

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

455 Golden Gate Avenue
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Report

TO: Members of the Judicial Council

FROM: Family and Juvenile Law Advisory Committee
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DATE: July 13, 2005

SUBJECT: Juvenile Law: Notice of Proceedings (amend Cal. Rules of Court, rules 37, 38-38.3, 1407, 1408, 1430, 1431, 1433, 1434, 1436, 1436.5, 1440, 1465, 1466, 1496, and 1496.5; repeal rule 1470; revise forms JV-800, JV-820, JV-825, and JV-826; and approve form JV-822)
(Action Required)

Issue Statement

Senate Bill 1956 [Palanco] Stats. 2002, ch. 416, signed into law in 2002, and Assembly Bill 44 [Pacheco] Stats. 2004, ch. 20, signed into law in 2004, affect existing rules of court and Judicial Council forms regarding notice of juvenile law proceedings. These statutory changes necessitate making changes to these rules and forms.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2006, amend rules 37, 38-38.3, 1407, 1408, 1430, 1431, 1433, 1434, 1436, 1436.5, 1440, 1465, 1466, 1496, and 1496.5, and repeal rule 1470 of the California Rules of Court; revise Judicial Council forms JV-800, JV-820, JV-825, and JV-826; and approve form JV-822 to reflect the new statutory requirements and conform to existing law.

The proposed rules and forms are attached at pages 6–44.

Rationale for Recommendation

The committee recommends the following changes to the juvenile law rules and forms concerning notice. A majority of the recommended changes eliminate replication of the Welfare and Institutions Code provisions in the respective rules of court and correct

grammatical and technical inaccuracies. Additional changes clarify the application of the prison delivery rule to juvenile notices of appeals and clarify the requirement for notice to the child's present caregiver.

Elimination of replication and corrected statutory and rule cross-references

The committee recommends changes to the rules and forms that affect notice in juvenile law cases, which will bring consistency and brevity to the juvenile law notice provisions. The amendments to the rules would eliminate the word-for-word replication of the notice requirements in dependency proceedings under the Welfare and Institutions Code in the California 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. The committee also proposes amendments to the rules and revisions of the forms to reflect the correct statutory and rule cross-references.

The recommended changes require that those persons already entitled to receive notice for a juvenile law matter, under Welfare and Institutions Code sections 290.1(a)(2), 290.2(a)(2), 291(a)(2), 294(a)(2), 301, and *In re Cynthia C.* (1997) 58 Cal.App.4th 1479, receive notice when a notice of intent to file writ petition has been filed. The persons entitled to notice are the grandparents of the child, if their address is known and the parent's whereabouts are unknown, the Indian custodian and tribe of the child or the Bureau of Indian Affairs, the child's Court Appointed Special Advocate (CASA) volunteer, the child's present caregiver, and any de facto parent given standing to participate in the proceeding.

The committee recommends in subparagraph (1) (B) of subdivision (f) of rule 38 that the previously stated requirement of notice to the parent now specify that notice is required to the mother, father, and to all alleged and presumed parents. This amendment brings rule 38 into compliance with Welfare and Institutions Code sections 290.1(a)(2), 290.2(a)(2), 291(a)(2), 294(a)(2), and 316.2(b) and *In re Salvador M.* (2003) 111 Cal.App.4th 1353. This amendment also replaces specific references to presumed and alleged fathers with gender-neutral language.

Prison delivery rule

The committee recommends amending rule 37(e) to include a provision addressing the timeliness of notices of appeal sent from a custodial institution, when the notice is mailed to custodial officials within the specified time but is not received by the superior court clerk until after the time for filing has expired. Before implementation of the new rule 37, rule 39(a) provided that rules governing appeals in criminal cases were applicable to all juvenile appeals except where expressly provided for in rules 39.1, 39.1A, or 39.1B. Rule 30.1(d) applied "receipt by mail from custodial institution" to juvenile writs and appeals. Last year, these appellate rules were renumbered for technical reasons and the cross-reference was inadvertently deleted.

Present caregiver

The committee recommends changing from the term “present custodian” to “present caregiver,” because people misunderstood the term “present custodian” as the social services agency or probation department. The committee recommends the change to clarify that the notice requirement is meant to apply to the person with whom the child is placed and who is caring for the child.

Alternative Actions Considered

The proposed amendments and revisions are necessary to bring the rules and forms into compliance with governing law. 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 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. In addition, this proposal was sent to county administrative directors, chief probation officers, district attorneys, and public defenders.

The proposal received a total of thirteen comments. Three commentators agreed with the proposed changes. Ten commentators agreed with the proposal if modified and suggested both substantive and technical changes. One of these ten commentators opposed all proposed changes to the Judicial Council forms. The committee declined to adopt this recommendation because the Judicial Council forms are necessary to promote conformity with statutory changes and rule revisions. Appropriate changes have been made to address the vast majority of comment which suggested minor grammatical or technical changes to improve clarity or highlighted legal omissions.

The committee recommended including grandparents, when their address is known and the whereabouts of the parents is unknown; the child’s CASA worker; any de facto parent; the prospective adoptive parents; and the Bureau of Indian Affairs (BIA) in the rules concerning notice for juvenile appeals and writs. Commentators opposed notice to the prospective adoptive parents and to the BIA. To maintain confidentiality and consistency with juvenile notice requirements, the committee agreed with the suggestions to delete notice to the prospective adoptive parents and the provision giving notice to grandparents after parental rights have been terminated. The committee continues to believe that the rules for appeal and writ notice should include caregivers as caregivers are provided notice throughout the dependency matter and it is consistent with the law to specifically include them. The committee continues to believe that the rules for appeal and writ notice should include the BIA in those instances where the parents’ whereabouts are unknown and the specific tribe has not been identified. This is consistent with noticing procedures for a 366.26 hearing, and the committee believes that notice should

be given for requests to change orders made at a 366.26 hearing in the same manner and to the same persons and entities as are provided for under section 294.

The committee proposed revisions to form JV-820 to make the form conform to current notice law and citations. A commentator suggested that the section in the advisement regarding the time for filing the notice of intent to file a writ be changed from 12 days to 17 days. This change would make the time for filing consistent for those receiving the notice in person or by mail as notice by mail is completed 10 days after mailing. The committee agreed with this suggestion.

Finally, when circulated for comment the proposal included the amendment of rules 38(g) and 38.2(h), to change the time by which the clerk must prepare the transcript from 20 days to 12 calendar days.

Before the appellate rules were rewritten, process rule 39.1(B) (now rule 38(g)) referenced rule 35(a) (now rule 32(c)) for the time within which the clerk's transcript was to be prepared. Before 1995 this time was 12 days for both juvenile and criminal appeals. In 1995, rule 35(a) was amended, changing the time to 20 days for preparing the clerk's transcript on criminal appeals. Because rule 39.1(B) continued to refer to rule 35(a), the time by which the clerk's transcript was to be prepared for juvenile writ petitions erroneously became 20 days. At the request of an appellate expert, the committee had proposed correcting this error. The committee also added the word "calendar" to clarify, consistent with the understanding in the appellate rules that, unless specified, "days" refers to "calendar days." Because juvenile practitioners might not be familiar with this rule of construction, the committee proposed adding "calendar" for clarification.

This proposal received conflicting comments. One commentator opposed this amendment, stating that if the reporter took the 12 days to prepare the transcript, the clerk would not be able to submit the entire transcript by the end of the same 12-day time period. This commentator suggested the amendment be changed to 12 court days¹. This commentator also noted the serious administrative burden if the amendment of 12 days is approved because in the commentator's county the clerks are not always able to meet the 20-day timeline. A second commentator opposed the amendment, stating that, in this commentator's county, the court clerk would be able to meet the 12-day timeline for the clerk's transcript but would not be able to complete the entire record because the reporter's transcripts are often not completed within the 12-day timeline. This commentator suggested that if the clerk's timeline is changed to 12 court days, the clerk's and the reporter's timelines should be the same, i.e., 12 court days. This commentator also noted the need for expediency for juvenile writ and appellate matters and voiced concern that if the clerk cannot complete the entire record because the reporter's transcript is not yet complete, the entire matter would be delayed due to the need to

¹ In 2004, Assembly Bill 3078 revised civil action deadlines to be set as court days instead of calendar days. This clarification was not made applicable to the Welfare and Institutions Code and juvenile matters because the juvenile statutes contain independent timelines. Consequently, current rules 38(g) and 38.2(h) simply state "20 days."

augment the record. In addition to these comments, committee staff has become aware of concerns regarding the potential change in clerk workloads and attorney workloads. If the amendment as written is approved, the trial attorney would have 8 days less to complete the research and prepare the writ.

On July 13, 2005, staff sought the opinion of the Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee (TCPJAC/CEAC) during a regularly scheduled meeting. The TCPJAC/CEAC decided that this matter requires further discussion and review. Therefore, the proposed amendments to rules 38(g) and 38.2(h) changing the days from 20 to 12 and adding in “calendar” have been pulled from the spring 2005 cycle and will be included in a future cycle.

The comments are attached at pages 45–54.

Implementation Requirements and Costs

Implementation of the forms revisions will incur standard reproduction costs.

Attachments

Rules 37, 38–38.3, 1407, 1408, 1430, 1431, 1433, 1434, 1436, 1436.5, 1440, 1465, 1466, 1496, and 1496.5 of the California Rules of Court are amended and rule 1470 is repealed, effective January 1, 2006, to read:

1 **Rule 37. Appeals in juvenile cases generally**

2
3 (a)–(d) ***

4
5 **(e) Receipt by mail from custodial institution**

6
7 If the superior court clerk receives a notice of appeal by mail from a
8 custodial institution after the period specified in (d) has expired but the
9 envelope shows that the notice was mailed or delivered to custodial
10 officials for mailing within the period specified in (d), the notice is
11 deemed timely. The clerk must retain in the case file the envelope in
12 which the notice was received.

13
14 **(e)(f) Premature or late notice of appeal**

15
16 (1)–(2) ***

17
18 **(f)(g) Superior court clerk’s duties**

19
20 (1)–(7) ***

21
22 **Rule 38. Notice of intent to file writ petition to review order setting hearing**
23 **under Welfare and Institutions Code section 366.26**

24
25 **(a) Application**

26
27 Rules 38–38.1 and 1436.5 govern writ petitions to review order setting
28 a hearing under Welfare and Institutions Code section 366.26. Rule 56
29 does not apply to petitions governed by these rules.

