



# Judicial Council of California

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## INVITATION TO COMMENT

SPR24-19

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**Title**

Juvenile Law: Harm of Removal

**Action Requested**

Review and submit comments by May 3, 2024

**Proposed Rules, Forms, Standards, or Statutes**

Amend Cal. Rules of Court, rules 5.674, 5.676, and 5.678; revise form JV-410

**Proposed Effective Date**

January 1, 2025

**Proposed by**

Family and Juvenile Law Advisory  
Committee  
Hon. Stephanie E. Hulseley, Chair

**Contact**

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### Executive Summary and Origin

To implement recent legislation creating new factors to be considered by the juvenile court at a detention hearing, the Family and Juvenile Law Advisory Committee proposes amending three rules and revising one Judicial Council form, effective January 1, 2025. Senate Bill 578 (Ashby; Stats. 2023, ch. 618) amended Welfare and Institutions Code section 319 to require the court to consider the impact on the child when being separated from their parent or guardian at a detention hearing. The proposal would amend rules and revise a form related to the detention hearing to address the new reporting requirements and clarify the court's role in mitigating harm to the child related to removal from their home.

### Background

The detention hearing is the first hearing addressing a child's removal from their parent or guardian for abuse or neglect. The hearing must be held no later than one judicial day after the filing of the Welfare and Institutions Code section 300<sup>1</sup> petition, which must be filed within 48 hours of the child's removal.<sup>2</sup> The court must order the release of the child unless there is a

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<sup>1</sup> All unspecified statutory references are to the Welfare and Institutions Code.

<sup>2</sup> §§ 313, 315.

*This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.*

prima facie showing that the child comes within the description of section 300,<sup>3</sup> that continuance in the home is contrary to the child’s welfare, and that one of the circumstances in section 319(c)(1)(A)–(D) is found to exist, which addresses various factors related to the child’s safety.

Senate Bill 578 creates new responsibilities for the placing agency and for the court at a detention hearing related to mitigating harm to the child due to their removal from their parent or guardian. According to the bill analysis: “There is no disputing that children suffer harm when they are separated from their parents. The highly traumatic experience of family separation can cause irreparable harm, disrupting a child’s brain architecture and affecting their short- and long-term health.”<sup>4</sup>

The bill seeks to ameliorate the impact of removal by creating new reporting requirements addressing the impact on the child from removal, and by requiring the court to determine whether less disruptive alternatives to removal were considered by the placing agency. In a written order or on the record, the court must also set forth all the following if it finds that removal is necessary (§ 319(c)(2)(B)):

- (i) The basis for its findings and the evidence relied on.
- (ii) Its determination regarding the child’s placement, including whether it complies with the placement preferences set forth in Section 361.31 (if an Indian child is involved) and less disruptive alternatives.
- (iii) Any orders necessary to alleviate any disruption or harm to the child resulting from removal.

SB 578 also added language to section 319 that requires the court to consider the report from the social worker described in subdivision (b). And subdivision (b) was updated to include new reporting requirements addressing any short-term or long-term harms—or *both* short-term and long-term harms—to the child that may result from their removal from the custody of their parent, guardian, or Indian custodian, and measures that may be available to alleviate disruption and minimize the harms of removal.

The bill did not disturb the basic requirements for removal at a detention hearing discussed above. The bill clarified in new subdivision (c)(2)(C) of section 319 that, “Nothing in this paragraph permits a child to be released to a parent, legal guardian, or Indian custodian, or to be placed in an unsafe placement, due solely to the court determining the child was not offered less

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<sup>3</sup> Section 300 subdivisions (a) through (j) are the grounds for the court’s jurisdiction of a child who has suffered, or is in substantial risk of suffering, serious harm, due to factors related to, *inter alia*, abuse, neglect, relinquishment, or the absence of provisions for support. The petition must state the facts sufficient to show that the child comes within one of the section 300 provisions. (§ 332.) The determination whether the child is a person described by section 300 is addressed at the jurisdiction hearing, which must be set within 15 judicial days after the detention hearing if the child is in custody at the time the petition is filed. (§§ 334, 355(a).)

<sup>4</sup> Sen. Rules Com., Analysis of Sen. Bill 578 (2023–2024 Reg. Sess.), Sept. 14, 2023, p. 6. Available online at: [https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=202320240SB578](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202320240SB578).

disruptive alternatives.” The bill addresses mitigating the harm of removal after the decision to remove has been made.

