



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

*Item No.: 20-179*

For business meeting on September 25, 2020

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**Title**

Juvenile Law: Nonminor Disposition  
Hearing–Dependency

**Agenda Item Type**

Action Required

**Effective Date**

January 1, 2021

**Rules, Forms, Standards, or Statutes Affected**

Adopt Cal. Rules of Court, rule 5.697;  
amend rules 5.682 and 5.684; adopt forms  
JV-461, JV-461(A), and JV-463

**Date of Report**

September 3, 2020

**Recommended by**

Family and Juvenile Law Advisory  
Committee

Hon. Jerilyn L. Borack, Cochair

Hon. Mark A. Juhas, Cochair

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### Executive Summary

To implement recent legislation creating a new disposition hearing for nonminors, the Family and Juvenile Law Advisory Committee recommends adopting a new rule and amending two rules of the California Rules of Court and adopting three new Judicial Council forms. The statutory amendments created a disposition hearing for a class of youth who were within the jurisdiction of the juvenile court because of abuse or neglect as a child but had reached the age of majority before a disposition hearing could be held and thus ensure their eligibility for extended foster care. This proposal would create a uniform procedure for these nonminor disposition hearings through a new rule of court, two forms for the court's findings and orders, and a form for the youth to provide the required informed consent to proceed with the nonminor disposition hearing.

### Recommendation

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

1. Adopt rule 5.697, Disposition Hearing for a Nonminor, to implement the requirements of section Welfare and Institutions Code section 358(d);
2. Amend rules 5.682 and 5.684 on uncontested and contested jurisdiction hearings, respectively, to clarify that the setting of a nonminor disposition hearing is required when the child will turn 18 before the holding of the disposition hearing; and
3. Adopt *Findings and Orders After Nonminor Disposition Hearing* (form JV-461), *Dispositional Attachment: Nonminor Dependent* (form JV-461(A)), and *Nonminor's Informed Consent to Hold Disposition Hearing* (form JV-463).

The proposed new and amended rules and new forms are attached at pages 9–24.

### **Relevant Previous Council Action**

The council has never taken action relevant to this proposal, as the proposal implements new legislation. The council has however created rules and forms to implement the Fostering Connections to Success Act and rules and forms for dependency disposition hearings.

### **Analysis/Rationale**

Assembly Bill 748 (Gipson; Stats. 2019, ch. 682)<sup>1</sup> addresses those situations in which a juvenile court takes jurisdiction of a child who is fast approaching the age of majority. It ensures that these youth will not be excluded from extended foster care because a disposition hearing could not be held before their 18th birthday. The legislation seeks to eliminate administrative barriers to ensure that a limited number of youth in certain narrow situations are able to enter or reenter extended foster care.<sup>2</sup> The legislation was partially in response to *In re David B.* (2017) 12 Cal.App.5th 633, in which an appellate court “reluctantly” agreed that the trial court’s denial of dependency jurisdiction for a wheelchair-bound diabetic youth just before he turned 18 prevented the appellate court from reversing the decision.<sup>3</sup>

Assembly Bill 748 creates a procedure for a new version of a disposition proceeding, specifically tailored for young adults. Under section 358(d), for a disposition hearing for a nonminor to be held, the nonminor must have been found to be a minor described by section 300 at a hearing under section 355 before turning 18 and must have remained continuously detained under section

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<sup>1</sup> The full text of this statute is available at [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB748](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB748).

<sup>2</sup> Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading analysis of Assem. Bill 748 (2012–2020 Reg. Sess.) as amended July 11, 2019, p. 4, [https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201920200AB748](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200AB748).

<sup>3</sup> Assem. Com. on Judiciary, Analysis of Assem. Bill 748 (2019–2020 Reg. Sess.) as introduced Feb. 19, 2019, p. 5, [https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201920200AB748](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200AB748).

319(c).<sup>4</sup> In addition, the nonminor must provide “informed consent” for the disposition proceeding. If these conditions are met, the court is required to hold a disposition hearing and determine by clear and convincing evidence if one of the conditions of section 361(c) existed *immediately before the youth turns 18*. If the court makes this finding, the youth meets the legal definition of a nonminor dependent (NMD) under section 11400(v) and is eligible for extended foster care. If the court does not make this finding, or the youth does not give informed consent, section 358(d)(5)(A) requires that dependency or general jurisdiction not be retained.

Assembly Bill 748 requires the Judicial Council to adopt implementing rules and forms as necessary on or before July 1, 2020.<sup>5</sup> This proposal seeks to provide a unified approach to these nonminor disposition hearings. It blends together many important concepts related to extended foster care and calls for a hybrid type of hearing, one that must respect the nonminor’s status as an adult and their legal decisionmaking authority while also fulfilling the functions of a dependency disposition hearing, which typically involves a child.

### **New rule and rule amendments**

#### ***Rule 5.697. Disposition Hearing for a Nonminor***

The recommended new rule addresses several issues that the court would address at a disposition hearing for a child and combines these issues with the required reporting and findings and orders for a nonminor dependent status review hearing. It creates a procedure for providing informed consent to the nonminor disposition hearing, by requiring the completion and filing of the proposed mandatory form JV-463 before or at the scheduled hearing. The form sets out the information that a nonminor must be aware of before giving informed consent.<sup>6</sup> It also states the findings that a court is required to make before dismissing jurisdiction, if a nonminor does not consent. In addition, the rule lists required contents of a social worker report or social study to be considered if the disposition hearing is held.

The Family and Juvenile Law Advisory Committee considered three prominent issues in drafting the rule.

*Title IV-E Case review.* Disposition hearings in California are treated as case reviews for title IV-E<sup>7</sup> purposes to ensure that California law meets the title IV-E timeline requirements that a review hearing be held within six months of the date of a child’s entry into foster care. A similar

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<sup>4</sup> All unspecified statutory references are to the Welfare and Institutions Code, and all rule references are to the California Rules of Court.

<sup>5</sup> See § 358(d)(8).

<sup>6</sup> To ensure that the youth is informed of their options of extended foster care and provision of “informed consent,” the rule requires that the social worker perform the functions in section 366.31(a)(2) and (3): that the youth has been informed of his or her right to seek termination of dependency jurisdiction under section 391 and to have dependency reinstated under section 388(e), and that the youth understands the potential benefits of continued dependency.

<sup>7</sup> See 42 U.S.C. § 675.

approach may be needed for the nonminor disposition hearing. If the nonminor disposition hearing did not address the title IV-E case review requirements, a case review six months after the date of the nonminor disposition hearing would not be timely for title IV-E because it may not be held six months from the date of the child's entry into foster care.<sup>8</sup>

To ensure that title IV-E timelines are maintained, the committee elected to develop rules that treat the nonminor disposition hearing as a title IV-E case review as well. The committee is mindful, however, that more time may be needed to meet the requirements of sections 358(d) and 366.31, which include the findings required by title IV-E. The committee, therefore, elected to give the court the option to make the findings and orders required for an NMD status review as part of the disposition order or to hold a separate NMD status review within 60 days of the disposition hearing.

*Parent participation.* The committee also considered whether the nonminor's parent or guardian should be allowed to participate in the hearing. Section 358(d) is silent as to what right a parent or guardian has to participate in the nonminor disposition hearing. For NMD status review hearings, section 295(b) and rule 5.903 require notice to parents only if the parent is receiving family reunification services under section 361.6; otherwise, parents may participate in the hearing only if they are invited by the NMD.<sup>9</sup>

When their child becomes an adult, parents no longer have a liberty interest in the custody of their adult offspring because no one has legal custody of an adult. Parents, therefore, do not have the same liberty interest at stake in a nonminor disposition hearing as in a disposition hearing for a child, where the court can consider removing a child from parental custody. However, the finding under section 361(c) at a nonminor disposition hearing may have implications for parents in collateral proceedings by, for example, being disclosed by a social worker in a future petition or disclosed in a future application for a foster care license. There is then some deprivation for the parent, triggering a possible due process right.

The committee recommends that the rule clarify that a parent or guardian may participate in the hearing for the limited purpose of the court's consideration of a finding of detriment under section 361(c). A request for specific comment asked commenters whether parents should be allowed to participate as a party in the disposition hearing. Commenters overwhelmingly agreed that parents should participate in the hearing, with five commenters agreeing. Several commenters noted that their standing should be limited to addressing the finding under section 361(c) and whether reunification services are ordered.

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<sup>8</sup> See 42 U.S.C. § 675(5)(B).

<sup>9</sup> Section 317(d) also specifies that "in the case of a nonminor dependent, as described in subdivision (v) of Section 11400, no representation by counsel shall be provided for a parent, unless the parent is receiving court-ordered family reunification services."

*Informed consent.* The committee also addressed how “informed consent” from the youth must be provided. To ensure that the youth is “informed,” the proposed rule requires that the youth be informed by their social worker about extended foster care in the same way that a minor approaching the age of majority is informed about extended foster care under section 366.31(a).<sup>10</sup> In addition, the rule proposes that the court ensure that the nonminor has had an opportunity to confer with their attorney on providing consent for the disposition hearing. Proposed form JV-463 has a field for the nonminor to sign confirming that they have been informed of each of these points and provides additional information on the second page about the nonminor disposition hearing and extended foster care.

If the court finds that the nonminor is not competent to give informed consent, the rule requires that the court appoint a guardian ad litem to decide whether to consent on behalf of the youth. Under section 317(e), a guardian ad litem is required to be appointed for a nonminor dependent when the nonminor dependent is not competent to direct counsel. The committee believes a similar approach is needed for a determination on informed consent for a youth approaching a nonminor disposition hearing who does not have the capacity to give informed consent.

#### ***Rules 5.682 and 5.684, jurisdiction***

Proposed updates to rules 5.682 and 5.684, related to uncontested and contested jurisdiction hearings, respectively, address the setting of the nonminor disposition hearing by adding the underlined language as follows: “the court must proceed to a disposition hearing under rule 5.690 or rule 5.697, if the youth will turn 18 years of age before the holding of the disposition hearing.”

#### **New and revised forms**

The committee proposes that three new Judicial Council forms be adopted to provide for the court’s findings and orders after the nonminor disposition hearing and for the youth’s informed consent.

#### **Findings and Orders After Nonminor Disposition Hearing (*form JV-461*)**

A new mandatory form is proposed to provide for the court’s findings and orders after a nonminor disposition hearing. The form includes the findings and orders discussed above. It also can be used by the court to dismiss jurisdiction if either the nonminor does not provide informed consent or the court does not find that one of the conditions of section 361(c) existed immediately before the nonminor turned 18.

#### **Dispositional Attachment: Nonminor Dependent (*form JV-461(A)*)**

This form will be used to complete the findings and orders if the court does declare dependency. It includes the findings and orders required at the nonminor dependent status review hearing and required title IV-E findings and orders. This form would be used only if the nonminor provides

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<sup>10</sup> That is, that the nonminor understands the potential benefits of continued dependency, has been informed of their right to seek termination of dependency jurisdiction under section 391 if the court establishes dependency, and has been informed of their right to have dependency reinstated under section 388e if the court establishes dependency.

informed consent and the court finds that one of the conditions of section 361(c) existed immediately before the nonminor turned 18.

### **Nonminor's Informed Consent to Hold Disposition Hearing (*form JV-463*)**

This mandatory form would be used to verify the youth's informed consent or lack thereof. The form requires that the youth verify that the requirements mentioned above to be informed about extended foster care have been met and gives the youth (or guardian ad litem) the option to consent to the hearing or not. The youth's attorney is also required to sign the form, declaring that the attorney has discussed the implications of setting a nonminor disposition hearing with the client. The form also provides information intended for the youth explaining the nonminor dependent hearing and extended foster care on the second page.

### **Policy implications**

In addition to the items listed above, the committee also considered how the rule should handle the dismissal of jurisdiction when a nonminor is not locatable. Because the purpose of Assembly Bill 748 is ensuring that eligible nonminors can take advantage of extended foster care, the committee elected to ensure that reasonable and documented efforts to locate a nonminor are made before the court dismisses jurisdiction for a nonminor who is not locatable. This requirement is consistent with the requirement in section 391(f) that jurisdiction over a nonminor who cannot be located cannot be dismissed until the court finds that reasonable and documented efforts have been made to locate the nonminor.

### **Comments**

This proposal was circulated for public comment from April 10 to June 9, 2020, as part of the regular winter comment cycle. Nine commenters submitted comments on the Family and Juvenile Law Advisory Committee's proposal. Six commenters agreed with the proposal, and three did not indicate a position but expressed agreement with the proposal. A chart with the full text of all comments received and the committee's responses is attached at pages 25–57. Notable issues addressed by commenters fell under the following topics.

#### ***Title IV-E review***

A specific request for comment asked whether the nonminor disposition hearing should meet the requirements for a title IV-E case review, or if rule 5.697 should instead require that a title IV-E case review be held within 60 days of the disposition hearing.

Five responses were received to this question, and all commenters agreed with the rule as proposed, which gives courts the flexibility to hold the title IV-E case review either at the disposition hearing or within 60 days, as originally proposed. One commenter expressed concern that title IV-E requirements could not be addressed within the timelines of section 358(d)(3), which requires that the disposition hearing be held within 30 days of the jurisdictional findings. The commenter noted that within this time frame, the social worker must also provide the informed consent document to the youth, complete the dispositional report, and provide proper notice to the parties. The commenter, however, agreed with giving the court the option of holding the hearing within 60 days.

### ***Continuances***

Section 358(d)(3) requires that the disposition hearing be held within 30 days of the jurisdictional finding under section 355. A commenter recommended that rule 5.697 should indicate in section (e)(2) that any continuance granted should not be longer than 30 days from the date that the Section 355 finding was made. The rule currently doesn't address how continuances should be handled except in subdivision (e)(2), which requires a continuance within statutory limits if a party has not been furnished with a timely report.

In response to this comment, the committee considered whether the rule should address a continuance of the disposition hearing beyond the statutory time frame. The committee consider whether the rule should clarify that a good-cause finding or a finding of exceptional circumstances should be required. Section 352(b) requires a finding of exceptional circumstances for any continuance beyond 60 days from date of removal as required for a continuance of a disposition hearing, and 352(a)(1) requires that any continuance *not* be granted if it is contrary to the interest of the minor.

The committee, however, determined that the existing statutes and rules addressing continuances are adequate to address continuances of the nonminor disposition hearing. The committee also noted that adding another rule on continuances could create a duplication of the continuance requirements, which could create confusion.

### ***Notice***

In the rule that circulated for comment, (b)(1) required that “[t]he social worker must serve written notice of the hearing in the manner provided in section 295 to all persons required to receive notice under section 295, including the nonminor’s parent or guardian.” Section 295 addresses notice for a nonminor dependent status review hearing.

A commenter raised a question about whether the manner of notice should be according to section 291 or 295, suggesting that section 291 might be a better fit because it includes a timeline that is suited to a disposition hearing. The timeline for notice in section 295, no earlier than 30 days and no later than 15 days, may not align itself very well to the setting of a nonminor disposition hearing. Section 291 requires that notice for a detained child must be “as soon as possible, and at least five days before the hearing, unless the hearing is set less than five days and then at least 24 hours before the hearing.”

The two statutes are substantially similar, but the committee agrees with the commenter that the manner of notice should be according to section 291. The committee, therefore, amended subdivision (b) to require that written notice be “in the manner provided in section 291,” to the persons identified in section 295(a). The reason for using both statutes is because the persons identified for notice in section 291 do not address a nonminor, whereas section 295 requires notice to a “nonminor dependent.”

### ***Other revisions***

In addition, the following changes were made in response to comments:

- Consistent with Judicial Council efforts to use gender-neutral language in forms and rules, gender neutral language has been used throughout the proposal;
- “Child” has been replaced with “youth” as a result of spring proposal SPR 20-185 that, if approved by the Judicial Council at its September meeting, will amend rule 5.502 to define *youth* as “a person who is at least 14 years of age and not yet 21 years of age.” The use of the new definition of *youth* greatly enhanced the efficiency of the rule.
- Numerous nonsubstantive edits to the new rule and forms are noted in the rule, on the forms, and in the comments chart.

### **Alternatives considered**

The committee never considered *not* proposing the rules and forms changes because the legislation requires the Judicial Council to adopt implementing rules and forms.

The committee did consider various options in the construction of rule 5.697, as described above, such as whether a parent or guardian had a due process right to participate in the nonminor disposition hearing when the parent or guardian no longer has a liberty interest in the right to custody of the child. Some committee members believed that there was no due process right, but the committee as a whole elected to proceed with a rule that gives a parent the right to participate in the hearing on the issue of whether a condition in section 361(c) existed immediately before the youth turned 18. The committee also considered whether the nonminor disposition hearing should include a title IV-E case review, or whether more time should be given to complete the requirements of the case review. The committee elected to give the court the option to proceed with the case review at the nonminor disposition hearing or hold a case review within 60 days.

The committee also considered whether the rule should require that the county agency show reasonable efforts to locate the youth before jurisdiction is dismissed if the reason for the youth’s not giving informed consent is because they cannot be located. The committee determined that this requirement was an appropriate safeguard for a vulnerable class of youth and consistent with the legislation’s intent to ensure that eligible youth are not excluded from extended foster care. In addition, this finding is a requirement for dismissal of jurisdiction for a nonminor under section 391(f).

### **Fiscal and Operational Impacts**

The committee anticipates additional costs to courts when a hearing under the rule is held, but the costs would be the result of the implementation of Assembly Bill 748 rather than the proposal. A uniform procedure for these hearings as proposed can benefit judicial economy and provide cost saving for courts and litigants. Courts will be able to save time using the procedure created in this proposal as opposed to having to create their own procedures for these hearings.

### **Attachments and Links**

1. Cal. Rules of Court, rules 5.682, 5.684, and 5.697, at pages 9–16
2. Forms JV-461, JV-461(A), and JV-463, at pages 17–24
3. Chart of comments, at pages 25–57



Rule 5.697 of the California Rules of Court is adopted, and rules 5.682 and 5.684 are amended, effective January 1, 2021, to read:

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

(a)–(e) \* \* \*

**(f) Disposition**

After accepting an admission, plea of no contest, or submission, the court must proceed to a disposition hearing under rule 5.690 or rule 5.697, if the youth will attain 18 years of age before the holding of the disposition hearing.

**Rule 5.684. Contested hearing on petition**

(a)–(e) \* \* \*

**(f) Disposition and continuance pending disposition hearing (§§ 356, 358)**

After making the findings in (e), the court must proceed to a disposition hearing under rule 5.690 or rule 5.697, if the youth will attain 18 years of age before the holding of the disposition hearing. The court may continue the disposition hearing as provided in section 358.

(g) \* \* \*

**Rule 5.697. Disposition Hearing for a Nonminor (Welf. & Inst. Code, §§ 224.1, 295, 303, 358, 358.1, 361, 366.31, 390, 391)**

**(a) Purpose**

This rule provides the procedures that must be followed when a disposition hearing for a nonminor is set under Welfare and Institutions Code section 358(d).

**(b) Notice of hearing (§§ 291, 295)**

(1) The social worker must serve written notice of the hearing in the manner provided in section 291 to all persons required to receive notice under section 295, including the nonminor’s parent or guardian.

- 1           (2)   The social worker must serve a copy of the *Nonminor's Informed Consent to*  
2           *Hold Disposition Hearing* (form JV-463) with the notice to the youth.

3  
4   **(c)   Informed consent (§§ 317, 358)**

- 5  
6           (1)   Unless the court has appointed a guardian ad litem for the nonminor or the  
7           nonminor is not locatable after reasonable and documented efforts have been  
8           made to locate the nonminor, the court must find that the nonminor:

9  
10          (A)   Understands the potential benefits of continued dependency;

11  
12          (B)   Has been informed of their right to seek termination of dependency  
13          jurisdiction under section 391 if the court establishes dependency;

14  
15          (C)   Has been informed of their right to have dependency reinstated under  
16          section 388(e) if the court establishes dependency; and

17  
18          (D)   Has had the opportunity to confer with their attorney regarding  
19          providing informed consent.

- 20  
21          (2)   The youth must give informed consent to the disposition hearing by  
22          completing and signing *Nonminor's Informed Consent to Hold Disposition*  
23          *Hearing* (form JV-463). The youth or their attorney must file the form with  
24          the court at or before the scheduled disposition hearing.

- 25  
26          (3)   If the nonminor is not competent to direct counsel and give informed consent  
27          in accordance with Code of Civil Procedure section 372 and Probate Code  
28          sections 810 thru 813, the court must appoint a guardian ad litem to  
29          determine whether to provide informed consent on the nonminor's behalf by  
30          completing and signing *Nonminor's Informed Consent to Hold Disposition*  
31          *Hearing* (form JV-463) and filing it with the court at or before the scheduled  
32          disposition hearing.

33  
34   **(d)   Conduct of the hearing (§§ 295, 303, 358, 361)**

- 35  
36          (1)   The hearing may be attended, as appropriate, by participants invited by the  
37          nonminor in addition to those entitled to notice under (b).

- 38  
39          (2)   The nonminor may appear by telephone as provided in rule 5.900(e).

- 40  
41          (3)   If the nonminor or the nonminor's guardian ad litem does not provide  
42          informed consent, the court must vacate the temporary orders made under

1 section 319, and dependency or general jurisdiction must not be retained.  
2 Before dismissing jurisdiction, the court must make the following findings:

3  
4 (A) Notice was given as required by law;

5  
6 (B) The requirements of (c)(1) have been met unless a guardian ad litem  
7 has been appointed for the nonminor or the nonminor could not be  
8 located after reasonable and documented efforts have been made to  
9 locate the nonminor;

10  
11 (C) If the reason the nonminor did not give informed consent is because the  
12 social worker could not locate the nonminor, the court must find that  
13 after reasonable and documented efforts the nonminor could not be  
14 located.

15  
16 (4) If the nonminor or the nonminor's guardian ad litem does provide informed  
17 consent, the court must proceed to a disposition hearing consistent with this  
18 rule and section 358(d). The parent or guardian of the nonminor may  
19 participate as a party in the disposition hearing, receive the social study and  
20 other evidence submitted for the hearing, and present evidence. The parent's  
21 participation is limited to addressing the court's consideration of whether one  
22 of the conditions of section 361(c) existed immediately before the nonminor  
23 attained 18 years of age.

24  
25 (e) **Social study (§§ 358, 358.1)**

26  
27 The petitioner must prepare a social study of the nonminor if the court proceeds to  
28 a disposition hearing. The social study must include a discussion of all matters  
29 relevant to disposition and a recommendation for disposition.

30  
31 (1) The petitioner's social study must include the following information:

32  
33 (A) Whether one of the conditions of section 361(c) existed immediately  
34 before the youth attained 18 years of age.

35  
36 (B) The reasonable efforts that were made to prevent or eliminate the need  
37 for removal.

38  
39 (C) A plan for achieving legal permanence or successful adulthood, if  
40 reunification is not being considered.

41  
42 (D) If reunification services are being considered:  
43

- 1 (i) A plan for reuniting the nonminor with the family, including a  
2 plan of visitation, developed in collaboration with the nonminor,  
3 parent or guardian, and child and family team;  
4
- 5 (ii) Whether the nonminor and parent or guardian were actively  
6 involved in the development of the case plan;  
7
- 8 (iii) The extent of progress the parent or guardian has made toward  
9 alleviating or mitigating the causes necessitating placement in  
10 foster care;  
11
- 12 (iv) Whether the nonminor and parent, parents, or guardian agree  
13 with the continuation of reunification services;  
14
- 15 (v) Whether continued reunification services are in the best interest  
16 of the nonminor; and  
17
- 18 (vi) Whether there is a substantial probability that the nonminor will  
19 be able to safely reside in the home of the parent or guardian by  
20 the next review hearing date.  
21
- 22 (E) The social worker's efforts to comply with rule 5.637, including but not  
23 limited to:  
24
- 25 (i) The number of relatives identified and the relationship of each to  
26 the nonminor;  
27
- 28 (ii) The number and relationship of those relatives described by (i)  
29 who were located and notified;  
30
- 31 (iii) The number and relationship of those relatives described by (ii)  
32 who are interested in ongoing contact with the nonminor;  
33
- 34 (iv) The number and relationship of those relatives described by (ii)  
35 who are interested in providing placement for the nonminor; and  
36
- 37 (v) If it is known or there is reason to know that the nonminor is an  
38 Indian child, efforts to locate extended family members as  
39 defined in section 224.1, and evidence that all individuals  
40 contacted have been provided with information about the option  
41 of obtaining approval for placement through the tribe's license or  
42 approval procedure.  
43

- 1           (F) If siblings are not placed together, an explanation of why they have not  
2           been placed together in the same home, what efforts are being made to  
3           place the siblings together, or why making those efforts would be  
4           contrary to the safety and well-being of any of the siblings.  
5  
6           (G) How and when the Transitional Independent Living Case Plan was  
7           developed, including the nature and the extent of the nonminor's  
8           participation in its development and, for an Indian child who has  
9           elected to have the Indian Child Welfare Act apply to them, the extent  
10          of consultation with the tribal representative.  
11  
12          (H) The nonminor's plans to remain under juvenile court jurisdiction,  
13          including the criteria in section 11403(b) that the nonminor meets or  
14          plans to meet.  
15  
16          (I) The efforts made by the social worker to help the nonminor meet the  
17          criteria in section 11403(b).  
18  
19          (J) The efforts made by the social worker to comply with the nonminor's  
20          Transitional Independent Living Case Plan, including efforts to finalize  
21          the permanent plan and prepare the nonminor for successful adulthood.  
22  
23          (K) The continuing necessity for the nonminor's placement and the facts  
24          supporting the conclusion reached.  
25  
26          (L) The appropriateness of the nonminor's current foster care placement.  
27  
28          (M) Progress made by the nonminor toward meeting the Transitional  
29          Independent Living Case Plan goals and the need for any modifications  
30          to assist the nonminor in attaining the goals.  
31  
32          (N) Verification that the nonminor was provided with the information,  
33          documents, and services required under section 391.  
34

- 35          (2) The petitioner must submit the social study and copies of it to the court clerk  
36          at least 48 hours before the disposition hearing is set to begin, and the clerk  
37          must make the copies available to the parties and attorneys. A continuance  
38          within statutory time limits must be granted on the request of a party who has  
39          not been furnished with a copy of the social study in accordance with this  
40          rule.  
41

42          (f) **Case plan and Transitional Independent Living Case Plan (§§ 11401, 16501.1)**  
43

- (1) Whenever court-ordered services are provided, the social worker must prepare a case plan consistent with section 16501.1 and the requirements of rule 5.690(c).
- (2) At least 48 hours before the hearing, the nonminor's Transitional Independent Living Case Plan must be submitted with the report that the social worker prepared for the hearing and must include:
- (A) The individualized plan for the nonminor to satisfy one or more of the criteria in section 11403(b) and the nonminor's anticipated placement as specified in section 11402; and
- (B) The nonminor's alternate plan for their transition to independence—including housing, education, employment, and a support system—in the event that the nonminor does not remain under juvenile court jurisdiction.

**(g) Evidence considered (§§ 358, 360)**

At a hearing held under this rule, the court must receive in evidence and consider the following:

- (1) The social study described in (e), the report of any CASA volunteer, and any relevant evidence offered by the petitioner, nonminor, or parent or guardian. The court may require production of other relevant evidence on its own motion. In the order of disposition, the court must state that the social study and the study or evaluation by the CASA volunteer, if any, have been read and considered by the court.
- (2) The case plan, if applicable, and the Transitional Independent Living Case Plan.

**(h) Findings and orders (§§ 358, 358.1, 361, 390)**

After the nonminor or the nonminor's guardian ad litem provides informed consent, the court must consider the safety of the nonminor, determine if notice was given as required by law, and determine if by clear and convincing evidence one of the conditions of section 361(c) existed immediately before the nonminor attained 18 years of age.

- (1) If the court does not find by clear and convincing evidence that one of the conditions of section 361(c) existed immediately before the nonminor

1           attained 18 years of age, the court must vacate the temporary orders made  
2           under section 319 and dismiss dependency jurisdiction.

3  
4           (2)   If the court finds by clear and convincing evidence that one of the conditions  
5           of section 361(c) existed immediately before the nonminor attained 18 years  
6           of age, the court must declare dependency and:

7  
8           (A)   Order the continuation of juvenile court jurisdiction and, consistent  
9           with (3), set a nonminor dependent review hearing under section  
10          366.31 and rule 5.903 within 60 days or six months, or

11  
12          (B)   Set a hearing to consider termination of juvenile court jurisdiction over  
13          the nonminor dependent under rule 5.555 within 30 days, if the  
14          nonminor dependent chooses not to remain in foster care.

15  
16          (3)   If the court makes the finding in (2), the following findings and orders must  
17          be made and included in the written court documentation of the hearing, with  
18          the exception of those findings and orders stated in (C) that may be made at  
19          the nonminor disposition hearing or at a nonminor dependent status review  
20          hearing under section 366.31 and rule 5.903 to be held within 60 days:

21  
22          (A)   Findings

23  
24                  (i)   Whether reasonable efforts have been made to prevent or  
25                  eliminate the need for removal;

26  
27                  (ii)   Whether the social worker has exercised due diligence in  
28                  conducting the required investigation to identify, locate, and  
29                  notify the nonminor dependent's relatives consistent with section  
30                  309(e); and

31  
32                  (iii)   Whether a nonminor who is an Indian child chooses to have the  
33                  Indian Child Welfare Act apply to them as a nonminor  
34                  dependent.

35  
36          (B)   Orders

37  
38                  (i)   Order that placement and care is vested with the placing agency.

39  
40                  (ii)   Order the county agency to comply with rule 5.481, if there was  
41                  no inquiry or determination of whether the nonminor dependent  
42                  was an Indian child before the nonminor dependent attained 18

1                   years of age and the nonminor dependent requests an Indian  
2                   Child Welfare Act determination.

3  
4                   (iii) The court may order family reunification services under 361.6 for  
5                   the nonminor and the parent or legal guardian. Court-ordered  
6                   reunification services must not exceed the time frames as stated  
7                   in section 361.5.

8  
9                   (C) The following findings and orders must be considered either at the  
10                  nonminor disposition hearing held under this rule and section 358(d),  
11                  or at a nonminor dependent status review hearing under rule 5.903 and  
12                  section 366.31 held within 60 days of the nonminor disposition  
13                  hearing:

14  
15                  (i) The findings contained in rule 5.903(e)(1)(A)–(P);

16  
17                  (ii) The orders contained in rule 5.903(e)(2)(A)(i) and (ii); and

18  
19                  (iii) For a nonminor dependent whose case plan is court-ordered  
20                  family reunification services, a determination of the following:

21  
22                  a. The extent of the agency’s compliance with the case plan in  
23                  making reasonable efforts or, in the case of an Indian child,  
24                  active efforts, as described in section 361.7, to create a safe  
25                  home of the parent or guardian for the nonminor dependent  
26                  to reside in or to complete whatever steps are necessary to  
27                  finalize the permanent placement of the nonminor  
28                  dependent; and

29  
30                  b. The extent of progress the parents or legal guardians have  
31                  made toward alleviating or mitigating the causes  
32                  necessitating placement in foster care.



ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NUMBER: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ EMAIL ADDRESS: _____ ATTORNEY FOR (name): _____	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b> <b>JV-461.v13.090420.CZ.AEM</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	CASE NUMBER: _____
NONMINOR'S NAME: _____	
<b>FINDINGS AND ORDERS AFTER NONMINOR DISPOSITION HEARING</b>	

1. This matter came before the court on the  
☐ original petition    ☐ subsequent petition    ☐ supplemental petition    ☐ other (specify):  
 filed on (date): \_\_\_\_\_
2. a. ☐ The nonminor was removed and remains detained under Welfare and Institutions Code section 319(c).  
 b. ☐ Date of detention orders: \_\_\_\_\_
3. The nonminor was found to be a child described under Welfare and Institutions Code section 300 (check all that apply):  
 a. ☐ 300(a)    ☐ 300(b)    ☐ 300(c)    ☐ 300(d)    ☐ 300(e)  
    ☐ 300(f)    ☐ 300(g)    ☐ 300(h)    ☐ 300(i)    ☐ 300(j)  
 b. ☐ On (date): \_\_\_\_\_
4. **Disposition hearing**  
 a. Date: \_\_\_\_\_  
 b. Department: \_\_\_\_\_  
 c. Judicial officer (name): \_\_\_\_\_  
 d. Court clerk (name): \_\_\_\_\_  
 e. Court reporter (name): \_\_\_\_\_  
 f. Bailiff (name): \_\_\_\_\_  
 g. Interpreter (name and language): \_\_\_\_\_
5. Parties present (name):  

	<u>Present</u>	<u>Attorney (name):</u>	<u>Present</u>
a. Nonminor:	<input type="checkbox"/>		<input type="checkbox"/>
b. County Social Worker:	<input type="checkbox"/>		<input type="checkbox"/>
c. Parent:	<input type="checkbox"/>		<input type="checkbox"/>
d. Parent:	<input type="checkbox"/>		<input type="checkbox"/>
e. Legal Guardian:	<input type="checkbox"/>		<input type="checkbox"/>
f. Others:	<input type="checkbox"/>		<input type="checkbox"/>
6. Tribal representative (name): \_\_\_\_\_ ☐
7. Others present in courtroom:  
 a. ☐ Other (specify): \_\_\_\_\_  
 b. ☐ Other (specify): \_\_\_\_\_  
 c. ☐ Other (specify): \_\_\_\_\_  
 d. ☐ Other (specify): \_\_\_\_\_
8. The court has read, considered, and admits into evidence  
 a. ☐ report of the social worker dated: \_\_\_\_\_  
 b. ☐ CASA report dated: \_\_\_\_\_  
 c. ☐ Other (specify): \_\_\_\_\_  
 d. ☐ Other (specify): \_\_\_\_\_

NONMINOR'S NAME:	CASE NUMBER:
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**BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS**

9. ☐ Notice of the date, time, and location of the hearing was given as required by law.
10. ☐ The nonminor was neither present in court nor participating by phone and
- a. ☐ the nonminor expressed a wish not to appear for the hearing and did not appear.
- b. ☐ the nonminor's current location is unknown. Reasonable efforts ☐ were ☐ were not made to locate the nonminor.
11. ☐ Consistent with Code of Civil Procedure section 372 and Probate Code section 810 thru 813, the nonminor is not competent to provide informed consent; a guardian ad litem has been appointed to the nonminor. (*proceed to item 16*)
12. ☐ The nonminor has had the opportunity to confer with their attorney on providing consent for the disposition hearing.
13. ☐ The nonminor was informed that if dependency is established, the nonminor has the right to have juvenile jurisdiction terminated following a hearing under rule 5.555 of the California Rules of Court.
14. ☐ The potential benefits of remaining under juvenile court jurisdiction as a nonminor dependent were explained to the nonminor, and that nonminor has stated that they understand those benefits.
15. ☐ The nonminor was informed that if dependency is established, they may have the right to file a request to return to foster care and to have the court resume jurisdiction over them as a nonminor dependent.
16. a. ☐ The nonminor or the nonminor's guardian ad litem has provided informed consent for the holding of a disposition hearing under Welfare and Institutions Code section 358(d) by submitting *Nonminor's Informed Consent to Hold Disposition Hearing* (form JV-463), and
- b. ☐ there is clear and convincing evidence that one of the circumstances stated in Welfare and Institutions Code section 361 regarding the persons specified below existed immediately before the nonminor turned 18 years of age (*check all that apply*):
- |                               | 361(c)(1)                | 361(c)(2)                | 361(c)(3)                | 361(c)(4)                | 361(c)(5)                | 361(c)(6)                |
|-------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| (1) Mother                    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| (2) Presumed father           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| (3) Biological father         | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| (4) Legal guardian            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| (5) Indian custodian          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| (6) Other ( <i>specify</i> ): | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
- The nonminor is adjudged a dependent of the court.
- c. ☐ Further disposition orders as stated in *Dispositional Attachment: Nonminor Dependent* (form JV-461(A)), attached and incorporated by reference.

NONMINOR'S NAME:	CASE NUMBER:
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17. ☐ The nonminor or the nonminor's guardian ad litem has not provided informed consent for the holding of the disposition hearing, or
- ☐ there is not clear and convincing evidence that the circumstances in Welfare and Institutions Code section 361(c) existed immediately before the nonminor turned 18 years of age.
- a. ☐ The temporary orders made under Welfare and Institutions Code section 319 are vacated, and dependency jurisdiction or general jurisdiction is dismissed, or
- b. ☐ the matter is set for a further hearing:
- (1) ☐ The reason the nonminor has not provided informed consent is because items 12–15 have not been completed. The disposition hearing is continued to complete these requirements.
- (2) ☐ The reason the nonminor has not provided informed consent is because the social worker could not locate the nonminor and reasonable efforts have not been made to locate the nonminor. The disposition hearing is continued to make reasonable efforts to locate the nonminor.
- (3) ☐ Other (*specify*):
- (4) ☐ Continued disposition hearing:

Hearing date:	Time:	Dept.:	Room:
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18. Other orders:

Date:

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

NONMINOR'S NAME:

CASE NUMBER:

**DISPOSITIONAL ATTACHMENT: NONMINOR DEPENDENT**

1. Reasonable efforts ☐ were ☐ were not made to prevent or eliminate the need for the nonminor's removal from the home.
2. Placement and care are vested with the county agency.
3. The county agency ☐ has ☐ has not exercised due diligence to locate an appropriate relative with whom the nonminor could be placed. Each relative whose name has been submitted to the department ☐ has ☐ has not been evaluated.
4. ☐ The nonminor dependent who is an Indian child ☐ has ☐ has not chosen to have the Indian Child Welfare Act apply to them as a nonminor dependent.
5. ☐ There was no inquiry or determination of whether the nonminor dependent was an Indian child before the nonminor dependent's 18th birthday:
  - a. ☐ The nonminor dependent would like an Indian Child Welfare Act determination. The county agency is ordered to comply with rule 5.481 of the California Rules of Court.
  - b. ☐ The nonminor dependent would not like an Indian Child Welfare Act determination.
6. ☐ Family reunification services are ordered under Welfare and Institutions Code section 361.6:
  - a. ☐ The nonminor dependent and parents or guardians are in agreement with court-ordered family reunification services.
  - b. ☐ The provision of family reunification services is in the best interests of the nonminor dependent.
  - c. ☐ There is a substantial probability that the nonminor dependent will be able to safely reside in the home of the parent or guardian by the next review hearing.
7. Check one:
  - a. ☐ A status review hearing will be held within 60 days on the date specified in item 30; the court makes no further findings and orders.
  - b. ☐ The court proceeds to the remaining findings and orders.

**THE COURT MUST CONSIDER THE FOLLOWING FINDINGS AND ORDERS AFTER THE NONMINOR DISPOSITION HEARING OR AFTER A NONMINOR DEPENDENT STATUS REVIEW HEARING WITHIN 60 DAYS**

8. a. ☐ The nonminor dependent's continued placement is necessary.  
b. ☐ The nonminor dependent's continued placement is no longer necessary.
9. a. ☐ The nonminor dependent's current placement is appropriate.  
b. ☐ The nonminor dependent's current placement is not appropriate. The county agency and the nonminor dependent must work collaboratively to locate an appropriate placement.
10. ☐ The nonminor dependent's Transitional Independent Living Case Plan includes a plan to satisfy at least one of the criteria in Welfare and Institutions Code section 11403(b) to remain in foster care under juvenile court jurisdiction as indicated below:
  - a. ☐ Attending high school or a high school equivalency certificate (GED) program.
  - b. ☐ Attending a college, community college, or vocational education program.
  - c. ☐ Attending a program or participating in an activity that will promote or help remove a barrier to employment.
  - d. ☐ Employed at least 80 hours per month.
  - e. ☐ The nonminor is incapable of attending a high school, high school equivalency certificate (GED) program, college, community college, vocational education program, or an employment program or activity, or working 80 hours per month because of a medical condition.
11. The county agency ☐ has ☐ has not made reasonable efforts and provided assistance to help the nonminor dependent establish and maintain compliance with one of the conditions in Welfare and Institutions Code section 11403(b).
12. The nonminor dependent ☐ was ☐ was not provided with the information, documents, and services required under Welfare and Institutions Code section 391.

NONMINOR'S NAME:	CASE NUMBER:
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13. The Transitional Independent Living Case Plan ☐ was ☐ was not developed jointly by the nonminor dependent and the county agency.
14. ☐ The nonminor dependent has elected to have the Indian Child Welfare Act apply; the representative from their tribe ☐ was ☐ was not consulted during the development of the nonminor dependent's Transitional Independent Living Case Plan.
15. The nonminor dependent's Transitional Independent Living Case Plan ☐ does ☐ does not reflect the living situation and services consistent, in the nonminor dependent's opinion, with what they need to achieve successful adulthood and sets out benchmarks that indicate how both the county agency and the nonminor dependent will know when independence can be achieved.
16. The nonminor dependent's Transitional Independent Living Case Plan ☐ does ☐ does not include appropriate and meaningful independent living skill services that will help the nonminor transition from foster care to successful adulthood.
17. The county agency ☐ has ☐ has not made reasonable efforts to comply with the nonminor dependent's Transitional Independent Living Case Plan, including efforts to finalize the nonminor's permanent plan and prepare them for independence.
18. For a permanent plan of another planned permanent living arrangement, the county agency ☐ has ☐ has not made ongoing and intensive efforts to finalize the permanent plan.
19. The nonminor dependent ☐ did ☐ did not sign and receive a copy of the Transitional Independent Living Case Plan.
20. The county agency ☐ has ☐ has not made reasonable efforts to maintain relations between the nonminor dependent and individuals who are important to the nonminor, including efforts to establish and maintain relationships with caring and committed adults who can serve as lifelong connections.
21. a. The extent of progress made by the nonminor dependent toward meeting the Transitional Independent Living Case Plan goals has been: ☐ excellent ☐ satisfactory ☐ minimal.
- b. ☐ The modifications to the Transitional Independent Living Case Plan goals needed to assist the nonminor dependent in their efforts to attain those goals were stated on the record.
22. The county agency ☐ has ☐ has not made reasonable efforts to establish or maintain the nonminor dependent's relationship with siblings who are under juvenile court jurisdiction.
23. The likely date by which the nonminor dependent is anticipated to achieve successful adulthood is:
24. The nonminor dependent's permanent plan is:
- ☐ to return home.
  - ☐ adoption.
  - ☐ tribal customary adoption.
  - ☐ placement with a fit and willing relative.
  - ☐ another planned permanent living arrangement.
  - ☐ Other (*specify*):
25. For a permanent plan of another planned permanent living arrangement,
- ☐ the court has asked the nonminor dependent about their desired permanency outcome.
  - The court has considered the evidence before it and finds another planned permanent living arrangement is the best permanent plan because:
    - ☐ the nonminor is 18 or older.
    - ☐ Other (*specify*):
  - The compelling reasons why other permanent plan options are not in the nonminor's best interest are that
    - ☐ the nonminor wants to live independently.
    - ☐ Other (*specify*):

NONMINOR'S NAME:	CASE NUMBER:
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26. ☐ Family reunification services are ordered under Welfare and Institutions Code section 361.6:

- a. The county agency ☐ has ☐ has not complied with the case plan by making reasonable efforts—or in the case of an Indian child, active efforts, as described in section 361.7—to create a safe home for the nonminor dependent to reside in or to complete whatever steps are necessary to finalize the permanent placement of the nonminor.
- b. The extent of progress that the parents or legal guardians have made toward alleviating or mitigating the causes necessitating placement in foster care has been ☐ excellent ☐ satisfactory ☐ minimal ☐ none.
- c. The likely date by which the nonminor dependent may safely reside in the family home or achieve successful adulthood is:

27. ☐ It appears that juvenile court jurisdiction over the nonminor dependent may no longer be necessary, and a hearing to consider termination of juvenile court jurisdiction under rule 5.555 of the California Rules of Court is ordered.

28. ☐ The nonminor dependent has elected not to remain in foster care. A hearing to consider termination of juvenile court jurisdiction under rule 5.555 of the California Rules of Court within 30 days is ordered.

29. ☐ Other findings and orders

- a. ☐ See attachment 29a.
- b. ☐ (specify):

30. The next hearings are scheduled as follows:

- a. Nonminor dependent status review hearing (Welfare and Institutions Code §366.31; California Rules of Court, rule 5.903)

Hearing date:	Time:	Dept.:	Room:
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- b. Hearing to consider termination of jurisdiction (Welfare and Institutions Code §391; California Rules of Court, rule 5.555)

Hearing date:	Time:	Dept.:	Room:
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- c. Other (specify):

Hearing date:	Time:	Dept.:	Room:
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31. Number of pages attached: \_\_\_\_\_

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NUMBER: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ EMAIL ADDRESS: _____ ATTORNEY FOR (name): _____	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b> <b>JV-463.v5.090420.cz.AEM</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
YOUTH'S NAME: _____	
<b>Nonminor's Informed Consent to Hold Disposition Hearing</b>	CASE NUMBER: _____

**To the youth:** This form is used to tell the court whether you agree to participate in a disposition hearing after you turn 18 years old. When you turn 18, you are an adult and therefore can decide if your case will remain open or not. Read this form carefully—with your attorney. This completed form must be submitted to the court at or before the scheduled disposition hearing. For more information, read page 2 of this form.

1. Youth's information

- a. Name: \_\_\_\_\_
- b. Date of Birth: \_\_\_\_\_
- c. ☐ The youth was found to be a minor described by Welfare Institutions Code section 300 before turning 18 years of age, and has been continuously and remains detained under Welfare and Institutions Code section 319(c).

2. I (*youth's name*), understand I have the right to agree or not to agree to the holding of a disposition hearing as a nonminor and that the following are correct (*check and then initial each box unless you have a question*):

- Initial
- a. ☐ The potential benefits of continued dependency have been explained to me, and I understand those benefits.
- b. ☐ I have been informed that if the court establishes dependency, I would have the right to seek termination of dependency and have dependency reinstated at a later date until I turn 21 years old.
- c. ☐ I have talked to my attorney about providing informed consent and the setting of the nonminor disposition hearing.

3. Check whether you consent to a hearing or do not consent:

- a. ☐ I consent to proceed to a nonminor disposition hearing to consider whether I was at risk of harm in the home of my parent or guardian before I turned 18 years old, and to consider my status as a nonminor dependent.
- b. ☐ I do not consent to the setting of a nonminor disposition hearing. I understand that the court will dismiss jurisdiction, and I will not be eligible for extended foster care.

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

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF YOUTH)

4. If the court has appointed you as a guardian ad litem for the nonminor, indicate in item 3 whether you consent on behalf of the nonminor to proceeding with a nonminor disposition hearing.

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

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF GUARDIAN AD LITEM)

**Declaration of Attorney (required unless the nonminor is not competent to direct counsel)**

5. I am the attorney for the youth named above. I hereby declare that I have discussed the implications of setting and not setting a nonminor disposition hearing with my client.

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

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF ATTORNEY)

**SEE PAGE TWO FOR INFORMATION ABOUT THE NONMINOR DISPOSITION HEARING**

Page 1 of 2

## What is a Nonminor Disposition Hearing?

**To the youth:** This page tells you about your right to agree or not agree to holding a disposition hearing after you turn 18 years old. When you turn 18, you are legally an adult and have the decision-making authority of an adult. This form explains what a disposition hearing is, your rights as an adult, and extended foster care, or “AB 12.”

1. **What is a nonminor disposition hearing?** A nonminor disposition hearing is a special hearing for a youth who became involved in the dependency court right around the time they turned 18 years old. It happens when the court takes jurisdiction of a child, but doesn’t have the disposition hearing until after that child turns 18 and becomes an adult.
2. **What is a disposition hearing?** The disposition hearing occurs after the court takes jurisdiction of a child at the jurisdiction hearing by deciding that the child is unsafe and that the court should be involved in the child’s life. At the disposition hearing, the court decides what should happen to the child next. The court decides things such as: whether it is safe to live in the parent’s or guardian’s home, whom the youth should live with and how to make the parent’s or guardian’s home safe for the child.
3. **What rights do I have as an adult?** When you turn 18 years old, you have all the legal decision making rights of an adult. This means that you decide things like where you live, whether you consent to medical care, where you go to school, and if your dependency case will remain open. A parent or social worker no longer make these decisions for you.
4. **How is a nonminor disposition hearing different from a regular disposition hearing?** First, before the nonminor disposition hearing can be held, you have to agree to the hearing. Also, unlike a disposition hearing for a child, the court does not decide if you should live with your parent or guardian. The court cannot tell an adult where to live. However, although you can decide where you live, if you intend to participate in AB 12, you need to work with your social worker on where you will live, and you must be in a placement approved by your social worker.
5. **How do I agree to the nonminor disposition hearing?** You will need to provide “informed consent.” To do so, work with your attorney and submit this *Nonminor’s Informed Consent to Hold Disposition Hearing* (form JV-463). This form must be filed with the court by you or your attorney at or before the disposition hearing.
6. **What happens if I agree to the nonminor disposition hearing?** If you are 18 years old, and you agree to having the nonminor disposition hearing, the court will hold the hearing to determine if you were in danger in the home of your parent or guardian immediately before you turned 18 years old. This finding must be made for you to be eligible for AB 12. If the court does not make this finding, the case will be dismissed. The court will consider evidence including the social worker’s report and may hear testimony.
7. **What happens if I don’t agree to the disposition hearing?** When you are an adult, the law gives you the right to decide if you want to have a nonminor disposition hearing. If you do not agree, the court will dismiss your case. Your social worker, your attorney, and the court will no longer be formally involved in your life and you will not be eligible for AB 12.

It is important to remember that the decision to proceed with your case after you turn 18 years old belongs to you. A major factor in your decision may be whether you want to participate in AB 12. You should discuss this decision with your attorney and your social worker.



## SPR20-22

**Juvenile Law: Nonminor Disposition Hearing – Dependency** (Adopt Cal. Rules of Court, rule 5.697; amend rules 5.682 and 5.684; adopt forms JV-461, JV-461(A) and JV-463)

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

	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>DRAFT Committees Response</b>
1.	Executive Committee of the Family Law Section of the California Lawyers Association (FLEXCOM) By Justin M. O’Connell FLEXCOM Legislation Chair By Saul Bercovitch Director of Governmental Affairs	A		The committee notes the commenter’s support for the proposal.
2.	Joint Rules Subcommittee (JRS) of the Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC)	A	<p>The JRS notes that the proposal applies to a very small class of non-minors. Presently, many counties and judicial officers notice this issue and conduct a combined jurisdiction and disposition hearing prior to the youth’s 18th birthday. Where this cannot be done, slight additional costs are anticipated related to an extra hearing (not a new filing as case already exists) As a result of an additional hearing, there will be some additional judicial and clerical time. However, no new training is anticipated as assigned courtroom clerks are already familiar with disposition hearings.</p> <p>No additional automation (case management coding) is seen as necessary. There may be a minimal impact on justice partners (an additional hearing perhaps) but considering the number of cases where this event occurs which this statute seeks to remedy, the costs are very small in terms of an impact on the courts. Additionally, courts that do not use JC forms may have some additional costs related to order preparation. The benefit to the youth far outweighs any slight operational impact.</p>	The committee appreciates this feedback on the proposal. The committee agrees that this proposal will affect a small class of nonminors but will provide clarity where it will be needed.

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## SPR20-22

**Juvenile Law: Nonminor Disposition Hearing – Dependency** (Adopt Cal. Rules of Court, rule 5.697; amend rules 5.682 and 5.684; adopt forms JV-461, JV-461(A) and JV-463)

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3.	Los Angeles Department of Children and Family Services Youth Development Services Division Department 414/NMD Trial Team	NI	<p>DCFS Youth Development Services (YDS) Division had the following comments to CRC Proposed Revision SPR 20-22:</p> <p>The YDS Division is in agreement that the proposed changes appropriately address the stated purpose. We concur that rule 5.697 should permit a parent or guardian to participate in the nonminor disposition hearing as a party with standing limited to the court’s determination. Additionally, the rule appropriately addresses nonminors who do not have capacity to give informed consent. Last, the rule should meet requirements for a title IV-E case review.</p> <p>Dependency Court Dept. 414/NMD Trial Team Provided the Following Comments on CRC Proposed Revision SPR 20-22:</p> <ul style="list-style-type: none"><li>Does the proposal adequately address the stated purpose?</li></ul> <p>Yes, it does address its stated purpose.</p> <ul style="list-style-type: none"><li>Should rule 5.697 permit a parent or guardian to participate in the nonminor disposition hearing as a party with standing limited to the court’s determination of whether clear and convincing evidence of the conditions described in section 361(c) existed immediately prior to the nonminor turning 18 years of age?</li></ul>	<p>The committee appreciates this feedback on the proposal.</p> <p>The committee notes the commenter’s response.</p>

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			<p>Yes, a parent should have standing to participate in the hearing for the limited purpose of presenting evidence for the court's determination about the conditions described in section 361(c) prior to the nonminor turning 18 years of age.</p> <ul style="list-style-type: none"><li>Does the rule appropriately address nonminors who do not have capacity to give informed consent by requiring that the court appoint a guardian ad litem to make a decision on behalf of the nonminor whether or not to give informed consent?</li></ul> <p>Yes, the rule is appropriate to address nonminors who lack capacity to give informed consent.</p> <ul style="list-style-type: none"><li>Should the rule provide that the nonminor disposition hearing must meet the requirements for a title Gr case review, or should the rule instead require that a nonminor dependent status review hearing be held within 60 days? Or should courts be giving the option to choose between conducting the title IV-E case review at the nonminor disposition hearing or holding a nonminor dependent status review</li></ul>	<p>The committee notes the commenter's response.</p> <p>The committee notes the commenter's response.</p>

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			<p>hearing within 60 days, as set out in the proposed rule?</p> <p>The rule should not require that the nonminor disposition hearing meet the requirements for a title IV-E case review due to the short time frame between the adjudication and the disposition hearing conducted pursuant to Welfare and Institutions Code Section 358, but should provide the option of completing the nonminor case review within 60 days. Section 358((1)(B)(3) requires that the dispositional hearing for a youth, who has turned 18 years of age after the adjudication has been held, must be conducted within 30 days of the date that the adjudication Section 355 finding was made. During this time period, the social worker must also provide the informed consent document to the youth, complete the dispositional report and provide proper notice to the parties. If the title IV-E findings must also be addressed in the dispositional report, then the social study will require more items to be included than currently required by Section 358 et seq. Given the necessity of completing the dispositional hearing within 30 days of when the Section 355 finding was made in order for a youth to be eligible</p>	<p>The committee appreciates this response and agrees that courts should have the flexibility to address the title IV-E case review requirements sixty days after the disposition hearing.</p>

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			<p>to remain under the jurisdiction as a nonminor dependent, court should have sufficient flexibility to complete the nonminor dependent status review at a later date.</p> <p>Additionally, the rule should indicate in section (e)(2) that any continuance granted should not be longer than 30 days from the date that the Section 355 finding was made.</p>	<p>The committee does not believe that this requirement of section 358(d)(3) should be included in the rule because it is stated in the statute.</p>
4.	Los Angeles Superior Court By Bryan Borys Los Angeles, CA	A	<p>Does the proposal adequately address the stated purpose?</p> <p>Answer: Yes</p> <ul style="list-style-type: none"><li>• Should rule 5.697 permit a parent or guardian to participate in the nonminor disposition hearing as a party with standing limited to the court's determination of whether clear and convincing evidence of the conditions described in section 361(c) existed immediately prior to the nonminor turning 18 years of age?</li></ul> <p>Answer: Note also that parents participate in NMD cases when family reunification services are ordered. At the disposition hearing, the court can consider ordering family reunification services. If this is the case, then parents should be allowed to participate if the disposition hearing in case family reunification services are ordered.</p>	<p>The committee notes the commenter's responses and appreciates this feedback.</p> <p>The committee agrees with this statement.</p>

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			<ul style="list-style-type: none"><li>• Does the rule appropriately address nonminors who do not have capacity to give informed consent by requiring that the court appoint a guardian ad litem to make a decision on behalf of the nonminor whether or not to give informed consent?</li></ul> <p>Answer: The current process is sufficient: attorney notify the court under WIC 317(e).</p> <ul style="list-style-type: none"><li>• Should the rule provide that the nonminor disposition hearing must meet the requirements for a title IV-E case review, or should the rule instead require that a nonminor dependent status review hearing be held within 60 days? Or should courts be giving the option to choose between conducting the title IV-E case review at the nonminor disposition hearing or holding a nonminor dependent status review hearing within 60 days, as set out in the proposed rule?</li></ul> <p>Answer: Findings should be part of the disposition because continuing the case for a 60 day hearing can crowd already congested juvenile dependency calendars.</p> <ul style="list-style-type: none"><li>• Would the proposal provide cost savings? If so, please quantify.</li></ul> <p>Answer: No.</p>	<p>The committee notes the commenter's response.</p> <p>The committee notes the commenter's response.</p> <p>The committee notes the commenter's response.</p>

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			<ul style="list-style-type: none"><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 management systems?</li></ul> <p>Answer: Training for judicial officers and staff; modifications to manuals and case management systems.</p> <ul style="list-style-type: none"><li>• Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</li></ul> <p>Answer: Yes.</p>	<p>The committee notes the commenter’s response.</p> <p>The committee notes the commenter’s response.</p>
5.	Orange County Bar Associate By Scott B. Garner Newport Beach, CA	A	<ul style="list-style-type: none"><li>• Does the proposal adequately address the stated purpose?</li></ul> <p><i>Yes.</i></p> <ul style="list-style-type: none"><li>• Should rule 5.697 permit a parent or guardian to participate in the nonminor disposition hearing as a party with standing limited to the court’s determination of whether clear and convincing evidence of the conditions described in section 361(c) existed immediately prior to the nonminor turning 18 years of age?</li></ul> <p><i>Yes, as long as it is limited.</i></p>	<p>The committee notes the commenter’s responses and appreciates this feedback.</p>

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			<ul style="list-style-type: none"><li>Does the rule appropriately address nonminors who do not have capacity to give informed consent by requiring that the court appoint a guardian ad litem to make a decision on behalf of the nonminor whether or not to give informed consent?</li></ul> <p><i>Yes.</i></p> <ul style="list-style-type: none"><li>Should the rule provide that the nonminor disposition hearing must meet the requirements for a title IV-E case review, or should the rule instead require that a nonminor dependent status review hearing be held within 60 days? Or should courts be giving the option to choose between conducting the title IV-E case review at the nonminor disposition hearing or holding a nonminor dependent status review hearing within 60 days, as set out in the proposed rule?</li></ul> <p><i>Giving courts the option is the best plan to allow for flexibility.</i></p>	
6.	Orange County Superior Court Juvenile Division By Linda Contreras Administrative Analyst I	NI	Comments  To implement recent legislation creating a new disposition hearing for nonminors who were found to be within juvenile jurisdiction but reached the age of majority before a disposition hearing could be held, thus ensuring their	

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			<p>eligibility for extended foster care, the following are proposed to become effective January 1, 2021.</p> <ul style="list-style-type: none"><li>• Adopt rule 5.697, entitled "Disposition Hearing for a Nonminor"</li><li>• Amend rules 5.683 &amp; 5.684 on uncontested and contested jurisdiction hearings to clarify that the setting of a nonminor disposition hearing is required when the child will turn 18 prior to the disposition hearing</li><li>• Adopt three mandatory Judicial Council forms:<ul style="list-style-type: none"><li>○ JV-461 Findings and Orders after Nonminor Disposition Hearing</li><li>○ JV461(A) Dispositional Attachment: Nonminor Dependent</li><li>○ JV-463 Nonminor's Informed Consent to Hold Disposition Hearing</li></ul></li></ul> <p>Comments on forms:</p> <ul style="list-style-type: none"><li>▪ JV-461: At bottom of form "mandatory" is misspelled (l at the end).</li><li>▪ JV-461(A): #4 has misspelled the word "whose." "Each relative who name has been submitted to the department..."</li></ul>	<p>The change has been made.</p> <p>The correction has been made, although it was found in item 3.</p>

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			<p>Recommend correct to “whose name has been submitted...”</p> <ul style="list-style-type: none"><li>JV-461(A) INFO:<ul style="list-style-type: none"><li>#2 on form needs correction for grammar: “It happens when the court take jurisdiction of someone...” Recommend correct to “...court takes jurisdiction...”</li><li>#7 on form needs correction for grammar: “You will not eligible for AB 12.” Recommend correct to “You will not be eligible for AB 12.</li><li>#3 on form needs correction for grammar: “A parent or social worker no longer make these decisions...” Recommend correct to “...no longer makes these decisions...”</li></ul></li></ul>	<p>The suggested change has been made to JV-463.</p> <p>The suggested change has been made to JV-463.</p> <p>The suggested change has been made to JV-463.</p>
7.	Riverside Superior Court By Susan Ryan Riverside, CA	A	<p>Does the proposal appropriately address the stated purpose?</p> <p>Yes, the proposal would fulfill requirements of AB 748 and address situations such as the one in <i>In re David B.</i> (2017) 12 Cal.App.5th 633 and would allow the court to conduct disposition hearings for nonminor dependents in</p>	<p>The committee notes the commenter’s responses and appreciates this feedback.</p>

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			<p>limited circumstances which would still allow them to enter extended foster care.</p> <p>Should rule 5.697 permit a parent or guardian to participate in the nonminor disposition hearing as a party with standing limited to the court's determination of whether clear and convincing evidence of the conditions described in section 361(c) existed immediately prior to the nonminor turning 18 years of age?</p> <p>Yes, the parent should be allowed to participate for the limited purpose of the court's determination of 361(c) issues. Since this finding could impact future rights of a parent in collateral proceedings they should be provided due process to participate in those findings.</p> <p>Does the rule appropriately address nonminors who do not have capacity to give informed consent by requiring that the court appoint a guardian ad litem to make a decision on behalf of the nonminor whether or not to give informed consent?</p> <p>Yes, this would be adequately addressed by the appointment of a guardian ad litem similar to as is done under WIC 317(e) when a nonminor dependent is unable to give informed consent.</p> <p>Should the rule provide that the nonminor disposition hearing must meet the requirements for a title IV-E case review, or should the rule</p>	<p>The committee agrees with this comment.</p> <p>The committee notes the commenter's response.</p>

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			<p>instead require that a nonminor dependent status review hearing be held within 60 days? Or should courts be giving the option to choose between conducting the title IV-E case review at the nonminor disposition hearing or holding a nonminor dependent status review hearing within 60 days, as set out in the proposed rule?</p> <p>Giving the court the option seems to make the most sense. If Title IV-E requirements can be met at the disposition hearing then the court can make those findings, however if they cannot be made, the court can still move forward with the disposition and set a follow up Title IV-E review hearing only on cases where one is needed.</p> <p>Would the proposal provide cost savings? If so, please quantify.</p> <p>There would be no cost savings to the court.</p> <p>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), change docket codes in case management systems, or modify case management systems.</p> <p>The court would need to create new filing codes for the forms and new minute codes in the case management system for the findings and orders.</p>	<p>The committee notes the commenter's response.</p> <p>The committee notes the commenter's response.</p> <p>The committee notes the commenter's response.</p>

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			<p>Hearing codes for the contested and uncontested Nonminor Disposition hearings would also need to be created as well as JBSIS stats for these hearings. Staff would need to be trained on how to set these hearings and how to update the minutes. Perhaps one hour to review training materials for the new hearing dispositions and document filings.</p> <p>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <p>Yes</p>	
8.	San Diego Child Welfare Services By Karla Morales Policy Analyst San Diego, CA	A		The committee notes the commenter's support for the proposal.
9.	Superior Court of San Diego County By Michael Roddy San Diego, CA	NI	<p><b>GENERAL COMMENTS</b></p> <p><b>CRC 5.682(f) and 5.684(f)</b></p> <p>- <u>If CRC 5.502 is revised to define “youth” as a person 14-21 years of age (see SPR 20-21), “child” should be replaced with “youth” – “if the child youth will turn 18 years old...”</u></p> <p><b>CRC 5.697</b></p> <p>- <u>Subd. (b)(1): Query -- Why did the committee choose notice procedures under WIC § 295 (notice for post-permanency review hearings) instead of WIC § 291 (notice for juris/dispo hearings)? WIC §</u></p>	<p>The committee agrees with this change to reflect the new language added to rule 5.502.</p> <p>Section 295 was selected because it conforms to requirements for a nonminor dependent hearing. But section 291 may be better suited given that the timeframes address a disposition hearing. The rule has been amended to reflect that the manner</p>

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			<p><u>295(c) provides for service of notice “no earlier than 30 days, nor later than 15 days, before the hearing.” Under WIC § 291, notice must be served “(1) If the child is detained, ... as soon as possible, and at least five days before the hearing, unless the hearing is set less than five days and then at least 24 hours before the hearing. (2) If the child is not detained, ... at least 10 days before the date of the hearing.” Is it anticipated that the nonminor disposition hearing will be set 15 or more days out and thus the longer period for service is needed? If the youth is detained during the jurisdiction hearing, shouldn’t disposition be set sooner? Or is the longer period needed to give social workers more time to prepare their reports?</u></p> <p>- <u>Subd. (b)(2): If CRC 5.502 is revised, change “child or nonminor” to “youth.”</u></p> <p>- <u>Subd. (c) title: Lower case “c” – “Informed consent” – for consistency with other CRCs.</u></p> <p>- <u>Subd. (c)(1): Changes for gender-neutral language and for brevity.</u></p> <p><u>“The court must ensure that the nonminor understands the potential benefits of</u></p>	<p>of notice shall be pursuant to section 291 to those individuals identified in section 295.</p> <p>The committee agrees that the rule should refer to youth and the rule has been changed accordingly.</p> <p>The committee agrees and the change has been made.</p> <p>The committee agrees that the rule should include gender-neutral language and the rule has been updated accordingly.</p>

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		<p><u>continued dependency, has been informed of <del>his or her</del> their right to seek termination of dependency jurisdiction pursuant to section 391 if the court establishes dependency, and <del>that the nonminor</del> has been informed of <del>his or her</del> their right to have dependency reinstated pursuant to subdivision (e) of section 388 if the court establishes dependency.”</u></p> <p>Subd. (c)(3): Change for clarity. <u>“If the nonminor is not competent to direct counsel and give informed consent, the court must appoint a guardian ad litem to <del>make a determination on</del> decide whether to provide informed consent on the nonminor’s behalf.”</u></p> <p>Subd. (d)(3): Change for clarity and brevity.</p> <ul style="list-style-type: none"><li>- <u>“(3) If the nonminor or the nonminor’s guardian ad litem does not provide informed consent, the court must vacate the temporary orders made under section 319 and <del>must not retain</del> dependency or general jurisdiction <del>must not be retained</del>. Before dismissing jurisdiction, the court must make the following findings:”</u></li><li>- <u>Subd. (d)(3)(A)-(D): Suggest deleting “That” or “That,” at the beginning of each paragraph because it is not necessary. Also, change</u></li></ul>	<p>The committee has changed the language to say “...to determine whether to provide...”</p> <p>The committee appreciates this suggestion but recommends the language that more closely correlates to the language of the statute in this respect.</p>

