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Title

Juvenile Law: Dependency Hearings (Action Required)

Summary

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

Recommendation

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

1. Amend rule 5.534 to delete subdivisions (a), (b), (c), (d), (o), and (p) that restate provisions of sections 349, 350, and 365;
2. Amend rule 5.668 to clarify subdivision (a) and delete language from subdivision (b) that restates provisions of sections 316.2;
3. Amend rule 5.670 to delete subdivisions (b), (c), (d), and (f) that restate provisions of sections 311, 313, 309(b), 315, and 334, and include a reference to section 309(b) in former subdivision (e);
4. Amend rule 5.674 to delete subdivision (c) that restates section 319 and substitute a reference to this deleted subdivision with a reference to section 319, and add provisions from repealed rule 5.680 concerning the procedures for detention hearings;
5. Amend rule 5.682 to delete subdivision (a) that restates section 353, delete the reference to rule 5.686, which is recommended to be repealed, delete provisions in subdivision (b) that restate provisions of section 353, and revise subdivisions (e) and (f) to clarify the differences between a parent or guardian

- admitting or not contesting the jurisdictional allegations, as distinguished from submitting the jurisdictional determination to the court based upon the report of the social worker;
6. Amend rule 5.684 to remove restatement of statutory text from subdivisions (c) and (d) concerning testimony of the social worker and hearsay exceptions and replace with a reference to section 355(c), and add provisions on the continuance pending a disposition hearing from repealed rule 5.686 to subdivision (f);
 7. Amend rule 5.690 to update case plan finding requirements to reflect recent statutory changes, and include a provision concerning sibling placement;
 8. Amend rule 5.695 to delete subdivision (b) that repeats provisions of section 360 and clarify and add clerk requirements to subdivision (a), delete specific required removal findings from subdivision (d) and replace with a reference to subdivision (c) of section 361, delete extensive text sections drawn from section 361.5 contained in subdivision (h) of the rule and replace with appropriate code references, and delete subdivision (j) that restates timing for status reviews contained in various sections, and subdivision (k) that restates section 367 timing provisions;
 9. Amend rule 5.706 to delete subdivisions (a), (c), and (e) that restate provisions of section 364;
 10. Amend rule 5.708 to delete all or part of subdivisions (a), (d), (e), (h), (i), (m), and (n) that restate provisions of sections 366, 366.21, 366.22, and 366.25, and incorporate recently enacted case plan requirements for older youth into the required determinations of the court concerning the case plan;
 11. Amend rule 5.710 to delete all or part of subdivisions (a), (b), and (d), and redraft subdivision (c) to remove restated language from sections 364, 366, and 366.21;
 12. Amend rule 5.715 to delete language from subdivisions (a) and (b) that restates sections 293 and 366.21;
 13. Amend rule 5.720 to delete subdivision (a) and language in subdivision (b) that restate provisions of sections 293 and 366.22;
 14. Amend rule 5.722 to delete subdivision (a) and language in subdivision (b) that restate provisions of section 366.25;
 15. Amend rule 5.725 to delete language from subdivisions (a), (d), and (e) that restates language that is duplicative of section 366.26, and add a missing reference to section 727.31 to subdivision (a);
 16. Amend rule 5.726 to redraft subdivisions (b), (c), and (e) to delete restatements of section 366.26(n), to change a reference to the rule to a reference to section 366.26(n)(1), and to clarify the existing procedures in the rule;
 17. Amend rule 5.727 to replace references to rule 5.726 in subdivisions (a) and (b) with references to section 366.26(n)(1), and clarify the procedures in the rule;
 18. Amend rule 5.728 to substitute references to rule 5.726 in subdivisions (a) and (b) with references to section 366.26(n)(1), and clarify the procedures and notice requirements in the rule;
 19. Amend rule 5.730 to add code references to the title of the rule;
 20. Amend rule 5.735 to delete subdivision (c) that restates section 366.26(d), update provisions on visitation in subdivision (d) to be consistent with current law, and correct an erroneous rule citation in subdivision (e);
 21. Amend rule 5.740 to delete language from subdivision (b) that restates provisions of section 366.3, clarify that notice of a petition to terminate, modify, or appoint a successor guardian shall be accomplished by the court, and not the petitioner, and include required findings concerning identifying relatives who may present placement options;
 22. Repeal rule 5.680 and move its key provisions into rule 5.674;
 23. Repeal rule 5.686 and add its substance to rule 5.684;
 24. Repeal rule 5.688 as it simply restates section 360(b);
 25. Revise *Dispositional Attachment: Removal From Custodial Parent-Placement With Nonparent* (form JV-421) to add recently enacted statutory grounds for bypassing reunification services at item 20a, conform item 32 to recent statutory changes on case plan requirements, correct legal inaccuracies

concerning the date a permanency hearing must be set in item 33a, and to reflect new Judicial Council form names in items 27b and 35d.