

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

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Family and Juvenile Law Advisory Committee
Hon. Mary Ann Grilli and Hon. Susan Huguenor, Co-chairs
Ms. Kerry Doyle, Attorney, 415-865-8791, kerry.doyle@jud.ca.gov

DATE: July 19, 2005

SUBJECT: Juvenile Law: Miscellaneous Rules and Forms (amend Cal. Rules of Court, rules 1413, 1438, 1456, and 1460–1463; revise forms ADOPT-210, ADOPT-215, JV-365, JV-500, JV-501) (Action Required)

Issue Statement

Several statutes have been enacted or amended recently that affect rules of court and Judicial Council forms related to juvenile law.¹ Additionally, users have brought to our attention the need to clarify juvenile forms.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that, effective January 1, 2006, the Judicial Council:

1. Amend rule 1413 of the California Rules of Court and revise forms JV-500, *Paternity Inquiry—Juvenile* and JV-501, *Paternity Finding and Judgment (Juvenile Dependency)* to bring these into compliance with Government Code section 14771(a)(14)'s requirement that the rights and duties of marriage be extended to persons registered as domestic partners, and further revise form JV-501 to delete the word "dependency" so that this form can be used in delinquency proceedings.
2. Amend rule 1438 to conform it to Welfare and Institutions Code section 16010.6, which requires this rule of court to apply to attorneys for *all* children for whom a dependency petition has been filed, not simply those children adjudged dependents.
3. Amend rule 1456 to conform it to section 319(d) of the Welfare and Institutions Code, which disallows a court finding that failure to make reasonable efforts to prevent removal of a child from his or her home is itself reasonable, by deleting subdivision (e)(3) of this rule, which currently provides for such a finding of reasonableness.

¹ The text of bills and statutes is attached at pages 34-65. Only those portions relevant to this invitation to comment are attached. Any inconsistency in the page numbers at the top is therefore intended and the reader should follow the page numbers at the bottom of this document.

4. Amend rules 1460–1463 to conform them to recently enacted statutory requirements for notice in juvenile dependency proceedings.
5. Further amend rules 1460–1463 to conform these rules to requirements of Assembly Bill 408 (Steinberg) (Stats. 2003, ch. 813) and its clarifying amendments in Assembly Bill 2807 (Steinberg) (Stats. 2004, ch. 810) concerning the definition of the children to whom certain requirements for maintaining positive relationships with individuals important to the child apply, as well as the content and distribution of social worker’s reports, requirements for children’s presence at Welfare and Institutions code section 366.26 hearings, and other issues.
6. Revise form JV-365, *Termination of Dependency Jurisdiction—Child Attaining Age of Majority (Juvenile)* to include AB 2807’s requirement for maintenance of important relationships for children placed in group homes for six months or longer.
7. Revise form ADOPT-210, *Adoption Agreement* to bring it into compliance with Government Code section 14771(a)(14)’s requirement that the rights and duties of marriage be extended to persons registered as domestic partners and to correct an error in one of the signature lines.
8. Revise from ADOPT-215, *Adoption Order* to bring it into compliance with Government Code section 14771(a)(14)’s requirement that the rights and duties of marriage be extended to persons registered as domestic partners and to delete information on type of adoption.

The proposed rules and forms are attached at pages 6-28.

Rationale for Recommendation

This proposal makes changes to rules and forms in six areas of juvenile law: parentage, attorney contact information, reasonable efforts to prevent removal, maintaining children’s important relationships, notice, and adoption forms.

Parentage

The committee recommends deleting the word “paternity” and substituting the word “parentage,” to bring rule 1413 and forms JV-500 and JV-501 into compliance with Government Code section 14771(a)(14) by making the rule and forms include appropriate references to domestic partner or parent. The committee also proposes deleting the word “dependency” from form JV-501 to allow the form’s use in delinquency proceedings, as required by statute.

Attorney contact information

The committee recommends amending rule 1438 to require that an attorney for a child give his or her contact information to the child’s caregiver, and to the child in specified circumstances, at the beginning of a dependency case.

In 2003, the California Legislature enacted Senate Bill 591 (Scott) (Stats. 2003, ch. 812), which, in part, added section 16010.6 to the Welfare and Institutions Code. This section provides that a dependent child’s attorney must provide his or her contact information

within a specified time frame to the child’s caregiver and to the child if the child is 10 or older. The term “dependent child” rendered this new code section applicable only postdisposition, after a judicial decision that the child was a dependent of the court, possibly weeks or months after the petition was filed. In 2004, the California Legislature amended section 16010.6 to clarify that the provisions of this section cover attorneys for all children for whom a dependency petition has been filed and not simply those children adjudged dependents.

The Judicial Council was required to adopt a rule of court directing children’s attorneys to comply with section 16010.6. The current proposed amendment tracks the new statutory language and applies to attorneys for all children for whom a dependency petition has been filed, not simply those children adjudged dependents.

Reasonable efforts to prevent removal

The committee recommends amending rule 1456 to reflect statutory amendments that delete the option allowing a court to find that the failure to make reasonable efforts to prevent or eliminate the need for removal was reasonable.

Section 319(d) of the Welfare and Institutions Code mandates a judicial determination of whether the child welfare agency made reasonable efforts to prevent or eliminate the need for removal of a child from his or her home. In 2001, the Legislature enacted Assembly Bill 1695 (Committee on Human Services) (Stats. 2001, ch. 653), which, in part, amended section 319(d) by deleting the language stating that, in an emergency situation, the court could find the lack of preplacement preventive efforts reasonable. The deletion of subdivision (e)(3) from rule 1456 would conform that rule to Welfare and Institutions Code section 319.

Maintaining children’s important relationships

Assembly Bill 2807 corrected problems and inconsistencies that arose from the passage of Assembly Bill 408 in 2003. Both bills were intended to ensure that children in foster care retain or reestablish positive, important relationships with individuals other than parents or siblings. AB 2807 redefines the group of children for whom the requirements apply as those children who are placed in a group-home setting for six months or longer from the date they enter foster care. AB 2807 also addresses the content and distribution of social worker reports, children’s presence at section 366.26 hearings, and other issues.

The committee recommends amending rule 1460 (Six-month review hearing) to reference the clarified requirements for social worker reports and to incorporate the new requirements for both distribution of social worker reports to CASA volunteers and report summaries to caregivers.

The committee recommends amending rule 1461 (Twelve-month review hearing) and rule 1462 (Eighteen-month review hearing) to include the clarified content requirements for social worker reports; to add the requirements for distribution of social worker reports; to add language redefining the group of children for whom the “maintaining

relationships” requirements apply; and to add requirements about ongoing parental visitation and maintaining important relationships when a section 366.26 hearing is set at the 18-month point.

The committee recommends amending rule 1463 (Selection of permanent plan) to conform the section on the child’s presence at a section 366.26 hearing to the new statutory requirements; to add the child welfare agency’s duties to inquire about individuals who are important to the child; and to add language redefining the group of children for whom the “maintaining relationships” requirements apply.

The committee recommends revising form JV-365 to add AB 2897’s requirement about children placed in a group home for six months or longer.

Notice

The committee recommends amending rules 1460–1463 to conform with recently enacted statutory requirements about notice in juvenile dependency proceedings. The revisions would also eliminate the word-for-word replication of the notice requirements under the Welfare and Institutions Code into the rules of court by removing the lists of persons entitled to notice and the specific content requirements and replacing them with references to the appropriate Welfare and Institutions Code section.²

Adoption forms

The committee recommends revising form ADOPT-210 to correct an error in one of the form’s signature lines that indicates that the adopting parent is to sign in the location where the legal parent should sign. The committee recommends revising form ADOPT-215 by deleting the information on type of adoption from the form. Specification of adoption type is not statutorily required on the adoption order. Staff has learned that classifying the type of adoption can create complications for families moving outside of California.

Alternative Actions Considered

The proposed amendments and revisions are necessary to bring the rules and forms into compliance with governing law.³ No alternative actions were considered.

Comments From Interested Parties

The invitation to comment on the proposal was circulated from April 21, 2005, through June 20, 2005, to the standard mailing list for family and juvenile law proposals, as well

² Full discussion of the rule revisions pertaining to notice can be found in the proposal titled “Juvenile Law: Notice.”

³ Amendments to section 16501.1 of the Welfare and Institutions Code, necessitate amending rules 1455 and 1492 to incorporate a new time-frame. Because this statute does not go into effect until 90 days after the California Department of Social Services (CDSS) has effected notice of the change to counties and CDSS anticipates that this notice will not occur before April 2006, proposed amendments to these rules have been removed from this proposal and will be postponed until a future cycle. The attached comment chart includes comments received on the postponed rule amendments because these were included in this proposal’s invitation to comment.

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. We received a total of eight comments. Five commentators agreed with the proposed changes. Three commentators agreed with the proposal if modified and suggested both technical and substantive changes.

One commentator suggested that the proposed amendment to rule 1463 requiring notice of the permanency hearing to caregivers and de facto parents was invalid because it was inconsistent with the statute governing notice. A rule is valid, however, if it does not conflict with and can be reconciled with the statute. Caregivers are entitled to notice of review hearings under Welfare and Institutions Code section 293. Including them in the list of those entitled to notice of the permanent plan hearing provides consistency in notifying them of important hearings. De facto parents have standing to participate as parties per rule 1411(e), and therefore must be noticed of hearings.

One commentator suggested adding an advisement to forms ADOPT-210 and ADOPT-215 stating that if the adoption does not take place, the birth parents are liable for child support. A birth parent is entitled to notice of the proceedings leading up to the adoption finalization or termination of parental rights. The two forms in this proposal are filed late in the adoption proceedings and are not notice of a hearing. In most cases, parental rights will have already been terminated when these forms are utilized. No advisement, therefore, is necessary on these forms. One commentator suggested that these forms should include “or state registered domestic partner” whenever “spouse” is used, as required by Government Code section 14771(a)(14). Forms ADOPT-210 and ADOPT-215 would be revised to conform to this requirement.

One commentator suggested adding to rule 1456 a third finding that it can be reasonable to not make efforts to prevent the removal of a minor who has been left without provision for support or whose parent is incarcerated or institutionalized and cannot make arrangements for the minor’s care. The proposed amendment would conform rule 1456 to Welfare and Institutions Code section 319, which no longer provides for a finding that the lack of preplacement preventive efforts was reasonable. It is unnecessary to add the particular situation suggested by the commentator to the rule. There are numerous situations where the child welfare agency may assess the situation of the child and decide that efforts beyond the initial response and assessment are not warranted. If the court views that assessment as accurate, the level of effort will have been reasonable and the court can find that reasonable efforts have been made.

The comments are attached at pages 29-33.

Implementation Requirements and Costs

Implementation of the revised forms will incur standard reproduction costs.

Attachments

Rules 1413, 1438, 1456, and 1460–1463 of the California Rules of Court are amended, effective January 1, 2006, to read:

1 **Rule 1413. Paternity Parentage**
2

3 (a) **[Authority to declare; duty to inquire (§ 316.2, § 726.4)]** The
4 juvenile court has a duty to inquire about and, if not otherwise
5 determined, to attempt to determine the parentage of each child who is
6 the subject of a petition filed under section 300, 601, or 602. The court
7 may establish and enter a judgment of paternity parentage.
8

9 (b) **[Paternity Parentage inquiry (§ 316.2, § 726.4)]** At the initial hearing
10 on a petition filed under section 300, 601, or 602, and at hearings
11 thereafter until or unless paternity parentage has been established, the
12 court ~~shall~~ must inquire of the child's ~~mother~~ parents present at the
13 hearing and of any other appropriate person present as to the identity
14 and address of any and all presumed or alleged ~~fathers~~ parents of the
15 child. Questions, at the discretion of the court, may include the
16 following and others that may provide information regarding parentage:
17

18 (1) Has there been a judgment of paternity parentage?