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		<p><u>“his or her” to “their” to use gender-neutral language.</u></p> <ul style="list-style-type: none"><li>- Subd. (d)(3)(C): Change to “understands” for consistency with subd. (c)(1).</li><li>- <del>“That, u</del>Unless a guardian ad litem has been appointed for the nonminor, the nonminor <del>has been informed of</del> understands the potential benefits of continued dependency, has been informed of <del>his or her</del> their right to seek termination of dependency jurisdiction pursuant to section 391 if the court establishes dependency, and <del>that the nonminor</del> has been informed of <del>his or her</del> their right to have dependency reinstated pursuant to subdivision (e) of section 388 if the court establishes dependency; and”</li><li>- Subd. (d)(4): Query Should this provision explicitly state that the parent or guardian retains the right to appointed counsel at the nonminor disposition hearing?</li><li>- Subd. (e) title: Lower case “s” – “Social study” – for consistency with other CRCs.</li><li>- Subd. (e)(1)(D)(iii): Plural “causes” per Title IV-E gray chart.</li></ul>	<p>The committee agrees with these suggested changes and the changes have been made.</p> <p>The committee agrees with this suggestion and the changes have been made. The committee notes that section 366.31(a)(2) requires that the nonminor “understands the potential benefits of continued dependency.”</p> <p>The committee believes that section 317(d) sufficiently addresses the right to appointed counsel for a parent at a nonminor disposition hearing.</p> <p>The suggested change has been made.</p>

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		<ul style="list-style-type: none"> <li>- <u>“The extent of progress the parent or guardian <b>have has</b> made toward alleviating or mitigating the causes necessitating placement in foster care;”</u></li> <li>- <u>Subd. (e)(1)(D)(iv), (v), (vi): Given that the social study is written before the disposition hearing, should “nonminor dependent” in these subparagraphs be changed to “nonminor”? The court has not declared the nonminor a dependent yet at this point in the proceeding.</u></li> <li>- <u>Subd. (e)(1)(E)(iii): Suggestion --</u>  <u>“The number and relationship of those relatives described by item (ii) who <b>are interested in want to have</b> ongoing contact with the nonminor;</u></li> <li>- <u>Subd. (e)(1)(E)(iv): Suggestion –</u>  <u>“The number and relationship of those relatives described by item (ii) who <b>are interested in providing want to provide</b> placement for the nonminor;</u></li> <li>- <u>Subd. (e)(1)(H): Suggestion --</u>  <u>“The nonminor’s plans to remain under juvenile court jurisdiction, including the criteria in section 11403(b) that <b>he or she meets the nonminor plans to meet.</b></u></li> </ul>	<p>The suggestion changes have been made.</p> <p>The committee agrees and the suggested change has been made.</p> <p>The committee declines to make this change because the proposed language correlates to the language in another rule, rule 5.690(a)(1)(C).</p> <p>The committee declines to make this change for the reason stated above.</p>

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Commenter	Position	Comment	DRAFT Committees Response
		<ul style="list-style-type: none"><li>- Subd. (e)(1)(J): Replace “his or her” with “the nonminor.” Query: Insert “or probation officer” after “social worker”?</li><li>- Subd. (e)(2): Suggestion – “... request of a party who has not <del>been</del> <b>furnished received</b> a copy of the social study in accordance with this rule.”</li><li>- Subd. (f) title: Lower case “p” – “Case <b>plan</b> and ... “</li><li>- Subd. (f)(2)(B): Replace “his or her” with “the.”</li><li>- Subd. (g)(1): Replace “(d)” with “(e)” – “subdivision <del>(d)</del>(e)”</li><li>- Subd. (g)(2): Delete comma after “applicable.” Use upper case “p” – “<b>P</b>lan.”</li><li>- Subd. (h): Query: Insert “or the nonminor’s guardian ad litem” after “After the nonminor”? – “After the nonminor <b>or the nonminor’s guardian ad litem</b> provides informed consent...”</li></ul>	<p>The committee agrees but the rule will also reflect that the report address the eligibility criteria that the nonminor meets.</p> <p>The committee has elected to take out the reference to “probation officer” in this subdivision (e)(1)(I). Rule 5.502(39) defines “social worker,” which can include a probation officer performing child welfare duties. In addition, this rule only applies to youth under section 300 jurisdiction. The other suggestion has been adopted.</p> <p>The committee declines to make this change.</p> <p>The suggested change has been made.</p> <p>The committee has changed “his or her” to “their”.</p> <p>The suggested change has been made.</p> <p>The suggested changes have been made.</p> <p>The suggested change has been made.</p>

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

## SPR20-22

**Juvenile Law: Nonminor Disposition Hearing – Dependency** (Adopt Cal. Rules of Court, rule 5.697; amend rules 5.682 and 5.684; adopt forms JV-461, JV-461(A) and JV-463)

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Commenter	Position	Comment	DRAFT Committees Response
		<ul style="list-style-type: none"> <li>- Subd. (h)(2): Suggestion –</li> <li>- “If the court <u>does finds</u> by clear and convincing evidence that one of the conditions of section 361(c) existed immediately prior to the youth attaining 18 years of age, <u>it the court</u> must declare dependency, and:”</li> <li>- Subd. (h)(2)(A): Query - Insert “section 366.31 and” before “rule 5.903”? (See subd. (h)(3).)</li> <li>- Delete “or six months”? (See Proposal, p. 6 [“The committee elected to give the court the option to proceed with the case review at the nonminor disposition hearing or hold a case review within 60 days”]; see also subds. (h)(3), (h)(3)(C) [“within 60 days”].)</li> <li>- Subd. (h)(3)(A)(iii): Suggestion for clarity and gender-neutral language –  “Whether a nonminor who <u>is was</u> an Indian child chooses to have the Indian Child Welfare Act apply <u>to him or her as a in nonminor dependency</u>.”</li> </ul>	<p>The suggested changes have been made.</p> <p>The suggested change has been made.</p> <p>The following language has been added to this subdivision to clarify: “...consistent with subdivision (3)...”</p> <p>The committee does not believe these revisions are necessary. Section 224.1 and Rule 5.502(19) defines an “Indian child” as a youth between 18-21 years old who is under juvenile court</p>

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## SPR20-22

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Commenter	Position	Comment	DRAFT Committees Response
		<ul style="list-style-type: none"> <li>- <u>Subd. (h)(3)(B)(i), (ii): Delete “That” at the beginning of the subparagraph.</u></li> <li>- <u>Subd. (h)(3)(B)(ii): Suggestion --</u>  <del>“That the county agency must</del> <u>comply with rule 5.481 if ...”</u></li> <li>- <u>Subd. (h)(3)(C)(iii)(a): Suggestion per WIC 366(a)(1)(B) and Title IV-E Gray Chart, D2</u>  <del>“The extent of the agency’s compliance with the case plan in making reasonable efforts or, in the case of an Indian child, active efforts, as described in section 361.7, to create return the nonminor dependent to a safe home of the parent or guardian for the nonminor dependent to reside in or to complete whatever any steps are necessary to finalize the permanent placement of the nonminor dependent; and”</del></li> </ul> <p><b>JV-461</b></p> <ul style="list-style-type: none"> <li>- <u>P. 1, right footer: Add citation, “Welf. &amp; Inst. Code, §§ 224.1(b), 245, 358, 361, 361.6, 366.1, 366.3, 366.31; Cal. Rules of Court, rules 5.697, 5.903”</u></li> <li>- <u>Pp. 1, 2, 3, center footer: Upper case “A” in “After.” (See, e.g., JV-184.)</u></li> </ul>	<p>jurisdiction. “Him or her” has however been replaced with “them.”</p> <p>“That” has been removed and replaced with “Order.”</p> <p>See comment above.</p> <p>The language used in this subdivision reflects the language found in section 366.31(d)(2)(C). The committee therefore does not agree that the recommended changes are necessary.</p> <p>The committee has added section 224.1(b); 358; 361; 361.6; 366.31 and rules 5.697 and 5.903 as reference.</p>

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	Commenter	Position	Comment	DRAFT Committees Response
			<ul style="list-style-type: none"> <li>- <u>Item 2: Suggest adding “from the home” after “removed.”</u></li> <li>- <u>Item 3: Is title necessary, given the title of the form? If the title of the item stays, change “Dispositional” to “Disposition” to match the title of the form.</u></li> <li>- <u>Item 4: Should there be an additional line of boxes for a second parent?</u></li> <li>- <u>Item 7: Delete comma after “read.”</u></li> <li>- <u>Item 9.b: Replace “him or her” with “the nonminor.”</u></li> <li>- <u>Item 14: Suggestion for gender-neutral language –</u></li> <li>- <u>“The potential benefits of remaining under juvenile court jurisdiction as a nonminor dependent were explained to the nonminor, and that nonminor who has stated that he or she the nonminor understands those benefits.”</u></li> <li>- <u>Item 15: Suggestion for gender-neutral language --</u></li> </ul>	<p>The change has been made.</p> <p>The committee declines to make this change.</p> <p>The change has been made.</p> <p>The change has been made.</p> <p>The committee declines to make this change.</p> <p>The change has been made.</p> <p>The change has been made, however the “they” will be used instead of nonminor in the second part of the sentence: “...who has stated that they understand those benefits.”</p>
			<p>*“The nonminor was informed that if dependency is established, he or she the</p>	

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		<p><u>nonminor</u> may have the right to file a request to return to foster care and to have the court resume jurisdiction over <u>him or her as a nonminor dependentcy.</u></p> <p>Item 16c: Suggestion –            *Further disposition orders <u>as are</u> stated in Dispositional Attachment: ...”</p> <p>- <u>Item 17: Change (because only one circumstance needs to exist) –</u>            *There is not clear and convincing evidence that <u>the circumstances a circumstance</u> in Welf. &amp; Inst. Code, § 361 existed immediately prior to the nonminor turning 18 years old.”</p> <p><b>JV-461(A)</b>            - P. 1, right footer: Add citation, “Welf. &amp; Inst. Code §§ 224.1(b), 245, 358, 361, 361.6, 366.1, 366.3, 366.31; Cal. Rules of Court, rules 5.697, 5.903”</p> <p>- <u>Item 3: Change “who” to “whose.”</u></p> <p>- <u>Item 4. Suggestion—</u>            - “The nonminor dependent who <u>is was</u> an Indian child ... chosen to have the Indian Child Welfare Act apply <u>to him or her as a in nonminor dependentcy.</u>”</p>	<p>The change has been made, however “them” will be used towards the end of the sentence: “...resume jurisdiction over them as a nonminor dependent.”</p> <p>The committee declines to make this change.</p> <p>The committee has changed the language to reflect the statutory language of section 358(d)(4), that at least one of the conditions of section 361(c) existed immediately prior to the nonminor turning 18 years old.</p> <p>The committee has added section 224.1(b); 358; 361; 361.6; 366.31 and rules 5.697 and 5.903 as reference.</p> <p>The change has been made.</p> <p>The committee declines to make this change because the definition of an “Indian child” in</p>

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Commenter	Position	Comment	DRAFT Committees Response
		<ul style="list-style-type: none"> <li>- <u>Item 5a: Suggestion (see CRC 5.697(h)(3)(B)(iii)) — “The nonminor dependent would like requests an Indian Child Welfare Act determination. ...”</u></li> <li>- <u>Item 5b: Suggestion (see CRC 5.697(h)(3)(B)(iii)) — “The nonminor dependent would does not like request an Indian Child Welfare Act determination.”</u></li> <li>- <u>Item 10: Suggestion for gender-neutral language -- “The nonminor dependent's Transitional Independent Living Case Plan does includes a plan for him or her to satisfying at least one of the criteria in Welf. &amp; Inst. Code, § 11403(b) ...”</u></li> <li>- <u>Item 10b: Delete “a” before “community college.”</u></li> <li>- <u>Item 10c: Insert “employment” after “promote.”</u></li> <li>- <u>Item 10e: Suggestion for consistency with items 10a through 10d and for brevity -- “The nonminor dependent is nNot able to attend a high school, a high school equivalency certificate (GED) program, a college, a</u></li> </ul>	<p>section 224.1 and rule 5.502(19) include youth between 18-21 years old who are under juvenile court jurisdiction.</p> <p>The committee declines to make this change.</p> <p>The committee declines to make these changes except for adding “determination” to the end of the sentence.</p> <p>The suggested changes have been made.</p> <p>The suggested change has been made.</p> <p>The committee declines to make this change.</p> <p>The committee declines to make this change.</p>

