



Judicial Council of California

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Title

Juvenile Law: Detention (Action Required)

Summary

The Family and Juvenile Law Advisory Committee recommends amending three California Rules of Court and revising two forms to conform to legislative amendments to sections 635 and 737 of the Welfare and Institutions Code. The legislative amendments clarify that the basis for detaining a child must not be his or her status as a dependent of the court or the child welfare department's inability to provide a placement for the child, and add requirements to the 15-day reviews that occur when a child or nonminor dependent is detained pending execution of a placement order. The amendments and revisions ensure that the rules and forms are consistent with the amended law. They also make technical corrections and clarifications, including clarifying that home supervision does not qualify as a detention for the purposes of federal foster care funding.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2016, amend three of the California Rules of Court and revise two Judicial Council forms, as follows:

1. Amend rules 5.502(11) and 5.760(c) to clarify that children placed on home supervision are not detained for the purposes of federal foster care funding under title IV-E. Amend rule 5.760(*l*) to delete the word "detention." These amendments will resolve confusion regarding the foster care funding eligibility of a child placed on home supervision.
2. Further amend rule 5.760(c) to conform to the new statutory requirement that the court's decision to detain a dependent child of the court in juvenile hall must not be based on the child's status as a dependent of the court or the inability of the child welfare department to provide a placement for the child.
3. Amend rule 5.760(c) to conform to the new statutory requirement that establishes that when no grounds for detention exist, the court must order dependents of the court released to the child welfare department, and that agency will ensure that the child's current caregiver take custody of the child or it will take custody of the child and place the child in a licensed or approved home.
4. Amend rule 5.760(e) to remove the requirement that the findings and orders document be signed, as California law does not require a signature for a valid court order.

5. Amend rule 5.790 to conform to new statutory requirements regarding the 15-day reviews that the court must conduct when a child is detained pending implementation of a dispositional order. To limit additional changes to the rule necessitated by future modifications to section 737, the committee proposes eliminating the specific requirements and using a cross-reference to the recently amended section 737.

The committee recommends the following revisions to Judicial Council forms:

1. On *Initial Appearance Hearing--Juvenile Delinquency* (form JV-642), insert a new item 26 to allow the court to state that the child is a dependent of the court under section 300, is ordered released from custody, and is ordered into the care of child welfare services to ensure that either the child's current caregiver takes physical custody of the child or child welfare services takes physical custody and places the child in an approved placement.
2. On *Custodial and Out-of-Home Placement Disposition Attachment* (form JV-667), remove references to detaining children on home supervision. Add to two items the finding, "Continuance in the home is contrary to the child's welfare," which is required at any court hearing where the court is authorizing the removal of the child from the home and is critical to ensure federal foster care funding.