19 (2)–(5) ***
20

21 (6) Have paternity genetic tests been administered, and if so, what
22 were the results?
23

24 (c) **[Voluntary declaration]** If a voluntary declaration as described in
25 Family Code section 7570 et seq. has been executed and filed with the
26 California Department of Social Services, the declaration will establish
27 the paternity of a child and will have the same force and effect as a
28 judgment of paternity by a court.
29

30 (d) **[Issue raised; inquiry]** If, at any proceeding regarding the child, the
31 issue of paternity parentage is addressed by the court, ~~the court shall~~
32 ~~proceed as follows:~~
33

34 (1) The court must ask ~~Make inquiry of the mother parent or the~~
35 ~~person alleging~~ paternity parentage, and ~~of others present, as to~~
36 ~~whether any~~ paternity parentage finding has been made, and if so,
37 what court made it, or whether a voluntary declaration has been
38 executed and filed under the Family Code.
39

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

- (2) ~~The court must direct~~ Direct the court clerk to prepare and transmit Judicial Council form *Paternity Parentage Inquiry—Juvenile* (JV-500) to the ~~office of child support enforcement~~ local child support agency requesting an inquiry regarding whether or not ~~paternity parentage~~ parentage has been established through any superior court order or judgment or through the execution and filing of a voluntary declaration under the Family Code.
- (3) The office of child support enforcement must prepare and return the completed Judicial Council form *Paternity Parentage Inquiry—Juvenile* (JV-500) within 25 judicial days, with certified copies of such order or judgment or proof of the filing of a voluntary declaration attached.
- (4) The juvenile court must take judicial notice of the prior determination of ~~paternity parentage~~ parentage.
- (e) **[No prior determination]** If the ~~office of child support enforcement~~ local child support agency states, or if the court determines through statements of the parties or other evidence, that there has been no prior determination of ~~paternity parentage~~ parentage of the child, the juvenile court may make such a determination.
- (1) To determine ~~paternity parentage~~ parentage, the juvenile court may order the child, ~~the mother, and any alleged father~~ and any alleged parents to submit to blood tests and proceed under Family Code section 7550 et seq.; or
- (2) The court may make its determination of ~~paternity parentage~~ parentage or ~~nonpaternity nonparentage~~ based on the testimony, declarations, or statements of the ~~mother and alleged father~~ alleged parents. The court ~~shall~~ must advise any alleged ~~father parent~~ parent indicating ~~he wishes a wish~~ he wishes a wish to be declared the ~~father parent~~ parent of the child that if ~~he is parentage~~ parentage is declared, the ~~father~~ he declared parent will have responsibility for the financial support of the child, and if the child receives welfare benefits, the ~~father~~ declared parent may be subject to an action to obtain support payments.
- (f) **[Notice to office of child support enforcement]** If the court establishes ~~paternity parentage~~ parentage of the child, the court ~~shall~~ must sign and then direct the clerk to transmit Judicial Council form *Paternity*

1 *Parentage—Finding and Judgment* ~~{(Juvenile)}~~ (JV-501) to the office
2 of child support enforcement. local child support agency.

3
4 **(g) [Dependency and delinquency; notice to alleged fathers]** If, upon
5 inquiry by the court, or through other information obtained by the
6 county welfare department or probation department, one or more men
7 are identified as alleged fathers of a child for whom a petition under
8 section 300, 601, or 602 has been filed, the clerk ~~shall~~ must provide to
9 each named alleged father, at the last known address, by certified mail,
10 return receipt requested, a copy of the petition, notice of the next
11 scheduled hearing, and Judicial Council form *Statement Regarding*
12 *Paternity* ~~{(Juvenile Dependency)}~~ (JV-505) unless:

13
14 (1)–(4) ***

15
16 **(h) [Dependency and delinquency; alleged fathers (§§ 316.2, 726.4)]** The
17 court must make the following determinations:

18
19 (1) If a man appears at a hearing in a dependency matter, or at a
20 hearing under section 601 or 602, and files an action under Family
21 Code section 7630 or 7631, the court must determine if he is the
22 presumed father of the child.

23
24 (2) If a man appears at a hearing in a dependency matter or at a
25 hearing under section 601 or 602 and ~~or~~ requests a finding of
26 paternity on form JV-505 in a dependency matter or by written
27 request in a section 601 or 602 matter, the court ~~shall~~ must
28 determine whether ~~or not~~ he is the biological father of the child.

29
30
31 **Rule 1438. Attorneys for parties (§§ 317, 317.6, 16010.6)**

32
33 **(a)–(b) *****

34
35 **(c) [Competent counsel]** Every party in a dependency proceeding who is
36 represented by an attorney is entitled to competent counsel.

37
38 (1)–(4) ***

39
40 (5) *(Attorney contact information)* The attorney for a ~~dependent~~ child
41 for whom a dependency petition has been filed must provide his or
42 her contact information to the child's caregiver no later than 10
43 days after receipt of the name, address, and telephone number of

1 the child’s caregiver. If the child is 10 years of age or older, the
2 attorney must also provide his or her contact information to the
3 ~~dependent~~ child for whom a dependency petition has been filed no
4 later than 10 days after receipt of the caregiver’s contact
5 information. The attorney may give contact information to a
6 ~~dependent~~ child for whom a dependency petition has been filed
7 who is under 10 years of age.

8
9 (6) ***

10
11 (d)–(f) ***

12
13 **Rule 1456. Orders of the court**

14
15 (a)–(d) ***

16
17 (e) **[Reasonable efforts finding]** The court must consider whether
18 reasonable efforts to prevent or eliminate the need for removal have
19 been made and make one of the following findings:

20
21 (1) Reasonable efforts have been made; or

22
23 (2) Reasonable efforts have not been made; ~~or,~~

24
25 ~~(3) The failure to make efforts was reasonable.~~

26
27 (f)–(j) ***

28
29 **Rule 1460. Six-month review hearing**

30
31 (a) ***

32
33 (b) **[Notice of hearing; service; contents (§§ 293, 366.21)]** Not earlier
34 than 30 nor less than 15 calendar days before the hearing date, the
35 petitioner or the clerk must serve written notice, on Judicial Council
36 form *Notice of Review Hearing—Juvenile* (JV-280), on all persons
37 required to receive notice under rule 1407, Welfare and Institutions
38 Code section 293 to the child’s present custodian, and to any Court-
39 Appointed Special Advocate, (CASA) volunteer and to counsel of
40 record. The notice must contain the information set forth in section 293.

41 The notice of hearing must be served by personal service or by first-
42 class mail or certified mail addressed to the last known address of the
43 person to be notified.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

~~(1) The notice must contain the information required by rule 1407, the nature of the hearing, and any recommended change in custody or status, and include a statement that the child and the parent or guardian have a right:~~

~~(A) To be present at the hearing;~~

~~(B) To be represented by counsel at the hearing and, where applicable, of the right to and the procedure for obtaining appointed counsel; and~~

~~(C) To present evidence regarding the proper disposition of the case.~~

~~(2) The notice to the present custodian of the child must indicate that the custodian may:~~

~~(A) Be present at the hearing; and~~

~~(B) Submit written material the custodian considers relevant.~~

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

(1) The report must contain:

~~(A)-(B) ***~~

(C) A factual discussion of each item listed in sections 366.1 and 366.21(c).

(2) At least 10 calendar days before the hearing, the petitioner must file the report, provide copies to the parent or guardian and 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 Special Advocate (CASA) volunteer.~~ The petitioner must provide a summary of the recommendations to any foster parents, relative caregivers, or certified foster parents who have been approved for adoption.

1 (d)–(e) ***

2
3 (f) [Conduct of hearing (§ 366.21)] If the court does not return custody of
4 the child,

5
6 (1)–(2) ***

7
8 (3) A judgment, or an order, or decree setting a hearing under section
9 366.26 is not ~~an~~ immediately appealable ~~order~~. Review may be
10 sought only by filing Judicial Council form ~~Writ~~ *Petition for*
11 *Extraordinary Writ (Juvenile Dependency)* (JV-825) or other
12 petition for extraordinary writ. If a party wishes to preserve any
13 right to review on appeal of the findings and orders made under
14 this rule, the party must seek an extraordinary writ under rules 38,
15 38.1, ~~39.1B~~ and 1436.5.

16
17 (4)–(5) ***

18
19 (6) Failure to file a petition for extraordinary writ review within the
20 period specified by rules 38, 38.1, ~~39.1B~~ and 1436.5, to
21 substantively address the issues challenged, or to support the
22 challenge by an adequate record, precludes subsequent review on
23 appeal of the findings and orders made under this rule.

24
25 (7) When the court orders a hearing under section 366.26, the court
26 must advise all parties that, to preserve any right to review on
27 appeal of the order setting the hearing, a party must seek an
28 extraordinary writ by filing:

29
30 (A) A notice of the party’s intent to file a writ petition and a
31 request for the record, which may be submitted on form JV-
32 820, *Notice of Intent to File Writ Petition and Request for*
33 *Record, Rule ~~39.1B~~ 38*; and

34
35 (B) A petition for an extraordinary writ, which may be submitted
36 on form JV-825, *Petition for Extraordinary Writ (Juvenile*
37 *Dependency)*.

38
39 (8) ***

40
41 (9) Copies of Judicial Council form *Petition for Extraordinary Writ*
42 *(Juvenile Dependency)* (JV-825) and Judicial Council form *Notice*
43 *of Intent to File Writ Petition and Request for Record, Rule ~~39.1B~~*

1 38 (JV-820) must be available in the courtroom and must
2 accompany all mailed notices of the advice.

3 (10)–(11) ***

4
5 (g)–(i) ***

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

8
9 (a) **[Requirement for 12-month review; setting of hearing; notice (§§**
10 **293, 366.21)]** The case of any dependent child whom the court has
11 removed from the custody of the parent or guardian must be set for
12 review hearing within 12 months of the date the child entered foster
13 care, as defined in rule 1401, and no later than 18 months from the date
14 of the initial removal. Notice of the hearing must be given as provided
15 in ~~rule 1460~~ Welfare and Institutions Code section 293.

16
17 (b) **[Reports (§§ 366.1, 366.21)]** Before the hearing the petitioner must
18 prepare a report describing services offered to the family and progress
19 made. ~~The report must include:~~

20
21 (1) The report must include:

22 (A) Recommendations for court orders and the reasons for those
23 recommendations;

24 ~~(2)~~ (B) A description of the efforts made to achieve legal permanence
25 for the child if reunification efforts fail; and

26 ~~(3)~~ (C) A factual discussion of each item listed in sections 366.1 and
27 366.21(c).

28
29 (2) At least 10 calendar days before the hearing, the petitioner must
30 file the report, provide copies to the parent or guardian and his or
31 her counsel, to counsel for the child, and to any Court Appointed
32 Special Advocate (CASA) volunteer. The petitioner must provide
33 a summary of the recommendations to any foster parents, relative
34 caregivers, or certified foster parents who have been approved for
35 adoption.

36
37
38
39
40 (c) ***

41
42 (d) **[Determinations and orders]** The court must proceed as follows:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

- (1) ***

- (2) Order that the child remain in foster care if it finds by clear and convincing evidence already presented that a 366.26 hearing is not in the best interest of the child because the child is not a proper subject for adoption and has no one willing to accept legal guardianship. 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. If the child is 10 years of age or older and is placed in a group home for six months or longer from the date the child entered foster care, the court:
 - (A)–(C) ***

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

 - (C) A judgment, or an order, ~~or decree~~ setting a hearing under section 366.26 is not an immediately appealable ~~order~~. Review may be sought only by filing Judicial Council form *Petition for Extraordinary Writ (Juvenile Dependency)* (JV-825) or other petition for extraordinary writ. If a party wishes to preserve any right to review on appeal of the findings and orders made under this rule, the party must seek an extraordinary writ under rules ~~39.1B~~ 38, 38.1, and 1436.5.

 - (D)–(E) ***

 - (F) Failure to file a petition for extraordinary writ review within the period specified by rules ~~39.1B~~ 38, 38.1, and 1436.5, to substantively address the issues challenged, or to support the challenge by an adequate record, precludes subsequent review on appeal of the findings and orders made under this rule.

1 (G) When the court orders a hearing under section 366.26, the
2 court must advise all parties that, to preserve any right to
3 review on appeal of the order setting the hearing, a party must
4 seek an extraordinary writ by filing:

5
6 (i) A notice of intent to file a writ petition and a request for
7 the record, which may be submitted on form JV-820,
8 *Notice of Intent to File Writ Petition and Request for*
9 *Record, Rule ~~39.1B~~ 38*; and

10
11 (ii) A petition for an extraordinary writ, which may be
12 submitted on form JV-825, *Petition for Extraordinary*
13 *Writ (Juvenile Dependency)*.

14
15 (H) ***

16
17 (I) Copies of Judicial Council form *Petition for Extraordinary*
18 *Writ (Juvenile Dependency)* (JV-825) and Judicial Council
19 form *Notice of Intent to File Writ Petition and Request for*
20 *Record, Rule ~~39.1B~~ 38* (JV-820) must be available in the
21 courtroom, and must accompany all mailed notices of the
22 advice.

23
24 (J) ***

25
26 (e) ***

27
28 **Rule 1462. Eighteen-month review hearing**

29
30 (a) **[Setting for hearing; notice (§§ 293, 366.22)]** If a child was not
31 returned at the 6- or 12-month review hearing, a permanency review
32 hearing must be held no later than 18 months from the date of the initial
33 removal. Notice of the hearing must be given as provided in ~~rule 1460~~
34 Welfare and Institutions Code section 293.

