



California's Fostering Connections to Success Act: Court Procedures

The federal Fostering Connections to Success and Increasing Adoptions Act of 2008, Pub.L. No. 110-351, made extensive policy and program changes to improve the well-being of and outcomes for children in the foster care system. These changes included those related to the extension of federal funding for foster care services for nonminors up to 19, 20, or 21 years of age when certain education, training, or work requirements are met or are unable to be met because of a medical condition. Participation by a state in this program is optional and requires the state to align state law and regulations with the provisions of the federal act.

California chose to participate. Assembly Bill 12 (Beall; Stats. 2010, ch. 559), the California Fostering Connections to Success Act, as amended by Assembly Bill 212 (Beall; Stats. 2011, ch. 459)¹ enacted extensive changes to California statutes to comply with those provisions of P.L. 110-351. The Judicial Council of California adopted rules² and forms on October 28, 2011, to provide the procedural framework for the new and amended hearing requirements included in the act.

The enactment of the Fostering Connections Act makes it possible to access federal funding for foster care services for dependents and wards beyond their 18th birthday, which will provide them with the time and support needed to gradually become fully independent adults. The guiding principle of this extension is to provide each eligible nonminor with the opportunity to make decisions regarding his or her housing, education, employment, and leisure activities, while ensuring the availability of ongoing support and assistance when difficulties are encountered. The 6 new rules, 2 amended rules, 10 new forms (5 optional and 5 mandatory), and 1 revised form provide the guidance and structure needed to fully implement the court process for the extension of juvenile court jurisdiction and foster care services.

“Nonminor dependent” is the term used in the Fostering Connections Act to describe a dependent or ward who:

- Was under an order for a foster care placement on his or her 18th birthday;
- Is currently in supervised foster care under the placement and care of the county welfare department, county probation department, or Indian tribe;
- Has chosen to remain under or return to juvenile court jurisdiction; and

¹ AB 12 and AB 212 are referred to as the Fostering Connections Act in this article.

² All rule references are to the California Rules of Court unless otherwise indicated.

- Is participating in a Transitional Independent Living Case Plan that includes meeting at least one of the education, training, or work requirements in Welfare and Institutions Code section 11403(b)³ or being unable to do so because of a medical condition.

Although a nonminor may remain under juvenile court jurisdiction as a ward or dependent without meeting the requirements for status as a nonminor dependent, he or she will not be eligible to receive the Aid for Dependent Children–Foster Care (AFDC-FC) funding and some of the other services available to a nonminor dependent.

Planning for Transition From Foster Care to Independence

Rule and form for dependents—Rule 5.707 and form JV-460. To confirm that a dependent in a foster care placement has the information needed to make a thoughtful decision about remaining in foster care, the court must ensure that at the last status review hearing held before a dependent turns 18 years old, the child understands the options available, including the potential benefits of remaining in foster care and how that can be accomplished; the right to exit foster care and have juvenile court jurisdiction terminated; and the right to have that jurisdiction resumed and to return to foster care. Rule 5.707 sets out the information that must be included in the social worker’s report and the required findings and orders, which are found on an optional form: *Attachment: Additional Findings and Orders for Child Approaching Majority—Dependency* (form JV-460).

Rule and forms for wards—Rule 5.812 and forms JV-680, JV-681. In addition to ensuring that a ward in a foster care placement has the information needed to make a thoughtful decision about remaining in foster care at the last status review hearing, the juvenile court is required to consider at this hearing whether the court’s jurisdiction should be modified from delinquency jurisdiction to transition or dependency jurisdiction. This also applies to any other hearing during which the court will consider terminating its jurisdiction over a ward in foster care or a ward who was a juvenile court dependent in foster care when he or she was adjudged to be a ward.

Transition jurisdiction is described in section 450 and applies to a ward who meets the following criteria:

- Age and foster care status
 - Older than 17 years and 5 months of age and younger than 18 years of age and in foster care placement; or
 - Subject to an order for foster care placement on his or her 18th birthday and on or after January 1, 2012, has not attained 19 years of age; commencing January 1, 2013, has not attained 20 years of age; or commencing January 1, 2014, has not attained 21 years of age.
- Removal status
 - Removed from the physical custody of a parent or legal guardian, adjudged to be a ward, and ordered into foster care placement as a ward; or

³ All code references are to the California Welfare and Institutions Code unless otherwise indicated.

- Removed from the custody of his or her parents or legal guardian as a dependent of the court with an order for foster care placement as a dependent in effect at the time the court adjudged him or her to be a ward.
- Rehabilitative goals of the minor or nonminor have been met and juvenile court jurisdiction over him or her as a ward is no longer required.
- If the ward is a minor:
 - Reunification services have been terminated;
 - Hearing for termination of parental rights or establishment of guardianship has not been set;
 - A return of the minor to the physical custody of the parents or legal guardian would create a substantial risk of detriment to the minor's safety, protection, or physical or emotional well-being; and
 - The minor has indicated an intent to sign a mutual agreement for placement in a supervised setting as a nonminor dependent.
- If the ward is a nonminor, he or she has signed a mutual agreement or a voluntary reentry agreement for placement in a supervised setting as a nonminor dependent.