## **The Proposal**

The proposal would amend three rules and revise one form to reflect changes to the detention hearing discussed above made by SB 578.

### **Rule amendments**

The committee recommends amending three rules to reflect the changes made to section 319 by SB 578.

#### ***Rule 5.674. Conduct of hearing; admission, no contest, submission***

A minor amendment is proposed to subdivision (b) to reflect new language created by SB 578 requiring the court to review the report for the hearing described in section 319(b). There was some ambiguity prior to SB 578 whether a report from the social worker was required for the hearing.<sup>5</sup> Section 319 now requires that the court consider the report described in section 319(b), and the rule should reflect this change because the rule addresses evidence the court must consider at the detention hearing.

#### ***Rule 5.676. Requirements for detention***

There are recommended amendments to this rule that relate to the updated reporting requirements and to reducing statutory redundancy.

The requirements for removal of the child from the home stated in subdivision (a) are a restatement of the requirements in section 319(c)(1). The committee elected to maintain this language in the rule with one edit. Subdivision (a)(3) of the rule conditions detention by requiring that, “One or more of the grounds for detention in rule 5.678 is found.” Previous versions of rule 5.678 included the grounds for detention, but they have since been removed from the rule. The committee therefore proposes changing the reference to section 319(c)(1)(A)–(D) instead of rule 5.678.

The committee also proposes that subdivision (c) be amended to mandate the report information required in section 319(b) when describing the information in reports relied on by the court, for the same reasons discussed above.

Subdivision (c) also permits the court to “rely *solely* on written police reports, probation or social worker reports, or other documents” (*italics added*) when determining whether the child must be removed. It is recommended that this language remain in the rule because, as discussed above,

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<sup>5</sup> The previous version of section 319 required only that the social worker report to the court on certain matters without a specific reference to a social worker report. Subdivision (a) required the court “to examine the child’s parents, guardians, Indian custodian, or other persons having relevant knowledge and hear the relevant evidence as the child, the child’s parents or guardians, the child’s Indian custodian, the petitioner, the Indian child’s tribe, or their counsel desires to present.” SB 574 added language to this sentence that the court must also “review the report described in subdivision (b)...”

SB 578 does not modify the legal requirements for removal but instead addresses factors related to the child’s well-being after that decision has been made. The committee therefore elected to maintain this language.

In addition, current subdivision (c) includes two items that are already included in section 319:

- (1) A statement of the reasons the child was removed from the parent’s custody; and
- (4) Identification of the need, if any, for the child to remain in custody.

Both these reporting requirements are restatements of requirements stated in section 319(b). The committee therefore proposes deleting these items to reduce the redundancy of the rule.

Subdivision (d) of the rule also restates statutory requirements related to reporting requirements addressing an Indian child. The subdivision is a restatement of the items in section 319(b)(1)–(9). This restatement however was a deliberate decision by the committee when it implemented AB 3176 (Waldron; Stats. 2018, ch. 833) in 2019.<sup>6</sup> At the time, the committee considered it important to have these requirements restated in the rule because they were significant changes in practice, and because Indian Child Welfare Act requirements are often overlooked. The committee maintains this position and elects to retain the statutory requirements in the rule. An additional requirement was added to this list by SB 578 as section 319(b)(10), and this new subdivision has been included in the rule as well.

***Rule 5.678. Findings in support of detention; factors to consider; reasonable efforts; active efforts; detention alternatives***

Proposed amendments to this rule address minor technical updates to references of subdivision numbers in section 319 renumbered by SB 578. In addition, clarification of a new determination on the child’s placement created by SB 578 is proposed.

SB 578 added language to section 319 that requires the court to make a determination on the child’s placement:

“[The court’s] determination regarding the child’s placement, including whether it complies with the placement preferences set forth in Section 361.31 and less disruptive alternatives.” (§ 319(c)(2)(B)(ii).)

New subdivisions (d)(1) and (d)(2) are proposed to clarify this new determination. For the placement to comply with “less disruptive alternatives,” the committee reasoned that this means the court should make a finding whether the placement is the least disruptive alternative to return to the parent, guardian, or Indian custodian.<sup>7</sup> The committee is asking for comments on this

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<sup>6</sup> Proposal can be found here: [www.courts.ca.gov/documents/spr19-42.pdf](http://www.courts.ca.gov/documents/spr19-42.pdf).

