
12                      order the probation officer to give the child the opportunity to review  
13                      the case plan, sign it, and receive a copy, unless the court finds that the  
14                      child was unable, unavailable, or unwilling to participate.

15  
16           (4)–(5)       \* \* \*

17  
18  
19   **Rule 5.815. ~~Appointment of legal guardians for wards of the juvenile court;~~**  
20       **~~modification or termination of guardianship~~ Legal guardianship—wards**  
21       **(§§ 366.26, 727.3, 728)**  
22

23   **(a)   ~~Proceedings in juvenile court (§ 728)~~**  
24

25               Proceedings for the appointment of a legal guardian for a child who is a ward of the  
26               juvenile court ~~under section 725(b)~~ may be held in the juvenile court: under the  
27               procedures specified in section 366.26.  
28

29   **(b)   ~~Recommendation for~~ Hearing to consider guardianship (§ 728(e))**  
30

31               On the recommendation of the probation officer supervising the child in the social  
32               study and case plan required by sections 706.5(c)–(d) and 706.6(n), the motion of  
33               the child's attorney ~~representing the child under section 778~~, or the court's ~~own~~  
34               ~~motion and order determination under section 727.3~~ that a legal guardianship  
35               ~~should be appointed~~ is the appropriate permanent plan for the child, the court must  
36               set a hearing to consider the establishment of a legal guardianship and must order  
37               the probation officer to prepare an assessment that includes:  
38

39               (1)   ~~A review of the existing relationship between the child and the proposed~~  
40                      ~~guardian;~~ All the elements required to be addressed in the assessment  
41                      prepared under Welfare and Institutions Code section 727.31(b); and  
42

- (2) ~~A summary of the child's medical, developmental, educational, mental, and emotional status;~~
- (3) ~~A social history of the proposed guardian, including a screening for criminal records and any prior referrals for child abuse or neglect;~~
- (4) ~~An assessment of the ability of the proposed guardian to meet the child's needs and the proposed guardian's understanding of the legal and financial rights and responsibilities of guardianship; and~~
- (5)(2) A statement confirming that the proposed guardian has been provided with a copy of *Guardianship Pamphlet Becoming a Child's Guardian in Juvenile Court* (form JV-350-INFO) or *Guardianship Pamphlet (Spanish) La función de un tutor nombrado por la corte de menores* (form JV-350S JV-350-INFO S).

(c) **Forms Probation officer's recommendation**

~~The probation officer or child's attorney may use *Juvenile Wardship Petition* (form JV-600) and *Petition to Modify Previous Orders—Change of Circumstances* (form JV-740) to request that a guardianship hearing be set. The probation officer's recommendation for appointment of a legal guardian may be included in the social study report and case plan submitted under sections 706.5 and 706.6. Neither a separate petition nor a separate hearing is required.~~

(d) \* \* \*

(e) **Conduct of hearing**

The proceedings for appointment of a legal guardian must be conducted according to the procedural requirements of section 366.26, except for subdivision (j). The court must read and consider the assessment prepared by the probation officer and any other relevant evidence. The preparer of the assessment must be available for examination by the court or any party to the proceedings.

(f) **Findings and orders**

~~If the court finds that establishment of a legal guardianship is necessary or convenient and consistent with the rehabilitation and protection of the child and with public safety, If the court makes the necessary findings under section 366.26(c)(4)(A), the court must appoint a legal guardian for the child and order the clerk to issue letters of guardianship (*Letters of Guardianship (Juvenile)* (form JV-~~

1 330)) as soon as the appointed guardian has signed them. These letters are not  
2 subject to the confidentiality protections in section 827.

3  
4 (1)–(2) \* \* \*

5  
6 **(g) Modification or termination of the juvenile court guardianship, or**  
7 **~~appointment of a co-guardian or successor guardian (§ 728(f))~~**  
8

9 A petition to modify or terminate a legal guardianship established by the juvenile  
10 court, including a petition to appoint a co-guardian or successor guardian, ~~or to~~  
11 ~~modify or supplement orders regarding the guardianship~~ must be filed and heard in  
12 juvenile court. The procedures described in rule 5.570 must be followed, and  
13 ~~Juvenile Wardship Petition (form JV-600) and Petition to Modify Previous~~  
14 ~~Orders—Change of Circumstances (form JV-740)~~ Request to Change Court Order  
15 (form JV-180) must be used. The hearing on the ~~motion~~ petition may be held  
16 ~~simultaneously~~ concurrently with any regularly scheduled hearing regarding the  
17 child.



Child's name:	
Date of birth:	Age:
Parent's name (if known):	
Parent's name (if known):	

1. a. Hearing date: \_\_\_\_\_ Time: \_\_\_\_\_ Dept.: \_\_\_\_\_ Room: \_\_\_\_\_  
b. Judicial officer: \_\_\_\_\_  
c. Parties and attorneys present: \_\_\_\_\_

2. ☐ The court has read and considered the assessment prepared under Welfare and Institutions Code section 361.5(g), 366.21(i), 366.22(c), 366.25(b), or 727.31(b) and the report and recommendation of the ☐ social worker ☐ probation officer ☐ and other evidence.
3. ☐ The court has considered the wishes of the child, consistent with the child's age, and all findings and orders of the court are made in the best interest of the child.

4. ☐ a. ☐ Notice has been given as required by law.

b. ☐ This case involves an Indian child, and the court finds that notice has been given to the parents, Indian custodian, Indian child's tribe, and the Bureau of Indian Affairs (BIA) in accordance with Welfare and Institutions Code section 224.3; the original certified mail receipts, return cards, copies of all notices, and any responses to those notices are in the court file.

5. ☐ **For child 10 years of age or older who is not present:** The child was properly notified under Welfare and Institutions Code section 349(d) of **the** right to attend the hearing, was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.

6. ☐ The court takes judicial notice of all prior findings, orders, and judgments in this proceeding.

7. ☐ The court previously made a finding denying or terminating reunification services, under Welfare and Institutions Code section 361.5, 366.21, 366.22, 366.25, 727.2, or 727.3, for

☐ parent (*name*):

☐ parent (*name*):

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

8. a. ☐ The court finds, by clear and convincing evidence, that it is likely the child will be adopted.
- b. ☐ The child is an Indian child or ☐ there is reason to know that the child is an Indian child, and
- (1) ☐ The court has heard and considered all relevant, admissible evidence, including:
- (A) ☐ Qualified expert witness testimony provided by \_\_\_\_\_ ; and  
(Name of Witness)
- (B) ☐ Evidence regarding the prevailing social and cultural practices of the child's tribe; and
- (2) ☐ The court finds beyond a reasonable doubt that continued physical custody by the ☐ mother ☐ father  
☐ Indian custodian ☐ other (name and relationship to child):  
is likely to result in serious emotional or physical damage to the child.
9. The parental rights of
- a. ☐ parent (name):
- b. ☐ parent (name):
- c. ☐ alleged fathers (names):
- d. ☐ unknown mother ☐ all unknown fathers  
are terminated, adoption is the child's permanent plan, and the child is referred to the California Department of Social Services or a local licensed adoption agency for adoptive placement.
- e. **The adoption is likely to be finalized by (date):**  
(If item 9 is completed, skip items 10–16 and go directly to item 17.)
10. This case involves an Indian child. The parental rights of
- a. ☐ parent (name):
- b. ☐ parent (name):
- c. ☐ Indian custodians (names):
- d. ☐ alleged fathers (names):
- e. ☐ unknown mother ☐ all unknown fathers  
are modified in accordance with the tribal customary adoption order of the (specify): \_\_\_\_\_ tribe,  
dated \_\_\_\_\_ and comprising \_\_\_\_\_ pages, which is accorded full faith and credit and fully incorporated herein.  
The child is referred to the California Department of Social Services or a local licensed adoption agency for tribal customary adoptive placement in accordance with the tribal customary adoption order.  
(If item 10 is completed, skip items 11–16 and go directly to item 17.)
11. ☐ The child is living with a relative who is unable or unwilling to adopt the child because of circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of giving the child a stable and permanent home through legal guardianship. Removal of the child from the custody of this relative would be detrimental to the child's emotional well-being. (If item 11 is checked, skip items 12–14 and go directly to item 15 (guardianship).)
12. ☐ Termination of parental rights would be detrimental to the child for the following reasons: (If item 12 is checked, check the applicable reasons below, skip items 13–14, and go directly to item 15 (guardianship) or 16 (continued foster care).)
- a. ☐ The parents or guardians have maintained regular visitation and contact with the child, and the child would benefit from continuing the relationship.
- b. ☐ The child is 12 years of age or older and objects to termination of parental rights.
- c. ☐ The child is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent a permanent family placement if the parents cannot resume custody when residential care is no longer needed.
- d. ☐ The child is living with a foster parent or Indian custodian who is unable or unwilling to adopt the child because of exceptional circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of providing the child with a stable and permanent environment. Removal of the child from the physical custody of the foster parent or Indian custodian would be detrimental to the emotional well-being of the child.
- NOTE: Do not check item 12d if the child is either:**
- (1) under the age of 6; or
- (2) a member of a sibling group, at least one member of which is under the age of 6, that is or should be placed together.
- e. ☐ There would be substantial interference with the child's sibling relationship.