Rule 5.812 includes alternative court procedures, depending on the minor ward's specific circumstances, when a determination is made that the rehabilitative goals were achieved and the minor ward is at risk of abuse or neglect and cannot be returned to a safe home.

Rule 5.812 also sets out the additional information that must be included in the probation officer's report and the required findings and orders for:

- The last review hearing held before the minor attains 18 years of age; and
- Any hearing during which the juvenile court must consider modifying its jurisdiction over a minor ward.

Findings and orders after a hearing for a ward approaching majority, including those related to termination or modification jurisdiction, may be made on the optional *Attachment: Additional Findings and Orders for Minor Approaching Majority—Delinquency* (form JV-680). The findings and orders after a hearing to consider terminating jurisdiction held for a ward 17 years and five months or younger may be made on the optional *Attachment: Hearing for Dismissal—Additional Findings and Orders—Foster Care Placement—Delinquency* (form JV-681).

Nonminor Dependent

Chapter 14 of the California Rules of Court includes three rules related to a nonminor in a foster care placement under juvenile court jurisdiction as a nonminor dependent and to the resumption of juvenile court jurisdiction over nonminors.

Rule 5.900 sets out general provisions related to this group of nonminors including each nonminor's status as an adult, the general conduct of hearings, and the nonminor's appearance at a court hearing by telephone (sections 303, 366(f), 366.3(m), 388(e)(3)).

Rule 5.903 sets out the purpose of the hearing that must be held every six months to review the status of a nonminor dependent who has chosen to remain under juvenile court jurisdiction upon reaching majority or to return to foster care and have juvenile court jurisdiction resumed. This hearing is focused on the goals and services in the nonminor dependent's Transitional Independent Living Case Plan, including efforts to maintain or obtain permanent connections with caring and committed adults. The hearing is intended to be a collaborative effort involving the nonminor dependent, the social worker or probation officer, the judicial officer, and other participants whom the nonminor dependent may have invited. The rule includes the procedures for the setting, noticing, and conduct of the hearing; the contents and filing of the report prepared by the child welfare agency or probation department; and the related findings and orders. The use of the mandatory *Findings and Orders After Nonminor Dependent Review Hearing* (form JV-462) will ensure compliance with the requirements related to the findings and orders at the review hearing for a nonminor dependent.

Rule 5.906 sets out the procedures for the juvenile court to resume jurisdiction over a nonminor, including those related to the contents of the request; the filing and, if necessary when submitted to the court in the county where the nonminor resides, the forwarding of the request for filing to the juvenile court that retained general jurisdiction; providing notice; appointment of an attorney for the nonminor; the contents of the report; and related findings and orders. The rule also includes provisions to provide additional information for the nonminor whose petition was denied.

The following are mandatory forms that will ensure that information needed for the juvenile court to resume jurisdiction is presented in a concise and simple fashion and that the nonminor's contact information will be able to remain confidential when necessary: *How to Ask to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-464-INFO), *Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-466), and *Confidential Information—Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-468).

Termination of Juvenile Court Jurisdiction Over a Nonminor

Rule 5.555 provides the procedures for the hearing under section 391 or 607.3, which must be held to consider the termination of juvenile court jurisdiction over a nonminor who is a ward, dependent, or nonminor dependent subject to an order for a foster care placement. The rule addresses the procedures for calendaring a hearing, the information that the social worker or probation officer must include in the report prepared for the hearing, and the related findings and orders.

When terminating jurisdiction over a nonminor, irrespective of his or her status as a ward, dependent, or nonminor dependent, entering an order retaining general jurisdiction for the purposes of resuming jurisdiction over the nonminor is critical because a nonminor who has not yet reached 21 years of age will then be able to return to foster care if he or she meets the eligibility requirements for status as a nonminor dependent. This flexibility is important as circumstances and needs may change several times between the ages of 18 and 21 years.

The *Findings and Orders After Hearing to Consider Termination of Juvenile Court Jurisdiction Over a Nonminor* (form JV-367) is a mandatory form for use in a hearing under section 391 or section 607.3 held on behalf of a nonminor who is appearing before a judicial officer exercising juvenile court jurisdiction under section 300, 450, 601, or 602.

The revised and renamed mandatory form, *Termination of Juvenile Court Jurisdiction—Nonminor* (form JV-365), incorporates several new requirements related to the information and documentation that must be provided to the nonminor.

The *Notice of Hearing—Nonminor* (form JV-281) and *Proof of Service—Nonminor* (form JV-282) are optional forms for use in proceedings involving nonminors.

For more information, please contact:
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The information in this article is based on the provisions of Assembly Bill 12 (Beall; Stats. 2010, ch. 559), the California Fostering Connections to Success Act, as amended by Assembly Bill 212 (Beall; Stats. 2011, ch. 459) and the California Rules of Court as effective on January 1, 2012.