30
31 **(b)–(e) *****
32
33
34

1 **(f) Sending the notice of intent**

2
3 (1) When the notice of intent is filed, the superior court clerks
4 must immediately mail a copy of the notice to:

5
6 (A) each counsel of record;

7
8 (B) each party, including the ~~minor~~ child, if the child is 10 years
9 of age or older;; the mother; the father; the presumed and
10 alleged parents; the ~~present custodian of a dependent child's~~
11 present caregiver;; any legal guardian; and any person who
12 has been declared a de facto parent and given standing to
13 participate in the juvenile court proceedings;

14
15 (C) the probation officer or social worker; ~~and~~
16 any Court Appointed Special Advocate;:-

17
18 (E) the grandparents of the child, if their address is known and if
19 the parents' whereabouts are unknown; and

20
21 (F) the Indian custodian and tribe of the child or the Bureau of
22 Indian Affairs if the identity or location of the parent or
23 Indian custodian and the tribe cannot be determined.

24
25
26 (2) ***

27
28 **(g) Preparing the record**

29
30 When the notice of intent is filed, the superior court clerk must:

31
32 (1) immediately notify the reporter by telephone and in writing to
33 prepare a reporter's transcript of the oral proceedings at the
34 hearing that resulted in the order under review and deliver the
35 transcript to the clerk within 12 calendar days after the notice of
36 intent is filed; and

1
2 (2) within 20 days ~~after the notice of intent is filed~~, prepare a clerk's
3 transcript that includes the notice of intent, proof of service, and all
4 items listed in rule 37.1(a).

5
6 **(h)–(i) *****

7
8 **Rule 38.1 Writ petition to review order setting hearing under Welfare and**
9 **Institutions Code section 366.26 and rule 1436.5**

10
11 **(a)–(c) *****

12
13 **(d) Sending the writ**

14
15 Petitioner must send the writ to all parties entitled to receive notice
16 under Welfare and Institutions Code section 294, the child's Court
17 Appointed Special Advocate (CASA) volunteer, the child's present
18 caregiver, and any de facto parent given standing to participate in the
19 juvenile court proceedings.

20
21 **~~(d)~~(e) Order to show cause or alternative writ**

22
23 If the court intends to determine the petition on the merits, it must issue
24 an order to show cause or alternative writ.

25
26 **~~(e)~~(f) Augmenting or correcting the record in the reviewing court**

27
28 (1)–(4) ***

29
30 **~~(f)~~(g) Stay**

31
32 The reviewing court may stay the hearing set under Welfare and
33 Institutions Code section 366.26, but must require an exceptional
34 showing of good cause.

1 **(g)(h) Oral argument**

2
3 (1)–(2) ***

4
5 **(h)(i) Decision**

6
7 (1)–(4) ***

8
9 **Rule 38.2. Notice of intent to file writ petition under Welfare and Institutions**
10 **Code section 366.28 to review order designating specific placement of a**
11 **dependent child after termination of parental rights**

12
13 **(a)–(e) *****

14
15 **(f) Premature or late notice of intent to file writ petition**

16
17 (1) A notice of intent to file a writ petition under section 366.28 is
18 premature if filed before a date for a postdetermination placement
19 order has been made. The reviewing court may treat the notice as
20 filed immediately after the postdetermination order has been made.

21
22 (2) The superior court clerk must mark a late notice of intent to
23 file a writ petition under 366.28 “Received [date] but not filed,”
24 notify the party that the notice was not filed because it was late,
25 and send a copy of the marked notice to the party’s counsel of
26 record, if applicable.

27
28 **(f)(g) Sending the notice of intent**

29
30 (1) When the notice of intent is filed, the superior court clerk must
31 immediately mail a copy of the notice to:

32
33 (A) each counsel of record;

34
35 (B) each party, including the minor child, if the child is 10 years
36 of age or older; ~~the present custodian of the dependent~~

1 child's present caregiver, any legal guardian, and any person
2 who has been declared a de facto parent and given standing to
3 participate in the juvenile court proceedings;
4

5 (C) the probation officer or social worker; ~~and~~

6
7 (D) ~~any~~ the child's Court Appointed Special Advocate volunteer;
8 and

9
10 (E) the tribe of an Indian child and the Indian custodian.

11
12 (2) ***

13
14 **(g)(h) Preparing the record**

15
16 When the notice of intent is filed, the superior court clerk must:

- 17
18 (1) immediately notify the reporter by telephone and in writing to
19 prepare a reporter's transcript of the oral proceedings at the
20 hearing that resulted in the order under review and deliver the
21 transcript to the clerk within 12 calendar days after the notice of
22 intent is filed; and
23
24 (2) within 20 days ~~after the notice of intent is filed~~, prepare a clerk's
25 transcript that includes the notice of intent, proof of service, and all
26 items listed in rule 37.1(a).

27
28 **(h)(i) Sending the record**

29
30 When the transcripts are certified as correct, the superior court clerk
31 must immediately send:

32
33 (1)-(2) ***
34
35
36

1 **(i)(j) Reviewing court clerk’s duties**

2
3 (1)–(2) ***

4
5 **Rule 38.3. Writ petition under Welfare and Institutions Code section 366.28**
6 **and rule 1436.5 to review order designating specific placement of a**
7 **dependent child after termination of parental rights**

8
9 **(a)–(b) *****

10
11 **(c) Time to file petition and response**

12
13 (1) The petition must be served and filed within 10 days after the
14 record is filed in the reviewing court. Petitioner must give notice to
15 all parties entitled to receive notice under rule 38.2.

16
17 (2) ***

18
19 **(d) Sending the writ**

20
21 Petitioner must send the writ to all parties entitled to receive notice
22 under Welfare and Institutions Code section 294, any Court Appointed
23 Special Advocate (CASA) volunteer, the child’s present caregiver, the
24 child’s prospective adoptive parents, and any de facto parent given
25 standing to participate in the juvenile court proceedings.

26
27
28 **~~(d)~~(e) Order to show cause or alternative writ**

29
30 If the court intends to determine the petition on the merits, it must issue
31 an order to show cause or alternative writ.

32
33 **~~(e)~~(f) Augmenting or correcting the record in the reviewing court**

34
35 (1)–(4) ***

1 ~~(f)~~**(g)** Stay

2
3 The reviewing court may stay the hearing set under Welfare and
4 Institutions Code section 366.26, but must require an exceptional
5 showing of good cause.

6
7 ~~(g)~~**(h)** Oral argument

8
9 (1)–(2) ***

10
11 ~~(h)~~**(i)** Decision

12
13 (1)–(4) ***

14
15 ~~(i)~~**(j)** Right to appeal other orders

16
17 This section does not affect the right of a parent, a legal guardian, or the
18 child to appeal any order that is otherwise appealable and that is issued
19 at a hearing held under Welfare and Institutions Code section 366.26.

20
21 **Rule 1407. Form of petition; notice of hearing**

22
23 (a) [~~Form of petition—dependency (§§ 332, 333, 656, 656.1, 656.5, 661)~~]

24 The petition to declare a child a dependent of the court shall ~~must~~ be
25 verified and may be dismissed without prejudice if not verified. The
26 petition shall ~~must~~ contain all of the following: the information set forth
27 in Welfare and Institutions section 332.

28
29 ~~(1) The name of the court;~~

30
31 ~~(2) The title of the proceeding;~~

32
33 ~~(3) Each code section and subdivision under which the petition is~~
34 ~~filed, and if under section 602, the specific code sections and~~
35 ~~subdivisions alleged to have been violated, and as to each count,~~
36 ~~whether it is a misdemeanor or felony;~~

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- ~~(4) The name, age, and address of the child;~~
- ~~(5) If known, the names and addresses of the parents and guardians; if not known, or if no parent or guardian resides in California, the names and addresses of any adult relative known to reside within the county, or of the adult relative residing nearest the county;~~
- ~~(6) A concise statement of facts, separately stated, supporting the allegation that the child is described by each section and subdivision under which the petition is filed;~~
- ~~(7) Whether the child is detained and, if so, the date and the precise time the child was taken into custody;~~
- ~~(8) A notice of the financial obligations under sections 903, 903.1, and 903.2;~~
- ~~(9) If a violation of Penal Code section 640.5 or 640.6 is alleged, notice to the parent or guardian that the child may be required to perform community service and to be supervised by the parent or guardian, and that the parent or guardian may be liable for payment of a fine;~~
- ~~(10) Notice to the parent or guardian that the parent or guardian may be liable for payment of court ordered restitution;~~
- ~~(11) If applicable, the intent to aggregate other offenses under section 726; and~~
- ~~(12) If the petition is filed under section 601:
 - ~~(A) A notice that failure to comply with compulsory school attendance is an infraction for which the parent, guardian, or caretaker of the child may be prosecuted before the juvenile court sitting as a municipal court, subject to the right of the~~~~

1 parent, guardian, or caretaker to have the infraction charge
2 heard by a judicial officer other than the one who is to hear
3 the 601 proceeding; and
4

5 (B) ~~An explanation of the provisions of section 170.6 of the Code
6 of Civil Procedure.~~

7
8 **(b) [Form of petition—delinquency (§§ 656, 656.1, 656.5, 661)]**

9 The petition to declare a child a ward of the court must be verified and
10 may be dismissed without prejudice if not verified. The petition must
11 contain the information set forth in Welfare and Institutions Code
12 sections 656, 656.1, 656.5, 661, and, if applicable, the intent to
13 aggregate other offenses under section 726.
14

15 **(b)(c) [Form of petition § 300 Use of forms]** Dependency petitions must be
16 filed on a Judicial Council form. The filing party must use *Juvenile*
17 *Dependency Petition (Version One)* (form JV-100) with the *Additional*
18 *Children Attachment* (form JV-101) when appropriate, or *Juvenile*
19 *Dependency Petition (Version Two)* (form JV-110) as prescribed by
20 local rule or practice.
21

22 (4) ~~Effective January 1, 1991, the following Judicial Council forms are~~
23 ~~approved for optional use:~~

