

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

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Report

TO: Members of the Judicial Council

FROM: Family and Juvenile Law Advisory Committee
Hon. Mary Ann Grilli and Hon. Susan Huguenor, Co-chairs
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DATE: August 16, 2004

SUBJECT: Juvenile Law: Maintaining Children's Important Relationships (amend Cal. Rules of Court, rules 1410, 1412, 1460–1463, and 1466; revise form JV-365) (Action Required)

Issue Statement

Assembly Bill 408 (Steinberg) (Stats. 2003, ch. 813), signed into law in 2003, amended Welfare and Institutions Code sections 349, 366, 366.1, 366.21, 366.22, 366.26, 366.3, 391, 10609.4, 16206, 16500.1, and 16501.1 and added section 362.05. The changes were primarily intended to ensure that children in foster care retain or reestablish important relationships with individuals other than parents or siblings. The bill also addressed other issues, including notice and requirements regarding children's presence at court proceedings.

The proposed amendments would bring rules 1410, 1412, 1460–1463, and 1466 into conformance with the new statutory language as well as make technical changes, including correcting typographical errors and inadvertent omissions of necessary statutory language unrelated to AB 408.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2005, amend rules 1410, 1412, 1460–1463, and 1466 of the California Rules of Court and revise form JV-365, *Termination of Dependency Jurisdiction—Child Attaining Age of Majority*, to conform the rules and form to new statutory language and to make technical changes including correcting typographical errors and inadvertent omissions of necessary statutory language unrelated to AB 408.

The text of the amended rules is attached at pages 6–17; the text of the revised form is attached at pages 18–19.

Rationale for Recommendation

The overarching goal of AB 408 was to achieve permanency for older children in foster care and reduce reliance on long-term foster care for these children. The author's office noted that "the ultimate goal is to ensure that no child is emancipated without a connection, a real committed relationship to a caring adult." Where previously the court was required to consider a child's relationships only with relatives, this legislation ensures that relationships with adults who are not relatives but are important to the child will be protected and encouraged. Examples of such caring adults include teachers, coaches, mentors, clergymen and -women, neighbors, family friends, and former foster parents. Further, the Legislature intended that the inquiry into such relationships may result in finding a potential permanent placement for the child.

AB 408 was supported by a large number of organizations and entities interested in child welfare, including the Family Law Section of the State Bar of California, Juvenile Court Judges of California (California Judges Association), California CASA Association, California Youth Connection (a foster youth organization), and a number of children's law offices, child advocacy groups, and local governments.

The proposed amendments would bring rules 1410, 1412, 1460–1463, and 1466 and form JV-365 into conformance with the new statutory language as well as make technical changes.

The specific revisions to the rules and form are described below.

1. Rule 1410 (Persons present), would be amended to indicate that anyone entitled to notice under Welfare and Institutions Code sections 290.1 and 290.2 is entitled to be present (rule 1410(b)(11)).
2. Rule 1412 (General provisions—proceedings) would be amended to add the new requirement that if the child is 10 years of age or older and he or she is not present at the hearing, the court must determine whether the child was properly notified of his or her right to attend the hearing and ask why the child is not present (rule 1412(n)). The inquiry clause is not in the statute but is included in the proposed rule to make this requirement consistent with a similar requirement in rule 1463.
3. Rule 1460 (Six-month review hearing) would be amended to reference the newly expanded requirements for social worker reports (rule 1460(c)(1)(C)); to reference the required court findings in section 366.1 (rule 1460(e)(2)(C)); to include the requirement that the court consider any report prepared by the child's caregiver (rule 1460(d)); to include the new language permitting courts to enter appropriate orders to enable children to maintain relationships with important individuals (rule 1460(f)(2)(D)); and to correct minor omissions in the required findings and orders when a 366.26 hearing is set (rule 1460(f)(2)) as well as the procedure when six months of additional reunification services are to be offered (rule 1460(f)(11)).

The words “consistent with the child’s best interest,” although not part of the statutory language, were included in rules 1460(f)(2)(D), 1461(d), and 1462(c) to clarify that the court is not obligated to make orders that would serve to maintain a relationship with an adult that would not be beneficial for the child.