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

39
40 (1) The report must include:

41
42 (A) Recommendations for court orders and the reasons for those
43 recommendations;

1
2 (2) (B) A description of the efforts made to achieve legal permanence
3 for the child if reunification efforts fail; and
4

5 (3) (C) A factual discussion of each item listed in sections 366.1 and
6 366.21(c).
7

8 (2) At least 10 calendar days before the hearing, the petitioner must file
9 the report and provide copies to the parent or guardian and his or
10 her counsel, to counsel for the child, and to any Court Appointed
11 Special Advocate (CASA) volunteer. The petitioner must provide
12 a summary of the recommendations to any foster parents, relative
13 caregivers, or certified foster parents who have been approved for
14 adoption.
15

16 (c) **[Conduct of hearing (§ 366.22)]** At the hearing the court must state on
17 the record that the court has read and considered the report of petitioner,
18 the report of any Court Appointed Special Advocate (CASA) volunteer,
19 any report submitted by the child’s caregiver ~~pursuant to~~ under section
20 366.21(d), and other evidence, and must proceed as follows:
21

22 (1)–(2) ***
23

24 (3) If the court does not order return, the court must specify the factual
25 basis for its finding of risk of detriment, terminate reunification
26 services, and:
27

28 (A) Order that the child remain in foster care, if it finds by clear
29 and convincing evidence already presented that a section
30 366.26 hearing is not in the best interest of the child because
31 the child is not a proper subject for adoption and has no one
32 willing to accept legal guardianship. If the court orders that
33 the child remain in foster care, it must identify the foster care
34 setting by name and identify a specific permanency goal for
35 the child. The court may order that the name and address of
36 the foster home remain confidential. If the child is 10 years
37 of age or older and is placed ~~with a nonrelative,~~ in a group
38 home for six months or longer from the date the child entered
39 foster care, the court:
40

41 (i)–(iii) ***
42

43 (B) ***

1
2 (4)–(5) ***

3
4 (6) If the court orders a hearing under section 366.26, the court must
5 terminate reunification services and direct that an assessment be
6 prepared as stated in section 366.22(b). Visitation must continue
7 unless the court finds it would be detrimental to the child. The
8 court must enter any other appropriate orders to enable the child to
9 maintain relationships with other individuals who are important to
10 the child, consistent with the child’s best interest.

11
12 (7) A judgment, or an order, or decree setting a hearing under section
13 366.26 is not an immediately appealable ~~order~~. Review ~~shall~~ may
14 be sought only by filing Judicial Council form ~~Writ Petition for~~
15 Extraordinary Writ (Juvenile Dependency) (JV-825) or other
16 petition for extraordinary writ. If a party wishes to preserve any
17 right to review on appeal of the findings and orders made under
18 this rule, the party is required to seek an extraordinary writ under
19 rules ~~39.1B~~ 38, 38.1, and 1436.5.

20
21 (8) ***

22
23 (9) Failure to file a petition for extraordinary writ review within the
24 period specified by rules ~~39.1B~~ 38, 38.1, and 1436.5, to
25 substantively address the issues challenged, or to support the
26 challenge by an adequate record, ~~shall preclude~~ subsequent
27 review on appeal of the findings and orders made under this rule.

28
29 (10)–(11) ***

30
31 (d) ***

32
33 **Rule 1463. Selection of permanent plan (§ 366.26)**

34
35 (a) ***

36
37 (b) **[Notice of hearing (§ ~~366.23~~ 294)]** In addition to the requirements set
38 forth in Welfare and Institutions Code section 294, notice must be given
39 to the child if 10 years or older, the mother, presumed and alleged
40 fathers, to any Court Appointed Special Advocate (CASA) volunteer,
41 the child’s present caregiver, and any de facto parent and counsel of
42 record, on Judicial Council form Notice of Hearing on Selection of a

1 *Permanent Plan—Juvenile (Welfare and Institutions Code, § 366.26)*
2 (JV-300).

3
4 ~~(1) (Time for notification) Notice by publication must be completed at~~
5 ~~least 30 days before the date of the hearing. All other notice must~~
6 ~~be completed at least 45 days before the date of the hearing.~~

7
8 ~~(2) (Recommendation for termination of parental rights) If petitioner~~
9 ~~recommends termination of parental rights and did not include the~~
10 ~~recommendation in the notice under subdivision (b)(1), all those~~
11 ~~entitled to notice must also be so notified by first-class mail at least~~
12 ~~15 days before the hearing.~~

13
14 ~~(A) [Form of notice to parent] If the parent is present at the~~
15 ~~hearing at which the court schedules the hearing under~~
16 ~~section 366.26, the court must advise the parent of the time~~
17 ~~and place of the hearing, order the parent to appear, and direct~~
18 ~~that the parent receive notice by first class mail at the~~
19 ~~parent's usual place of residence or business. Otherwise,~~
20 ~~notice to the parent must be:~~

21
22 ~~(i) by personal service;~~

23
24 ~~(ii) by delivery to a competent adult at the parent's usual~~
25 ~~place of residence or business, followed by notice to the~~
26 ~~parent by first class mail at that address;~~

27
28 ~~(iii) by certified mail, return receipt requested, if the parent's~~
29 ~~usual place of residence or business is outside the state;~~

30
31 ~~(iv) by certified mail to the parent's counsel of record, return~~
32 ~~receipt requested, ordered by the court after a~~
33 ~~determination by the court, based on an affidavit~~
34 ~~prepared and filed by petitioner at the hearing at which~~
35 ~~the court schedules the hearing under 366.26 or~~
36 ~~thereafter, that there has been due diligence in~~
37 ~~attempting to locate and serve the parent; or~~

38
39 ~~(v) by publication ordered by the court after a determination~~
40 ~~by the court, based on an affidavit prepared and filed by~~
41 ~~the petitioner at the hearing at which the court schedules~~
42 ~~the hearing under section 366.26, or at least 75 days~~
43 ~~before the hearing, that there has been due diligence in~~

1 attempting to locate and serve the parent and that the
2 parent has no counsel of record.

3
4 (B) ~~[Notice to the child]~~ Notice to the child, 10 years or older,
5 must be by first class mail.

6
7 (C) ~~[Notice to counsel of record]~~ Notice to counsel of record
8 must be by first class mail.

9
10 (D) ~~[Notice to grandparents]~~ If the court orders notice by
11 certified mail to the parent's counsel of record, or by
12 publication, the court must order that notice by first class
13 mail be given to grandparents whose names and addresses are
14 known.

15
16 (E) ~~[Notice to tribe]~~ Notice to the tribe of an Indian child must be
17 by first class mail.

18
19 (3) ~~(Recommendation for guardianship or long term care)~~ If the
20 recommendation is limited to legal guardianship or long term
21 foster care, notice may be served as described in subdivision (b)(2)
22 of this rule, or by first class mail to the parent's usual residence or
23 place of business. If the court determines that there has been due
24 diligence in attempting to locate and serve the parent, the court
25 must order that notice by first class mail be given to the
26 grandparents whose names and addresses are known, and without
27 further notice to the absent parent.

28
29 (4) ~~(Parent located)~~ If the residence of a parent becomes known to the
30 court or the petitioner, notice must be served immediately under
31 subdivision (b)(2) of this rule.

32
33 (c) ***

34
35 (d) **[Presence of child]** The child must be present in court if the child or
36 the child's attorney so requests or the court so orders. If the child is 10
37 years of age or older and is not present at the hearing, the court must
38 determine whether the child was properly notified of his or her right to
39 attend the hearing and ask why the child is not present. ~~If the child is~~
40 ~~under 10 years of age, the child may not be present in court unless the~~
41 ~~child or the child's counsel so requests or the court so orders.~~
42

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

7 (1)–(4) ***
8

9 (5) If termination of parental rights would not be detrimental to the
10 child, but the child is difficult to place for adoption because the
11 child (i) is a member of a sibling group that should stay together or
12 (ii) has a diagnosed medical, physical, or mental handicap or (iii) is
13 seven years of age or older and no prospective adoptive parent is
14 identified or available, the court may, without terminating parental
15 rights, identify adoption as a permanent placement goal and order
16 the public agency responsible for seeking adoptive parents to make
17 efforts to locate an appropriate adoptive family for a period not to
18 exceed 180 days. During the 180-day period, in order to identify
19 potential adoptive parents, the agency responsible for seeking
20 adoptive parents for each child must, to the extent possible, ask
21 each child who is 10 years of age or older and who is placed in a
22 group home for six months or longer from the date he or she
23 entered foster care to identify any individuals who are important to
24 the child. The agency may ask any other child to provide that
25 information, as appropriate. After that period the court must hold
26 another hearing and proceed according to paragraph (1); or (6); or
27 (7) of this subdivision.
28

29 (6) If the court finds that paragraph (1)(A) or (1)(B) of this subdivision
30 applies, the court must appoint the present custodian or other
31 appropriate person to become the child’s legal guardian or must
32 order the child to remain in foster care. If the court orders that the
33 child remain in foster care, it must identify the foster care setting
34 by name and identify a specific permanency goal for the child. The
35 court may order that the name and address of the foster home
36 remain confidential. Legal guardianship must be given preference
37 over foster care when it is in the interest of the child and a suitable
38 guardian can be found. A child who is 10 years of age or older who
39 is placed in a group home for six months or longer from the date
40 the child entered foster care must be asked to identify any adults
41 who are important to him or her in order for the agency to
42 investigate and the court to determine whether any of those adults
43 would be appropriate to serve as legal guardians. ~~Younger~~ Other

1 children may be asked for this information, as appropriate. The
2 child must not be removed from the home of a foster parent or
3 relative who is not willing to become a legal guardian but is
4 willing and capable of providing a stable and permanent home for
5 the child, and with whom the child has substantial psychological
6 ties, if the court finds that the removal would be seriously
7 detrimental to the emotional well-being of the child. The court
8 must make an order for visitation with the parent or guardian
9 unless the court finds by a preponderance of the evidence that the
10 visitation would be detrimental to the child.

11
12 (7) ***

13
14 **(f) [Procedures—termination of parental rights]**

15
16 (1) ***

17
18 (2) An order of the court terminating parental rights under section
19 366.26 is conclusive and binding upon the child, the parent, and all
20 other persons who have been served under the provisions of
21 section ~~366.23~~ 294. The order may not be set aside or modified by
22 the court, except as provided in rules 1416, 1417, and 1418 with
23 regard to orders by a referee.

24
25 (3) If the court declares the child free from custody and control of the
26 parents, the court must at the same time order the child referred to
27 a licensed county adoption agency for adoptive placement. A
28 petition for adoption of the child may be filed and heard in the
29 juvenile court, but may not be ~~heard~~ granted until the appellate
30 rights of the natural parents have been exhausted.

31
32 **(g)–(h) *****

33
34 **(i) [Advice of appeal rights]** The court must advise all parties of their
35 appeal rights as provided in rule 1435 and section 366.26(1).

ADOPT-210 Adoption Agreement

Clerk stamps date here when form is filed.

**Draft 7
09/19/05
Not approved by
the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

① Your names (*adopting parents*):
a. _____
b. _____
Relationship to child: _____
Your address (*skip this if you have a lawyer*):
Street: _____
City: _____ State: _____ Zip: _____
Your phone number: (____) _____
Your lawyer (*if you have one*): (*Name, address, phone number, and State Bar number*): _____

② Child's name:
Before adoption: _____
After adoption: _____
Date of birth: _____ Age: _____

③ I am the child listed in ② and I agree to the adoption.

Date: _____

Type or print your name

▶ _____
Signature of Child (child must sign at hearing if 12 or older; optional if child is under 12)

④ *If only one adopting parent, read and sign below:*

- a. I am the adopting parent listed in ①, and I agree that the child will:
- (1) Be adopted and treated as my legal child (Fam. Code, § 8612(b)); and
 - (2) Have the same rights as a natural child of mine, including the right of inheritance.

Date: _____

Type or print your name

▶ _____
Signature of Adopting Parent (sign at hearing)

- b. I am the spouse or state-registered domestic partner of the adopting parent listed in ①, and I agree to his or her adoption of the child.

Date: _____

Type or print your name

▶ _____
Signature of Spouse or State-Registered Domestic Partner



Your name: _____

5 *If two adopting parents, read and sign below:*

We are the adopting parents listed in **1**, and we agree that the child will:

- (1) Be adopted and treated as our legal child (Fam. Code, § 8612(b));
- (2) Have the same rights as a natural child of ours, including the right of inheritance;

and I agree to the other parent's adoption of the child.

Date: _____

Type or print your name

▶ _____
Signature of Adopting Parent (sign at hearing)

and I agree to the other parent's adoption of the child.

Date: _____

Type or print your name

▶ _____
Signature of Adopting Parent (sign at hearing)

6 For *stepparent/domestic partner* adoptions only:

*If you are the legal parent of the child listed in **2**, read and sign below:*

I am the legal parent of the child and the spouse or state-registered domestic partner of the adopting parent listed in **1**, and I agree to his or her adoption of my child.

Date: _____

Type or print your name

▶ _____
Signature of Legal Parent (sign at hearing)

7 **Executed:**

Date: _____

▶ _____
Judge (or Judicial Officer)

ADOPT-215 Adoption Order

Clerk stamps date here when form is filed.