24
25 ~~(A) *Juvenile Dependency Petition (Version One)* (JV-100)~~

26
27 ~~(B) *Additional Children Attachment* (JV-101)~~

28
29 ~~(C) *Juvenile Dependency Petition (Version Two)* (JV-110)~~

30
31 ~~(D) *Serious Physical Harm* (JV-120)~~

32
33 ~~(E) *Failure to Protect* (JV-121)~~

34
35 ~~(F) *Serious Emotional Damage* (JV-122)~~
36

1 ~~(G) Sexual Abuse (JV 123)~~

2
3 ~~(H) Severe Physical Abuse (Child Under Five) (JV 124)~~

4
5 ~~(I) Conviction of Another Child's Death (JV 125)~~

6
7 ~~(J) No Provision for Support (JV 126)~~

8
9 ~~(K) Freed for Adoption (JV 127)~~

10
11 ~~(L) Cruelty (JV 128)~~

12
13 ~~(M) Abuse of Sibling (JV 129)~~

14
15 ~~(N) Supplemental Petition Attachment (JV 150)~~

16
17 ~~(2) Effective July 1, 1991, the forms described in subdivision (1) are~~
18 ~~adopted for mandatory use.~~

19
20 ~~(3) (Use of forms)~~

21
22 ~~(A) Counties that file a separate petition for each child shall use~~
23 ~~the Juvenile Dependency Petition (Version One) (JV 100).~~

24
25 ~~(B) Counties that file a joint petition for siblings with the same~~
26 ~~mother and father shall use either:~~

27
28 ~~(i) Juvenile Dependency Petition (Version Two) (JV 110);~~
29 ~~or~~

30
31 ~~(ii) Juvenile Dependency Petition (Version One) (JV 100),~~
32 ~~with Additional Children Attachment (JV 101).~~
33 ~~Petitioner shall check the box on the petition marked~~
34 ~~"Other children are listed on Additional Children~~
35 ~~Attachment."~~

36

1 (C) ~~Counties that file a joint petition for half siblings shall use~~
2 *Juvenile Dependency Petition (Version One) (JV 100)*, with
3 *Additional Children Attachment (JV 101)*. Petitioner shall
4 check the box on the petition marked “Other children are
5 listed on *Additional Children Attachment*.”
6

7 (4) ~~(Combining forms) Judicial Council forms JV 120, JV 121, JV~~
8 122, JV 123, JV 124, JV 125, JV 126, JV 127, JV 128, and JV
9 129 may be combined if the headings and language in the body of
10 the forms are included as they appear. (The footer may be deleted.)
11

12 (5) ~~(Word processor produced forms)~~

13
14 (A) ~~The forms in subdivision (b)(1) may be produced entirely by~~
15 word processor printer or similar process.
16

17 (B) ~~Before a county files a word processor version of a form with~~
18 the court, the county shall submit a copy of the proposed
19 form to the Administrative Office of the Courts and obtain
20 approval.
21

22 (e)(d) **[Amending the petition (§§ 348, 678)]** Chapter 8 of title 6 of part 2
23 of the Code of Civil Procedure, beginning at section 469, shall apply
24 to variances and amendments of petitions and proceedings in the
25 juvenile court.
26

27 (d)(e) **[Contents of nNotice of hearing—dependency (§§ 335-290.1, 336**
28 290.2, 297658, 659)] When the petition is filed, the probation officer or
29 social worker clerk shall must issue serve a notice of hearing under
30 Welfare and Institutions Code section 290.1, with a copy of the petition
31 attached. Upon filing of the petition, the clerk must issue and serve
32 notice as prescribed in section 290.2, along with a copy of the petition.
33 Court Appointed Special Advocates are entitled to the same notice as
34 set forth in sections 290.1 and 290.2. The notice shall contain all of the
35 following:
36

- 1 ~~(1) The name and address of the person notified;~~
2
3 ~~(2) The date, time, and place of the hearing set;~~
4
5 ~~(3) The name of the child;~~
6
7 ~~(4) Each code section and subdivision under which the petition has~~
8 ~~been filed;~~
9
10 ~~(5) A statement that:~~
11
12 ~~(A) The child and the parent or guardian, or noticed adult relative,~~
13 ~~are entitled to have an attorney present at the hearing;~~
14
15 ~~(B) If the child or parent or guardian or noticed adult relative is~~
16 ~~indigent and wishes to be represented by an attorney, the~~
17 ~~court should be notified promptly;~~
18
19 ~~(C) If an attorney is appointed to represent the child, the parent or~~
20 ~~guardian shall be liable for all or a part of the costs, to the~~
21 ~~extent of the ability to pay;~~
22
23 ~~(D) If an attorney is appointed to represent the parent or guardian~~
24 ~~or noticed adult relative, the represented person shall be liable~~
25 ~~for all or a part of the costs, to the extent of the ability to pay.~~
26
27 ~~(6) A statement that the parent or guardian or adult relative may be~~
28 ~~liable for the costs of support of the child in a county institution.~~
29

30 **(f) [Notice of hearing—delinquency (§§ 630, 630.1, 658, 659, 660)]**

- 31
32 (1) Immediately upon the filing of a petition to detain a child, the
33 probation officer or the prosecuting attorney must issue and serve
34 notice as prescribed in Welfare and Institutions Code section
35 630.
36

1 (2) When a petition is filed, the clerk must issue and serve a notice of
2 hearing in accordance with sections 658, 659, and 660 with a
3 copy of the petition attached.
4

5 (3) Upon reasonable notification by minor's counsel or his or her
6 parent or guardian, the clerk must provide notice to the minor's
7 attorney as stated in section 630.1.
8

9 ~~(e) [Persons entitled to notice (§§ 335, 658, 660)]~~ The clerk shall cause
10 the notice and attached copy of the petition to be served on each of the
11 following:

12
13 ~~(1) The child, if 10 years or older and the petition is filed under~~
14 ~~section 300;~~

15
16 ~~(2) The child, if the child is eight years or older and the petition is~~
17 ~~filed under section 601 or 602;~~

18
19 ~~(3) Each person described in subsection (a)(5) whose address is in the~~
20 ~~petition or becomes known to the clerk before the hearing;~~

21
22 ~~(4) The following persons, if applicable and if their addresses are~~
23 ~~known to the clerk before the hearing:~~

24
25 ~~(A) The child's foster parent;~~

26
27 ~~(B) The child's preadoptive parents;~~

28
29 ~~(C) The child's present caregiver; and~~

30
31 ~~(D) Any court appointed special advocate; and~~

32
33 ~~(5) The district attorney; if the district attorney has requested notice.~~
34

35 ~~(f) [Service of notice child detained (§§ 337, 660)]~~ If the child is
36 detained, the notice and a copy of the petition shall be served on the

1 persons described in subdivision (e) personally or by certified mail,
2 return receipt requested:

3
4 (1) ~~As soon as possible after the petition is filed and at least five days~~
5 ~~before the hearing; or~~

6
7 (2) ~~At least 24 hours before the hearing if the hearing is set less than~~
8 ~~five days after the petition is filed.~~

9
10 ~~(g) [Service of notice—child not detained (§§ 337, 660)] If the child is not~~
11 ~~detained, the notice and a copy of the petition shall be served on the~~
12 ~~persons designated in subdivision (e) personally or by first-class mail at~~
13 ~~least 10 calendar days before the hearing. If a person fails to appear~~
14 ~~after service by mail, the court shall order personal service.~~

15
16 ~~(h)(g) [Waiver of service (§§ 290.2, 337, 660)] A person may waive~~
17 ~~service of notice by a voluntary appearance noted in the minutes of the~~
18 ~~court, or by a written waiver of service filed with the clerk.~~

19
20 ~~(i) [Service on child's attorney (§ 660)] For the purposes of time~~
21 ~~requirements under subdivisions (f) and (g) in proceedings under~~
22 ~~section 601 or 602, service on the child's attorney is equivalent to~~
23 ~~service on the parent or guardian.~~

24
25 ~~(j)(h) [Oral notice (§§ 290.1, 311, 630)] Then Notice required by Welfare~~
26 ~~and Institutions Code sections 290.1 and 630 subdivision (e) may be~~
27 ~~given orally. The social worker or probation officer must file a~~
28 ~~declaration stating that oral notice was given and to whom.~~

29 (1) ~~In a matter under section 300, notice shall be given orally if it~~
30 ~~appears that the parent, guardian, or adult relative does not read.~~

31
32 (2) ~~The social worker or probation officer shall file a declaration~~
33 ~~stating that oral notice was given and to whom.~~

1 given orally. The social worker or probation officer must file a
2 declaration stating that oral notice was given and to whom.

3 ~~(1) In a matter under section 300, notice shall be given orally if it~~
4 ~~appears that the parent, guardian, or adult relative does not read.~~

5
6 ~~(2) The social worker or probation officer shall file a declaration~~
7 ~~stating that oral notice was given and to whom.~~

8
9 **Rule 1408. Citation to appear; warrants of arrest; subpoenas**

10
11 (a) [Citation to appear (§§ 338, 661)] In addition to the notice required
12 under rule 1407(d), the court may issue a citation directing a parent or
13 guardian to appear at a hearing.

14
15 (1) The citation ~~shall~~ must state that the parent or guardian may be
16 required to participate in a counseling program, and the citation
17 may direct the ~~present custodian of the child's~~ present caregiver to
18 bring the child to court.

19
20 (2) The citation ~~shall~~ must be personally served at least 24 hours
21 before the time stated for the appearance.

22
23 (b)–(c) ***

24
25 (d) [Subpoenas (§§ 341, 664)] On the court's own motion or at the request
26 of the petitioner, child, parent, guardian, or present caregiver ~~eustodian~~,
27 the clerk ~~shall~~ must issue subpoenas requiring attendance and testimony
28 of witnesses and the production of papers at a hearing. If a witness
29 appears in response to a subpoena, the court may order the payment of
30 witness fees as a county charge in the amount and manner prescribed by
31 statute.

32
33 **Rule 1430. General provisions**

34
35 (a) ***

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(b) **[Subsequent petitions (§§ 297, 342, 360(b), 364)]** All procedures and hearings required for an original petition ~~shall be~~ are required for a subsequent petition. Petitioner shall must file a subsequent petition if:

(1)–(3) ***

(c) **[Supplemental petition (§§ 297, 387)]** A supplemental petition shall must be used if petitioner concludes that a previous disposition has not been effective in the protection of a child declared a dependent under section 300 and seeks a more restrictive level of physical custody. For purposes of this chapter, a more restrictive level of custody, ~~shall be,~~ in ascending order, is

(1)–(5) ***

(d) **[Petition for modification hearing (§§ 297, 388)]** A petition for modification hearing shall must be used if there is a change of circumstances or new evidence that may require the court to:

(1)–(2) ***

(e) **[Filing of petition (§§ 297, 388)]** A petition for modification hearing may be filed by:

(1)–(3) ***

(f) ***

Rule 1431. Hearing on subsequent and supplemental petitions (§§ 342, 364, 386, 387)

(a) **[Contents of subsequent and supplemental petitions (§§ 342, 364, 387)]** A subsequent petition and a supplemental petition shall must be verified and contain the information required in an original petition as

1 described in rule 1407. A supplemental petition ~~shall~~ must also contain
2 a concise statement of facts sufficient to support the conclusion that the
3 previous disposition has not been effective in the protection of the child,
4 or in the case of a dependent child placed with a relative, that the
5 placement is not appropriate in view of the criteria in section 361.3.
6

7 **(b) [~~Setting the hearing; notice of hearing~~ (§§ 334, 342, 364, 386, 387)]**

8 When a subsequent or supplemental petition is filed, the clerk ~~shall~~
9 must immediately set it for hearing within 30 days of the filing date.

10 The hearing ~~shall~~ must begin within the time limits prescribed for
11 jurisdiction hearings on original petitions under rule ~~1447~~ 1442.

12 ~~Petitioner shall cause notice of the hearing to be served on the persons~~
13 ~~and in the same manner prescribed by rule 1407. The present custodian~~
14 ~~of a dependent child and the tribe of a dependent Indian child shall be~~
15 ~~similarly notified.~~

16
17 **(c) [Notice of hearing (§§ 290.1, 290.2, 292, 297)]** For petitions filed

18 under sections 342 or 387, notice must be provided in accordance with
19 sections 290.1, 290.2, and 291. Notice for petitions filed under section
20 364 must be provided as stated in section 292.
21

22 **(e)(d) [Initial hearing (§ 387)]** Chapter 8, part III of these rules ~~shall~~ apply
23 to the case of a child who is the subject of a supplemental or subsequent
24 petition.
25

26 **(d)(e) [Requirement for bifurcated hearing]** The hearing on a subsequent
27 or supplemental petition ~~shall~~ must be conducted as follows:
28

- 29 (1) The procedures relating to jurisdiction hearings prescribed in
30 chapter 8 ~~shall~~ apply to the determination of the allegations of a
31 subsequent or supplemental petition. At the conclusion of the
32 hearing on a subsequent petition the court ~~shall~~ must make a
33 finding that the allegations of the petition are or are not true. At the
34 conclusion of the hearing on a supplemental petition the court ~~shall~~
35 must make findings that:

- 1
2 (A) The factual allegations are or are not true; and
3
4 (B) The allegation that the previous disposition has not been
5 effective is or is not true.
6

- 7 (2) The procedures relating to disposition hearings prescribed in
8 chapter 8 ~~shall~~ apply to the determination of disposition on a
9 subsequent or supplemental petition. If the court finds under a
10 subsequent petition the child is described by section 300(a), (d), or
11 (e), the court ~~shall~~ must remove the child from the physical
12 custody of the parent or guardian, if removal was not ordered
13 under the previous disposition.
14

15 **(e)(f) [Supplemental petition (§ 387)—permanency planning]** If a
16 dependent child was returned to the custody of a parent or guardian at
17 the 12-month review or the 18-month review or at an interim review
18 between 12 and 18 months and a 387 petition is sustained and the child
19 removed once again, the court ~~shall~~ must set a hearing under section
20 366.26 unless the court finds there is a substantial probability of return
21 within the next six months or, if more than 12 months had expired at the
22 time of the prior return, within whatever time remains before the
23 expiration of the maximum 18-month period.
24

25 **Rule 1433. Hearing on violation of probation (§ 777)**
26

- 27 (a) **[Notice of hearing (§§ 656, 658, 660)]** Notice of a hearing to be held
28 under section 777 ~~shall~~ must be issued and served as provided in
29 Welfare and Institutions Code sections 658, 660, and 777 and prepared:
30

31 (1)–(2) ***
32

- 33 (b) ***
34

1 ~~(e) [Notice of hearing; contents]~~ Notice of a hearing to be held under
2 section ~~777~~ shall be served as provided in rule ~~1407~~. The notice shall
3 contain the following:

4
5 (1) ~~The name of the child;~~

6
7 (2) ~~The date, time, and place of the hearing;~~

8
9 (3) ~~The purpose and scope of the hearing;~~

10
11 (4) ~~A statement of the right of the child to be represented by counsel at~~
12 ~~the hearing and, if applicable, of the right to appointed counsel;~~
13 ~~and~~

14
15 (5) ~~A concise statement of the facts in support of the allegation.~~

16
17 ~~(d)~~**(c) [Detention hearing]** If the child has been brought into custody, the
18 procedures described in rules 1407, and ~~1470~~ 1471 through 1476 must
19 be followed.

20
21 ~~(e)~~**(d) [Report of probation officer]** Before every hearing the probation
22 officer shall must prepare a report on those matters relevant to a
23 determination of whether the child has violated a condition of probation.
24 The report shall must be furnished to all parties at least 48 hours,
25 excluding ~~non-court~~ noncourt days, before the beginning of the hearing
26 unless the child is represented by counsel and waives the right to service
27 of the report.

28
29 ~~(f)~~**(e) [Evidence considered]** The court shall must consider the report
30 prepared by the probation officer and other relevant and material
31 evidence offered by the parties to the proceeding.

32
33 (1)-(2) ***
34
35

1 **Rule 1434. Joinder**

2
3 (a) ***

4
5 (b) [Notice] Upon application by a party, counsel, or Court Appointed
6 Special Advocate (CASA), or on the court’s own motion, the court may
7 set a hearing and require notice to the agency or provider subject to
8 joinder.

9
10 (1)–(2) ***

11
12 (3) The clerk of the juvenile court must cause the notice to be served
13 on the agency or provider and the persons prescribed by Welfare
14 and Institutions Code sections 291 and 658 ~~rule 1407~~ either
15 personally or by first-class mail within five days after the signing
16 of the notice.

17
18 (4) ***

19
20 (c) ***

21
22 **Rule 1436. Review by extraordinary writ—section 300 proceedings**

23
24 If review by petition for extraordinary writ is sought regarding judgments,
25 orders, or decrees other than those described in rules 38, 38.1, 38.2, 38.3,
26 39.1B and 1436.5, ~~Judicial Council form *Writ a Petition for Extraordinary*~~
27 *Writ* (~~—*Juvenile-Juvenile Dependency*~~) (form JV-825) may be ~~utilized~~ used.

28
29 **Rule 1436.5. Writ petition after orders setting hearing under section 366.26;**
30 **appeal**

31
32 (a) [Applicability of rule] This rule and rules 38 and 38.1 describes how a
33 party including the petitioner, child, and parent or guardian shall
34 proceed if seeking appellate court review of findings and orders of the

1 juvenile court made at a hearing at which the court orders that a hearing
2 under section 366.26 be held.

3
4 **(b) [Failure to file writ petition; precludes appeal]** Failure by a party to
5 file a petition for extraordinary writ as specified by this rule and rules
6 ~~39.1B shall~~ 38 and 38.1 precludes that party from obtaining subsequent
7 review on appeal of the findings and orders of the court in setting a
8 hearing under section 366.26.

9
10 **(c) [Appeal from orders at hearing under 366.26]** An appeal of a
11 judgment, order, or decree under section 366.26 may challenge the
12 findings and orders made by the court at that hearing. The findings and
13 orders setting a hearing under section 366.26 may be reviewed on
14 appeal following the order of the 366.26 hearing only if the following
15 have occurred:

16
17 (1) An extraordinary writ was sought by the timely filing of ~~Judicial~~
18 ~~Council form: a~~ Petition for Extraordinary Writ (Juvenile
19 Dependency) Writ Petition—Juvenile ~~(form JV-825)~~ or other
20 petition for extraordinary writ; and

21
22 (2) ***

23
24 Review on appeal of the order setting a hearing under section 366.26 is
25 limited to issues raised in a previous petition for extraordinary writ that
26 were supported by an adequate record.

27
28 Failure to file a petition for extraordinary writ review within the period
29 specified by this rule and rules 38 and 38.1 ~~39.1B shall~~ precludes
30 subsequent review on appeal of the findings and orders made by the
31 juvenile court in setting the hearing under section 366.26.

32
33 **(d) *****

34

1 (e) **[Time for filing the notice of intent to file writ petition and request**
2 **for record; service; jurisdiction]** To permit determination of the writ
3 petition ~~prior to~~ before the scheduled date for the hearing under ~~section~~
4 ~~366.26 of the Welfare and Institutions Code~~ section 366.26 on the
5 selection of the permanent plan, a notice of intent to file a writ petition
6 and request for record ~~shall~~ must be filed with the clerk of the juvenile
7 court within 7 seven days of the date of the order setting a hearing under
8 section 366.26. The period for filing a notice of intent to file a writ
9 petition and request for record ~~shall~~ will be extended 5 five days, if the
10 party received notice of the order setting the hearing under ~~section~~
11 ~~366.26 of the Welfare and Institutions Code~~ section 366.26 only by
12 mail. ~~Judicial Council form A~~ Notice of Intent to File Writ Petition and
13 Request for Record (California Rules of Court, Rule 38) (form JV-820)
14 may be used. ~~The notice of intent to file a writ petition shall include, if~~
15 ~~known, all dates of the hearing that resulted in the order setting the~~
16 ~~hearing under section 366.26 of the Welfare and Institutions Code. The~~
17 ~~clerk shall serve a copy of the notice of intent to file a writ petition on~~
18 ~~each party, including the child, parent, legal guardian, and any person~~
19 ~~who has been declared a de facto parent and given standing to~~
20 ~~participate in the juvenile court proceedings, and on the probation~~
21 ~~officer or social worker, each counsel of record, present custodian of a~~
22 ~~dependent child, and any court-appointed child advocate, as prescribed~~
23 ~~by rule 1407. The clerk shall also serve, by first class mail or fax, on the~~
24 ~~clerk of the reviewing court, a copy of the notice of intent to file a writ~~
25 ~~petition and a proof of service list. Upon receipt of the notice of intent~~
26 ~~to file a writ petition, the clerk of the reviewing court shall lodge the~~
27 ~~notice, whereupon the reviewing court acquires jurisdiction of the writ~~
28 ~~proceedings.~~

29
30 (f) **[Contents of the notice of intent to file writ petition]** The notice of
31 intent to file a writ petition must include, if known, all dates of the
32 hearing that resulted in the order setting the hearing under Welfare and
33 Institutions Code section 366.26.
34

1 **(g) [Notice and service]** The clerk must serve a copy of the notice of
2 intent to file a writ petition on each person listed in Welfare and
3 Institutions Code section 294, the child’s Court Appointed Special
4 Advocate (CASA) volunteer, the child’s present caregiver, and any de
5 facto parent. The clerk must also serve, by first-class mail or fax, on the
6 clerk of the reviewing court, a copy of the notice of intent to file a writ
7 petition and a proof of service list. On receipt of the notice of intent to
8 file a writ petition, the clerk of the reviewing court must lodge the
9 notice, whereupon the reviewing court acquires jurisdiction of the writ
10 proceedings.

11
12 **(f)(h) [Record]** Immediately on the filing of the notice of intent to file a
13 writ petition and request for record, the clerk of the juvenile court ~~shall~~
14 must assemble the record

15
16 (1)–(2) ***

17
18 The record ~~shall~~ must include all reports and minute orders contained in
19 the juvenile court file, a reporter’s transcript of all sessions of the
20 hearing at which the order setting a hearing under section 366.26 was
21 made, and any additional evidence or documents considered by the
22 court at that hearing.

23
24 Immediately on completion of the transcript, the clerk ~~shall~~ must certify
25 the record as correct, and deliver it by the most expeditious means to the
26 reviewing court, and transmit copies to the petitioner and parties or
27 counsel of record, by any method as fast as the express mail service of
28 the United States Postal Service. Upon receipt of the transcript and
29 record, the clerk of the reviewing court ~~shall~~ must notify all parties that
30 the record has been filed and indicate the date on which the 10-day
31 period for filing the writ petition will expire.

32
33 **(g)(i) [Petitioner; trial counsel]** Trial counsel for the petitioning party, or
34 in the absence of trial counsel, the party, is responsible for filing the
35 petition for extraordinary writ. Trial counsel is encouraged to seek

1 assistance from, or consult with, attorneys experienced in writ
2 procedures.

3
4 **(h)(j) [Petition for extraordinary writ; Form JV-825]** The petition for
5 extraordinary writ may be filed on ~~Judicial Council form Writ~~
6 ~~Petition—Juvenile~~ a *Petition for Extraordinary Writ (Juvenile*
7 *Dependency* (form JV-825) or other petition for extraordinary writ.
8 Petitions for extraordinary writ submitted on ~~Judicial Council form Writ~~
9 ~~Petition—Juvenile~~ a *Petition for Extraordinary Writ (Juvenile*
10 *Dependency* (form JV-825) ~~shall~~ must be accepted for filing by the
11 appellate court. All petitions ~~shall~~ must be liberally construed in favor
12 of their sufficiency.

13
14 **(i)(k) [Time for filing petition]** The petition for extraordinary writ ~~shall~~
15 must be served and filed within 10 days after filing any record in the
16 reviewing court.

17
18 **(j)(l) [Contents of petition for writ; service]** The petition for extraordinary
19 writ ~~shall~~ must summarize the factual basis for the petition. Petitioner
20 need not repeat facts as they appear in any attached or submitted record,
21 provided, however, that references to specific portions of the record,
22 their significance to the grounds alleged, and disputed aspects of the
23 record will assist the reviewing court and ~~shall~~ must be noted. Petitioner
24 ~~shall~~ must attach applicable points and authorities. ~~Petitioner shall give~~
25 ~~notice to all parties entitled to receive notice under rule 1407.~~

26
27 **Rule 1440. Service and notice**

28
29 **(a) [Petition and notice of hearing In court order of notice (§ 311 296)]**
30 ~~Immediately upon the filing of a petition, the social worker shall serve~~
31 ~~each parent or guardian whose whereabouts can be ascertained by due~~
32 ~~diligence, the child if the child is 10 years of age or older, and each~~
33 ~~attorney of record with a copy of the petition and written or oral notice~~
34 ~~of the detention hearing or initial appearance hearing. If there is no~~
35 ~~parent or guardian residing in California, or if the residence is unknown,~~

1 the social worker shall serve the petition and notify any adult relative
2 residing within the county, or if none, the adult relative residing nearest
3 the court. The court may order the child, or any parent or guardian or
4 Indian custodian of the child who is present in court, to appear again
5 before the court, social worker, probation officer, or county financial
6 officer at a specified time and place as stated in the order.
7

- 8 (b) **[Language of notice]** If it appears that the parent or guardian does not
9 read English, the social worker ~~shall~~ must provide notice in the
10 language believed to be spoken by the parent or guardian.
11

12 **Rule 1465. Legal guardianship**
13

- 14 (a) **[Proceedings in juvenile court (§ 366.26)]** The proceedings for the
15 appointment of a legal guardian for a dependent child ~~shall~~ must be in
16 the juvenile court. The request for appointment of a guardian ~~shall~~ must
17 be included in the social study report prepared by the county welfare
18 department or in the assessment prepared for the hearing under section
19 366.26. Neither a separate petition nor a separate hearing ~~shall be~~ is
20 required.
21

- 22 (b) **[Notice; hearing]** Notice for the guardianship hearing ~~shall~~ must be
23 given under section ~~366.23~~ 294, and the hearing ~~shall~~ must proceed
24 under section 366.26.
25

26 (c) **[Conduct of hearing]**
27

- 28 (1) Before appointing a guardian, the court ~~shall~~ must read and
29 consider the social study report specified in section 366.26 and
30 note its consideration in the minutes of the court.
31

- 32 (2) ***
33
34
35

1 **(d) [Findings and orders]**
2

3 (1) If the court finds that legal guardianship is the appropriate
4 permanent plan, the court ~~shall~~ must appoint the guardian and
5 order the clerk to issue letters of guardianship, which ~~shall~~ will not
6 be subject to the confidentiality protections of juvenile court
7 documents as described in section 827.
8

9 (2)–(3) ***
10

11 **(e) [Advice of rights]** The court ~~shall~~ must advise all parties of their
12 appeal rights as provided in rule 1435.
13

14 **Rule 1466. Hearings subsequent to a permanent plan (§§ 366.26, 366.3, 391)**
15

16 **(a) [Review hearings—adoption and guardianship]** Following an order
17 for termination of parental rights or a plan for the establishment of a
18 guardianship under section 366.26, the court must retain jurisdiction and
19 conduct review hearings every six months to ensure the expeditious
20 completion of the adoption or guardianship.
21

22 (1)–(3) ***
23

24 (4) Notice of the hearing must be given as provided in section 295.
25 ~~rule 1460 and to the guardian if one has been appointed. Parents~~
26 ~~are to be given notice of all hearings unless their parental rights~~
27 ~~have been terminated.~~
28

29 **(b) [Review hearings—foster care]** Following the establishment of a plan
30 other than those provided for in ~~subdivision (a) of this rule,~~ review
31 hearings must be conducted every six months by the court or by a local
32 review board.
33

34 (1)–(3) ***
35

1 (4) Notice of the hearing must be given as provided in section 295.
2 rule 1460. Parents are to be given notice of all hearings unless their
3 parental rights have been terminated.

4
5 (5)–(8) ***

6
7 (c)–(d) ***

8
9 **Rule 1470. Service and notice**

10
11 ~~(a) [Child detained (§§ 656, 658, 660)] Immediately upon the filing of a~~
12 ~~petition or notice of probation violation hearing, the clerk, the probation~~
13 ~~officer, or the district attorney shall attempt to provide written or oral~~
14 ~~notice of the detention hearing at least 24 hours prior to the time set for~~
15 ~~the hearing to the child and to each parent or guardian whose~~
16 ~~whereabouts can be ascertained by due diligence. If there is no parent or~~
17 ~~guardian residing in California, or if the residence is unknown, notice~~
18 ~~shall be provided to any adult relative residing within the county, or if~~
19 ~~none, to the adult relative residing nearest to the court. If the court has~~
20 ~~ordered the care, custody, and control of the minor to be under the~~
21 ~~supervision of the probation officer for foster care placement pursuant~~
22 ~~to section 727(a), the clerk shall also issue a copy of the notice of the~~
23 ~~detention hearing to any foster parents, preadoptive parents, legal~~
24 ~~guardian, and any relatives providing care to the minor whose residence~~
25 ~~addresses become known to the clerk.~~

26
27 ~~The petition or notice of probation violation hearing shall be served at~~
28 ~~least 24 hours prior to the detention hearing, or at the detention hearing~~
29 ~~to those present. Service on the child’s attorney shall constitute service~~
30 ~~on the child.~~

31
32 ~~(b) [Child not detained (§§ 656, 658, 660)] If the child is not detained, the~~
33 ~~clerk of the juvenile court shall cause the petition or notice of probation~~
34 ~~violation and notice of initial hearing to be served personally or by first-~~

1 class mail on the child, each parent or guardian, and the attorney of
2 record at least 10 days prior to the time set for the initial hearing.

3
4 (1) ~~Failure to appear or respond to the notice shall not cause the child~~
5 ~~to be detained or arrested.~~

6
7 (2) ~~If, after notice by first class mail, the child fails to appear at the~~
8 ~~hearing, the court shall order personal service and notice.~~

9
10 (3) ~~Service may be waived by any person by a voluntary appearance~~
11 ~~reported in the court minutes or orders, or by a written waiver filed~~
12 ~~with the court prior to the hearing.~~

13
14 (4) ~~Service on the child's attorney shall constitute service on the~~
15 ~~child's parent or guardian.~~

16
17 **Rule 1496. Reviews and permanency planning hearings**

18
19 (a)–(c) ***

20
21 (d) **[Notice of hearings; service; contents (§ 727.4)]** Not earlier than 30
22 nor less later than 15 calendar days before each hearing date the
23 petitioner or the clerk probation officer must serve written notice on all
24 persons required to receive notice under ~~rule 1407~~ section 727.4, as well
25 as the child's present eustodian caregiver, any Court-Appointed Special
26 Advocate (CASA) volunteer, and the counsel of record. ~~The notice of~~
27 ~~hearing must be served by personal service or by first class mail or~~
28 ~~certified mail, addressed with the last known address of the person to be~~
29 ~~notified. Judicial Council form A Notice of Hearing—Juvenile~~
30 ~~Wardship Proceeding (Welfare and Institutions Code, §§ 601 and 602)~~
31 ~~(form JV-625) may must be used. Proof of notice must be filed with the~~
32 ~~court.~~

1 ~~(1) The notice must contain the information required by rule 1407, the~~
2 ~~nature of the hearing, and any recommended change in custody or~~
3 ~~status.~~

4
5 ~~(2) The notice must include a statement that the child and the parent or~~
6 ~~guardian have a right:~~

7
8 ~~(A) To be present at the hearing;~~

9
10 ~~(B) To be represented by counsel at the hearing and, where~~
11 ~~applicable, to be notified of the right to and the procedure for~~
12 ~~obtaining appointed counsel; and~~

13
14 ~~(C) To present evidence regarding the proper disposition of the~~
15 ~~case.~~

16
17 ~~(3) The notice to the present custodian of the child must indicate that~~
18 ~~the custodian may:~~

19
20 ~~(A) Be present at the hearing; and~~

21
22 ~~(B) Submit written material the custodian considers relevant.~~

23
24 ~~(e)-(f) ***~~

25
26 **Rule 1496.5. Freeing wards for adoption**

27
28 ~~(a) [Applicable law (§§ 294, 366.26, ~~366.23~~, 727.3, 727.31)]~~ Except as
29 provided in section 727.31, the procedures for termination of parental
30 rights to free children described in that section for adoption are ~~set forth~~
31 ~~stated~~ in sections 294 and 366.26 ~~and 366.23~~. Rules 1463 and 1464 are
32 applicable to these proceedings.

33
34 ~~(b) ***~~

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>	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;">Draft 6 09/15/05 Not approved by the Judicial Council</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
NOTICE OF APPEAL—JUVENILE (California Rules of Court, Rule 37)	CASE NUMBER:

—NOTICE—

- You or your attorney **must** fill in items 1 and 2 and sign this form at the bottom of the page. If possible, to help process your appeal, fill in items 4–6 on the reverse of this form.
- Rule 37 says that to appeal from an order or judgment, you must file a written notice of appeal within **60** days after rendition of the judgment or the making of the order being appealed or, in matters heard by a referee, within **60** days after the order of the referee becomes final.

1. I appeal from the findings and orders of the court *(specify date of order or describe order):*

2. This appeal is filed by
 a. Appellant *(name):*
 b. Address:

c. Phone number:

d. Name and address and phone number of person to be contacted *(if different from appellant):*

Date:

 (TYPE OR PRINT NAME)

▶

 (SIGNATURE OF APPELLANT ATTORNEY)

3. Items 4 through 6 on the reverse are completed not completed.

CASE NAME: _____	CASE NUMBER: _____
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4. Appellant is the
- | | |
|--------------------------------------|---|
| a. <input type="checkbox"/> child | e. <input type="checkbox"/> de facto parent |
| b. <input type="checkbox"/> mother | f. <input type="checkbox"/> county welfare department |
| c. <input type="checkbox"/> father | g. <input type="checkbox"/> district attorney |
| d. <input type="checkbox"/> guardian | h. <input type="checkbox"/> other (<i>state relationship to child or interest in the case</i>): |
5. This notice of appeal pertains to the following child or children (*specify number of children included*): _____
- a. Name of child:
Child's date of birth:
- b. Name of child:
Child's date of birth:
- c. Name of child:
Child's date of birth:
- d. Name of child:
Child's date of birth:
 Continued in Attachment 5.
6. The order appealed from was made under Welfare and Institutions Code section (*check all that apply*):
- a. **Section 360** (declaration of dependency) Removal of custody from parent or guardian Other orders
 with review of section 300 jurisdictional findings
Dates of hearing (*specify*):
- b. **Section 366.26** (selection and implementation of permanent plan)
 Termination of parental rights Appointment of guardian Planned permanent living arrangement
Dates of hearing (*specify*):
- c. **Section 366.28** (order designating a specific placement after termination of parental rights)
Dates of hearing (*specify*):
- d. Other appealable orders relating to dependency (*specify*):
Dates of hearing (*specify*):
- e. **Section 725** (declaration of wardship and other orders)
 with review of section 601 jurisdictional findings
 with review of section 602 jurisdictional findings
Dates of hearing (*specify*):
- f. Other appealable orders relating to wardship (*specify*):
Dates of hearing (*specify*):
- g. Other (*specify*):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY Draft 6 09/15/05 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
NOTICE OF INTENT TO FILE WRIT PETITION AND REQUEST FOR RECORD (California Rules of Court, Rule 38)	CASE NUMBER:

NOTICE

The court has set a hearing to make a permanent plan for this child. If you wish to preserve your right to appeal the court's decision, a petition for extraordinary writ must be filed. If you intend to file the petition for a writ, a notice of intent to file a writ petition and request for record must be filed with the juvenile court clerk within 7 days of the date specified in item 5a. If you received this notice by mail only, the notice of intent must be filed within 17 days after the date that the clerk mailed the notification. You may use this form to notify the court. The petition for extraordinary writ must be served within 10 days after the record is filed.

1. Petitioner's name:
2. Petitioner's address:
3. Petitioner's phone number:
4. Petitioner is
 - a. parent (name):
 - b. guardian
 - c. county welfare agency
 - d. child
 - e. other (state relationship to child or interest in the case):
5. a. On (date): _____ the juvenile court made an order setting a hearing under Welfare and Institutions Code section 366.26. I intend to file a petition for extraordinary writ to challenge the findings and orders made by the court on that date and request that the clerk assemble the record.
 - b. List all known dates of the hearing that resulted in the order:
6. The hearing under Welfare and Institutions Code section 366.26 is set for (date, if known):

Date: _____

_____ (TYPE OR PRINT NAME) _____ (SIGNATURE OF PETITIONER ATTORNEY)

The notice of intent to file a writ petition must be signed by the party intending to file the writ petition, or if to be filed on behalf of the child, by the attorney of record for the child. Upon a finding of good cause, based on a declaration by the attorney of record as to why the party could not sign the notice, the appellate court may waive the requirement of the party's signature. (Cal. Rules of Court, rule 38(e)(3).) Signatories of this notice do not waive the notice requirements of Welfare and Institutions Code section 294.

COURT OF APPEAL, _____ APPELLATE DISTRICT, DIVISION _____	Court of Appeal Case Number <i>(court will provide)</i> : _____
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<p>In re the Matter of:</p> <hr/> <p><i>(Name and date of birth of subject child or children)</i></p> <hr/> <p style="text-align: center;">Petitioners</p> <p style="text-align: center;">v.</p> <p>Superior Court of California, County of _____</p> <hr/> <p style="text-align: center;">Respondent</p> <hr/> <p style="text-align: center;">Real Party in Interest</p> <hr/>

(FILE STAMP)

Draft 6
09/15/05
Not approved by
the Judicial Council

Superior Court No. _____

Superior Court No. _____

Related Appeal Pending
 Appellate Court No. _____

PETITION FOR EXTRAORDINARY WRIT
(California Rules of Court, Rules 38.1, 38.3)

STAY REQUESTED *(see item 11).*

INSTRUCTIONS—READ CAREFULLY

- Read the entire form *before* completing any items.
- This petition must be clearly handprinted in ink or typed.
- Complete all applicable items in the proper spaces. If you need additional space, add an extra page and mark the additional page box.
- If you are filing this petition in the Court of Appeal, file the original and 4 copies.
- If you are filing this petition in the California Supreme Court, file the original and 10 copies.
- Notify the clerk of the court in writing if you change your address after filing your petition.

Individual Courts of Appeal or the Supreme Court may require documents other than or in addition to this form. Contact the clerk of the reviewing court for local requirements.

CASE NAME: 	CASE NUMBER:
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1. This *Petition for Extraordinary Writ (Juvenile Dependency)* is filed on behalf of petitioner.
 - a. Name:
 - b. Address:
 - c. Phone number:

2. Petitioner is the

<ol style="list-style-type: none"> a. <input type="checkbox"/> child b. <input type="checkbox"/> mother c. <input type="checkbox"/> father d. <input type="checkbox"/> guardian 	<ol style="list-style-type: none"> e. <input type="checkbox"/> de facto parent f. <input type="checkbox"/> county welfare department g. <input type="checkbox"/> district attorney h. <input type="checkbox"/> other (<i>state relationship to child or interest in the case</i>):
---	--

3. The *Petition for Extraordinary Writ (Juvenile Dependency)* pertains to the following child or children (*specify number of children*): _____
 - a. Name of child:
Child's date of birth:
 - b. Name of child:
Child's date of birth:
 - c. Name of child:
Child's date of birth:
 - d. Name of child:
Child's date of birth:

Continued in Attachment 3.

4. This petition seeks extraordinary relief from the order of (*name*):
 - a. setting a hearing under Welfare and Institutions Code section 366.26 to consider termination of parental rights, guardianship, or another planned permanent living arrangement.
OR
 - b. designating a specific placement after a placement order under Welfare and Institutions Code section 366.28.
OR
 - c. *other (specify)*:

5. The challenged order was made on (*date of hearing*):

6. The order was erroneous on the following grounds (*specify*):

7.
 - a. Supporting documents are attached.
 - b. Because of exigent circumstances, supporting documents are not attached (*explain*):

8. Summary of factual basis for petition (*Petitioner need not repeat facts as they appear in the record. Petitioner must reference each specific portion of the record, its significance to the grounds alleged, and disputed aspects of the record*):

Additional pages attached.

CASE NAME: _____	CASE NUMBER: _____
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9. Points and authorities in support of the petition are attached (*number of pages attached*): _____

10. Petitioner requests that this court direct the trial court to (*check all that apply*):

- a. Vacate the order for hearing under section 366.26.
- b. Vacate the order designating a specific placement after termination of parental rights under section 366.28.
- c. Remand for hearing.
- d. Order that reunification services be
 provided continued.
- e. Order visitation between the child and petitioner.
- f. Return or grant custody of the child to petitioner.
- g. Terminate dependency.
- h. Other (*specify*):

11. Petitioner requests a temporary stay pending the granting or denial of the petition for extraordinary writ.

- a. Hearing date (*must specify*):
- b. Reasons for stay (*specify*):

Additional pages attached.