4. Rule 1461 (Twelve-month review hearing) and rule 1462 (Eighteen-month review hearing) would be amended to reference the required court findings in section 366.1 (rules 1461(b)(3) and 1462(b)(3)); to add a warning to parents that a 366.26 hearing may be set if the child does not return home at the 18-month hearing (rule 1461(d)(1)); to add the newly required findings and orders regarding maintenance of children’s relationships with significant individuals (rule 1461(d)(2) and (d)(3)(A) and rule 1462(c)(3)(A) and (c)(4)); to include the requirement that the court consider any report prepared by the child’s caregiver (rules 1461(c) and 1462(c)); to change the language used when foster care is ordered as the child’s plan, to conform to state and federal law (rules 1461(d)(2) and 1462(c)(3)(A)); and to correct omissions regarding social worker report requirements (rule 1462(b)) and termination of reunification services (rule 1462(c)(6)).
5. Rule 1463 (Selection of a permanent plan) would be amended to include a new section requiring the court, in some circumstances, to determine whether the child was properly noticed (rule 1463(d)); to ask why the child is not present in court (rule 1463(d)); to include the requirement that the court consider any report prepared by the child’s caregiver (rule 1463(e)); to change the language used when foster care is ordered as the child’s plan, to conform to state and federal law (rule 1463(e)(6)); and to require that some children placed in group homes be asked to identify potential guardians (rule 1463(e)(6)).
6. Rule 1466 (Hearings subsequent to a permanent plan) would be amended to require the court to inquire about the progress being made toward finding a permanent home for the child and to enter findings as required by section 366.3 (rule 1466(a) and (b)); to correct a typographical error regarding a form number (rule 1466(d)); and to make other technical changes.
7. Revised form JV-365, *Termination of Dependency Jurisdiction—Child Attaining Age of Majority (Juvenile)*, includes a check box for the social worker to indicate whether he or she has provided the child with the required assistance to maintain important relationships. The revised form includes new instructions to clarify the role of the social worker and the child in completing the form. The revised form also corrects a minor typographical error.

AB 2807, clean-up legislation that would clarify some of AB 408’s provisions, and narrow other provisions, was introduced on February 20, 2004 and is currently pending. The Family and Juvenile Law Advisory Committee recommends moving forward on this

proposal; the committee will monitor the progress of AB 2807 and, if necessary, propose modifications at a later date.

Alternative Actions Considered

The proposed amendments and revisions are needed to bring the rules and forms into compliance with newly adopted law and to make technical corrections. No alternative actions were considered.

Comments From Interested Parties

The invitation to comment on the proposal was circulated from April 5, 2004, through June 4, 2004, to the standard mailing list for family and juvenile law proposals as well as the regular rules and forms mailing list. This distribution list includes judges, court administrators, attorneys, social workers, probation officers, mediators and other family and juvenile law professionals.

The committee received a total of seven comments. No commentators disagreed with the proposal. Four commentators agreed with the proposed changes; three commentators agreed if the proposal is modified.

The latter commentators suggested both substantive and technical changes, including changing the wording of some rules and the form to be more consistent with statutory language or to use simpler English and correcting grammatical errors.

One commentator asked us to modify the rules to include the statutory requirement that the court read and consider any report submitted by the child's caregiver. The rules were modified to include this requirement.

One commentator asked us to revise the rules in anticipation of the passage of AB 2807 which will, if passed, slightly modify the definition of the children to whom the new requirements will pertain and make other minor changes. If the legislation is signed into law, the proposed rules will be revised to be consistent with the new law.

We were asked by one commentator to update the terms "court-appointed child advocate" and "long-term foster care" throughout the rules. We agree with these suggestions. "Court-appointed child advocate" has been changed to "Court Appointed Special Advocate (CASA) volunteer" or "Court Appointed Special Advocate (CASA) program" as appropriate. "Long-term foster care" has been eliminated as it no longer appears in the federal statutes and it is not a preferred placement under the Adoption and Safe Families Act (ASFA). The term has been replaced with "foster care," and new language specifies that if "the court orders that the child remain in foster care, it must identify the foster care setting by name and identify a specific permanency goal for the child" and that the name and address of the placement may remain confidential.

One commentator asked us to (1) use “shall” instead of “must” to be consistent with the statute, (2) add a statutory reference to rule 1462(b), and (3) delete a seemingly redundant passage. These changes have not been made because (1) council policy is to replace the word “shall” with “must,” where appropriate; (2) the suggested statutory addition is incorrect; and (3) the seemingly redundant language is necessary because it appears in two different contexts.

The comments are attached at pages 20–23.

Implementation Requirements and Costs

Implementation of the form will require courts to incur standard reproduction costs.

Attachments

Rules 1410, 1412, 1460–1463, and 1466 of the California Rules of Court are amended, effective January 1, 2005, to read:

1 **Rule 1410. Persons present**

2
3 (a) **[Separate session; restriction on persons present (§§ 345, 675)]** All
4 juvenile court proceedings ~~shall~~ must be heard at a special or separate
5 session of the court, and no other matter ~~shall~~ may be heard at that
6 session. No person on trial, awaiting trial, or accused of a crime, other
7 than a parent, de facto parent, guardian, or relative of the child, ~~shall be~~
8 ~~permitted to~~ may be present at the hearing, except while testifying as a
9 witness.