**Draft 6
09/19/05
Not approved by
the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

1 Your names (*adopting parents*):
a. _____
b. _____
Relationship to child: _____
Your address (*skip this if you have a lawyer*):
Street: _____
City: _____ State: _____ Zip: _____
Your phone number: (____) _____
Your lawyer (*if you have one*): (*Name, address, phone number, and State Bar number*): _____

2 Child's name after adoption: _____
Date of birth: _____ Age: _____
City: _____ State: _____ Country: _____

3 Name of adoption agency: _____

4 People present in court today (*date*): _____ in:
Dept.: _____ Div.: _____ Rm.: _____ Judge: _____
 Adopting parents Lawyer for adopting parents
 Child Child's lawyer
 Parent keeping parental rights (*stepparent/state-registered domestic partner name*): _____
 Other people present (*list name and relationship to child*):
a. _____
b. _____

If more, attach a sheet of paper, write "ADOPT-215, Item 4" at the top, and list additional names and relationships to child.

Judge will fill out section below.

5 The judge finds that the child (*check all that apply*):
a. Is 12 or older and agrees to the adoption.
b. Is under 12.

6 The judge has reviewed the report and other documents and evidence and finds that each adopting parent:
a. Is at least 10 years older than the child d. Has a suitable home for the child *and*
b. Will treat the child as his or her own e. Agrees to adopt the child.
c. Will support and care for the child



Your name: _____

- 7 This case is a relative adoption petitioned under Family Code section 8714.5.
 The adopting relative The child, who is 12 or older has requested that the child's name before adoption be listed on this order under section 8714.5(g).
The child's name before adoption was: _____
- 8 The child is an Indian child. The judge finds that this adoption meets the placement requirements of the Indian Child Welfare Act and that there is good cause to give preference to these adopting parents. The clerk will fill out 11 below.
- 9 The judge approves the *Contact After Adoption Agreement* (ADOPT-310)
 As submitted As amended on ADOPT-310
- 10 The judge believes the adoption is in the child's best interest and orders this adoption.
The child's name after adoption will be: _____
The adopting parents and the child are now parent and child under the law, with all the rights and duties of the parent-child relationship.

Date: _____

Judge (or Judicial Officer)

Clerk will fill out section below.

11 Clerk's Certificate of Mailing

For the adoption of an Indian child, the Clerk certifies:
I am not a party to this adoption. I placed a filed copy of (*check all that apply*):

- ADOPT-200, *Adoption Request*
- ADOPT-215, *Adoption Order*
- ADOPT-220, *Adoption of Indian Child*
- ADOPT-310, *Contact After Adoption Agreement*

in a sealed envelope, marked "Confidential," and addressed to:

Chief, Division of Social Services
Bureau of Indian Affairs
1849 C Street, NW
Mail Stop 310-SIB
Washington, DC 20240

The envelope was mailed, with full postage, by U.S. mail from:

Place: _____ on (date): _____

Date: _____ Clerk, by: _____, Deputy

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> <hr/> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY Draft 7 09/19/05 Not approved by the Judicial Council
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	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. a. The child has indicated that he or she intends to be present at the termination hearing.
- b. 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.
- c. 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 will be terminated.

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

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

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

- a. Application for Medi-Cal or other health insurance has been completed.
- b. Application for college, vocational training program, or other educational or employment program has been completed.
- c. Information on obtaining, or application to obtain, financial assistance for educational and employment programs has been provided.
- d. Referral to transitional housing, if available, or assistance in securing other housing has been provided.
- e. Assistance in obtaining employment or other financial support has been provided.
- f. Assistance in maintaining relationships with individuals who are important to the child, consistent with the child's best interest, has been provided. (Required only if the child has been in out-of-home placement in a group home for six months or longer from the date the child entered foster care.)
- g. 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)

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> <hr/> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY Draft 8 09/19/05 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
PARENTAGE INQUIRY—JUVENILE	CASE NUMBER:

TO: Local child support agency *(name):*
(Address):

(Fax number):

1. A petition regarding the children named below has been filed in juvenile court. The issue of parentage has been raised and is not resolved. Please inquire whether or not parentage has been previously declared by a superior court order or judgment.

2.	<u>Child's name</u>	<u>Age</u>	<u>Date of birth</u>	<u>Sex</u>
----	---------------------	------------	----------------------	------------

Date: _____

_____ JUDICIAL OFFICER

TO BE RETURNED WITHIN 25 JUDICIAL DAYS FROM DATE OF INQUIRY

3. The following information is available:

<u>Child's name</u>	<u>Name of parent</u>	<u>Date of order</u>	<u>Case number</u>	<u>No order determining parentage</u>
				<input type="checkbox"/>

Certified copies of court orders are attached. Number of pages attached: _____.

4. Parentage was established by voluntary declaration on *(date):*

Date: _____

Local child support agency staff _____
(NAME AND TITLE)

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 5 09/19/05 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
PARENTAGE—FINDING AND JUDGMENT	CASE NUMBER:

1. *(Name):* _____ is declared to be the legal parent of *(list names and dates of birth of all children):*

Child's name

Date of birth

and a judgment is hereby entered.

Date:

JUDICIAL OFFICER

2. A copy of this order has been transmitted to the local child support agency, on this date, by:

- First-class mail
- County mail or courier
- Fax

Date:

Clerk, by _____, Deputy

SPR05-31

Juvenile Law: Miscellaneous Rules and Forms

(amend Cal. Rules of Court, rules 1413, 1438, 1455, 1456, 1460–1463, and 1492; revise forms ADOPT-210, ADOPT-215, JV-365, JV-500, JV-501)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Ms. Grace Andres Program Manager Superior Court of California, County of Solano Fairfield	A	N	<i>No specific comment</i>	No response required.
2.	Hon. Charles W. Campbell, Jr. Juvenile Dependency Judge Superior Court of California, County of Ventura Ventura	A	N	<i>No specific comment</i>	No response required.
3.	Ms. Rose Dixon-Flowers Riverside County Adoptions Riverside	A	N	<i>No specific comment</i>	No response required.
4.	Mr. Paul Gaines Court Services Supervisor Riverside County Department of Public Social Services Murrieta	A	N	Lengthening the case plan requirement will help create more meaningful and useful case plans.	No response required.
5.	Ms. Carole Greeley California Appellate Defense Counsel, Bay Area Dependency Chapter Fairfield	AM	Y	<p>1. Rule 1413: The rule should cite statutory authority regarding dependency cases.</p> <p>2. Rule 1413: The rule should state that if a man files an action under Family Code section 7630, the court must determine whether he is the presumed, or legal, father. If he files a JV-505 form, the court must determine whether he is the biological father.</p> <p>3. Rules 1461, 1462, 1463: Replace “the date</p>	<p>1. Agree to modify rule to include references to Welf. & Inst. Code § 316.2.</p> <p>2. Agree to modify text to clarify the determinations a court must make regarding parentage.</p> <p>3. Agree to modify text to improve</p>

SPR05-31

Juvenile Law: Miscellaneous Rules and Forms

(amend Cal. Rules of Court, rules 1413, 1438, 1455, 1456, 1460–1463, and 1492; revise forms ADOPT-210, ADOPT-215, JV-365, JV-500, JV-501)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>entered foster care” with “the date the child entered foster,” which is the statutory language.</p> <p>4. Rule 1462: Rules 38.2 and 38.3 do not apply to Rule 1462(c)(7) and (9).</p> <p>5. Rule 1463: The rule should not require notice to those who do not have a statutory right to notice. By requiring notice to people who are not mentioned in the statute, the rule is inconsistent with the statute and therefore invalid.</p>	<p>grammar.</p> <p>4. Agree to modify rule and delete references to rules 38.2 and 38.3.</p> <p>5. Agree to delete prospective adoptive parents. The committee recommends including caregivers and de facto parents in the list of those who should be noticed of the permanent plan hearing. Caregivers are entitled to notice of review hearings under Welf. & Inst. Code § 293. Including them in the list of those entitled to notice of the permanent plan hearing provides consistency in notifying them of important hearings. De facto parents have standing to participate as parties per rule 1411(e), and therefore must be noticed of hearings.</p>
6.	Superior Court of California, County of Los Angeles Los Angeles	A	Y	<i>No specific comment</i>	No response required.
7.	Mr. Stephen Love Executive Officer Superior Court of California, County of San Diego	AM	Y	1. ADOPT-210 and ADOPT-215: Whenever a party is waiving notice of hearings, especially in adoption proceedings, they should be clearly advised that if the adoption does not take place,	1. The committee recommends against adding a child support advisement to these forms. A birth parent is entitled to notice of the

SPR05-31

Juvenile Law: Miscellaneous Rules and Forms

(amend Cal. Rules of Court, rules 1413, 1438, 1455, 1456, 1460–1463, and 1492; revise forms ADOPT-210, ADOPT-215, JV-365, JV-500, JV-501)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
	San Diego			<p>they are still liable for child support as ordered. It is very risky for them to waive notices of future hearings since adoptions do not always happen.</p> <p>2. Rule 1413: The rule should include references to Welf. & Inst. Code § 316.2</p> <p>3. Rule 1413: Various grammatical and typographical corrections.</p> <p>4. Rule 1413: Specify county office of child support.</p> <p>5. Rule 1455: The rule should track Welf. & Inst. Code § 366.21(c) and should state</p>	<p>proceedings leading up to the adoption finalization or termination of parental rights. These forms, <i>Adoption Agreement</i> and <i>Adoption Order</i>, are filed late in the adoption proceedings and are not notice of a hearing. In most cases, parental rights will have already been terminated when these forms are utilized. There is nowhere on these particular forms where a party can waive notice.</p> <p>2. Agree to modify rule to include references to Welf. & Inst. Code § 316.2.</p> <p>3. Agree to modify text to improve grammar.</p> <p>4. Agree to modify text to clarify the rule refers to the “local child support agency”. This phrase change conforms to Fam. Code section 17400, the statute that created county child support agencies.</p> <p>5. Agree to modify text to improve grammar.</p>

SPR05-31

Juvenile Law: Miscellaneous Rules and Forms

(amend Cal. Rules of Court, rules 1413, 1438, 1455, 1456, 1460–1463, and 1492; revise forms ADOPT-210, ADOPT-215, JV-365, JV-500, JV-501)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>“certified foster parents who have been approved for adoption,” not “approved for the adoption.”</p> <p>6. Rules 1461, 1462, 1463: Replace “the date entered foster care” with “the date the child entered foster care.”</p> <p>7. Rule 1462: Replace “Review must be sought” with “Review may be sought.”</p> <p>8. Rule 1462: Rules 38.2 and 38.3 are not applicable to Rule 1462.</p> <p>9. Rule 1463: Some of the notice requirements in the rule are not set forth in section 294, therefore the rule should state “in addition to the requirements set forth in Welfare and Institutions Code section 294...”</p> <p>10. Rule 1463: Various grammatical and typographical corrections.</p> <p>11. ADOPT 210 and ADOPT 215: The forms should include “or state registered domestic partner” whenever “spouse” is used, as required by Gov. Code § 14771(a)(14).</p>	<p>6. Agree to modify text to improve grammar.</p> <p>7. Agree to modify text to improve grammar.</p> <p>8. Agree to modify rule and delete references to rules 38.2 and 38.3.</p> <p>9. Agree to modify text to clarify the rule imposes additional notice requirements.</p> <p>10. Agree to modify text to improve grammar.</p> <p>11. Agree to modify forms to include state-registered domestic partner as required by Gov. Code § 14771(a)(14).</p>

SPR05-31

Juvenile Law: Miscellaneous Rules and Forms

(amend Cal. Rules of Court, rules 1413, 1438, 1455, 1456, 1460–1463, and 1492; revise forms ADOPT-210, ADOPT-215, JV-365, JV-500, JV-501)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>12. JV-365: Replace “the date entered foster care” with “the date the child entered foster care.” Replace “Only required” with “Required only.”</p> <p>13. JV-500: Add “number” after “FAX”</p> <p>14. JV-501: Add “of” after “is declared to be the legal parent.”</p>	<p>12. Agree to modify text to improve grammar.</p> <p>13. Agree to modify text to improve grammar.</p> <p>14. Agree to modify text to improve grammar.</p>
8.	Mr. Dean Zipser President Orange County Bar Association Irvine	AM	Y	Rule 1456: Add a third finding to the rule that when a minor is removed for one or more reasons stated in Welf. & Inst. Code § 361(c)(5), it was reasonable to not make efforts to prevent or eliminate the need for removal of the minor from his or her home.	The committee recommends against adding this finding to the rule. There are a number of situations where the department may assess the situation of the child and family and decide that due to concerns for the child’s safety, efforts beyond the initial response and assessment are not warranted. In that event, if the court views the department’s assessment as accurate and its actions appropriate, the level of effort will have been reasonable and the court can find that reasonable efforts have been made.

Assembly Bill No. 205

CHAPTER 421

An act to amend Sections 297, 298, and 298.5 of, to add Sections 297.5, 299.2, and 299.3 to, to repeal Section 299.5 of, and to repeal and add Section 299 of, the Family Code, to amend Section 14771 of the Government Code, and to amend Section 3 of Chapter 447 of the Statutes of 2002, relating to domestic partnerships.

[Approved by Governor September 19, 2003. Filed with Secretary of State September 22, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 205, Goldberg. Domestic partners.

Existing law provides for the issuance of a marriage license and specifies the rights and obligations of married persons.

Existing law also provides for the establishment and the termination of domestic partnerships. Existing law requires the Secretary of State to prepare and distribute forms for creating and terminating domestic partnerships. Existing law specifies the requirements for completing the form necessary to create a domestic partnership and provides that a violation of this provision is a misdemeanor.

This bill would enact the California Domestic Partner Rights and Responsibilities Act of 2003. The bill would modify the procedure and the accompanying form for terminating domestic partnerships, and require additional duties of the Secretary of State in relation, as specified. The bill would also revise the requirements for entering into a domestic partnership to require each person to consent to the jurisdiction of the superior courts of this state for the purpose of a proceeding to obtain a judgment of dissolution or nullity of the domestic partnership. The bill would revise the provision described above making it a misdemeanor to violate the provision specifying the requirements for completing the form necessary to create a domestic partnership. The bill would instead specifically provide that filing an intentionally and materially false Declaration of Domestic Partnership would be punishable as a misdemeanor, thereby creating a new crime. By creating a new crime, this bill would impose a state-mandated local program.

This bill would extend the rights and duties of marriage to persons registered as domestic partners on and after January 1, 2005. The bill would provide that the superior courts shall have jurisdiction over all proceedings governing the dissolution of domestic partnerships, nullity of domestic partnerships, and legal separation of partners in domestic



partnerships. These proceedings would follow the same procedures as the equivalent proceedings with respect to marriage. The bill would provide that a legal union validly formed in another jurisdiction that is substantially equivalent to a domestic partnership would be recognized as a valid domestic partnership in this state. The bill would require the Secretary of State to send a letter on 3 separate, specified occasions to the mailing address of registered domestic partners informing them of these changes, as specified. The bill would also require the Director of General Services, through the forms management center, to provide notice to state agencies, among others, that in reviewing and revising all public-use forms that refer to or use the terms spouse, husband, wife, father, mother, marriage, or marital status, that appropriate references to domestic partner, parent, or domestic partnership be included. The bill would also make related and conforming changes. The bill would further make specified provisions operative on January 1, 2005. The bill would impose a state-mandated local program by adding to the duties of county clerks.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. (a) This act is intended to help California move closer to fulfilling the promises of inalienable rights, liberty, and equality contained in Sections 1 and 7 of Article 1 of the California Constitution by providing all caring and committed couples, regardless of their gender or sexual orientation, the opportunity to obtain essential rights, protections, and benefits and to assume corresponding responsibilities, obligations, and duties and to further the state's interests in promoting stable and lasting family relationships, and protecting Californians from the economic and social consequences of abandonment, separation, the death of loved ones, and other life crises.



including laws governing community property, those governing property transfer, those regarding duties of mutual financial support and mutual responsibilities for certain debts to third parties, and many others. The way domestic partnerships are terminated will also change. Unlike current law, which allows partners to end their partnership simply by filing a “Termination of Domestic Partnership” form with the Secretary of State, after January 1, 2005, it will be necessary under certain circumstances to participate in a dissolution proceeding in court to end a domestic partnership.

If you have questions about these changes, please consult an attorney. If you cannot find an attorney in your area, please contact your county bar association for a referral.”

SEC. 11. Section 299.5 of the Family Code is repealed.

SEC. 12. Section 14771 of the Government Code is amended to read:

14771. (a) The director, through the forms management center, shall do all of the following:

(1) Establish a State Forms Management Program for all state agencies, and provide assistance in establishing internal forms management capabilities.

(2) Study, develop, coordinate and initiate forms of interagency and common administrative usage, and establish basic state design and specification criteria to effect the standardization of public-use forms.

(3) Provide assistance to state agencies for economical forms design and forms art work composition and establish and supervise control procedures to prevent the undue creation and reproduction of public-use forms.

(4) Provide assistance, training, and instruction in forms management techniques to state agencies, forms management representatives, and departmental forms coordinators, and provide direct administrative and forms management assistance to new state organizations as they are created.

(5) Maintain a central cross index of public-use forms to facilitate the standardization of these forms, to eliminate redundant forms, and to provide a central source of information on the usage and availability of forms.

(6) Utilize appropriate procurement techniques to take advantage of competitive bidding, consolidated orders, and contract procurement of forms, and work directly with the Office of State Publishing toward more efficient, economical and timely procurement, receipt, storage, and distribution of state forms.



(7) Coordinate the forms management program with the existing state archives and records management program to ensure timely disposition of outdated forms and related records.

(8) Conduct periodic evaluations of the effectiveness of the overall forms management program and the forms management practices of the individual state agencies, and maintain records which indicate net dollar savings which have been realized through centralized forms management.

(9) Develop and promulgate rules and standards to implement the overall purposes of this section.

(10) Create and maintain by July 1, 1986, a complete and comprehensive inventory of public-use forms in current use by the state.

(11) Establish and maintain, by July 1, 1986, an index of all public-use forms in current use by the state.

(12) Assign, by January 1, 1987, a control number to all public-use forms in current use by the state.

(13) Establish a goal to reduce the existing burden of state collections of public information by 30 percent by July 1, 1987, and to reduce that burden by an additional 15 percent by July 1, 1988.

(14) Provide notice to state agencies, forms management representatives, and departmental forms coordinators, that in the usual course of reviewing and revising all public-use forms that refer to or use the terms spouse, husband, wife, father, mother, marriage, or marital status, that appropriate references to domestic partner, parent, or domestic partnership are to be included.

(15) Delegate implementing authority to state agencies where the delegation will result in the most timely and economical method of accomplishing the responsibilities set forth in this section.

The director, through the forms management center, may require any agency to revise any public-use form which the director determines is inefficient.

(b) Due to the need for tax forms to be available to the public on a timely basis, all tax forms, including returns, schedules, notices, and instructions prepared by the Franchise Tax Board for public use in connection with its administration of the Personal Income Tax Law, Senior Citizens Property Tax Assistance and Postponement Law, Bank and Corporation Tax Law, and the Political Reform Act of 1974 and the State Board of Equalization's administration of county assessment standards, state-assessed property, timber tax, sales and use tax, hazardous substances tax, alcoholic beverage tax, cigarette tax, motor vehicle fuel license tax, use fuel tax, energy resources surcharge, emergency telephone users surcharge, insurance tax, and universal



Assembly Bill No. 2795

CHAPTER 332

An act to amend Sections 636, 636.1, 11404, 16051.1, and 16506 of the Welfare and Institutions Code, relating to child welfare services.

[Approved by Governor August 27, 2004. Filed with Secretary of State August 30, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2795, Wolk. Child welfare services: wards of the juvenile court: case plans: family maintenance services.

(1) Under existing law, when a minor is ordered by the juvenile court to be detained, the assigned probation officer is required to take various actions, including completing a detention report, completing a case plan within 30 days of the minor's initial removal, and providing documentation relating to the minor's removal and the services to be provided to the minor. Under existing law, this documentation may be provided as a part of the probation officer's detention report or case plan, but in no case later than 30 days from the date of detention.

This bill would extend the time by which the probation officer is required to submit a case plan to 60 days from the date of the initial removal, and the time limit for the required documentation to 60 days from the date of detention.

(2) Existing law declares that the foundation and central unifying tool in child welfare services is the case plan. A written case plan is required to be completed within 30 days of the initial removal of a child or an in-person emergency response by a county welfare department.

This bill would extend the time period for completion of a written case plan to a maximum of 60 days, effective 90 days after the date that the State Department of Social Services gives counties written notice that necessary changes have been made to the Child Welfare Services Case Management System to account for the new timeframe for completion of the case plan and would make conforming changes.

(3) Existing law requires family maintenance services to be provided or arranged for by county welfare department staff, in order to maintain a child in his or her own home. Existing law identifies the categories of families to which these services are available, and provides that the services are limited to 6 months. Existing law authorizes the extension of these services for one 6-month period, if it can be shown that the objectives of the service plan can be achieved within that time.



This bill would authorize multiple 6-month extensions of family maintenance services, if it can be shown that the objectives of the service plan can be achieved within that time, and provided within the county's allocation.

The people of the State of California do enact as follows:

SECTION 1. Section 636 of the Welfare and Institutions Code is amended to read:

636. (a) If it appears upon the hearing that the minor has violated an order of the juvenile court or has escaped from a commitment of the juvenile court or that it is a matter of immediate and urgent necessity for the protection of the minor or reasonably necessary for the protection of the person or property of another that he or she be detained or that the minor is likely to flee to avoid the jurisdiction of the court, and that continuance in the home is contrary to the minor's welfare, the court may make its order that the minor be detained in the juvenile hall or other suitable place designated by the juvenile court for a period not to exceed 15 judicial days and shall enter said order together with its findings of fact in support thereof in the records of the court. The circumstances and gravity of the alleged offense may be considered, in conjunction with other factors, to determine whether it is a matter of immediate and urgent necessity for the protection of the minor or the person or property of another that the minor be detained.

(b) If the court finds that the criteria of Section 628.1 are applicable, the court shall place the minor on home supervision for a period not to exceed 15 judicial days, and shall enter the order together with its findings of fact in support thereof in the records of the court. If the court releases the minor on home supervision, the court may continue, modify, or augment any conditions of release previously imposed by the probation officer, or may impose new conditions on a minor released for the first time. If there are new or modified conditions, the minor shall be required to sign a written promise to obey those conditions pursuant to Section 628.1.

(c) If the probation officer is recommending that the minor be detained, the probation officer shall submit to the court documentation, as follows:

(1) Documentation that continuance in the home is contrary to the minor's welfare shall be submitted to the court as part of the detention report prepared pursuant to Section 635.

(2) Documentation that reasonable efforts were made to prevent or eliminate the need for removal of the minor from the home and documentation of the nature and results of the services provided shall be



(A) Either the voluntary relinquishment of the child by one or both parents or court action declaring a child free from the custody and control of one or both parents.

(B) The child's residence with a nonrelated legal guardian.

(2) Develop a written assessment of the reasons necessitating the child's placement in foster care and the treatment needs of the child while in foster care to be updated by the agency no less frequently than once every six months. Where the child is a parent who has a child living with him or her in the same eligible facility, the assessment shall also address the needs of his or her child.

(3) Develop a case plan for the child within a maximum of 60 days of placement.

(4) Ensure that services are provided to return the child to his or her own home or establish an alternative permanent placement for the child if return home is not possible or is inappropriate.

SEC. 4. Section 16501.1 of the Welfare and Institutions Code is amended to read:

16501.1. (a) (1) The Legislature finds and declares that the foundation and central unifying tool in child welfare services is the case plan.

(2) The Legislature further finds and declares that a case plan ensures that the child receives protection and safe and proper care and case management, and that services are provided to the child and parents or other caretakers, as appropriate, in order to improve conditions in the parent's home, to facilitate the safe return of the child to a safe home or the permanent placement of the child, and to address the needs of the child while in foster care.

(b) (1) A case plan shall be based upon the principles of this section and shall document that a preplacement assessment of the service needs of the child and family, and preplacement preventive services, have been provided, and that reasonable efforts to prevent out-of-home placement have been made.

(2) In determining the reasonable services to be offered or provided, the child's health and safety shall be the paramount concerns.

(3) Reasonable services shall be offered or provided to make it possible for a child to return to a safe home environment, unless, pursuant to subdivisions (b) and (e) of Section 361.5, the court determines that reunification services shall not be provided.

(4) If reasonable services are not ordered, or are terminated, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanent plan and to complete all steps necessary to finalize the permanent placement of the child.



(c) (1) If out-of-home placement is used to attain case plan goals, the decision regarding choice of placement shall be based upon selection of a safe setting that is the least restrictive or most familylike and the most appropriate setting that is available and in close proximity to the parent's home, proximity to the child's school, consistent with the selection of the environment best suited to meet the child's special needs and best interests, or both. The selection shall consider, in order of priority, placement with relatives, tribal members, and foster family, group care, and residential treatment pursuant to Section 7950 of the Family Code.

(2) In addition to the requirements of paragraph (1), and taking into account other statutory considerations regarding placement, the selection of the most appropriate home that will meet the child's special needs and best interests shall also promote educational stability by taking into consideration proximity to the child's school attendance area.