<sup>7</sup> The requirement that the placement comply with section 361.31 was a preexisting requirement at detention found in section 319(h)(1)(C), and the committee did not believe further clarification was needed in the rule. The finding already exists on *Findings and Orders After Detention Hearing* (form JV-410) in item 16(d).

point. Information addressing this proposed finding is required by SB 578 to be included in the social worker report. The bill updated section 319(b) to require that the social worker include information in the report addressing “the placement options, including an assessment of the *least disruptive alternatives to returning the child to the custody of their parent, guardian, or Indian custodian...*” (italics added.)

In addition, to address mitigating the impact of removal, subdivision (d)(1) would also require the court, in its order, to consider whether measures are available to alleviate disruption to the child and minimize the impact of removal and whether those measures have been utilized. Information on this issue is also required by SB 578 to be addressed in the social worker report.

Finally, new subdivision (d)(2) includes a list of additional factors (beyond those in the statute) related to least disruptive alternatives and the impact of removal that the court may consider in addition to the factors listed in section 319(c)(2)(A)(i)–(iv). The committee listed those it concluded were important, but is seeking comments as to whether there are others it should consider recommending be added to the rule.

#### **JV-410: Findings and Orders After Detention Hearing**

There are several recommended revisions to the form addressing the detention hearing.

##### ***Less disruptive alternatives***

The bill requires the court to determine whether less disruptive alternatives to removal and the impact of removal were considered by the placing agency. Two items have been added to the form to address these new findings as items 15(m) and 15(n). The committee elected to also include the factors listed in section 319(c)(2)(A)(i)–(iv) on the form, to ensure that courts identify which factors related to the harm of removal were considered by the placing agency.

##### ***Determination regarding the child’s placement***

As discussed above, section 319(c)(2)(B)(ii) requires a new finding if the court orders the child’s removal from the home. Based on this language and the proposed amendments to rule 5.678 discussed above, it is recommended that the following finding be included on the form in item 15:

“o.  The child’s placement is the least disruptive alternative to return to the parent, guardian, or Indian custodian.”

A finding that the placement complies with section 361.31 already exists on the form in item 16(d). It is recommended that item 16(d) be revised to indicate the placement is the least disruptive alternative to return to the parent.

##### ***Other changes***

Item 15(e) and (f) are both recommended to be revised to address the update in section 319(c)(2)(B)(i), which requires the court—on the record or in its written order—to set forth its basis for its findings and evidence relied on. And a new subdivision (p) would be added to item

15 to address section 319(c)(2)(B)(iii) that the court include any orders necessary to alleviate any disruption or harm to the child resulting from removal.

### **Alternatives Considered**

The committee never considered not recommending revisions to *Findings and Orders After Detention Hearing* (form JV-410) because SB 578 created new findings that the court must make at the detention hearing. The committee did consider whether statutory redundancies should be removed from the rules in this proposal. It elected to remove some restatements of statutory provisions but left in others related to the Indian Child Welfare Act because these requirements are often overlooked, and it was deemed important to restate them in the rule for that reason.

The committee also considered whether a new subdivision was needed in rule 5.678 addressing the court's new determination of the child's placement in section 317(c)(2)(B)(ii), discussed above. The committee considered not including a new subdivision and letting courts implement this provision based on their own reading of the language. The committee elected, however, to propose a new subdivision to clarify this finding because the committee believed courts may benefit from further clarity on what determination related to the placement is required.

### **Fiscal and Operational Impacts**

New considerations required at the detention hearing are not likely to impact fiscal and operational impacts on courts. Any impact is likely to be negligible and will relate more to the implementation of SB 578 than it does to this rules and forms proposal. The proposed amended rules and revised form will provide greater clarity and uniformity for the proceedings for courts when implementing these new requirements, thus potentially easing fiscal and operational impacts that courts would face had the proposal not been offered.

### **Request for Specific Comments**

In addition to comments on the proposal as a whole, the advisory committee [or other proponent] is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Should rule 5.678 include the proposed subdivision (d)(1) addressing the court’s determination regarding the child’s placement and that it “is the least disruptive alternative to return to the parent, guardian, or Indian custodian”? Is this finding appropriate to describe the court’s determination regarding the child’s placement required in section 319(c)(2)(B)(ii)?
- Should rule 5.678 include the additional factors listed in subdivision (d)(2)(A)–(D) that the court may consider when addressing the impact of removal and least disruptive alternatives? Are there other factors that should be considered as well?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- 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?
- Would an effective date of January 1, 2025, three months from Judicial Council approval of this proposal until its effective date, provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

### **Attachments and Links**

1. Cal. Rules of Court, rules 5.674, 5.676, and 5.678, at pages 8–11
2. Form JV-410, at pages 12–17
3. Link A: Senate Bill 578 (Ashby; Stats. 2023, ch. 618),  
[https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=202320240SB578](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202320240SB578)

Rules 5.674, 5.676, and 5.678 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1 **Rule 5.674. Conduct of hearing; admission, no contest, submission**

2  
3 (a) \* \* \*

4  
5 (b) **Detention hearing; general conduct (§ 319; 42 U.S.C. § 600 et seq.)**

6  
7 (1) The court must read, consider, and reference any reports submitted by the  
8 social worker, the required report described in section 319(b), and any  
9 relevant evidence submitted by any party or counsel. All detention findings  
10 and orders must appear in the written orders of the court.

11  
12 (2) \* \* \*

13  
14 (c)–(e) \* \* \*

15  
16 **Rule 5.676. Requirements for detention**

17  
18 (a) **Requirements for detention (§ 319)**

19  
20 No child may be ordered detained by the court unless the court finds that:

21  
22 (1) A prima facie showing has been made that the child is described by section  
23 300;

24  
25 (2) Continuance in the home of the parent, Indian custodian, or guardian is  
26 contrary to the child’s welfare; and

27  
28 (3) One or more of the grounds for detention in section 319(c)(1)(A)–(D) ~~rule~~  
29 5.678 is present found.

30  
31 (b) \* \* \*

32  
33 (c) **Evidence required at detention hearing**

34  
35 In making the findings required to support an order of detention, the court may rely  
36 solely on written police reports, probation or social worker reports, or other  
37 documents.

38  
39 The reports relied on must include the required information in section 319(b), and:

40  
41 (1) ~~A statement of the reasons the child was removed from the parent’s custody;~~



1           (1)(2)A description of the services that have been provided, including those under  
2           section 306, and of any available services or safety plans that would prevent  
3           or eliminate the need for the child to remain in custody;  
4

5           (2)(3)If a parent is enrolled in a certified substance abuse treatment facility that  
6           allows a dependent child to reside with his or her parent, information and a  
7           recommendation regarding whether the child can be returned to the custody  
8           of that parent;  
9

10          (4) — ~~Identification of the need, if any, for the child to remain in custody;~~ and  
11

12          (3)(5)If continued detention is recommended, information about any parent or  
13          guardian of the child with whom the child was not residing at the time the  
14          child was taken into custody and about any relative or nonrelative extended  
15          family member as defined under section 362.7 with whom the child may be  
16          detained.  
17

18       **(d) Additional evidence required at detention hearing for Indian child**  
19

20       If it is known, or there is reason to know the child is an Indian child, the reports  
21       relied on must also include:  
22

- 23       (1) A statement of the risk of imminent physical damage or harm to the Indian  
24       child and any evidence that the emergency removal or placement continues to  
25       be necessary to prevent the imminent physical damage or harm to the child;  
26
- 27       (2) The steps taken to provide notice to the child’s parents, Indian custodian, and  
28       tribe about the hearing under section 224.3;  
29
- 30       (3) If the child’s parents and Indian custodian are unknown, a detailed  
31       explanation of what efforts have been made to locate and contact them,  
32       including contact with the appropriate Bureau of Indian Affairs regional  
33       director;  
34
- 35       (4) The residence and the domicile of the Indian child;  
36
- 37       (5) If either the residence or the domicile of the Indian child is believed to be on  
38       a reservation or in an Alaska Native village, the name of the tribe affiliated  
39       with that reservation or village;  
40
- 41       (6) The tribal affiliation of the child and of the parents or Indian custodian;  
42