10
11 (b) **[Persons present (§§ 280, 290.1, 290.2, 332, 335, 347, 349, 353, 656,**
12 **658, 677, 679, 681, 700; 25 U.S.C. §§ 1911, 1931–1934)]** The
13 following persons are entitled to be present:

14
15 (1)–(9) * * *

16
17 (10) At the court’s discretion, a bailiff; and

18
19 (11) Any other persons entitled to notice of the hearing under sections
20 290.1 and 290.2

21
22 (c)–(e) * * *

23
24 **Rule 1412. General provisions—proceedings**

25
26 (a)–(m) * * *

27
28 **(n) [Presence of child (§ 349)]** If the child is 10 years of age or older and
29 he or she is not present at the hearing, the court must determine whether
30 the child was properly notified of his or her right to attend the hearing
31 and ask why the child is not present at the hearing.

32
33 **Rule 1460. Six-month review hearing**

34
35 (a)–(b) * * *

36
37 (c) **[Report (§§ 366.1, 366.21)]** Before the hearing, petitioner must
38 investigate and file a report describing the services offered the family
39 and progress made and, if relevant, the prognosis for return of the child
40 to the parent or guardian.

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- (1) The report must contain:
 - (A) Recommendations for court orders and the reasons for those recommendations; ~~and~~
 - (B) A description of the efforts made to achieve legal permanence for the child if reunification efforts fail; and
 - (C) A factual discussion of each item listed in section 366.1.

(2) At least 10 calendar days before the hearing, the petitioner must file the report, provide copies to the parent or guardian and ~~their~~ his or her counsel and to counsel for the child, and provide a summary of the recommendations to the present custodians of the child and to any ~~court-appointed child advocate~~ Court Appointed Special Advocate (CASA) volunteer.

(d) [Reports] The court must consider the report prepared by petitioner, ~~and the report of any court-appointed child advocate~~ Court Appointed Special Advocate (CASA) volunteer, and any report submitted by the child’s caregiver pursuant to section 366.21(d).

(e) [Determinations—burden of proof (§§ 366, 366.1, 366.21, 364)]

- (1) * * *
- (2) If the child has been removed from the custody of the parents or guardians, the court must order the child returned unless the court finds that petitioner has established by a preponderance of the evidence that return would create a substantial risk of detriment to the child. If the child has been removed from the custody of the parents or guardians, the court must consider whether reasonable services have been provided or offered. If the child is returned, the court may order the termination of dependency or order continued dependency services and set a review hearing within six months.

- (A) The court must find that:
 - (i) Reasonable services have been offered or provided; or
 - (ii) Reasonable services have not been offered or provided.

1 (B) The following in and of themselves are insufficient to support
2 a finding that reasonable services have not been offered or
3 provided:
4

5 (i)–(iii) * * *

6
7 (C) The court must enter additional findings as required by
8 section 366(a)(1) and (2).
9

10 (3)–(5) * * *

11
12 (f) **[Conduct of hearing (§ 366.21)]** If the court does not return custody of
13 the child,
14

15 (1) The court may set a hearing under section 366.26 within 120 days
16 if:
17

18 (A)–(E) * * *

19
20 (2) If the court orders a hearing under section 366.26;:

21
22 (A) The court must direct that an assessment under section
23 366.21(i) be prepared;:
24

25 (B) The court must order the termination of reunification services
26 to the parent or legal guardian;
27

28 (C) The court must continue to permit the parent or legal guardian
29 to visit the child, unless it finds that visitation would be
30 detrimental to the child; and
31

32 (D) The court must make any other appropriate orders to enable
33 the child to maintain relationships with other individuals who
34 are important to the child, consistent with the child’s best
35 interest.
36

37 (3)–(10) * * *

38
39 (11) If the child is not returned and the court does not set a 366.26
40 hearing, then the court must order that any reunification services
41 previously ordered will continue to be offered to the parent or
42 guardian, and the court may modify those services as appropriate.

1 The court must set a date for the next review hearing no later than
2 12 months from the date the child entered foster care.

3
4 (g)–(i) * * *

5
6 **Rule 1461. Twelve-month review hearing**

7
8 (a) * * *

9
10 (b) [Reports (§§ 366.1, 366.21)] Before the hearing the petitioner must
11 prepare a report describing services offered to the family and progress
12 made. The report must include:

13
14 (1) Recommendations for court orders and the reasons for those
15 recommendations, ~~and~~;

16
17 (2) A description of the efforts made to achieve legal permanence for
18 the child if reunification efforts fail; and

19
20 (3) A factual discussion of each item listed in section 366.1.