(d) A written case plan shall be completed within a maximum of 60 days of the initial removal of the child or of the in-person response required under subdivision (f) of Section 16501 if the child has not been removed from his or her home, or by the date of the dispositional hearing pursuant to Section 358, whichever occurs first. The case plan shall be updated, as the service needs of the child and family dictate. At a minimum, the case plan shall be updated in conjunction with each status review hearing conducted pursuant to Section 366.21, and the hearing conducted pursuant to Section 366.26, but no less frequently than once every six months. Each updated case plan shall include a description of the services that have been provided to the child under the plan and an evaluation of the appropriateness and effectiveness of those services.

(1) It is the intent of the Legislature that extending the maximum time available for preparing a written case plan from 30 to 60 days will afford caseworkers time to actively engage families, and to solicit and integrate into the case plan the input of the child and the child's family, as well as the input of relatives and other interested parties.

(2) The extension of the maximum time available for preparing a written case plan from 30 to 60 days shall be effective 90 days after the date that the department gives counties written notice that necessary changes have been made to the Child Welfare Services Case Management System to account for the 60-day timeframe for preparing a written case plan.

(e) The child welfare services case plan shall be comprehensive enough to meet the juvenile court dependency proceedings requirements pursuant to Article 6 (commencing with Section 300) of Chapter 2 of Part 1 of Division 2.

(f) The case plan shall be developed as follows:



Assembly Bill No. 2807

CHAPTER 810

An act to amend Sections 366, 366.1, 366.21, 366.22, 366.26, 366.3, 391, 10609.4, and 16501.1 of, and to add Section 16131.5 to, the Welfare and Institutions Code, relating to children.

[Approved by Governor September 27, 2004. Filed with Secretary of State September 27, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2807, Steinberg. Minors.

(1) Existing law provides that children may become dependent children of the juvenile court on the basis of abuse or neglect. Existing law requires social workers and other specified persons to prepare reports and evaluations for the juvenile court containing information about children who are, or may become, dependent children of the juvenile court.

This bill would revise provisions requiring the court to review the status of a dependent child in foster care. Among other changes, the bill would specify that the court is to make appropriate orders to enable a child who is 10 years of age or older and has been in out-of-home placement in a group home for 6 months or longer from the date the child entered foster care to maintain relationships with other individuals, other than the child's siblings, who are important to the child, consistent with the child's best interests.

(2) Existing law declares the Legislature's intent to conform state statutes to specified federal legislation regarding adoption and to reinvest any incentive payments received through that legislation into the child welfare system to provide adoption services.

This bill would require the state to reinvest any incentive payments received through the implementation of the federal Adoption Promotion Act of 2003 for placement of older children, as defined in that act, into the child welfare system, as specified.

(3) This bill would incorporate additional changes in Section 366.21 of the Welfare and Institutions Code proposed by AB 3079 that would become operative only if AB 3079 and this bill are both chaptered and become effective on or before January 1, 2005, and the bill is chaptered last.

This bill would incorporate additional changes in Section 366.26 of the Welfare and Institutions Code proposed by AB 1895 that would become operative only if AB 1895 and this bill are both chaptered and



become effective on or before January 1, 2005, and the bill is chaptered last.

This bill would incorporate additional changes in Section 16501.1 of the Welfare and Institutions Code proposed by AB 2795 that would become operative only if AB 2795 and this bill are both chaptered and become effective on or before January 1, 2005, and the bill is chaptered last.

The people of the State of California do enact as follows:

SECTION 1. Section 366 of the Welfare and Institutions Code is amended to read:

366. (a) (1) The status of every dependent child in foster care shall be reviewed periodically as determined by the court but no less frequently than once every six months, as calculated from the date of the original dispositional hearing, until the hearing described in Section 366.26 is completed. The court shall consider the safety of the child and shall determine all of the following:

(A) The continuing necessity for and appropriateness of the placement.

(B) The extent of the agency's compliance with the case plan in making reasonable efforts to return the child to a safe home and to complete any steps necessary to finalize the permanent placement of the child, including efforts to maintain relationships between a child who is 10 years of age or older who is placed in a group home for six months or longer from the date the child entered foster care, and individuals other than the child's siblings who are important to the child, consistent with the child's best interests.

(C) Whether there should be any limitation on the right of the parent or guardian to make educational decisions for the child. That limitation shall be specifically addressed in the court order and may not exceed those necessary to protect the child. Whenever the court specifically limits the right of the parent or guardian to make educational decisions for the child, the court shall at the same time appoint a responsible adult to make educational decisions for the child pursuant to Section 361.

(D) (i) Whether the child has other siblings under the court's jurisdiction, and, if any siblings exist, all of the following:

(I) The nature of the relationship between the child and his or her siblings.

(II) The appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002.



(III) If the siblings are not placed together in the same home, why the siblings are not placed together and what efforts are being made to place the siblings together, or why those efforts are not appropriate.

(IV) If the siblings are not placed together, the frequency and nature of the visits between siblings.

(V) The impact of the sibling relationships on the child's placement and planning for legal permanence.

(VI) The continuing need to suspend sibling interaction, if applicable, pursuant to subdivision (c) of Section 16002.

(ii) The factors the court may consider in making a determination regarding the nature of the child's sibling relationships may include, but are not limited to, whether the siblings were raised together in the same home, whether the siblings have shared significant common experiences or have existing close and strong bonds, whether either sibling expresses a desire to visit or live with his or her sibling, as applicable, and whether ongoing contact is in the child's best emotional interests.

(E) The extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care.

(2) The court shall project a likely date by which the child may be returned to and safely maintained in the home or placed for adoption, legal guardianship, or in another planned permanent living arrangement.

(b) Subsequent to the hearing, periodic reviews of each child in foster care shall be conducted pursuant to the requirements of Sections 366.3 and 16503.

(c) If the child has been placed out of state, each review described in subdivision (a) and any reviews conducted pursuant to Sections 366.3 and 16503 shall also address whether the out-of-state placement continues to be the most appropriate placement selection and in the best interests of the child.

(d) A child may not be placed in an out-of-state group home, or remain in an out-of-state group home, unless the group home is in compliance with Section 7911.1 of the Family Code.

SEC. 2. Section 366.1 of the Welfare and Institutions Code is amended to read:

366.1. Each supplemental report required to be filed pursuant to Section 366 shall include, but not be limited to, a factual discussion of each of the following subjects:

(a) Whether the county welfare department social worker has considered child protective services, as defined in Chapter 5 (commencing with Section 16500) of Part 4 of Division 9, as a possible solution to the problems at hand, and has offered those services to qualified parents, if appropriate under the circumstances.



(b) What plan, if any, for the return and maintenance of the child in a safe home is recommended to the court by the county welfare department social worker.

(c) Whether the subject child appears to be a person who is eligible to be considered for further court action to free the child from parental custody and control.

(d) What actions, if any, have been taken by the parent to correct the problems that caused the child to be made a dependent child of the court.

(e) If the parent or guardian is unwilling or unable to participate in making an educational decision for his or her child, or if other circumstances exist that compromise the ability of the parent or guardian to make educational decisions for the child, the county welfare department or social worker shall consider whether the right of the parent or guardian to make educational decisions for the child should be limited. If the supplemental report makes that recommendation, the report shall identify whether there is a responsible adult available to make educational decisions for the child pursuant to Section 361.

(f) (1) Whether the child has any siblings under the court's jurisdiction, and, if any siblings exist, all of the following:

(A) The nature of the relationship between the child and his or her siblings.

(B) The appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002.

(C) If the siblings are not placed together in the same home, why the siblings are not placed together and what efforts are being made to place the siblings together, or why those efforts are not appropriate.

(D) If the siblings are not placed together, the frequency and nature of the visits between siblings.

(E) The impact of the sibling relationships on the child's placement and planning for legal permanence.

(2) The factual discussion shall include a discussion of indicators of the nature of the child's sibling relationships, including, but not limited to, whether the siblings were raised together in the same home, whether the siblings have shared significant common experiences or have existing close and strong bonds, whether either sibling expresses a desire to visit or live with his or her sibling, as applicable, and whether ongoing contact is in the child's best emotional interests.

(g) Whether a child who is 10 years of age or older who is placed in a group home for six months or longer from the date the child entered foster care has relationships with individuals other than the child's siblings that are important to the child, consistent with the child's best interests, and actions taken to maintain those relationships. The social worker shall ask every child who is 10 years of age or older who is placed



in a group home for six months or longer from the date the child entered foster care to identify any individuals other than the child's siblings who are important to the child, consistent with the child's best interest. The social worker may ask any other child to provide that information, as appropriate.



SEC. 3.5. Section 366.21 of the Welfare and Institutions Code is amended to read:

366.21. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing and of their right to be present and represented by counsel.

(b) Except as provided in Sections 294 and 295, notice of the hearing shall be provided pursuant to Section 293.

(c) At least 10 calendar days prior to the hearing, the social worker shall file a supplemental report with the court regarding the services provided or offered to the parent or legal guardian to enable him or her to assume custody and the efforts made to achieve legal permanence for the child if efforts to reunify fail, including, but not limited to, efforts to maintain relationships between a child who is 10 years of age or older and has been in out-of-home placement in a group home for six months or longer from the date the child entered foster care and individuals who are important to the child, consistent with the child's best interests; the progress made; and, where relevant, the prognosis for return of the child to the physical custody of his or her parent or legal guardian; and shall make his or her recommendation for disposition. If the child is a member of a sibling group described in paragraph (3) of subdivision (a) of Section 361.5, the report and recommendation may also take into account those factors described in subdivision (e) relating to the child's sibling group. If the recommendation is not to return the child to a parent or legal guardian, the report shall specify why the return of the child would be detrimental to the child. The social worker shall provide the parent or



legal guardian, counsel for the child, and any court-appointed child advocate with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a child removed from the physical custody of his or her parent or legal guardian, the social worker shall, at least 10 calendar days prior to the hearing, provide a summary of his or her recommendation for disposition to any foster parents, relative caregivers, and certified foster parents who have been approved for adoption by the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency, community care facility, or foster family agency having the physical custody of the child.

(d) Prior to any hearing involving a child in the physical custody of a community care facility or a foster family agency that may result in the return of the child to the physical custody of his or her parent or legal guardian, or in adoption or the creation of a legal guardianship, the facility or agency shall file with the court a report containing its recommendation for disposition. Prior to the hearing involving a child in the physical custody of a foster parent, a relative caregiver, or a certified foster parent who has been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a licensed adoption agency, the foster parent, relative caregiver, or the certified foster parent who has been approved for adoption by the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency, may file with the court a report containing his or her recommendation for disposition. The court shall consider the report and recommendation filed pursuant to this subdivision prior to determining any disposition.

(e) At the review hearing held six months after the initial dispositional hearing, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; and shall consider the efforts or progress, or both, demonstrated



16 years of age and older, the court shall also determine whether services have been made available to assist him or her in making the transition from foster care to independent living. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5, shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided, and shall make appropriate findings pursuant to subdivision (a) of Section 366.

Whether or not the child is returned to his or her parent or legal guardian, the court shall specify the factual basis for its decision. If the child is not returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental. The court also shall make a finding pursuant to subdivision (a) of Section 366.

(g) If the time period in which the court-ordered services were provided has met or exceeded the time period set forth in paragraph (1), (2), or (3) of subdivision (a) of Section 361.5, as appropriate, and a child is not returned to the custody of a parent or legal guardian at the permanency hearing held pursuant to subdivision (f), the court shall do one of the following:

(1) Continue the case for up to six months for a permanency review hearing, provided that the hearing shall occur within 18 months of the date the child was originally taken from the physical custody of his or her parent or legal guardian. The court shall continue the case only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent or legal guardian. For the purposes of this section, in order to find a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time, the court shall be required to find all of the following:

(A) That the parent or legal guardian has consistently and regularly contacted and visited with the child.

(B) That the parent or legal guardian has made significant progress in resolving problems that led to the child's removal from the home.

(C) The parent or legal guardian has demonstrated the capacity and ability both to complete the objectives of his or her treatment plan and



to provide for the child’s safety, protection, physical and emotional well-being, and special needs.

For purposes of this subdivision, the court’s decision to continue the case based on a finding or substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interests of the child.

The court shall inform the parent or legal guardian that if the child cannot be returned home by the next permanency review hearing, a proceeding pursuant to Section 366.26 may be instituted. The court may not order that a hearing pursuant to Section 366.26 be held unless there is clear and convincing evidence that reasonable services have been provided or offered to the parent or legal guardian.

(2) Order that a hearing be held within 120 days, pursuant to Section 366.26, but only if the court does not continue the case to the permanency planning review hearing and there is clear and convincing evidence that reasonable services have been provided or offered to the parents or legal guardians.

(3) Order that the child remain in long-term foster care, but only if the court finds by clear and convincing evidence, based upon the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency, that there is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interest of the child because the child is not a proper subject for adoption and has no one willing to accept legal guardianship. For purposes of this section, a recommendation by the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency that adoption is not in the best interest of the child shall constitute a compelling reason for the court’s determination. That recommendation shall be based on the present circumstances of the child and may not preclude a different recommendation at a later date if the child’s circumstances change.