12. Total number of pages attached: _____

13. I am the petitioner attorney for petitioner.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, except for matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date:

 (TYPE OR PRINT NAME)

▶

 (SIGNATURE OF PETITIONER ATTORNEY)

Address:

CASE NAME: _____	CASE NUMBER: _____
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PROOF OF SERVICE

I served a copy of the foregoing *Petition for Extraordinary Writ (Juvenile Dependency)* on the following persons by personally delivering a copy to the person served, OR by delivering a copy to a competent adult at the usual place of residence or business of the person served and thereafter mailing a copy by first-class mail to the person served at the place where the copy was delivered, OR by placing a copy in a sealed envelope and depositing the envelope directly in the United States mail with postage prepaid or at my place of business for same-day collection and mailing with the United States mail, following our ordinary business practices with which I am readily familiar:

- 1. Respondent court
 - a. Name and address:

 - b. Date of service:
 - c. Method of service:

- 2. Social worker Probation officer
 - a. Name and address:

 - b. Date of service:
 - c. Method of service:

- Attorney for party
 - a. Name and address:

 - b. Date of service:
 - c. Method of service:

- 3. Mother Father Legal guardian
 - a. Name and address:

 - b. Date of service:
 - c. Method of service:

- Attorney for party
 - a. Name and address:

 - b. Date of service:
 - c. Method of service:

- 4. Mother Father Legal guardian
 - a. Name and address:

 - b. Date of service:
 - c. Method of service:

- Attorney for party
 - a. Name and address:

 - b. Date of service:
 - c. Method of service:

- 5. Mother Father Legal guardian
 - a. Name and address:

 - b. Date of service:
 - c. Method of service:

- Attorney for party
 - a. Name and address:

 - b. Date of service:
 - c. Method of service:

- 6. Child (*if 10 years of age or older*)
 - a. Name and address:

 - b. Date of service:
 - c. Method of service:

- Attorney for party
 - a. Name and address:

 - b. Date of service:
 - c. Method of service:

CASE NAME: 	CASE NUMBER:
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7. Child (if 10 years of age or older)

Attorney for party

a. Name and address:

a. Name and address:

b. Date of service:

b. Date of service:

c. Method of service:

c. Method of service:

8. Child's sibling CASA Tribe/Bureau of Indian Affairs Indian custodian Grandparent
 Child's caregiver De facto parent

a. Name and address:

b. Date of service:

c. Method of service:

9. Child's sibling CASA Tribe/Bureau of Indian Affairs Indian custodian Grandparent
 Child's caregiver De facto parent

a. Name and address:

b. Date of service:

c. Method of service:

10. Other (specify):

a. Name and address:

b. Date of service:

c. Method of service:

11. Other (specify):

a. Name and address:

b. Date of service:

c. Method of service:

12. At the time of service I was at least 18 years of age and not a party to this cause. I am a resident of or employed in the county where the mailing occurred. My residence or business address is (specify):

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)

COURT OF APPEAL, _____ APPELLATE DISTRICT, DIVISION _____	Court of Appeal Case Number (court will provide):
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In re the Matter of:

(Name and date of birth of subject child or children)

Petitioners

v.

Superior Court of California, County of _____

Respondent

Real Party in Interest

(FILE STAMP)

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

Superior Court No. _____

Superior Court No. _____

Related Appeal Pending
 Appellate Court No. _____

DENIAL OF PETITION
(California Rules of Court, Rules 38.1, 38.3)

BY THE COURT:

Petition is denied because

- a. it was not filed in a timely manner.
- b. it failed to address the specific issues to be challenged or to support the challenge with an adequate record.
- c. petitioner has presented no evidence that the client authorized the petition.

Date:

 JUDICIAL OFFICER

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 6 09/15/05 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
NOTICE OF INTENT TO FILE WRIT PETITION AND REQUEST FOR RECORD (California Rules of Court, Rule 38.2)	CASE NUMBER:

NOTICE

The court has set a hearing to make a permanent plan for this child. If you wish to preserve your right to appeal the court's decision, a petition for extraordinary writ must be filed. If you intend to file the petition for a writ, a notice of intent to file a writ petition and request for record must be filed with the juvenile court clerk within 7 days of the date specified in item 5a. If you received this notice by mail only, the notice of intent must be filed within 17 days after the date that the clerk mailed the notification. You may use this form to notify the court. The petition for extraordinary writ must be served within 10 days after the record is filed.

1. Petitioner's name:
2. Petitioner's address:
3. Petitioner's phone number:
4. Petitioner is
 - a. child's caretaker *(specify dates in your care):*
 - b. child
 - c. county welfare department
 - d. parent *(name):*
 - e. other *(state relationship to child or interest in the case):*
5. a. On *(date):* _____ the court terminated parental rights under Welfare and Institutions Code section 366.26.
- b. On *(date):* _____ the court made a specific placement order that the dependent child is to reside in, be retained in, or be removed from a specific placement. I intend to file a petition for extraordinary writ to challenge the specific placement order made by the court on that date and request that the clerk assemble the record.

Date:

(TYPE OR PRINT NAME)

 (SIGNATURE OF PETITIONER ATTORNEY)

The notice of intent to file a writ petition must be signed by the party intending to file the writ petition, or if to be filed on behalf of the child, by the attorney of record for the child. Upon a finding of good cause, based on a declaration by the attorney of record as to why the party could not sign the notice, the appellate court may waive the requirement of the party's signature. (Cal. Rules of Court, rule 38.2.) Signatories of this notice do not waive the notice requirements of Welfare and Institutions Code sections 295 and 297.

SPR05-29

Juvenile Law: Notice

(amend Cal. Rules of Court, rules 37, 38–38.3; 1407, 1408, 1430, 1431, 1433, 1434, 1436, 1436.5, 1440, 1465, 1466, 1496, and 1496.5; repeal rule 1470; revise forms JV-800, JV-820, JV-825, and JV-826; and approve form JV-822)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Ms. Grace Andres Program Manager Superior Court of California, County of Solano	A	N	Agree with proposed changes	No response required.
2.	Hon. Roger Boren Administrative Presiding Justice Court of Appeal, Second Appellate District Los Angeles	AM	N	1. Rule 1407(a): the phrase “and, if applicable, the intent to aggregate other offenses under section 726” is obscure. 2. Rule 1436.5(k): add sentence “the time in which to serve and file the petition may not be extended for good cause.”	1. Agree to delete this provision from subsection (a). 2. The committee recommends against adding this provision as Rule 38(d) provides that the reviewing court may extend any time period upon an exceptional showing of good cause.
3.	Martin C. Brantley Supervising Superior Court Clerk Superior Court of California, County of Kern	N	N	1. Rule 38(g) and 38.2(h) The proposed change assumes the reporter’s transcript can be completed within 12 calendar days. This is not always the case. Even though the clerk may prepare the clerk’s transcript within 12 calendar days, the clerk cannot submit the record until the reporter’s transcript is complete. Currently, the reporters often require more than 12 calendar days to complete the reporter’s transcript. Changing the time-frame to 12 court days for both the reporter’s and the clerk’s transcript would be better than the proposed change.	1. Having reviewed the history of the 1995 change and the comments generated, the committee decided to leave the time frame as 20 days, and to recirculate the shortened time-frame of 12 court days for preparation of the clerk’s transcript for comment to assess the impact on workload for the clerks, court reporters, and appellate counsel.
4.	Hon. Charles W. Campbell Superior Court of California, County of Ventura	A	N	Agree with proposed changes.	No response required.
5.	Deena C. Fawcett	AM	Y	1. Rule 38.2(f): Oppose, the courts of appeal	1. The committee agrees with the

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Juvenile Law: Notice

(amend Cal. Rules of Court, rules 37, 38–38.3; 1407, 1408, 1430, 1431, 1433, 1434, 1436, 1436.5, 1440, 1465, 1466, 1496, and 1496.5; repeal rule 1470; revise forms JV-800, JV-820, JV-825, and JV-826; and approve form JV-822)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
	President California Appellate Court Clerks’ Association			<p>have not encountered any premature notices of intent. The trial court clerk should return the premature notice of intent to the party with a notice that it may be filed after the order setting a hearing has issued.</p> <p>2. JV-800: The word appellant should be used instead of petitioner. The reference to “notices of appeals” should be “notice of appeal.”</p>	<p>commentator and has deleted the provision.</p> <p>2. Agree to modify the text.</p>
6.	Carole Greeley California Appellate Defense Counsel Bay Area Dependency Chapter	AM	Y	<p>1. Rule 1407(a): The phrase “and, if applicable, the intent to aggregate other offenses under section 726” should be deleted because the rule only applies to dependency cases.</p> <p>2. JV-800: The word appellant should be used instead of petitioner. Item 5 should read “notice of appeal.” Item 6 should be revised for clarity, as it is often filled out by the parties, as described on the comment form. Delete the inquiry about what part of the dispositional order is being challenged and what type of permanent plan was selected as both are irrelevant.</p> <p>3. JV-820: The advice is not correct when made by a referee, cite rule 38 in the bottom right corner.</p> <p>4. JV-825: Item 4b is confusing, change “termination of parent rights order” to</p>	<p>1. Agree to delete reference to 726 from (a) as it is inapplicable.</p> <p>2. Agree to modify the text by replacing petitioner with appellant and correcting item 5 as suggested. At this time the committee declines revising item 6 as suggested as it entails substantive changes that would need to be circulated for comment.</p> <p>3. The committee declines to add an additional advisement regarding referees’ orders to the form.</p> <p>4. Agree to modify the text.</p>

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Juvenile Law: Notice

(amend Cal. Rules of Court, rules 37, 38–38.3; 1407, 1408, 1430, 1431, 1433, 1434, 1436, 1436.5, 1440, 1465, 1466, 1496, and 1496.5; repeal rule 1470; revise forms JV-800, JV-820, JV-825, and JV-826; and approve form JV-822)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>“placement order.”</p> <p>5. JV-826: Should say judicial officer. Form should cover both the denial and granting of a petition.</p>	5. Agree to modify.
7.	Superior Court of California, County of Los Angeles	A	Y	Agree with proposed changes.	No response required.
8.	Stephen Love Executive Officer Superior Court of California, County of San Diego	AM	Y	<p>1. Rule 38(g): replace “minor” with “child” and change “parents” to “parents”.</p> <p>2. Rule 38.1(d): replace “any” with “the child’s” before Court Appointed Special advocate. Add “if any” after the word volunteer. Add a period at the end of the subsection.</p> <p>3. Rule 38.2: replace “any” with “the child’s” before Court Appointed Special advocate.</p> <p>4. Rule 1407: Delete reference to 726 in (a) as it doesn’t apply to dependency proceedings. Add (s) after section in (f), add “and 630.1” at the end of the sentence and delete (f)(3). The language “upon request” in (f)(3) is inconsistent with the statute. Delete reference to WIC 311 in 1407(h).</p>	<p>1. Agree to modify the text.</p> <p>2. Agree to replace the word any and add a period. The committee declines to add the words “if any” as the notice requirements only apply if such a person is involved in the case.</p> <p>3. Agree to modify the text.</p> <p>4. Agree to delete reference to 726 from (a) as it is inapplicable. The committee declines to add a reference to 630.1 to (f)(1) and delete (f)(3) as one section requires the probation officer or prosecuting attorney to notice and the other</p>