21
22 (c) [Conduct of hearing] At the hearing, the court must state on the record
23 that the court has read and considered the report of petitioner, the report
24 of any ~~Court Appointed~~ Court Appointed Special Advocate (CASA)
25 volunteer, any report submitted by the child’s caregiver pursuant to
26 section 366.21(d), and any other evidence, and must proceed as follows:

27
28 (1)–(6) * * *

29
30 (d) [Determinations and orders] The court must proceed as follows:

31
32 (1) Continue the case for review hearing to a date not later than 18
33 months from the date of the initial removal; if the court finds that
34 there is a substantial probability of return within that time or that
35 reasonable services have not been offered or provided. If the court
36 continues the case for an 18-month review hearing, the court must
37 inform the parent or guardian that if the child cannot be returned
38 home by the next hearing, a proceeding under section 366.26 may
39 be instituted; or

40
41 (2) Order that the child remain in ~~long-term~~ foster care; if it finds by
42 clear and convincing evidence already presented that a 366.26
43 hearing is not in the best interest of the child because the child is

1 ~~not adoptable~~ not a proper subject for adoption and there is has no
2 one willing to serve as guardian accept legal guardianship. If the
3 court orders that the child remain in foster care, it must identify the
4 foster care setting by name and identify a specific permanency
5 goal for the child. The court may order that the name and address
6 of the foster home remain confidential. If the child is 10 years of
7 age or older and is placed in a group home, the court:
8

9 (A) Must determine whether the agency has identified
10 individuals, in addition to the child's siblings, who are
11 important to the child and will maintain caring, permanent
12 relationships with the child, consistent with the child's best
13 interest;
14

15 (B) Must determine whether the agency has made reasonable
16 efforts to nurture and maintain the child's relationships with
17 those individuals, consistent with the child's best interest; and
18

19 (C) May make any appropriate order to ensure that those
20 relationships are maintained; or
21

22 (3) Order a hearing under section 366.26 within 120 days, if the court
23 finds there is no substantial probability of return within 18 months
24 of the date of initial removal and finds by clear and convincing
25 evidence that reasonable services have been provided to the parent
26 or guardian.
27

28 ~~(4)~~(A) If the court orders a hearing under section 366.26,
29 termination of reunification services must also be ordered.
30 Visitation ~~may~~ must continue unless the court finds it would
31 be detrimental to the child. The court must enter any other
32 appropriate orders to enable the child to maintain
33 relationships with other individuals who are important to the
34 child, consistent with the child's best interest.
35

36 ~~(5)~~(B) * * *

37
38 ~~(6)~~(C) * * *

39
40 ~~(7)~~(D) * * *

41
42 (A)(i) * * *
43

1 ~~(B)~~(ii) * * *

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3 ~~(8)~~(E) * * *

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5 ~~(9)~~(F) * * *

6
7 ~~(10)~~(G) * * *

8
9 ~~(A)~~(i) * * *

10
11 ~~(B)~~(ii) * * *

12
13 ~~(11)~~(H) * * *

14
15 ~~(12)~~(I) * * *

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17 ~~(13)~~(J) * * *

18
19 ~~(A)~~(i) * * *

20
21 ~~(B)~~(ii) * * *

22
23 (e) * * *

24
25 **Rule 1462. Eighteen-month review hearing**

26
27 (a) **[Setting for hearing; notice (§ 366.22)]** If a child was not returned at
28 the 6- or 12-month review hearing, a permanency review hearing ~~shall~~
29 must be held no later than 18 months from the date of the initial
30 removal. Notice of the hearing ~~shall~~ must be given as provided in rule
31 1460.

32
33 (b) **[Reports (§§ 366.1, 366.21)]** Before the hearing the petitioner must
34 prepare a report describing services offered to the family and progress
35 made. The report must include:

36
37 (1) Recommendations for court orders and the reasons for those
38 recommendations;

39
40 (2) A description of the efforts made to achieve legal permanence for
41 the child if reunification efforts fail; and

42
43 (3) A factual discussion of each item listed in section 366.1.

1
2 **(b) (c) [Conduct of hearing (§ 366.22)]** At the hearing the court ~~shall~~ must
3 state on the record that the court has read and considered the report of
4 petitioner, the report of any ~~court-appointed child advocate~~ Court
5 Appointed Special Advocate (CASA) volunteer, any report submitted
6 by the child’s caregiver pursuant to section 366.21(d), and other
7 evidence, and shall must proceed as follows:
8

9 (1)–(2) * * *

10
11 (3) If the court does not order return, the court ~~shall~~ must specify the
12 factual basis for its finding of risk of detriment, terminate
13 reunification services, and
14

15 (A) Order that the child remain in ~~long-term~~ foster care, if it finds
16 by clear and convincing evidence already presented that a
17 366.26 hearing is not in the best interest of the child is not
18 adoptable because the child is not a proper subject for
19 adoption and there is no one to serve as guardian; has no one
20 willing to accept legal guardianship. If the court orders that
21 the child remain in foster care, it must identify the foster care
22 setting by name and identify a specific permanency goal for
23 the child. The court may order that the name and address of
24 the foster home remain confidential. If the child is 10 years
25 of age or older and is placed with a nonrelative, the court:
26

27 (i) Must determine whether the agency has identified
28 individuals, in addition to the child’s siblings, who are
29 important to the child and will maintain caring,
30 permanent relationships with the child, consistent with
31 the child’s best interest;
32

33 (ii) Must determine whether the agency has made reasonable
34 efforts to nurture and maintain the child’s relationships
35 with those individuals, consistent with the child’s best
36 interest; and
37

38 (iii) May make any appropriate order to ensure that those
39 relationships are maintained; or
40

41 (B) Order a hearing under section 366.26 within 120 days.
42

1 (4) Visitation ~~shall~~ must continue unless the court finds it would be
2 detrimental to the child. The court may enter any other appropriate
3 orders to enable the child to maintain relationships with other
4 individuals who are important to the child, consistent with the
5 child's best interest.

6
7 (5) The court ~~shall~~ must consider whether reasonable services have
8 been provided. Evidence that the child has been placed with a
9 relative or foster family who ~~that~~ is eligible to adopt, or that the
10 child has been placed in a preadoptive home is insufficient alone to
11 support a finding that reasonable services have not been offered or
12 provided. The court ~~shall~~ must find that:

13
14 (A)–(B) * * *

15
16 (6) If the court orders a hearing under section 366.26, the court ~~shall~~
17 must terminate reunification services and direct that an assessment
18 be prepared as stated in section 366.22(b).

19
20 (7)–(11) * * *

21
22 **(e)(d) [Setting a hearing under section 366.26]** At the 18-month review
23 hearing, the court ~~shall~~ must not set a hearing under section 366.26 to
24 consider termination of the rights of only one parent unless that parent
25 is the only surviving parent, ~~or~~ the rights of the other parent have been
26 terminated by a California court of competent jurisdiction or by a court
27 of competent jurisdiction of another state under the statutes of that state,
28 or the other parent has relinquished custody of the child to the county
29 welfare department.

30
31 **Rule 1463. Selection of permanent plan (§ 366.26)**

32
33 **(a)** * * *

34
35 **(b) [Notice of hearing (§ 366.23)]** Notice must be given to the child if 10
36 years or older, the mother, presumed and alleged fathers, any ~~court-~~
37 ~~appointed child advocate~~ Court Appointed Special Advocate (CASA)
38 volunteer, and counsel of record, on Judicial Council form *Notice of*
39 *Hearing on Selection of a Permanent Plan—Juvenile (JV-300)*.

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41 (1)–(4) * * *

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43 **(c)** * * *

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(d) [Presence of child] If the child is 10 years of age or older and is not present at the hearing, the court must determine whether the child was properly notified of his or her right to attend the hearing and ask why the child is not present. If the child is under 10 years of age, the child may not be present in court unless the child or the child’s counsel so requests or the court so orders.

(d)(e) [Conduct of hearing] At the hearing, the court must state on the record that the court has read and considered the report of petitioner, the report of any ~~court-appointed child advocate~~ Court Appointed Special Advocate (CASA) volunteer, any report submitted by the child’s caregiver pursuant to section 366.21(d), and other evidence, and must proceed as follows:

(1)–(5) * * *

(6) If the court finds that paragraph (1)(A) or (1)(B) of this subdivision applies, the court must appoint the present custodian or other appropriate person to become the child’s legal guardian, or must order the child to remain in ~~long-term~~ foster care. If the court orders that the child remain in foster care, it must identify the foster care setting by name and identify a specific permanency goal for the child. The court may order that the name and address of the foster home remain confidential. Legal guardianship must be given preference over ~~long-term~~ foster care when it is in the interest of the child and a suitable guardian can be found. A child who is 10 years of age or older who is placed in a group home must be asked to identify any adults who are important to him or her in order for the agency to investigate and the court to determine whether any of those adults would be appropriate to serve as legal guardians. Younger children may be asked, as appropriate. The child must not be removed from the home of a foster parent or relative who is not willing to become a legal guardian, but ~~who~~ is willing and capable of providing a stable and permanent home for the child, and with whom the child has substantial psychological ties, if the court finds that the removal would be seriously detrimental to the emotional well-being of the child. The court must make an order for visitation with the parent or guardian unless the court finds by a preponderance of the evidence that the visitation would be detrimental to the child.

(7) * * *

1
2 **(e)(f) [Procedures—termination of parental rights]**

3
4 (1)–(3) * * *

5
6 **(f)(g) [Procedures—legal guardianship]** The proceedings for
7 appointment of a legal guardian for a dependent child of the juvenile
8 court must be in the juvenile court as provided in rule 1465.

9
10 **(g)(h) [Purpose of termination of parental rights]** The purpose of
11 termination of parental rights is to free the dependent child for adoption.
12 Therefore, the court must not terminate the rights of only one parent
13 unless that parent is the only surviving parent, ~~or~~ the rights of the other
14 parent have been terminated by a California court of competent
15 jurisdiction or by a court of competent jurisdiction of another state
16 under the statutes of that state, or the other parent has relinquished
17 custody of the child to the county welfare department. The rights of the
18 mother, any presumed father, any alleged father, and any unknown
19 father or fathers must be terminated in order to free the child for
20 adoption.

21
22 **(h)(i) [Advice of appeal rights]** The court must advise all parties of their
23 appeal rights as provided in rule 1435.

24
25 **Rule 1466. Hearings subsequent to a permanent plan (§§ 366.26, 366.3, 391)**

26
27 **(a) [Review hearings—adoption and guardianship]** Following ~~the an~~ an
28 order for termination of parental rights or a plan for the establishment of
29 a guardianship under section 366.26, the court ~~shall~~ must retain
30 jurisdiction and conduct review hearings every six months to ensure the
31 expeditious completion of the adoption or guardianship.

32
33 (1) At the review hearing, the court shall must consider the report of
34 the petitioner, as required by section 366.3(f), and the report of any
35 court-appointed child advocate. Court Appointed Special Advocate
36 (CASA) volunteer, and any report submitted by the child’s
37 caregiver pursuant to section 366.21(d); inquire about the progress
38 being made to provide a permanent home for the child; consider
39 the safety of the child; and enter findings as required by section
40 366.3(e).

41
42 (2) When adoption is granted, the court shall must terminate its
43 jurisdiction.

1
2 (3) When legal guardianship is granted, the court may continue
3 dependency jurisdiction if it is in the best interests of the child, or
4 the court may terminate dependency jurisdiction and retain
5 jurisdiction over the child as a ward of the guardianship.
6

7 (4) Notice of the hearing ~~shall~~ must be given as provided in rule 1460
8 and to the guardian if one has been appointed. Parents are to be
9 given notice of all hearings unless their parental rights have been
10 terminated.
11

12 (b) **[Review hearings—foster care]** Following the establishment of a plan
13 ~~other than those provided for in subsection (a) of this rule for long-term~~
14 ~~foster care, or when the court has authorized the filing of a petition~~
15 ~~under Part 4 (commencing with section 7800) of Division 12 of the~~
16 ~~Family Code or freed the child for adoption but the child is not placed~~
17 ~~in an adoptive home, review hearings shall~~ must be conducted every six
18 months by the court or by a local review board.
19

20 (1) At the review hearing, the court or review board ~~shall~~ must
21 consider the report of the petitioner, ~~and~~ the report of any ~~court-~~
22 ~~appointed child advocate~~ Court Appointed Special Advocate
23 (CASA) volunteer, and any report submitted by the child's
24 caregiver pursuant to section 366.21(d); inquire about the progress
25 being made to provide a permanent home for the child; consider
26 the safety of the child; and enter findings regarding each item
27 listed in section 366.3(e).
28

29 (2) No less frequently than once every 12 months, the court ~~shall~~ must
30 conduct a review of the previously ordered permanent plan to
31 consider whether the plan continues to be appropriate for the child.
32 The 12-month review may be combined with the ~~six~~ 6-month
33 review.
34

35 (3) If circumstances have changed since the permanent plan was
36 ordered, the court may order a new permanent plan under section
37 366.26 at any subsequent hearing, or any party may seek a new
38 permanent plan by a motion filed under rule 1432.
39

40 (4) Notice of the hearing ~~shall~~ must be given as provided in rule 1460.
41 Parents are to be given notice of all hearings unless their parental
42 rights have been terminated.
43

1 (5) The court ~~shall~~ must continue the child in foster care unless the
2 parents prove, by a preponderance of the evidence, that further
3 efforts at reunification are the best alternative for the child. In
4 those cases, the court may order reunification services for a period
5 not to exceed six months.

6
7 ~~(4)~~(6)At a review held 12 months after an original or subsequent order
8 for the child to remain in ~~long-term~~ foster care, the court ~~shall~~ must
9 consider all permanency planning options, including whether the
10 child should be returned to a parent or guardian, placed for
11 adoption, or appointed a legal guardian, ~~or should remain in long-~~
12 ~~term foster care.~~ If the court orders that the child remain in foster
13 care, it must identify the foster care setting by name and identify a
14 specific permanency goal for the child. The court may order that
15 the name and address of the foster home remain confidential.

16
17 ~~(2)~~(7)At a review held 12 months after an original or subsequent order
18 for the child to remain in foster care, the court ~~shall~~ must order a
19 hearing under section 366.26 unless the court finds by clear and
20 convincing evidence that there is a compelling reason for
21 determining that a 366.26 hearing is not in the child's best interest
22 because the child is being returned to the home of the parent, the
23 child is not a proper subject for adoption, ~~or that~~ there is no one
24 available to assume guardianship.

25
26 ~~(3)~~(8)If the court makes the findings in ~~subsection~~ subdivision (2)-(7),
27 the court may ~~then~~ order that the child ~~to~~ remain in ~~long-term~~
28 foster care.

29
30 (c) * * *

31
32 (d) **[Hearings on termination of jurisdiction—child reaching age of**
33 **majority (§ 391)]** Petitioner must file form JV-~~356365~~, *Termination of*
34 *Dependency Jurisdiction (Child Attaining Age of Majority) (Juvenile)*
35 with the court at least 10 calendar days before the hearing to terminate
36 dependency jurisdiction and must provide copies to the child, the
37 parents or guardians, any Court Appointed Special Advocate (CASA)
38 volunteer, and all counsel of record at least 10 calendar days before the
39 hearing.

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY DRAFT 12 07/27/04 CFCC/mc
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME: CHILD'S DATE OF BIRTH: HEARING DATE AND TIME : _____ DEPT.: _____	
TERMINATION OF DEPENDENCY JURISDICTION— CHILD ATTAINING AGE OF MAJORITY (Juvenile)	CASE NUMBER:

Directions for the social worker: check the appropriate boxes in items 1 through 4, complete item 5, attach documents as required, and then sign and date item 6.

Directions for the child (if available): review the boxes checked by the social worker in items 1 through 4. Sign your initials after each item that correctly indicates the information and services that you have received. Then sign and date item 7.

1. The child has indicated that he or she intends to be present at the termination hearing.
- The child does not wish to attend the termination hearing. The petitioner has attached verification that the child has been informed of the potential consequences of failure to attend the termination hearing.
- The child is unavailable and/or has refused to sign this form. Evidence of reasonable efforts to locate the child and to obtain the child's signature is attached.

2. Attached is a report verifying that the child has received written information concerning his or her dependency case—including information about the child's family history, the child's placement history, the whereabouts of any siblings under the jurisdiction of the juvenile court, the procedures for accessing the documents that the child is entitled to inspect under Welfare and Institutions Code section 827, and the date on which the jurisdiction of the court would be terminated.

3. The child has been provided with the following documents:
 - Certified birth certificate
 - Social security card
 - Identification card and/or driver's license
 - Proof of citizenship or residency status
 - Death certificate of parent or parents, if applicable

CHILD'S NAME: _____	CASE NUMBER: _____
------------------------	-----------------------

4. The following assistance has been provided to the child:

- Application for Medi-Cal or other health insurance has been completed.
- Application for college, vocational training program, or other educational or employment program has been completed.
- Information on obtaining, or application to obtain, financial assistance for educational and employment programs has been provided.
- Referral to transitional housing, if available, or assistance in securing other housing has been provided.
- Assistance in obtaining employment or other financial support have been provided.
- Assistance in maintaining relationships with individuals who are important to the child, consistent with the child's best interest, has been provided.
- Other services have been ordered by the court (*specify*):

5. Number of pages attached: _____

6. I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date:

(TYPE OR PRINT NAME)



SIGNATURE OF SOCIAL WORKER

7. I certify that I have received the information and services that I initialed above.

Date:

(TYPE OR PRINT NAME)



(CHILD'S SIGNATURE)

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Juvenile Law: Maintaining Children’s Important Relationships
(amend Cal. Rules of Court, rules 1410, 1412, 1460, 1461, 1462, 1463, and 1466; revise form JV-365)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Hon. Barbara J. Beck Presiding Judge, Juvenile Court Superior Court of California, County of Santa Barbara Santa Maria	A	N	No specific comment.	No response required.
2.	Regina Deihl Executive Director Legal Advocates for Permanent Parenting (LAPP) San Mateo	AM	N	Pursuant to Welf. and Inst. Code section 366.21(d), proposed rules 1460(d) and 1461(c), 1462(c), 1466(a)(1), and 1466(b)(1) should be amended to require the court to consider any report submitted by the child’s caregiver.	We agree that the rules should be modified to include the requirement that courts review and consider any caregiver reports and recommendations submitted pursuant to section 366.21(d). These changes will be made.
3.	Hon. John Dobroth Judge Superior Court of California, County of Ventura	A	N	No specific comment.	No response required.
4.	Kim Hubbard President Orange County Bar Association	AM	Y	1. The Welf. and Inst. Code sections referenced in these rules all use the word “shall,” not “must.” Accordingly, we recommend that the “shall” language remain, so the rules are consistent with the code. 2. Rule 1462(b) should also reference Welf. and Inst.	1. The use of the word “must” instead of “shall” was approved by the Judicial Council in October 2000, because of problems inherent in the word “shall,” including the fact that it is not commonly used in spoken English and has multiple meanings (to express a duty and to express the future tense). The goals of clarity and readability are better served by changing the statutory language to “must” than by conforming the wording of the rules to the statutes. 2. Rule 1462(b) describes the required