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

12. f. ☐ The child is an Indian child, and there are compelling reasons for determining that termination of parental rights would not be in the best interest of the child, including, but not limited to:

- (1) Termination of parental rights would substantially interfere with the child's connection to the tribal community or the child's tribal membership rights.
- (2) The child's tribe has identified guardianship or another permanent plan for the child.

13. ☐ Termination of parental rights would not be detrimental to the child, but the child is difficult to place for adoption and there is no identified or available prospective adoptive parent for the child because the child (check the applicable reason or reasons below and complete item 14):

- a. ☐ is a member of a sibling group that should stay together.
- b. ☐ has a diagnosed medical, physical, or mental disability.
- c. ☐ is 7 years of age or older.

14. a. ☐ Termination of parental rights is not ordered at this time. Adoption is the permanent plan, and efforts are to be made to locate an appropriate adoptive family. A report to the court is due by (date, not to exceed 180 days from the date of this order):

(Do not check item 14a for a tribal customary adoption. If item 14a is checked, provide for visitation in items 14b and 14c, as appropriate, skip items 15 and 16, and go directly to item 17.)

- b. ☐ Visitation between the child and  
☐ parent (name):  
☐ parent (name):  
☐ legal guardian (name):  
☐ other (name):

is scheduled as follows (specify):

- c. ☐ Visitation between the child and (names):  
is detrimental to the child's physical or emotional well-being and is terminated.

15. ☐ The child's permanent plan is legal guardianship.

- ☐ (Name):  
is appointed guardian of the child's person ☐ and estate. The clerk is ordered to issue Letters of Guardianship once the appointed guardian has signed the required oath or affirmation. This appointment is not effective until letters have issued.

(Do not check item 15 for a tribal customary adoption. If item 15 is checked, provide for visitation in items 15a and 15b, as appropriate, complete item 15c or 15d, then skip item 16 and go directly to item 17.)

- a. ☐ Visitation between the child and  
☐ parent (name):  
☐ parent (name):  
☐ legal guardian (name):  
☐ other (name):

is scheduled as follows (specify):

- b. ☐ Visitation between the child and (names):  
is detrimental to the child's physical or emotional well-being and is terminated.

- c. ☐ Dependency ☐ Wardship jurisdiction is terminated.

(If the child is a dependent and the appointed guardian is a relative or nonrelative extended family member whose home has been approved as a resource family home for at least six months, the court must terminate dependency unless the guardian objects or the court makes a finding of exceptional circumstances.)

The juvenile court retains jurisdiction over the guardianship under Welfare and Institutions Code section 366.4 or 728(f).

- d. ☐ Dependency ☐ Wardship jurisdiction is not terminated. Dependency or wardship jurisdiction is likely to be terminated by (date): \_\_\_\_\_.

