

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

SPR20-21

Title

Juvenile Law: Information, Documents, and Services for Youth 16 Years of Age and Older

Action Requested

Review and submit comments by June 9, 2020

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rules 5.502, 5.740, and 5.810; adopt forms JV-361, JV-362, and JV-363; revise form JV-365

Proposed Effective Date

January 1, 2021

Contact

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Proposed by

Family and Juvenile Law Advisory Committee

Hon. Jerilyn L. Borack, Cochair

Hon. Mark A. Juhas, Cochair

Kerry Doyle, Attorney

Center for Families, Children & the Courts

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee recommends amending three California Rules of Court, adopting three forms, and revising one form to conform to Assembly Bill 718's statutory mandate that child welfare agencies begin the process of providing key information, documents, and services to youth in foster care beginning at age 16, rather than at the end of juvenile court jurisdiction. (Eggman; Stats. 2019, ch. 438).

Background

Before the passage of Assembly Bill 718, the law only required the provision of certain information, documents, and services to a youth in foster care 18 years of age or older prior to termination of juvenile court jurisdiction over that youth.¹ A county welfare department is also required, at the hearing before a dependent turns 18 years old, and at every review hearing thereafter until the court terminates jurisdiction, to submit a report describing efforts toward

¹ Welf. & Inst. Code, § 391. All further statutory references will be to the Welfare and Institutions Code unless otherwise indicated.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. It is circulated for comment purposes only.

providing certain documents and information to the youth.² Assembly Bill 718 seeks to increase the access that youth in foster care have to various information, documents, and services—and to broaden those items to include financial literacy resources—as they transition to adulthood and greater levels of independence, acknowledging the need that some youth may have for such materials and supports before they turn 18 years old, and between turning 18 and exiting foster care.

According to the bill’s author, “While many positives have come from the extension of benefits for youth involved in the foster care system, one result of the implementation of AB 12 (2010) has been that many youth do not receive important documents, such as their social security card, driver’s license, and birth certificate, until well past the period when they need these documents to navigate employment, housing, higher education or financial aid applications. [This bill] would provide youth with important documentation and support when it is needed, which will give them a better opportunity to achieve their goals and be independent.”³

The Proposal

Rule 5.502

Rule 5.502 would be amended to define the term “youth” as a person who is at least 14 years of age and not yet 21 years of age.

Rules 5.740 and 5.810

Rules 5.740 and 5.810 would be amended to add a requirement that the social worker or probation officer provide the youth with the documents required by section 391 and would indicate which form (discussed below) must be used to record the information, documents, and services that were provided to the youth.

Forms

The three new forms discussed below would all have the same instructions on the form directing the youth to review the boxes checked by the social worker or probation officer and sign their initials on the lines after the item if they have indeed received the information, document, or service described in that item. This mirrors the current JV-365 form and process for provision of information, documents, and services when the court is terminating jurisdiction over a nonminor.⁴

First Review Hearing After Youth Turns 16 Years of Age—Information, Documents, and Services (form JV-361)

This would be a new mandatory form for the social worker or probation officer to complete to specify which information, documents, and services have been provided to the youth at the first review hearing after the youth turns 16 years old.

² § 366.31(a)(3).

³ Assem. Com. on Judiciary, Analysis of Assem. Bill No. 718 (2019–2020 Reg. Sess.) Apr. 2, 2019, pp. 4–5.

⁴ See *Termination of Juvenile Court Jurisdiction—Nonminor* (form JV-365), included in this Invitation to Comment.

Review Hearing for Youth Approaching 18 Years of Age—Information, Documents, and Services (*form JV-362*)

This would be a new mandatory form for the social worker or probation officer to complete to indicate which information, documents, and services have been provided to the youth at the last review hearing before the youth turns 18 years old.

Review Hearing for Youth 18 Years of Age or Older—Information, Documents, and Services (*form JV-363*)

This would be a new mandatory form for the social worker or probation officer to complete to indicate which information, documents, and services have been provided to the youth at each review hearing after the youth turns 18 years old.

Termination of Juvenile Court Jurisdiction—Nonminor (*form JV-365*)

This is an existing mandatory form for the social worker or probation officer to complete to indicate which information, documents, and services have been provided to the youth as the juvenile court terminates its jurisdiction. As indicated above, the instructions on the form direct the youth to review the boxes checked by the social worker or probation officer and sign their initials on the lines after the item if they have indeed received the information, document, or service described in that item.

This form would be revised to add the new requirement in AB 718 that the youth be provided with written information notifying the youth of any financial literacy programs or other available resources to help the youth obtain financial literacy skills.⁵ It would also be revised to clarify the new requirement that information be in writing notifying a youth who was formerly in foster care and is granted a preference for student assistant or internship programs with state agencies. Further, several revisions would be made to the form removing the phrase “his or her” so that the form is gender neutral.

Alternatives Considered

The committee considered not defining “youth” in rule 5.502. However, the committee has had repeated and lengthy discussions over whether to use the term “child” or “minor.” The current rules all use “child,” but the statutes use “minor.” The committees note that throughout the juvenile court rules and forms there is a consistent practice of using “child,” and this term is clearly defined in rule 5.502.⁶ Use of the term “child” is a reminder to all in the system that juvenile offenders are developmentally distinct from adults; “minor” is not defined in rule 5.502. In a proposal circulated for public comment in spring 2019 that addressed the needs of older children as this proposal does, the committee sought specific comment on whether the rules should use the term “child” or “minor.” While many commentators suggested that the term “youth” is preferred by older children who do not like to be referred to as a child, the committee concluded that since “youth” is not defined in the rules of court and any definition of the term

⁵ As indicated in AB 718, financial literacy programs include, but is not limited to, banking, credit card debt, student loan debt, credit scores, credit history, and personal savings. § 391(a)(1)(G) & (c)(5)

⁶ Rule 5.502 defines child as “a person under the age of 18 years.”

would be an important substantive change to the proposal, public comment should be sought before the council defines the term. The committee is now circulating a definition of “youth” for public comment. In addition to creating a respectful term for older children, this term is important in juvenile justice court since many 18–21-year olds are before that court and do not meet the definition of child.