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		<p><u>community college, a vocational education program, or an employment program or activity, or to work 80 hours per month satisfy at least one of the criteria in Welf. &amp; Inst. Code, § 11403(b) due to a medical condition.</u></p> <ul style="list-style-type: none"> <li>- <u>Items 11 and 12: Replace “Welfare and Institutions Code section” with “Welf. &amp; Inst. Code, §” to match item 10.</u></li> <li>- <u>Item 12: Delete “as.”</u></li> <li>- <u>Item 14: Upper case “A” in “Act” and suggested changes --</u></li> </ul> <p>*<u>The nonminor dependent has elected to have the Indian Child Welfare Act to apply, and the tribal representative from his or her tribe ... consulted during the development of the nonminor dependent's Transitional Independent Living Case Plan.”</u></p> <ul style="list-style-type: none"> <li>- <u>Item 15: Change for gender-neutral language, for consistency with item 13, and for consistency with CRC 5.903(e)(1)(I) --</u></li> </ul> <p>*<u>The nonminor dependent's Transitional Independent Living Case Plan ... reflect the living situation and services consistent, in the nonminor dependent's opinion, with what he or she needs is needed to achieve</u></p>	<p>Item 10 will be changed to say “Welfare and Institutions Code section...”</p> <p>The committee declines to make this change.</p> <p>The change to “Act” is made and gender-neutral language is added, but the committee declines to make the other suggested revisions.</p> <p>Gender neutral language and “independence” have been added but the committee declines to make the other suggested revisions.</p>

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		<p><u>successful adulthood and set out benchmarks that indicate how both the county agency and nonminor dependent will know when <u>successful adulthood independence</u> can be achieved.”</u></p> <p>- <u>Item 16: Change for consistency with item 13</u></p> <p>--</p> <p>*“The <u>nonminor dependent’s</u> Transitional Independent Living Case Plan ...”</p> <p>- <u>Query: Are items 18 and 24 sufficient to include all of the findings required under WIC 366.31(e) for a NMD in APPLA?</u></p> <p>- <u>Item 20b: Change for gender-neutral language --</u></p> <p>*“The modifications to the Transitional Independent Living Case Plan goals needed to assist the nonminor dependent <u>in his or her efforts</u> to attain those goals <u>were are</u> stated on the record.</p> <p>- <u>Between items 19 and 20, add the following (see form JV-462, item 22) and renumber the subsequent items:</u></p> <p>*“The county agency ___ has ___ has not made reasonable efforts to maintain relations between the nonminor dependent and individuals who are important to <u>him or her</u></p>	<p>The committee declines to make this change.</p> <p>Under section 366.31(e)(10)(A)-(C), the only requirement missing is an indication whether the court asked the nonminor dependent about their desired permanency outcome. This has been added to item 24.</p> <p>Gender neutral language has been added.</p> <p>The change has been made.</p>

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			<p><u>the nonminor dependent</u>, including efforts to establish and maintain relationships with caring and committed adults who can serve as lifelong connections.”</p> <p>- <u>Item 21: Delete “his or her” before “siblings.”</u></p> <p>- <u>Item 25a: Change “to finalize the permanent placement of the nonminor dependent” to “to finalize the permanent plan.” (See JV-462, item 30.a.)</u></p> <p>- <u>Item 25b: Change “placement in foster care” to “current out-of-home placement.” (See JV-462, item 30.b.)</u></p> <p>- <u>After item 26: Query: Should item 25 from the JV-462 be added to this form?</u></p> <p><u>“25. It appears that juvenile court jurisdiction over the nonminor may no longer be necessary, and a hearing to consider termination of juvenile court jurisdiction under rule 5.555 is ordered.”</u></p> <p><b>JV-463</b></p> <p>- <u>P. 1, right footer: Add citation, “Welf. &amp; Inst. Code §§ 224.1(b), 245, 358; Cal. Rules of Court, rules 5.697”</u></p>	<p>The change has been made.</p> <p>The committee declines to make this change, as the language reflects the language found in section 366.31(d)(2)(C).</p> <p>The committee declines to make this change because it reflects the language found in section 366.31(d)(2)(F).</p> <p>The suggested new item has been added as item 27.</p>

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		<p>- P. 1, box under caption: Suggestion –            “To the youth: This form is used to <u>determine if tell the court whether</u> you agree to <u>holding a disposition hearing after you turn 18 years old.</u>”</p> <p>- Item 1c: Suggestion for clarity --            “The youth was found to be a minor described by <u>Welfare and Institutions Code</u> section 300 detained pursuant to <u>Welfare and Institutions Code</u> section 319(c).”</p> <p>- Item 2c: Suggest deleting “up.”</p> <p>- Below item 3: Suggestion for clarity --            “If the court has appointed <u>you as</u> a guardian ad litem for the nonminor, ...”            Query -- Should this be numbered item 4?            There is an item 5 below it.</p> <p>- Item 5: Query – Should the attorney declaration be required whether or not the nonminor is competent? In other words, should the attorney be required to declare that the issue was discussed with the nonminor’s guardian ad litem? Suggestion --            “Declaration of Attorney (<del>Required unless the nonminor is not competent to direct counsel</del>)”</p>	<p>The committee has added section 224.1(b); 358 and rule 5.697 to the right footer.</p> <p>Portions of this suggestion have incorporated.</p> <p>The suggested change has been made.</p> <p>The committee declines to make this change.</p> <p>The suggested changes have been made.</p> <p>The committee appreciates this suggestion but does not believe that it is required in the context of providing informed consent. The committee feels that communication between the attorney and the guardian ad litem will occur without an express requirement that they do so.</p>

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			<p>- <u>“5. I am the attorney for the youth named above. I declare under the penalty of perjury that I have discussed the implications of setting and not setting a nonminor disposition hearing with my client my client’s guardian ad litem.”</u></p> <p>- <u>P. 2: Suggested edits to make the text more user-friendly --</u></p> <p>To the youth: This page <del>provides information on</del> <u>tells you about</u> your right to agree or not <del>to</del> agree to holding a disposition hearing after you turn 18 years old. When you turn 18, you are legally an adult and you have the decision-making authority of an adult. This form <del>will</del> <u>explains</u> what a disposition hearing is, your rights as an adult, and extended foster care or “AB 12.”</p> <p>A nonminor disposition hearing is a special hearing for a youth who became involved in the dependency court right <del>around the time they before</del> <u>turning</u> 18 years old. It happens when the court takes jurisdiction of <del>someone as</del> a child, but doesn’t have the disposition hearing until after that child turns 18 <del>years old. The disposition hearing therefore takes</del> <u>years old.</u></p>	<p>The committee appreciates these suggestions to page 2 and has adopted most of them.</p>

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			<p>place when the youth is and becomes an adult.</p> <p>The disposition hearing occurs after the court takes jurisdiction of a child. <del>At</del> the jurisdiction hearing <del>determines whether by deciding that</del> the court should be involved in the child's life, <del>and</del>. <del>At</del> the disposition hearing, <del>the court decides determines</del> what should happen to the child <del>next, after the court has become involved. The court decides things</del> such as: whether it is safe to live in the parent's or guardian's home; whom the youth should live with; and <del>what the plan will be how</del> to make the parent's or guardian's home safe <del>for the child</del>.</p> <p>You will need to provide "informed consent." To do this, work with your attorney and submit this form JV-463, the <i>Nonminor's Informed Consent to Hold Disposition Hearing</i>. This form must be filed with the court 10 days before the <del>date the</del> disposition hearing <del>is to be heard</del>.</p> <p>When you turn 18 years old, you have all the legal decision-making rights of an adult. <del>This means that y</del> You <del>can</del> decide things like where you live, whether you consent to medical care,</p>	

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			<p>where you go to school, and <del>if</del> <b>whether</b> your dependency case will remain open. A parent or social worker no longer makes these decisions for you.</p> <p><del>First, b</del>Before the nonminor disposition hearing can be held, you have to agree to <b>have</b> the hearing. Also, unlike a disposition hearing for a child, the court does not decide if <del>the</del> <b>you</b> should live with <del>their</del> <b>your</b> parent or guardian. The court cannot tell an adult where to live <del>or not live</del>. However, <del>while you can decide where you live,</del> if you intend to participate in AB 12, you need to work with your social worker on where you will live and you must be in an approved placement. If you are 18 years old; and you agree to <del>proceed</del> <b>with having</b> the nonminor disposition hearing, the court will hold the hearing to <del>determine</del> <b>decide</b> if you were in danger in the home of your parent or guardian immediately before you turned 18 <del>years old</del>. This <del>finding decision</del> must be made for you to be eligible for AB 12. If the court does not make this <del>finding decision</del>, the case will be dismissed. <del>To make this decision</del> the court will consider evidence, including the social worker's report, and may hear testimony <del>to make this decision</del>.</p>	

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			<p>When you are an adult, the law gives you the right to decide if you want to have a nonminor disposition hearing. If you do not agree, the court will dismiss your case. Your social worker, your attorney, and the court will no longer be <del>formally</del> involved in your life. <del>Y</del>, and you will not <del>be</del> eligible for AB 12.</p> <p>It is important to remember that the decision to <del>proceed</del> <u>go ahead</u> with your case after you turn 18 <del>years old</del> belongs to you. A major factor in your decision may be whether you want to participate in AB 12. You should discuss this decision with your attorney and your social worker.</p> <p>Does the proposal adequately address the stated purpose?</p> <p>Yes. Please see General Comments for specific comments.</p> <p>Should rule 5.697 permit a parent or guardian to participate in the nonminor disposition hearing as a party with standing limited to the court's determination of whether clear and convincing evidence of the conditions described in section</p>	<p>The committee appreciates this feedback.</p>

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			<p>361(c) existed immediately prior to the nonminor turning 18 years of age? Yes.</p> <p>Does the rule appropriately address nonminors who do not have capacity to give informed consent by requiring that the court appoint a guardian ad litem to make a decision on behalf of the nonminor whether or not to give informed consent?</p> <p>Yes.</p> <p>Should the rule provide that the nonminor disposition hearing must meet the requirements for a title IV-E case review, or should the rule instead require that a nonminor dependent status review hearing be held within 60 days? Or should courts be giving the option to choose between conducting the title IV-E case review at the nonminor disposition hearing or holding a nonminor dependent status review hearing within 60 days, as set out in the proposed rule?</p> <p>The most flexible (and therefore the best) option is to give courts the option to choose between the two alternatives.</p> <p>Would the proposal provide cost savings? If so, please quantify.</p>	<p>The committee notes this response.</p> <p>The committee notes this response.</p> <p>The committee notes this response.</p>

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			<p>This is hard to predict, as nonminor disposition hearings are unlikely to occur with regular frequency.</p> <p>What would the implementation requirements be for courts ...?</p> <p>Training – introducing court clerks and clerical staff to new forms and how they should be processed. Revising written court procedures to include new rules and forms. Drafting new docket codes.</p> <p>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <p>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.</p>	<p>The committee notes this response.</p> <p>The committee notes this response.</p> <p>The committee notes this response.</p>

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