If the court orders that a child who is 10 years of age or older remain in long-term foster care at a group home for six months or longer from the date the child entered foster care, the court shall determine whether the agency has made reasonable efforts to maintain the child’s relationships with individuals other than the child’s siblings who are important to the child, consistent with the child’s best interests, and may make any appropriate order to ensure that those relationships are maintained.



(6) A description of efforts to be made to identify a prospective adoptive parent or legal guardian, including, but not limited to, child specific recruitment and listing on an adoption exchange.

(7) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(j) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with a relative, and juvenile court dependency is subsequently dismissed, the relative shall be eligible for aid under the Kin-GAP program as provided in Article 4.5 (commencing with Section 11360) of Chapter 2 of Part 3 of Division 9.

(k) As used in this section, “relative” means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words “great,” “great-great,” or “grand,” or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(l) For purposes of this section, evidence of any of the following circumstances may not, in and of itself, be deemed a failure to provide or offer reasonable services:

(1) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(2) The case plan includes services to make and finalize a permanent placement for the child if efforts to reunify fail.

(3) Services to make and finalize a permanent placement for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

SEC. 4. Section 366.22 of the Welfare and Institutions Code is amended to read:

366.22. (a) When a case has been continued pursuant to paragraph (1) of subdivision (g) of Section 366.21, the permanency review hearing shall occur within 18 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker’s report and recommendations and the report and recommendations of any



child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided; and shall make appropriate findings pursuant to subdivision (a) of Section 366.

Whether or not the child is returned to his or her parent or legal guardian, the court shall specify the factual basis for its decision. If the child is not returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that return would be detrimental.

If the child is not returned to a parent or legal guardian at the permanency review hearing, the court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, guardianship, or long-term foster care is the most appropriate plan for the child. However, if the court finds by clear and convincing evidence, based on the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency, that there is a compelling reason, as described in paragraph (2) of subdivision (g) of Section 366.21, for determining that a hearing held under Section 366.26 is not in the best interest of the child because the child is not a proper subject for adoption and has no one willing to accept legal guardianship, then the court may, only under these circumstances, order that the child remain in foster care. If the court orders that a child who is 10 years of age or older remain in long-term foster care at a group home for six months or longer from the date the child entered foster care, the court shall determine whether the agency has made reasonable efforts to maintain the child's relationships with individuals other than the child's siblings who are important to the child, consistent with the child's best interests, and may make any appropriate order to ensure that those relationships are maintained. The hearing shall be held no later than 120 days from the date of the permanency review hearing. The court shall also order termination of reunification services to the parent or legal guardian. The court shall continue to permit the parent or legal guardian to visit the child unless it finds that visitation would be detrimental to the child. The court shall determine whether reasonable services have been offered or provided to the parent or legal guardian. For purposes of this subdivision, evidence of any of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

(1) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.



Kin-GAP program as provided in Article 4.5 (commencing with Section 11360) of Chapter 2 of Part 3 of Division 9.

(d) As used in this section, “relative” means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words “great,” “great-great,” or “grand,” or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

SEC. 5. Section 366.26 of the Welfare and Institutions Code is amended to read:

366.26. (a) This section applies to children who are adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360. The procedures specified herein are the exclusive procedures for conducting these hearings; Part 2 (commencing with Section 3020) of Division 8 of the Family Code is not applicable to these proceedings. Section 8714.7 of the Family Code is applicable and available to all dependent children meeting the requirements of that section, if the postadoption contact agreement has been entered into voluntarily. For children who are adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360, this section and Sections 8604, 8605, 8606, and 8700 of the Family Code and Chapter 5 (commencing with Section 7660) of Part 3 of Division 12 of the Family Code specify the exclusive procedures for permanently terminating parental rights with regard to, or establishing legal guardianship of, the child while the child is a dependent child of the juvenile court.

(b) At the hearing, that shall be held in juvenile court for all children who are dependents of the juvenile court, the court, in order to provide stable, permanent homes for these children, shall review the report as specified in Section 361.5, 366.21, or 366.22, shall indicate that the court has read and considered it, shall receive other evidence that the parties may present, and then shall make findings and orders in the following order of preference:

(1) Terminate the rights of the parent or parents and order that the child be placed for adoption and, upon the filing of a petition for adoption in the juvenile court, order that a hearing be set. The court shall proceed with the adoption after the appellate rights of the natural parents have been exhausted.

(2) On making a finding under paragraph (3) of subdivision (c), identify adoption as the permanent placement goal and order that efforts be made to locate an appropriate adoptive family for the child within a period not to exceed 180 days.

(3) Appoint a legal guardian for the child and order that letters of guardianship issue.



group where at least one child is under six years of age and the siblings are, or should be, permanently placed together.

(E) There would be substantial interference with a child's sibling relationship, taking into consideration the nature and extent of the relationship, including, but not limited to, whether the child was raised with a sibling in the same home, whether the child shared significant common experiences or has existing close and strong bonds with a sibling, and whether ongoing contact is in the child's best interest, including the child's long-term emotional interest, as compared to the benefit of legal permanence through adoption.

If the court finds that termination of parental rights would be detrimental to the child pursuant to subparagraph (A), (B), (C), (D), or (E), it shall state its reasons in writing or on the record.

(2) The court shall not terminate parental rights if at each and every hearing at which the court was required to consider reasonable efforts or services, the court has found that reasonable efforts were not made or that reasonable services were not offered or provided.

(3) If the court finds that termination of parental rights would not be detrimental to the child pursuant to paragraph (1) and that the child has a probability for adoption but is difficult to place for adoption and there is no identified or available prospective adoptive parent, the court may identify adoption as the permanent placement goal and without terminating parental rights, order that efforts be made to locate an appropriate adoptive family for the child within a period not to exceed 180 days. During this 180-day period, the public agency responsible for seeking adoptive parents for each child shall, to the extent possible, ask each child who is 10 years of age or older who is placed in a group home for six months or longer from the date the child entered foster care, to identify any individuals, other than the child's siblings, who are important to the child, in order to identify potential adoptive parents. The public agency may ask any other child to provide that information, as appropriate. During the 180-day period, the public agency shall, to the extent possible, contact other private and public adoption agencies regarding the availability of the child for adoption. During the 180-day period, the public agency shall conduct the search for adoptive parents in the same manner as prescribed for children in Sections 8708 and 8709 of the Family Code. At the expiration of this period, another hearing shall be held and the court shall proceed pursuant to paragraph (1) or (3) of subdivision (b). For purposes of this section, a child may only be found to be difficult to place for adoption if there is no identified or available prospective adoptive parent for the child because of the child's membership in a sibling group, or the presence of a diagnosed medical,



transferred to a foster family agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

(d) The proceeding for the appointment of a guardian for a child who is a dependent of the juvenile court shall be in the juvenile court. If the court finds pursuant to this section that legal guardianship is the appropriate permanent plan, it shall appoint the legal guardian and issue letters of guardianship. The assessment prepared pursuant to subdivision (g) of Section 361.5, subdivision (i) of Section 366.21, and subdivision (b) of Section 366.22 shall be read and considered by the court prior to the appointment, and this shall be reflected in the minutes of the court. The person preparing the assessment may be called and examined by any party to the proceeding.

(e) The proceeding for the adoption of a child who is a dependent of the juvenile court shall be in the juvenile court if the court finds pursuant to this section that adoption is the appropriate permanent plan and the petition for adoption is filed in the juvenile court. Upon the filing of a petition for adoption, the juvenile court shall order that an adoption hearing be set. The court shall proceed with the adoption after the appellate rights of the natural parents have been exhausted. The full report required by Section 8715 of the Family Code shall be read and considered by the court prior to the adoption and this shall be reflected in the minutes of the court. The person preparing the report may be called and examined by any party to the proceeding. It is the intent of the Legislature, pursuant to this subdivision, to give potential adoptive parents the option of filing in the juvenile court the petition for the adoption of a child who is a dependent of the juvenile court. Nothing in this section is intended to prevent the filing of a petition for adoption in any other court as permitted by law, instead of in the juvenile court.

(f) At the beginning of any proceeding pursuant to this section, if the child or the parents are not being represented by previously retained or appointed counsel, the court shall proceed as follows:

(1) In accordance with subdivision (c) of Section 317, if a child before the court is without counsel, the court shall appoint counsel unless the court finds that the child would not benefit from the appointment of counsel. The court shall state on the record its reasons for that finding.

(2) If a parent appears without counsel and is unable to afford counsel, the court shall appoint counsel for the parent, unless this representation is knowingly and intelligently waived. The same counsel shall not be appointed to represent both the child and his or her parent. The public defender or private counsel may be appointed as counsel for the parent.

(3) Private counsel appointed under this section shall receive a reasonable sum for compensation and expenses, the amount of which



shall be determined by the court. The amount shall be paid by the real parties in interest, other than the child, in any proportions the court deems just. However, if the court finds that any of the real parties in interest are unable to afford counsel, the amount shall be paid out of the general fund of the county.

(g) The court may continue the proceeding for not to exceed 30 days as necessary to appoint counsel, and to enable counsel to become acquainted with the case.

(h) (1) At all proceedings under this section, the court shall consider the wishes of the child and shall act in the best interests of the child.

(2) In accordance with Section 349, the child shall be present in court if the child or the child's counsel so requests or the court so orders. If the child is 10 years of age or older and is not present at a hearing held pursuant to this section, the court shall determine whether the minor was properly notified of his or her right to attend the hearing and inquire as to the reason why the child is not present.

(3) (A) The testimony of the child may be taken in chambers and outside the presence of the child's parent or parents, if the child's parent or parents are represented by counsel, the counsel is present, and any of the following circumstances exist:

(i) The court determines that testimony in chambers is necessary to ensure truthful testimony.

(ii) The child is likely to be intimidated by a formal courtroom setting.

(iii) The child is afraid to testify in front of his or her parent or parents.

(B) After testimony in chambers, the parent or parents of the child may elect to have the court reporter read back the testimony or have the testimony summarized by counsel for the parent or parents.

(C) The testimony of a child also may be taken in chambers and outside the presence of the guardian or guardians of a child under the circumstances specified in this subdivision.

(i) Any order of the court permanently terminating parental rights under this section shall be conclusive and binding upon the child, upon the parent or parents and upon all other persons who have been served with citation by publication or otherwise as provided in this chapter. After making the order, the court shall have no power to set aside, change, or modify it, but nothing in this section shall be construed to limit the right to appeal the order.

(j) If the court, by order or judgment, declares the child free from the custody and control of both parents, or one parent if the other does not have custody and control, the court shall at the same time order the child referred to the State Department of Social Services or a licensed adoption agency for adoptive placement by the agency. However, a petition for



permanency planning hearing. The court shall try to place the child in another permanent placement. At the hearing, the parents may be considered as custodians but the child shall not be returned to the parent or parents unless they prove, by a preponderance of the evidence, that reunification is the best alternative for the child. The court may, if it is in the best interests of the child, order that reunification services again be provided to the parent or parents.

(c) If, following the establishment of a legal guardianship, the county welfare department becomes aware of changed circumstances that indicate adoption may be an appropriate plan for the child, the department shall so notify the court. The court may vacate its previous order dismissing dependency jurisdiction over the child and order that a hearing be held pursuant to Section 366.26 to determine whether adoption or continued legal guardianship is the most appropriate plan for the child. The hearing shall be held no later than 120 days from the date of the order. If the court orders that a hearing shall be held pursuant to Section 366.26, the court shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services if it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment under subdivision (b) of Section 366.22.

(d) If the child is in a placement other than the home of a legal guardian and jurisdiction has not been dismissed, the status of the child shall be reviewed at least every six months. The review of the status of a child for whom the court has ordered parental rights terminated and who has been ordered placed for adoption shall be conducted by the court. The review of the status of a child for whom the court has not ordered parental rights terminated and who has not been ordered placed for adoption may be conducted by the court or an appropriate local agency. The court shall conduct the review under the following circumstances:

- (1) Upon the request of the child's parents or legal guardians.
 - (2) Upon the request of the child.
 - (3) It has been 12 months since a hearing held pursuant to Section 366.26 or an order that the child remain in long-term foster care pursuant to Section 366.21, 366.22, 366.26, or subdivision (g).
 - (4) It has been 12 months since a review was conducted by the court.
- The court shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.

(e) Except as provided in subdivision (f), at the review held every six months pursuant to subdivision (d), the reviewing body shall inquire about the progress being made to provide a permanent home for the



child, shall consider the safety of the child, and shall determine all of the following:

(1) The continuing necessity for and appropriateness of the placement.

(2) Identification of individuals other than the child's siblings who are important to a child who is 10 years of age or older who is in out-of-home placement in a group home for six months or longer from the date the child entered foster care, and actions necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The social worker shall ask every child who is 10 years of age or older who is placed in a group home for six months or longer from the date the child entered foster care to identify individuals other than the child's siblings who are important to the child, and may ask any other child to provide that information, as appropriate. The social worker shall make efforts to identify other individuals who are important to the child, consistent with the child's best interests.