The committee considered using 15 as the beginning age of the definition of youth, since that is the age the United Nations, for statistical purposes, uses as the beginning age of its definition.⁷ However, under the California statutory scheme, the case plan must include a written description of the programs and services that will help the child to prepare for the transition from care to successful adulthood beginning at age 14.⁸ For that reason, and because the dependency court needs to make a finding regarding the services needed to assist the child or nonminor dependent to make the transition from foster care to successful adulthood beginning at age 14,⁹ the committee concluded that the term should be defined as “ a person who is at least 14 years of age and not yet 21 years of age.” Fourteen is also the minimum age when a minor can obtain a permit to work.¹⁰ If a definition of youth is ultimately adopted by the Judicial Council, rules and forms can be updated in future proposals, as appropriate, when those rules and forms need to be updated due to new statutory mandates.

Assembly Bill 718 governs review hearings in the dependency court, but not in the delinquency court. The committee considered limiting this proposal to youth in foster care under the dependency jurisdiction of the court, and not including those youth who are in foster care under the delinquency jurisdiction of the court. This, however, would result in youth in foster care in the delinquency system receiving different treatment than youth in foster care in the dependency system. Rule 5.555(c)(1)(J) requires that the probation officer’s report for a hearing where the court is considering terminating jurisdiction include verification that the nonminor was provided with the information, documents, and services as required under section 391(e). Probation officers throughout the state are providing the required information, documents, and services to nonminors when the court terminates jurisdiction, and are using and filing *Termination of Juvenile Court Jurisdiction—Nonminor* (form JV-365). While AB 718 governs review hearings in the dependency court and not in the delinquency court, the legislative history is very clear that the bill is intended to help youth who exit foster care successfully prepare for their transition to independence.¹¹ It is both fair and logical that this proposal help all youth in foster care successfully prepare for their transition to independence.

⁷ United Nations, “Global Issues—Youth,” <https://www.un.org/en/sections/issues-depth/youth-0/index.html> (as of Feb. 21, 2020).

⁸ § 16501.1(g)(16)(A).

⁹ § 366.3(e)(10).

¹⁰ Educ. Code, § 49112.

¹¹ Assem. Com. on Human Services, Analysis of Assem. Bill No. 718 (2019–2020 Reg. Sess.) Mar. 26, 2019. pp. 5–7.

Fiscal and Operational Impacts

The proposal includes an added requirement that social workers and probation officers provide certain information, documents, and services to youth in foster care earlier in the case than is the current practice. This will increase workload but is required for social workers by recent statutory amendments. As discussed above, the committee concluded that this benefit should also be provided to youth in foster care under the delinquency jurisdiction of the court and thus the proposal includes a slight increase in workload for probation officers. In implementing the new and revised forms, courts will incur standard reproduction costs.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Should the rules of court define “youth” and, if so, is the proposed definition of “a person who is at least 14 years of age and not yet 21 years of age” an appropriate definition?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Cal. Rules of Court, rules 5.502, 5.740, and 5.810, at pages 6–8
2. Forms JV-361, JV-362, JV-363, and JV-365, at pages 9–14

Link A: Assem. Bill 718,

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB718

Rules 5.502, 5.740, and 5.810 of the California Rules of Court would be amended, effective January 1, 2021, to read:

1 **Rule 5.502. Definitions and use of terms**

2
3 Definitions (§§ 202(e), 303, 319, 361, 361.5(a)(3), 450, 628.1, 636, 726, 727.3(c)(2),
4 727.4(d), 4512(j), 4701.6(b), 11400(v), 11400(y), 16501(f)(16); 20 U.S.C. § 1415; 25
5 U.S.C. § 1903(2))

6
7 As used in these rules, unless the context or subject matter otherwise requires:

8
9 (1)–(4) * * *

10
11 (5) “Child” means a person under the age of 18 years.

12
13 (6)–(24) * * *

14
15 (25) “Nonminor” means a youth at least 18 years of age and not yet 21 years of age who
16 remains subject to the court’s dependency, delinquency, or general jurisdiction
17 under section 303 but is not a “nonminor dependent.”

18
19 (26) “Nonminor dependent” means a youth who is a dependent or ward of the court, or a
20 nonminor under the transition jurisdiction of the court, is at least 18 years of age
21 and not yet 21 years of age, and:

22
23 (A) Was under an order of foster care placement on the youth’s 18th birthday;

24
25 (B) Is currently in foster care under the placement and care authority of the
26 county welfare department, the county probation department, or an Indian
27 tribe that entered into an agreement under section 10553.1; and

28
29 (C) Is participating in a current Transitional Independent Living Case Plan as
30 defined in this rule.

31
32 (27)–(45) * * *

33
34 (46) “Youth” means a person who is at least 14 years of age and not yet 21 years of age.

35
36 **Rule 5.740. Hearings subsequent to a permanent plan (§§ 366.26, 366.3, 16501.1)**

37
38 (a)–(b) * * *

39
40 **(c) Review hearings—youth 16 years of age and older**

1 If the youth is 16 years of age or older, the procedures in section 391 must be
2 followed.

3
4 (1) If it is the first review hearing after the youth turns 16 years of age, the social
5 worker must provide the information, documents, and services required by section
6 391(a) and must use *First Review Hearing after Youth Turns 16 years of Age—*
7 *Information, