



Subject Text

Meeting materials
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Title

Rules and Forms | Juvenile Law: Guardianship Rules and Forms (Action Required)

Summary

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

Recommendation

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

1. Amend rule 5.510(c)(1)(A) to clarify the juvenile court's exclusive jurisdiction over guardianships in child welfare proceedings;
2. Amend rule 5.620(d) to clarify that the juvenile court may appoint a guardian in a dependency proceeding at the dispositional hearing and to correct a cross-reference to rule 5.695;
3. Amend rule 5.620(e) to clarify that it applies exclusively to existing probate guardianships and to conform its requirements to statute;
4. Amend rule 5.625(b) to clarify the procedures for appointing a guardian in a juvenile justice proceeding and indicate the court's discretion, after appointing a guardian, to continue wardship and supervision or to terminate wardship;
5. Amend rule 5.625(c) to clarify that it applies exclusively to existing probate guardianships and to conform its requirements to statute;
6. Amend rule 5.695(a) to indicate that the requirements in Welfare and Institutions Code section 360(a) must be met for the court to appoint a legal guardian at the dispositional hearing and to clarify the conditions precedent to the clerk's duty to issue letters of guardianship;
7. Amend rule 5.725(a) to add references to statutes governing the appointment of a guardian in juvenile justice proceedings;
8. Amend rule 5.735 to clarify notice requirements and specify the limits on the court's discretion to retain dependency jurisdiction when appointing a guardian;
9. Amend rule 5.740(a)(4) to clarify that the limits on the court's discretion to retain dependency jurisdiction

added by AB 819 continue to apply at postpermanency review hearings;

10. Amend rule 5.785 to make a technical correction;

11. Amend rule 5.815 to (1) clarify that Welfare and Institutions Code section 366.26 supplies the procedures for appointment of a guardian in a juvenile justice proceeding; (2) specify the methods for the probation officer, the child's attorney, and the court to recommend, request, or consider appointing a guardian for a ward; and (3) replace text that duplicates statutory language with references to the appropriate code sections;

12. Revise *Orders Under Welfare and Institutions Code Sections 366.24, 366.26, 727.3, 727.31* (form JV-320) to add references to applicable statutes and rules, clarify the instructions for completing the form, replace or remove gender-specific terms, specify that the appointment of a guardian is not effective until letters of guardianship have been signed and issued, add instructions to item 15c to indicate the circumstances in which the court must terminate dependency jurisdiction, delete item 22, renumber items 23-27 as items 22-26, and make additional technical corrections; and

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