(3) The continuing appropriateness and extent of compliance with the permanent plan for the child, including efforts to maintain relationships between a child who is 10 years of age or older and has been in out-of-home placement in a group home for six months or longer from the date the child entered foster care and individuals who are important to the child and efforts to identify a prospective adoptive parent or legal guardian, including, but not limited to, child specific recruitment efforts and listing on an adoption exchange.

(4) The extent of the agency's compliance with the child welfare services case plan in making reasonable efforts to return the child to a safe home and to complete whatever steps are necessary to finalize the permanent placement of the child.

(5) Whether there should be any limitation on the right of the parent or guardian to make educational decisions for the child. That limitation shall be specifically addressed in the court order and may not exceed what is necessary to protect the child. If the court specifically limits the right of the parent or guardian to make educational decisions for the child, the court shall at the same time appoint a responsible adult to make educational decisions for the child pursuant to Section 361.

(6) The adequacy of services provided to the child. The court shall consider the progress in providing the information and documents to the child, as described in Section 391. The court shall also consider the need for, and progress in providing, the assistance and services described in paragraphs (3) and (4) of subdivision (b) of Section 391.



further reunification services to return the child to a safe home environment be provided to the parent or parents for a period not to exceed six months.

(f) At the review conducted by the court and held at least every six months, regarding a child for whom the court has ordered parental rights terminated and who has been ordered placed for adoption, the county welfare department shall prepare and present to the court a report describing the following:

(1) The child's present placement.

(2) The child's current physical, mental, emotional, and educational status.

(3) If the child has not been placed with a prospective adoptive parent or guardian, identification of individuals, other than the child's siblings, who are important to the child and actions necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The agency shall ask every child who is 10 years of age or older to identify any individuals who are important to him or her, consistent with the child's best interest, and may ask any child who is younger than 10 years of age to provide that information as appropriate. The agency shall make efforts to identify other individuals who are important to the child.

(4) Whether the child has been placed with a prospective adoptive parent or parents.

(5) Whether an adoptive placement agreement has been signed and filed.

(6) If the child has not been placed with a prospective adoptive parent or parents, the efforts made to identify an appropriate prospective adoptive parent or legal guardian, including, but not limited to, child specific recruitment efforts and listing on an adoption exchange.

(7) Whether the final adoption order should include provisions for postadoptive sibling contact pursuant to Section 366.29.

(8) The progress of the search for an adoptive placement if one has not been identified.

(9) Any impediments to the adoption or the adoptive placement.

(10) The anticipated date by which the child will be adopted, or placed in an adoptive home.

(11) The anticipated date by which an adoptive placement agreement will be signed.

(12) Recommendations for court orders that will assist in the placement of the child for adoption or in the finalization of the adoption.

The court shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.



The court shall make appropriate orders to protect the stability of the child and to facilitate and expedite the permanent placement and adoption of the child.

(g) At the review held pursuant to subdivision (d) for a child in long-term foster care, the court shall consider all permanency planning options for the child including whether the child should be returned to the home of the parent, placed for adoption, or appointed a legal guardian, or, if compelling reasons exist for finding that none of the foregoing options are in the best interest of the child, whether the child should be placed in another planned permanent living arrangement. The court shall order that a hearing be held pursuant to Section 366.26 unless it determines by clear and convincing evidence, that there is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interest of the child because the child is being returned to the home of the parent, the child is not a proper subject for adoption, or no one is willing to accept legal guardianship. If the licensed county adoption agency, or the department when it is acting as an adoption agency in counties that are not served by a county adoption agency, has determined it is unlikely that the child will be adopted or one of the conditions described in paragraph (1) of subdivision (c) of Section 366.26 applies, that fact shall constitute a compelling reason for purposes of this subdivision. Only upon that determination may the court order that the child remain in foster care, without holding a hearing pursuant to Section 366.26.

(h) If, as authorized by subdivision (g), the court orders a hearing pursuant to Section 366.26, the court shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment as provided for in subdivision (i) of Section 366.21 or subdivision (b) of Section 366.22. A hearing held pursuant to Section 366.26 shall be held no later than 120 days from the date of the 12-month review at which it is ordered, and at that hearing the court shall determine whether adoption, legal guardianship, or long-term foster care is the most appropriate plan for the child.

SEC. 7. Section 391 of the Welfare and Institutions Code is amended to read:

391. At any hearing to terminate jurisdiction over a dependent child who has reached the age of majority the county welfare department shall do both of the following:

(a) Ensure that the child is present in court, unless the child does not wish to appear in court, or document efforts by the county welfare department to locate the child when the child is not available.



(b) Submit a report verifying that the following information, documents, and services have been provided to the child:

(1) Written information concerning the child's dependency case, including his or her family history and placement history, the whereabouts of any siblings under the jurisdiction of the juvenile court, unless the court determines that sibling contact would jeopardize the safety or welfare of the sibling, directions on how to access the documents the child is entitled to inspect under Section 827, and the date on which the jurisdiction of the juvenile court would be terminated.

(2) The following documents, where applicable: social security card, certified birth certificate, identification card, as described in Section 13000 of the Vehicle Code, death certificate of parent or parents, and proof of citizenship or residence.

(3) Assistance in completing an application for Medi-Cal or assistance in obtaining other health insurance; referral to transitional housing, if available, or assistance in securing other housing; and assistance in obtaining employment or other financial support.

(4) Assistance in applying for admission to college or to a vocational training program or other educational institution and in obtaining financial aid, where appropriate.

(5) Assistance in maintaining relationships with individuals who are important to a child who has been in out-of-home placement in a group home for six months or longer from the date the child entered foster care, based on the child's best interests.

(c) The court may continue jurisdiction if it finds that the county welfare department has not met the requirements of subdivision (b) and that termination of jurisdiction would be harmful to the best interests of the child. If the court determines that continued jurisdiction is warranted pursuant to this section, the continuation shall only be ordered for that period of time necessary for the county welfare department to meet the requirements of subdivision (b). This section shall not be construed to limit the discretion of the juvenile court to continue jurisdiction for other reasons. The court may terminate jurisdiction if the county welfare department has offered the required services, and the child either has refused the services or, after reasonable efforts by the county welfare department, cannot be located.

(d) The Judicial Council shall develop and implement standards, and develop and adopt appropriate forms, necessary to implement this section.

SEC. 8. Section 10609.4 of the Welfare and Institutions Code is amended to read:



10609.4. (a) On or before July 1, 2000, the State Department of Social Services, in consultation with county and state representatives, foster youth, and advocates, shall do both of the following:

(1) Develop statewide standards for the implementation and administration of the Independent Living Program established pursuant to the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272).

(2) Define the outcomes for the Independent Living Program and the characteristics of foster youth enrolled in the program for data collection purposes.

(b) Each county department of social services shall include in its annual Independent Living Program report both of the following:

(1) An accounting of federal and state funds allocated for implementation of the program. Expenditures shall be related to the specific purposes of the program. Program purposes may include, but are not limited to, all of the following:

(A) Enabling participants to seek a high school diploma or its equivalent or to take part in appropriate vocational training, and providing job readiness training and placement services, or building work experience and marketable skills, or both.

(B) Providing training in daily living skills, budgeting, locating and maintaining housing, and career planning.

(C) Providing for individual and group counseling.

(D) Integrating and coordinating services otherwise available to participants.

(E) Providing each participant with a written transitional independent living plan that will be based on an assessment of his or her needs, that includes information provided by persons who have been identified by the participant as important to the participant in cases in which the participant has been in out-of-home placement in a group home for six months or longer from the date the participant entered foster care, consistent with the participant's best interests, and that will be incorporated into his or her case plan.

(F) Providing participants with other services and assistance designed to improve independent living.

(G) Convening persons who have been identified by the participant as important to him or her for the purpose of providing information to be included in his or her written transitional independent living plan.

(2) A detail of the characteristics of foster youth enrolled in their independent living programs and the outcomes achieved based on the information developed by the department pursuant to subdivision (a).



Assembly Bill No. 3079

CHAPTER 811

An act to amend Sections 3110.5, 6222, and 7120 of the Family Code, to amend Sections 6103.2, 68085, 68115, 68502.7, 68926, 68927, 71622, 72190, and 77006.5 of, and to repeal Section 72407 of, the Government Code, and to amend Sections 366.21 and 16010.6 of the Welfare and Institutions Code, relating to the courts.

[Approved by Governor September 27, 2004. Filed with Secretary of State September 27, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3079, Committee on Judiciary. Courts: subordinate judicial officers: juvenile courts: trial court funding.

(1) Existing law establishes requirements with respect to court proceedings dealing with child custody and support, the emancipation of minors, and domestic violence.

This bill would make technical corrections to those provisions.

(2) Existing law provides that the Trial Court Budget Commission shall have certain responsibilities with respect to the allocation and reallocation of funds from the Trial Court Trust Fund to the courts. However, the statutory authorization for the Trial Court Budget Commission was eliminated on January 1, 2002.

This bill would delete references to the Trial Court Budget Commission and provide that those responsibilities shall be performed by the Judicial Council.

(3) Existing law authorizes the Chair of the Judicial Council to extend certain court deadlines and to take other specified actions when emergency conditions exist.

This bill would additionally authorize the Chair of the Judicial Council to extend the duration of a temporary restraining order that would otherwise expire during the period of an emergency.

(4) Existing law imposes fees for filing a notice of appeal in a civil case and a petition for a writ within the original civil jurisdiction of a court of appeal or the Supreme Court. However, those fees may not be charged in appeals or petitions for writs involving juvenile cases or emancipation proceedings. Existing law also imposes a fee for filing a petition for hearing in a civil case in the Supreme Court.

Under this bill, none of those filing fees would apply to those appeals or petitions involving juvenile cases, emancipation proceedings, or proceedings under the Lanterman-Petris-Short Act.



(5) Existing law authorizes each trial court to establish and appoint subordinate judicial officers. Existing law specifically provides that a retired commissioner and, in certain counties, a retired traffic referee may be assigned to serve as a commissioner or traffic referee and shall be paid the difference between his or her retirement allowance and the full compensation of a commissioner or traffic referee, without reinstatement as a member of the retirement system.

This bill would authorize any retired subordinate judicial officer to be assigned to perform subordinate judicial duties for not more than 85% of the compensation of a retired judge and subject to any limits imposed by his or her retirement system on postretirement service.

(6) Existing law requires the social worker to file a report with the court prior to a hearing to review the status of a dependent child. The social worker must also provide a summary of his or her recommendation for disposition to, among others, any court-appointed child advocate, if the child has been removed from parental custody.

This bill would require the social worker to provide a copy of the report, including the recommendation for disposition, to any court-appointed child advocate prior to the hearing in all cases. By expanding the duties of social workers, the bill would create a state-mandated local program. The bill would also make a clarifying change with respect to a rule of court relating to the attorney of a child in a dependency proceeding.

(7) This bill would incorporate additional changes to Section 3110.5 of the Family Code proposed by AB 3081 contingent upon its prior enactment.

(8) This bill would incorporate additional changes to Section 366.21 of the Welfare and Institutions Code proposed by AB 2807 contingent upon its prior enactment.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 3110.5 of the Family Code is amended to read:



(2) The case plan includes services to make and finalize a permanent placement for the child if efforts to reunify fail.

(3) Services to make and finalize a permanent placement for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

SEC. 15. Section 16010.6 of the Welfare and Institutions Code is amended to read:

16010.6. (a) As soon as possible after a placing agency makes a decision with respect to a placement or a change in placement of a dependent child, the placing agency shall notify the child's attorney and provide to the child's attorney information regarding the child's address, telephone number, and caregiver. This requirement is declaratory of existing law.

(b) The Judicial Council shall adopt a rule of court directing the attorney for a child for whom a dependency petition has been filed, upon receipt from the agency responsible for placing the child of the name, address, and telephone number of the child's caregiver, to timely provide the attorney's contact information to the caregiver and, if the child is 10 years of age or older, to the child. This rule does not preclude an attorney from giving contact information to a child who is younger than 10 years of age.

SEC. 16. Section 1.5 of this bill incorporates amendments to Section 3110.5 of the Family Code proposed by both this bill and AB 3081. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2005, but this bill becomes operative first, (2) each bill amends Section 3110.5 of the Family Code, and (3) this bill is enacted after AB 3081, in which case Section 3110.5 of the Family Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 3081, at which time Section 1.5 of this bill shall become operative.

SEC. 17. Section 14.5 of this bill incorporates amendments to Section 366.21 of the Welfare and Institutions Code proposed by both this bill and AB 2807. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2005, (2) each bill amends Section 366.21 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 2807, in which case Section 14 of this bill shall not become operative.

SEC. 18. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one

