

Judicial Council of California • Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT SPR11-13

Title	Action Requested
Appellate Procedure: Premature or Late Notice of Intent to File Writ Petition in Juvenile Dependency Proceeding	Review and submit comments by Monday, June 20, 2011
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 8.450	January 1, 2012
Proposed by	Contact
Appellate Advisory Committee	Heather Anderson, 415-865-7691
Hon. Kathryn Doi Todd, Chair	heather.anderson@jud.ca.gov
Family and Juvenile Law Advisory Committee	Leah Wilson, 415-865-7977
Hon. Kimberly J. Nystrom-Geist, Cochair	leah.wilson@jud.ca.gov
Hon. Dean Stout, Cochair	

Discussion

Rule 8.454 of the California Rules of Court addresses notices of intent to file writ petitions under Welfare and Institutions Code section 366.28. Rule 8.454 contains a provision, subdivision (f), that addresses what happens if a notice of intent is filed prematurely or filed late.

Rule 8.450 addresses notices of intent to file writ petitions to review orders setting a hearing under Welfare and Institutions Code section 366.26. Unlike rule 8.454, rule 8.450 does not address what happens if a notice of intent is filed prematurely or filed late. This proposal would fill the gap in rule 8.450 by amending it to include a provision addressing premature and late notices of intent. The language of this proposed new provision is modeled on rule 8.454(f).

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

Rule 8.450 of the California Rules of Court would be amended, effective January 1, 2012, to read:

Title 8. Appellate Rules

Division 1. Rules Relating to the Supreme Court and Courts of Appeal

Chapter 5. Juvenile Appeals and Writs

Article 3. Writs

Rule 8.450. Notice of intent to file writ petition to review order setting hearing under Welfare and Institutions Code section 366.26

(a)–(e) * * *

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

(1) A notice of intent to file a writ petition under Welfare and Institutions Code section 366.26 is premature if filed before an order setting a hearing under Welfare and Institutions Code section 366.26 has been made. The reviewing court may treat the notice as filed immediately after the order setting the hearing has been made.

(2) The superior court clerk must mark a late notice of intent to file a writ petition under section 366.26 “Received [date] but not filed,” notify the party that the notice was not filed because it was late, and send a copy of the marked notice to the party’s counsel of record, if applicable.

(f)(g) * * *

(g)(h) * * *

(h)(i) * * *

(i)(j) * * *

Item SPR11-13 Response Form

Title: Appellate Procedure: Premature or Late Notice of Intent to File Writ Petition in Juvenile Dependency Proceeding (amend Cal. Rules of Court, rule 8.450)

- Agree with proposed changes
- Agree with proposed changes **if modified**
- Do not agree with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be submitted online, written on this form, or prepared in a letter format. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments. You are welcome to email your comments as an attachment.

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DEADLINE FOR COMMENT: 5:00 p.m., Monday, June 20, 2011

Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.