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Juvenile Law: Notice

(amend Cal. Rules of Court, rules 37, 38–38.3; 1407, 1408, 1430, 1431, 1433, 1434, 1436, 1436.5, 1440, 1465, 1466, 1496, and 1496.5; repeal rule 1470; revise forms JV-800, JV-820, JV-825, and JV-826; and approve form JV-822)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>5. Rule 1431: Add reference to WIC 334 in (b); change reference from 1447 (applicable in detention hearings) to 1442; and change reference from 300 in (c) to 291.</p> <p>6. Rule 1433: Add a space between § and 777.</p> <p>7. Rule 1436.5: Remove semicolon in (b); delete colon in (c)(1); replace “any” with “the child’s before “Court” in (g); (j) add “Petition for” before “Extraordinary”; delete (m) as it is duplicative of (g).</p> <p>8. Rule 1440: May be better if folded into 1407.</p> <p>9. Rule 1496(d): change “less” to “later” to be consistent with the statute, verify JV-625 is now mandatory.</p>	<p>requires the clerk to notice. Section (f)(3) was modified to remain consistent with the statute. The committee believes the reference to 311 is applicable and should remain in 1407(h).</p> <p>5. Agree to modify the text.</p> <p>6. Agree to modify the text.</p> <p>7. Agree to modify the text.</p> <p>8. The committee has decided not to fold rule 1440 into rule 1407, as 1407 is specific to notice of petitions and 1440 covers all hearing types.</p> <p>9. Agree to modify the text. The committee has opted to change JV-</p>

SPR05-29

Juvenile Law: Notice

(amend Cal. Rules of Court, rules 37, 38–38.3; 1407, 1408, 1430, 1431, 1433, 1434, 1436, 1436.5, 1440, 1465, 1466, 1496, and 1496.5; repeal rule 1470; revise forms JV-800, JV-820, JV-825, and JV-826; and approve form JV-822)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>10. Rule 1496.5(a): reference to 294 should be before 366.26.</p> <p>11. JV-800: To the notice section add “your attorney” after “you”; change “items 4 and 5” to “items 4-6”; add “a” before “written notice” and add “being appealed” after “making of the order. Replace the word “petitioner” with “appellant.” Capitalize “u” in “use” in footer on page 1. Item 5 change “the notice of appeals” to “this notice of appeal” and add a box indicating continued on attachment. Add “section” to 6(a) and 6(e) before 300, 601, and 602. Add full hyphen to footer on page 2.</p> <p>12. JV-820: For consistency to JV-800, in 4(c) change “department of social services” to “county welfare agency” and add “interest in the” to the parenthetical in 4(e). Add reference to rule 38 in footer.</p> <p>13. JV-822: For consistency to JV-800, in 4(c) change “department of social services” to “county welfare agency” and add “interest in the” to the parenthetical in 4(e). In notice to litigant change reference to 38(e)(3) to</p>	<p>625 from an optional to mandatory to promote consistency.</p> <p>10. Agree to modify the text.</p> <p>11. Agree to modify the text.</p> <p>12. Agree to modify the text.</p> <p>13. Agree to modify the text. The committee declines to add CRC in the headers and footers as it is inconsistent with other rules.</p>

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Juvenile Law: Notice

(amend Cal. Rules of Court, rules 37, 38–38.3; 1407, 1408, 1430, 1431, 1433, 1434, 1436, 1436.5, 1440, 1465, 1466, 1496, and 1496.5; repeal rule 1470; revise forms JV-800, JV-820, JV-825, and JV-826; and approve form JV-822)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>38.2(e)(3) and WIC 294 to 295 and 297. Add CRC before Rule 38.2 in title and footer.</p> <p>14. JV-825: Renumber last page to 8-12, currently 2 pages 8; change from 10 to 11 the reference in the stay requested box; eliminate commas before and after the Supreme Court on bottom of p.1 and delete “s” after “Courts”; add box “additional pages attached” to box 3; change “long term foster care” to “another planned permanent living arrangement” in 4(a); for consistency to other rules delete “must specify” in 5; add “are” to 7(a) and add commas after circumstances to 7(b); change “prospective adopted parents” to “adoptive.”</p> <p>15. JV-826: Add CRC before Rule number in title and footer; change “judicial officers” to “officer”.</p>	<p>14. Agree to modify the text. The committee has removed notice provisions to prospective adoptive parents in the rules and forms.</p> <p>15. Agree to modify the text. The committee declines to add CRC in the headers and footers as it is inconsistent with other rules.</p>
9.	Hon. John O'Rourke Judge Superior Court of California, County of Kings		N	Form 820: It would be better to have the response /notice of appeal filed within 17 or 20 days after the mail date instead of the 12 days because the law allows that notice by mail is completed 10 days after mailing (CCP) thus 12 day filing rule only gives the party 2 days to respond. Their time should be counted from the last day notice is legally received by operation of law.	The committee agrees with the commentator’s assessment and has revised the filing deadline to 17 days when received by mail.

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Juvenile Law: Notice

(amend Cal. Rules of Court, rules 37, 38–38.3; 1407, 1408, 1430, 1431, 1433, 1434, 1436, 1436.5, 1440, 1465, 1466, 1496, and 1496.5; repeal rule 1470; revise forms JV-800, JV-820, JV-825, and JV-826; and approve form JV-822)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
10.	Jan Sherwood Appellate and Trial Attorney Corte Madera	N	N	1. Rule 38(g) and 38.2(h) The proposed change from 20 days to 12 days would create an undue burden on trial counsel. The proposed would significantly decrease the time trial counsel has to research and write the writ.	1. Having reviewed the history of the 1995 change and the comments generated, the committee decided to leave the time frame as 20 days, and to recirculate the shortened time-frame of 12 court days for preparation of the clerk’s transcript for comment to assess the impact on workload for the clerks, court reporters, and appellate counsel.
11.	Michael Tafoya Assistant Division Chief Superior Court of California, County of Los Angeles—Juvenile Division	AM	N	Rule 38(h): Reporters have 12 calendar days to prepare the record and submit it to the clerk. If the reporter uses all the time given, the clerk will be unable to submit the clerk’s and reporter’s transcripts to the reviewing court by the 12th calendar day. To enable timely submission to the reviewing court, it should be 12 court days. It will be a serious administrative burden to reduce the time to 12 calendar days.	1. Having reviewed the history of the 1995 change and the comments generated, the committee decided to leave the time frame as 20 days, and to recirculate the shortened time-frame of 12 court days for preparation of the clerk’s transcript for comment to assess the impact on workload for the clerks, court reporters, and appellate counsel.
12.	David M. Yorton, Jr. Senior Deputy County Counsel Shasta County	AM	N	1. Rules 37, 38.1, 38.2, and 1436.5: Delete provision requiring notice to prospective adoptive parents and the BIA. The prospective adoptive parents’ addresses are confidential and not available to the clerk and should not be released to the petitioner.	1. The committee agrees to delete prospective adoptive parents from the notice provisions for the reasons stated. The committee agrees to remove the BIA from rule 38.2 however declines to remove BIA notice from rules 38.1 and 1436.5. In those instances notice to the BIA is only applicable if the parents’

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Juvenile Law: Notice

(amend Cal. Rules of Court, rules 37, 38–38.3; 1407, 1408, 1430, 1431, 1433, 1434, 1436, 1436.5, 1440, 1465, 1466, 1496, and 1496.5; repeal rule 1470; revise forms JV-800, JV-820, JV-825, and JV-826; and approve form JV-822)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>2. Rule 37(g)(1)(G): Delete notice provision to the BIA. BIA receives notice under ICWA. Is notice to be sent registered, certified, or first class?</p>	<p>whereabouts are unknown and the specific tribe has not been identified. This is consistent with the noticing procedures for a 366.26 hearing and the committee believes notice should be given for requests to change orders made at a 366.26 hearing in the same manner and to the same persons/entities as are provided for under WIC 294. Rule 37 does not provide notice to the BIA, only the child’s tribe.</p> <p>2. See above.</p>
13.	Dean Zisper President Orange County Bar Association	N	Y	<p>1. Change “must” in all rules of court to “shall” to be consistent with the statutes.</p> <p>2. Rule 38: Delete provision giving notice on the intent to file a writ to current caregivers and prospective adoptive parents. This requirement is new and those addresses are confidential, any disclose of their whereabouts would be detrimental.</p>	<p>1. Consistent with Judicial Council policy, effective January 1, 2002, to replace the word <i>shall</i> in all rules of court, the committee recommends against this modification.</p> <p>2. Agree to delete notice provision to the prospective adoptive parents. The present caregiver already receives notice. The change from “present custodian” to “caregiver” is made for clarification. Therefore, there is no change to</p>

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>3. Rule 38.1: Same concerns listed in Rule 38.</p> <p>4. Rule 38.2: Delete provision requiring notice be given to a grandparent if the address is known when the parents’ whereabouts are unknown. Once parental rights are terminated, parents and grandparents have no standing to appear and comment on a specified placement.</p> <p>5. Rule 1407: The phrase “and, if applicable, the intent to aggregate other offenses under section 726” should be deleted because the rule only applies to dependency cases.</p> <p>6. Rule 1436.5: Delete provision giving notice of a writ petition after a referral hearing to current caregivers and prospective adoptive parents. Unless they are defacto parents there is no reason to give them notice and such a requirement may inadvertently disclose a confidential address.</p> <p>7. Rule 1466: The reference to the present</p>	<p>confidentiality.</p> <p>3. See above.</p> <p>4. Agree to delete notice provision to grandparents when parent’s whereabouts are unknown, as they would lack standing to appear.</p> <p>5. Agree to delete this provision from subsection (a).</p> <p>6. Agree to delete notice provision to the prospective adoptive parents as their addresses are confidential. The committee declines to remove the current caregivers (revised to the present custodian of the dependent child) from this rule, as they are provided notice in the rule’s current version, as well as rule 38 and 38.1.</p> <p>7. Agree to delete duplicative</p>

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>guardian and parents unless their rights have been terminated are unnecessary as both are provided for in section 295.</p> <p>8. Oppose all proposed changes to the Judicial Council forms.</p>	<p>references to the legal guardian and parents to avoid confusion and promote clarity.</p> <p>8. The committee recommends proceeding with the proposed changes to the listed Judicial Council forms as they are necessary to promote conformity with statutory changes and rule revisions.</p>