- 1 (7) A specific and detailed account of the circumstances that caused the Indian  
2 child to be taken into temporary custody;  
3  
4 (8) If the child is believed to reside or be domiciled on a reservation in which the  
5 tribe exercises exclusive jurisdiction over child custody matters, a statement  
6 of efforts that have been made and that are being made to contact the tribe  
7 and transfer the child to the tribe’s jurisdiction; and  
8  
9 (9) A statement of the efforts that have been taken to assist the parents or Indian  
10 custodian so the Indian child may safely be returned to their custody.  
11  
12 (10) The steps taken to consult and collaborate with the tribe and the outcome of  
13 that consultation and collaboration.  
14

15 **Rule 5.678. Findings in support of detention; factors to consider; reasonable efforts;**  
16 **active efforts; detention alternatives**

17  
18 **(a) Findings in support of detention (§ 319; 42 U.S.C. § 672)**

19  
20 The court must order the child released from custody unless the court makes the  
21 findings specified in section 319(c)(1), and where it is known, or there is reason to  
22 know the child is an Indian child, the additional finding specified in section 319(d).  
23

24 **(b) \* \* \***

25  
26 **(c) \* \* \***

27  
28 **(d) Orders of the court (§ 319; 42 U.S.C. § 672)**

29  
30 If the court orders the child detained, the court must order that temporary care and  
31 custody of the child be vested with the county welfare department pending  
32 disposition or further order of the court and must make the other findings and  
33 orders specified in section 319(c)(2), (e), and (f)(3).  
34

35 (1) When making the finding in section 319(c)(2)(B)(ii), the court must  
36 determine whether the placement is the least disruptive alternative to return to  
37 the parent, guardian, or Indian custodian. The court must also consider  
38 whether measures are available to alleviate disruption to the child and  
39 minimize the impact of removal and whether those measures have been  
40 utilized.  
41

42 (2) When making that finding, in addition to considering the factors listed in  
43 section 319(c)(2)(A)(i) to (iv) related to the impact of removal and least

1 disruptive alternatives, the court may consider factors that include, but are not  
2 limited to whether a placement:

3  
4 (A) Can accommodate the proposed visitation schedule.

5  
6 (B) Will disrupt the child's extracurricular activities and their services,  
7 including but not limited to medical, dental, mental health, and  
8 educational services.

9  
10 (C) Will allow the child to observe their religious or cultural practices.

11  
12 (D) Can accommodate the child's special needs.

13  
14 (e) \* \* \*

15

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER:          <b>FOR COURT USE ONLY</b>          <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b> <b>JV-410.v7.022224.jh</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
<b>CHILD'S NAME:</b>	
<b>FINDINGS AND ORDERS AFTER DETENTION HEARING</b> (Welf. & Inst. Code, § 319)	CASE NUMBER:

1. This matter came before the court on the  
 original petition     subsequent petition     supplemental petition     other (specify):  
 filed on (date):

**2. Detention 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):

h. Party (name):	Present	Attorney (name):	Present	Appointed today
(1) Child:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(2) Mother:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(3) Father—presumed:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(4) Father—biological:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(5) Father—alleged:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(6) Legal guardian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(7) Indian custodian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(8) De facto parent:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(9) County agency social worker:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(10) Tribal representative:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(11) Other (specify):	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

- i. Others present in courtroom:
  - (1) Court Appointed Special Advocate (CASA) volunteer (name):
  - (2) Other (name):
  - (3) Other (name):

**3. The court has read and considered and admits the following into evidence:**

- a.  Report of social worker dated:
- b.  Report of CASA volunteer dated:
- c.  Other (specify):
- d.  Other (specify):