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>Code section 366.22, the section that addresses the 18-month requirements.</p> <p>3. The new language in rule 1462(c)(4) (“The court may enter any other appropriate orders to enable the child to maintain relationships with other individuals who are important to the child, consistent with the child’s best interests”) repeats the language in 1462(c)(3)(A)(iii) and should be deleted.</p>	<p>content in the social worker’s report. Those requirements come from Welfare and Institutions Code sections 366.1 and 366.21 (which are already cited in the revised rule) but are not found in 366.22.</p> <p>3. Although the revised language in the two sections of rule 1462 is very similar, the context is different. Section (c)(3)(A)(iii) is addressing only the very specific situation of the findings and orders the court may make for a child 10 years of age or older placed with a nonrelative. Section (c)(4) applies to all children at the 18-month hearing stage.</p>
5.	Dawn Lewis Policy and Program Support Child Welfare Services San Diego	AM	N	<p>Page 10 of the amended text (rule 1642(c)(3)(A)) indicates the court must make certain findings for “a child 10 and older and placed with a non-relative.” AB 408 was amended various times and is intended to apply only to youth 10 and older who have been placed in group homes for more than six months. The inclusion of the language above has been identified as an error. The author, Steinberg, has a subsequent bill, AB 2807 that will “clean up” the language missed in the previously amended version. AB 2807 appears to be passing and, when it does, will make the language above obsolete.</p>	<p>We are aware of, and have been tracking, AB 2807. If that bill becomes law, rule 1462 will be changed to be consistent with the new statutory language, as will any other rules that are affected by this legislation.</p>
6.	Stephen V. Love Executive Officer	A	Y	<p>1. In rule 1410 (a), replace “shall be permitted” in the last sentence with “may” rather than with “is</p>	<p>1. We will make this change.</p>

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Juvenile Law: Maintaining Children’s Important Relationships
(amend Cal. Rules of Court, rules 1410, 1412, 1460, 1461, 1462, 1463, and 1466; revise form JV-365)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
	Superior Court of California, County of San Diego			<p>permitted.”</p> <p>2. Punctuation and minor grammatical corrections to rules 1410(b)(10), 1461(d)(2)(ii), 1462(c)(6), and 1466(b)(7).</p> <p>3. In rules 1412(n) and 1463(d) replace “inquire about the reason that” with “ask why.”</p> <p>4. For consistency with rule 1424, change “court-appointed child advocate” to “court-appointed special advocate” in rules 1460(c)(2), 1460(d), 1462(c), 1463(b), 1463(e), 1466(a)(1), and 1466(b)(1).</p> <p>5. Change the term “long term foster care” to “another planned permanent living arrangement” in rules 1461(d)(2), 1462(c)(3)(A), and twice in 1463(e)(6).</p>	<p>2. We will make these changes.</p> <p>3. We will make this change.</p> <p>4. The references to “court-appointed child advocate” throughout the juvenile rules need to be updated. All references in the rules to the CASA program will be changed to “Court Appointed Special Advocate (CASA) program” and references to the volunteers in the program will be changed to “Court Appointed Special Advocate (CASA) volunteer.”</p> <p>5. The term “long term foster care” has been phased out, as it is considered inconsistent with federal law. It will be replaced with “foster care” and new language specifying that if “the court orders that the child remain in foster care, it must identify the foster care setting by name and identify a specific permanency goal for the child” and that the name and address of the placement may remain confidential.</p>

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>6. In rule 1463(d) change “should not” to “may not” in the last sentence, based on Welf. & Inst. Code section 366.26(f)(1).</p> <p>7. In form JV-395, item 4, change the new item to read “consistent with the child’s best interest” rather than “based on the child’s best interest.” This change makes the form more consistent with the statutory language.</p>	<p>6. We will make this change.</p> <p>7. We will make this change.</p>
7.	Christina F. Nyikes Supervising Probation Officer San Diego County Probation Department	A	N	Proposed revisions will ensure consistency of language for rules 1410, 1412, 1460, 1461, 1462. and 1466. Proposed amendments also add a new statutory requirement that will ensure that minors in foster care retain or reestablish important relationships with individuals other than parent/siblings.	No response required.