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

16. a. ☐ The child remains placed with *(name of placement)*:  
with a permanent plan of *(specify)*:

- |  |   |
|--|---|
| (1) <input type="checkbox"/> Returning home            | (5) <input type="checkbox"/> Permanent placement with a fit and willing relative  |
| (2) <input type="checkbox"/> Adoption                  | (6) <input type="checkbox"/> Independent living with identification of a caring adult to serve as a lifelong connection |
| (3) <input type="checkbox"/> Tribal customary adoption |   |
| (4) <input type="checkbox"/> Legal guardianship        |   |

The barriers to achieving the child's permanent plan are *(specify)*:

**The child's permanent plan is likely to be achieved by *(date)*:**

*(If item 16a is checked, provide for visitation in items 16b and 16c, as appropriate, and go to item 17.)*

b. ☐ Visitation between the child and

☐ parent *(name)*:

☐ parent *(name)*:

☐ legal guardian *(name)*:

☐ other *(name)*:

is scheduled as follows *(specify)*:

c. ☐ Visitation between the child and *(names)*:

is detrimental to the child's physical or emotional well-being and is terminated.

17. ☐ The child is an Indian child. The court finds that the child's permanent plan complies with the placement preferences because:

a. ☐ The permanent plan is not adoption, and *(choose one)*:

- (1) ☐ The child is placed with a member of the child's extended family, as defined by Welf. & Inst. Code, § 224.1(c); or
- (2) ☐ A diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
- (3) ☐ A diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, the efforts are documented in detail in the record, and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
- (4) ☐ A diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe or an Indian foster home licensed or approved by an authorized non-Indian licensing authority, the efforts are documented in detail in the record, and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or
- (5) ☐ The child is placed in accordance with the preferences established by the tribe; or
- (6) ☐ The court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.

b. ☐ The permanent plan is adoption, and *(choose one)*:

- (1) ☐ The child is placed with a member of the child's extended family; or
- (2) ☐ A diligent search was made for a placement with a member of the child's extended family, those efforts are documented in detail in the record, and the child is placed with other members of the child's tribe; or
- (3) ☐ An diligent search was made for a placement with a member of the child's extended family or other member of the child's tribe, those efforts are documented in detail in the record, and the child is placed with another Indian family; or
- (4) ☐ The child is placed in accordance with the preferences established by the tribe; or
- (5) ☐ The court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in detail in the record.

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

18. ☐ The child's placement is necessary.
19. ☐ The child's placement is appropriate.
20. ☐ The agency has complied with the case plan by making reasonable efforts, including whatever steps are necessary to finalize the permanent plan.
21. ☐ The child is an Indian child, and active efforts, as detailed in the record, ☐ were ☐ were not made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family.  
If active efforts were made, those efforts have proved ☐ successful ☐ unsuccessful.
22. ☐ The child remains a ☐ dependent ☐ ward of the court. *(Do NOT check item 22 if item 15c is checked.)*
23. ☐ All prior orders not in conflict with this order remain in full force and effect.
24. ☐ Other (specify):

25. ☐ Next hearing date: \_\_\_\_\_ Time: \_\_\_\_\_ Dept.: \_\_\_\_\_ Room: \_\_\_\_\_
- a. ☐ Continued hearing under section 366.26 for receipt of report on attempts to locate an appropriate adoptive family
- b. ☐ Continued hearing under section 366.24(c)(6) for receipt of the tribal customary adoption order
- c. ☐ Six-month postpermanency review
- d. ☐ Other (specify): \_\_\_\_\_

## 26. The

- a. ☐ Parent (name): \_\_\_\_\_
- b. ☐ Parent (name): \_\_\_\_\_
- c. ☐ Indian custodian (name): \_\_\_\_\_
- d. ☐ Child
- e. ☐ Other (name): \_\_\_\_\_

have been advised of their appeal rights under Cal. Rules of Court, rule 5.590.

Date: \_\_\_\_\_

\_\_\_\_\_  
JUDICIAL OFFICER

CHILD'S NAME:

CASE NUMBER:

**DISPOSITIONAL ATTACHMENT: APPOINTMENT OF GUARDIAN**  
(Welf. & Inst. Code, § 360(a))

1. ☐ The child is a person described under 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)
2. ☐ The child ☐ is ☐ is not adjudged a dependent of the court.
3. a. ☐ Reasonable efforts ☐ were ☐ were not made to prevent or eliminate the need for removal from the home; or  
 b. ☐ The child is an Indian child, and active efforts, as detailed in the record, ☐ were ☐ were not made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. If active efforts were made, those efforts have proved ☐ successful ☐ unsuccessful.
4. 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 county agency is not required to do so because these persons are unable, unavailable, or unwilling to participate.
5. The court advised the  
☐ mother    ☐ biological father    ☐ legal guardian  
☐ presumed father    ☐ Indian custodian    ☐ other (specify): \_\_\_\_\_  
 that no reunification services will be provided as a result of the guardianship of the child established in this matter.
6. The ☐ mother    ☐ biological father    ☐ legal guardian  
☐ presumed father    ☐ Indian custodian    ☐ other (specify): \_\_\_\_\_  
 signed a *Guardianship (Juvenile)—Consent and Waiver of Rights* (form JV-419), agreeing to the guardianship of the child, the waiver of his or her rights to family maintenance services and family reunification services, and, in the case of an Indian child, the waiver of his or her rights under the Indian Child Welfare Act. A signed form JV-419 for each individual indicated above was filed with the court.
7. a. ☐ The child signed a *Guardianship (Juvenile)—Child's Consent and Waiver of Rights* (form JV-419A), agreeing to the establishment of the guardianship and the waiver of his or her rights to family maintenance services and family reunification services. The child's signed form JV-419A was filed with the court.  
 b. ☐ The child is prevented from providing a meaningful response to the request for guardianship and a waiver of his or her rights to family maintenance services and family reunification services because of the child's  
 (1) ☐ age.  
 (2) ☐ physical condition.  
 (3) ☐ emotional condition.  
 (4) ☐ mental condition.
8. ☐ The child is an Indian child, and an authorized representative of the child's tribe signed form JV-419 confirming the tribe's agreement to the establishment of guardianship of the child, the waiver of the tribe's interests in family maintenance services and family reunification services, and the waiver of the tribe's rights under the Indian Child Welfare Act.
9. ☐ The court has read and considered the assessment specified in section 361.5(g). Based on that assessment and all other relevant evidence before the court, the court finds that the establishment of a guardianship and the appointment of the person named in item 10 are in the child's best interest.
10. The court appoints (name):  
 to be the guardian of the child's person ☐ and estate ☐ and orders the clerk to issue letters of guardianship once the guardian has signed the required oath or affirmation. This appointment is not effective until letters have issued.
11. ☐ The county agency is ordered to release the child to the person named in item 10.

## SPR20-24

**Juvenile Law: Guardianship Rules and Forms** (Amend Cal. Rules of Court, rules 5.510, 5.620, 5.625, 5.695, 5.725, 5.735, 5.740, 5.785, and 5.815; revise forms JV-320 and JV-418)

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

	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Executive Committee, Family Law Section, California Lawyers Association by: Saul Bercovitch, Director of Governmental Affairs Sacramento	A	FLEXCOM agrees with this proposal.  As to the proposed changes to Rule 5.740(a)(4), for clarity and consistency with the code section, FLEXCOM suggest adding the following at the end of the subdivision: “...except if the relative or nonrelative extended family member guardian objects, or upon a finding of exceptional circumstances.”	The committee appreciates FLEXCOM’s review of the proposal.  The committee agrees with the suggested change and has modified its recommendation accordingly.
2.	Los Angeles County Department of Child and Family Services Los Angeles County Counsel	NI	There were no comments from DCFS or county counsel subject matter experts on these proposed revisions.	The committee appreciates the department’s review of the proposal. No further response required.
3.	Orange County Bar Association by: Scott B. Garner, President Newport Beach	A	Does the proposal appropriately address the stated purpose? <i>Yes.</i>	The committee appreciates the bar association’s review of the proposal. No further response required.
4.	San Diego County Child Welfare Services by: Karla Morales, Policy Analyst	A	No specific comment provided.	The committee appreciates the department’s review of the proposal. No further response required.
5.	Superior Court of Orange County	NI	This is a welcomed update for consistency between the rules and forms regarding legal guardianship.  5.625(b): Should the rule state “of the person” or “of the ward”?	The committee appreciates the court’s review of the proposal.  The committee has modified the recommended language of the rule to read:  “At any time during wardship of a child under 18 years of age, the court may appoint a legal guardian of the person for the child ....”  This language is intended to clarify that the rule—like section 728(c), the statute it implements—applies to a “guardian of the person,” that is, a