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

4. a.  Notice of the date, time, and location of the hearing was given as required by law.
- b.  **For a child 10 years of age or older who is not present**
- (1)  The child was properly notified under Welf. & Inst. Code, § 349(d) of the right to attend the hearing and was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.
- (2)  The child was not properly notified under Welf. & Inst. Code, § 349(d) of the right to attend the hearing or the child wished to be present and was not given an opportunity to be present and
- (a)  there is good cause for a continuance for a period of time necessary to provide notice and secure the presence of the child to enable the child to be present.
- (b)  it is in the best interest of the child not to continue the hearing.
5.  The attorney appointed to represent the child as the child's attorney of record is also appointed as the child's Child Abuse Prevention and Treatment Act guardian ad litem.
6.  a. The child will not benefit from representation by an attorney and, for the reasons stated on the record, the court finds
- (1) the child understands the nature of the proceedings;
- (2) the child is able to communicate and advocate effectively with the court, other counsel, other parties, including social workers, and other professionals involved in the case; and
- (3) under the circumstances of the case, the child would not gain any benefit from being represented by counsel.
- b. A Court Appointed Special Advocate volunteer is appointed for the child, and that person is also appointed as the child's Child Abuse Prevention and Treatment Act guardian ad litem.
7.  A Court Appointed Special Advocate volunteer is appointed for the child.
8. **Parentage**
- a.  The court inquired of the child's parents present at the hearing and other appropriate persons present as to the identity and addresses of all presumed or alleged parents of the child. All alleged parents present during the hearing who had not previously submitted a *Statement Regarding Parentage* (form JV-505) were provided with and ordered to complete form JV-505 and submit it to the court.
- b.  The clerk of the court is ordered to provide the notice required by Welf. & Inst. Code, § 316.2 to
- (1) alleged parent (*name*):
- (2) alleged parent (*name*):
- (3) alleged parent (*name*):
9. **ICWA Inquiry**
- On the record, the court has
- a.  asked each participant present at the hearing
- whether the participant is aware of any information indicating that the child is a member or citizen or eligible for membership or citizenship in an Indian tribe or Alaska Native village and if yes, the name of the tribe or village;
  - whether the residence or domicile of the child, either of the child's parents, or Indian custodian is on a reservation or in an Alaska Native village and if yes, the name of the tribe or village;
  - whether the child is or was ever a ward of a tribal court, and if yes, the name of the tribe or village; and
  - if the child, either of the child's parents, or the child's Indian custodian possesses an identification card indicating membership or citizenship in a tribe or Alaska Native village, and if so, the name of the tribe or village.
- b.  instructed the participants to inform the court if they receive any information indicating that the child is a member or citizen or eligible for membership or citizenship in a tribe or Alaska Native village.
10. **ICWA Status**
- a.  The court finds there is no reason to believe or reason to know the child is an Indian child and ICWA does not apply; or
- b.  The court finds there is reason to believe the child is an Indian child; and

CHILD'S NAME:	CASE NUMBER:
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10. b. (1)  the agency has completed further inquiry as required by Welf. & Inst. Code, § 224.2(e), and there is no reason to know that the child is an Indian child. ICWA does not apply; or
- (2)  the agency is ordered to complete further inquiry as required by Welf. & Inst. Code, § 224.2(e) and file with the court evidence of this inquiry, including all contacts with extended family members, tribes that the child may be affiliated with, the Bureau of Indian Affairs, the California Department of Social Services, and/or others.
- c.  The court finds that there is reason to know that the child is an Indian child, and
- (1)  the agency has presented evidence in the record that it has exercised due diligence to identify and work with all of the tribes where the child may be a member or eligible for membership to verify the child's status; or
- (2)  the agency is required to exercise due diligence to identify and work with all of the tribes where the child may be a member or eligible for membership to verify the child's status and provide notice in accordance with Welf. & Inst. Code, § 224.3 and file proof of due diligence and notice with the court; and
- (3)  notice has been provided as required by law; and
- (4)  the court will treat the child as an Indian child until it is determined on the record that the child is not an Indian child.
- d.  The court finds that the child is an Indian child and a member of the \_\_\_\_\_ tribe.

**11. ICWA Jurisdiction**

- a. It is known or there is reason to know that the child is an Indian child. The court finds (*select one*)
- (1)  that it has jurisdiction over the proceeding because
- (a) the court finds that the residence and domicile of the child are not on a reservation where the tribe exercises exclusive jurisdiction; and
- (b) the court finds that the child is not already under the jurisdiction of a tribal court; or
- (2)  the court finds that it does not have jurisdiction because the child is under the exclusive jurisdiction of the tribal court; or
- (3)  the court finds that the child is under the exclusive jurisdiction of the tribal court, but that there is a basis for emergency jurisdiction in accordance with section 1922 of title 25 of the United States Code.

**Advisements and waivers**

**12. The court has informed and advised the**

- mother                       biological father                       legal guardian                       child
- presumed father                       alleged father                       Indian custodian
- Other (*specify*): \_\_\_\_\_
- Other (*specify*): \_\_\_\_\_

of the following:

- a. The right of the child and each parent, legal guardian, and Indian custodian to be present and to be represented by counsel at every stage of the proceedings. The court may appoint counsel subject to the court's right to seek reimbursement, if an individual is entitled to appointed counsel and the individual is financially unable to retain counsel.
- b. The right to be informed by the court of the following:
- The contents of the petition;
  - The nature of and possible consequences of juvenile court proceedings;
  - The reasons for the initial detention and the purpose and scope of the detention hearing if the child is detained;
  - The right to have a child who is detained immediately returned to the home of the parent, legal guardian, or Indian custodian if the petition is not sustained;
  - That if the petition is sustained and the child is removed from the care of the parent, legal guardian, or Indian custodian, the time for services will commence on the date the petition is sustained or 60 days from the date of the initial removal, whichever is earlier;
  - That the time for services will not exceed 12 months for a child aged three years or over at the time of the initial removal; and
  - That the time for services will not exceed 6 months for a child under the age of three years at the time of the initial removal or for the member of a sibling group that includes such a child if the parent, legal guardian, or Indian custodian fails to participate regularly and make substantive progress in any court-ordered treatment program.

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- 12. c. The right to a hearing by the court on the issues presented by the petition.
- d. The right to assert the privilege against self-incrimination; to confront and cross-examine the persons who prepared reports or documents submitted to the court by the petitioner and the witnesses called to testify against the parent, legal guardian, or Indian custodian; to subpoena witnesses; and to present evidence on their own behalf.

13.  The  mother  biological father  legal guardian  child  
 presumed father  alleged father  Indian custodian  
 Other (specify):  
 Other (specify):

**has knowingly and intelligently waived the right** to a court trial on the issues, the right to assert the privilege against self-incrimination, the right to confront and cross-examine adverse witnesses, the right to subpoena witnesses, and the right to present evidence on one's own behalf.

14.  **CHILD NOT DETAINED**

- a.  Services that would prevent the need for further detention, including those set forth in item 17, are available.
- b.  The child is returned to the custody of  
 mother  biological father  legal guardian  Other (specify):  
 presumed father  alleged father  Indian custodian  Other (specify):

15.  **CHILD DETAINED**

- a. Services that would prevent the need for further detention are not available.
- b. A prima facie showing has been made that the child comes within Welf. & Inst. Code, § 300.
- c. Continuance in the parent's or legal guardian's home is contrary to the child's welfare **AND (select at least one)**
  - (1)  there is a substantial danger to the physical health of the child or the child is suffering severe emotional damage, and there are no reasonable means by which the child's physical or emotional health may be protected without removing the child from the physical custody of the parent or legal guardian.
  - (2)  there is substantial evidence that a parent, legal guardian, or custodian of the child is likely to flee the jurisdiction of the court, and in the case of an Indian child, fleeing the jurisdiction will place the child at risk of imminent physical damage or harm.
  - (3)  the child has left a placement in which they were placed by the juvenile court.
  - (4)  the child has been physically abused by a person residing in the home and is unwilling to return home.
  - (5)  the child has been sexually abused by a person residing in the home and is unwilling to return home.
- d. The child is detained, and temporary placement and care of the child is vested with the county child and family services agency pending the hearing under Welf. & Inst. Code, § 355 or further order of the court.
- e. The initial removal of the child from the home was necessary for the reasons **stated here or the reasons** stated on the record:
- f. The facts on which the court bases its decision to order the child detained are stated **here or were stated** on the record:
- g. The child is placed in
  - (1)  the approved home of a relative.
  - (2)  an emergency shelter.
  - (3)  other suitable licensed place.
  - (4)  a place exempt from licensure designated by the juvenile court.
  - (5)  the approved home of a nonrelative extended family member as defined in Welf. & Inst. Code, § 362.7.
  - (6)  a short-term residential therapeutic program or community treatment facility. A hearing to review the placement under Welf. & Inst. Code, § 361.22 is set for (date):
- h. Services, including those set forth in item 17, are to be provided to the family as soon as possible to reunify the child with their family.

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- 15. i.  Reasonable efforts were made to prevent or eliminate the need for removal from the home.
- j.  Reasonable efforts were not made to prevent or eliminate the need for removal from the home.
- k.  There is a relative who is able, approved, and willing to care for the child.
- l.  A relative who is able, approved, and willing to care for the child is not available. This is a temporary finding and does not preclude later placement with a relative under Welf. & Inst. Code, § 361.3.
- m.  Less disruptive alternatives to removal were considered by the agency.
- n.  The impact of removal on the child was considered by the agency, including:
  - (1)  the relationship between the child and their parents, guardians, or Indian custodians, based on the child's perspective.
  - (2)  the child's response to removal and, where developmentally appropriate, their perspective on removal.
  - (3)  the relationship between the child and any siblings.
  - (4)  the relationship between the child and other members of the household.
  - (5)  any disruption to the child's schooling, social relationships, and physical or emotional health that may result from placement out of the home, and in the case of an Indian child, any impact on the child's connection to their tribe, extended family members, and tribal community.
  - (6)  Other (*specify*):
- o.  The child's placement is the least disruptive alternative to return to the parent, guardian, or Indian custodian.
- p.  Orders necessary to alleviate any disruption or harm to the child resulting from removal were stated on the record or are stated here:

16.  **CHILD DETAINED AND THERE IS REASON TO KNOW CHILD IS AN INDIAN CHILD**

- a.  The evidence includes all of the requirements of Welf. & Inst. Code, § 319(b).
- b.  As detailed in the record, the agency has made active efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and these efforts have proved  successful or  unsuccessful;  
 the agency has not made active efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family; the agency is ordered to initiate or continue active efforts.
- c.  For the reasons stated on the record, detention is necessary to prevent imminent physical damage or harm to the child.
- d.  The child's placement complies with the placement preferences set forth in Welf. & Inst. Code, § 361.31, and is the least disruptive alternative to return to the parent, guardian, or Indian custodian. The child is placed
  - with a member of the child's extended family;
  - in a foster home licensed, approved, or specified by the child's tribe;
  - in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
  - in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs.

OR

 for the reasons stated on the record, the court finds by clear and convincing evidence that there is good cause not to follow the placement preferences.

17.  The services below will be provided pending further proceedings:

Service	Mother	Presumed father	Biological father	Legal guardian	Indian custodian	Other (specify):
a. <input type="checkbox"/> Alcohol and drug testing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. <input type="checkbox"/> Substance abuse treatment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. <input type="checkbox"/> Parenting education	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. <input type="checkbox"/> ( <i>Specify</i> ):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. <input type="checkbox"/> ( <i>Specify</i> ):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. <input type="checkbox"/> ( <i>Specify</i> ):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



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18.  **Contact with the child is ordered as stated in** (check appropriate boxes and attach indicated forms)
- a.  Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person (form JV-400).
  - b.  Visitation Attachment: Sibling (form JV-401).
  - c.  Visitation Attachment: Grandparent (form JV-402).

19.  The  mother  biological father  legal guardian  
 presumed father  alleged father  Indian custodian  
 Other (specify):  
 Other (specify):

must disclose to the county agency social worker the names, residences, and any known identifying information of any maternal or paternal relatives of the child.

20.  The  mother  biological father  legal guardian  
 presumed father  alleged father  Indian custodian  
 Other (specify):  
 Other (specify):

must complete *Your Child's Health and Education* (form JV-225) or provide the necessary information for the county agency social worker to complete the form.

21.  There is reason to know the child is an Indian child, and the county agency must provide notice under Welf. & Inst. Code, § 224.3 for any hearings that may result in the removal or foster care placement of the child, termination of parental rights, preadoptive placement, or adoptive placement. Proof of such notice must be filed with this court.

22.  **Other findings and orders**

- a.  See attached.
- b.  (Specify):

23.  The parents, legal guardians, and Indian custodians must keep the court, the agency, and their attorneys advised of their current addresses and telephone numbers and provide written notification of any changes to their mailing addresses. The parents, legal guardians, and Indian custodians present during the hearing who had not previously submitted a *Notification of Mailing Address* (form JV-140) or its equivalent were provided with and ordered to complete the form or its equivalent and to submit it to the court before leaving the courthouse today.

24.  **The next hearing is scheduled as follows:**

Hearing date:	Time:	Dept.:	Room:
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- a.  Jurisdictional hearing
- b.  Dispositional hearing
- c.  Settlement conference
- d.  Mediation
- e.  Other (specify):

25. **All prior orders not in conflict with this order remain in full force and effect.**

26. Number of pages attached: \_\_\_\_\_

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

\_\_\_\_\_  
Judicial Officer

Countersignature for detention orders (if necessary):

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

\_\_\_\_\_  
Judge