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

## SPR20-24

**Juvenile Law: Guardianship Rules and Forms** (Amend Cal. Rules of Court, rules 5.510, 5.620, 5.625, 5.695, 5.725, 5.735, 5.740, 5.785, and 5.815; revise forms JV-320 and JV-418)

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

Commenter	Position	Comment	Committee Response
		<p>Applies to all amended rules: “legal guardian” and “guardian” are used throughout the rules, it is not consistent.</p> <p><i>Does the proposal appropriately address the stated purpose?</i> Yes.</p> <p><i>Would the proposal provide cost savings? If so, please quantify.</i> No cost savings identified.</p> <p><i>What would the implementation requirements be for courts – for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</i> Juvenile Justice courtroom staff will need to be trained to use the Request to Change Court Order JV-180 forms. Currently the process for the JV-180 is used in dependency only. The procedure would need to be updated to reflect that it is also used for juvenile justice case type and add that the clerk’s duty to issue letters of guardianship does not happen until the</p>	<p>guardian who has legal and physical custody of the child. This term is intended to distinguish that guardian from a guardian of the estate, who would be responsible for the management of the child’s property.</p> <p>The committee has revised its recommendation to use the term “legal guardian” when necessary for consistency.</p> <p>No response required.</p> <p>No response required.</p> <p>The committee recognizes that some training and updating may be needed in courts that do not use form JV-180 in juvenile justice proceedings. It hopes that once this process is complete, these courts will find the use of form JV-180 in both child welfare and juvenile justice proceedings simpler and easier than using two different forms.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated



## SPR20-24

**Juvenile Law: Guardianship Rules and Forms** (Amend Cal. Rules of Court, rules 5.510, 5.620, 5.625, 5.695, 5.725, 5.735, 5.740, 5.785, and 5.815; revise forms JV-320 and JV-418)

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

	Commenter	Position	Comment	Committee Response
			<p>appointed guardian has signed the required affirmation. The case management system may need to be updated to reflect that the procedures for appointing a guardian in juvenile justice cases are governed by section 366.26 for minute order language.</p> <p><i>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i> Yes, three months would be sufficient time.</p> <p><i>How well would this proposal work in courts of different sizes?</i> This proposal should work for courts of any size.</p>	<p>No response required.</p> <p>No response required.</p>
6.	Superior Court of San Diego County by: Mike Roddy, Executive Officer	NI	<p><b>GENERAL COMMENTS:</b> This is a good proposal that improves the guardianship rules and forms.</p> <p>Rule 5.815(b): Normally it is good to remove text that simply restates a statute, but in subdivision (b) it is helpful to have the full list of what must be included in the report. The long list of cross-references is too cumbersome.</p> <p>Rule 5.815(e): The reference to rule 5.735, which is the corresponding rule for dependency guardianships, does not seem to be necessary or appropriate.</p> <p><i>Does the proposal appropriately address the stated purpose?</i></p>	<p>The committee appreciates the court's review of the proposal.</p> <p>The committee does not recommend listing all the statutory requirements in the rule, as that list would be even more cumbersome than the list of cross-references.</p> <p>The committee agrees with the suggested change and has modified its recommendation accordingly.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

## SPR20-24

**Juvenile Law: Guardianship Rules and Forms** (Amend Cal. Rules of Court, rules 5.510, 5.620, 5.625, 5.695, 5.725, 5.735, 5.740, 5.785, and 5.815; revise forms JV-320 and JV-418)

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

Commenter	Position	Comment	Committee Response
		Yes.	No response required.
		<i>Would the proposal provide cost savings? If so, please quantify.</i> No, it does not significantly change existing procedures.	No response required.
		<i>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</i> Implementation should not be difficult. We would need to review our existing guardianship procedures and minute order codes to make sure nothing needs to be updated.	No response required.
		<i>Would 4 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i> Yes, provided the final version of the forms are provided to the courts at least 30 days prior to the effective date. This will give courts sufficient time to update procedures.	No response required.
		<i>How well would this proposal work in courts of different sizes?</i> It appears that the proposal will work for courts of various sizes.	No response required.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated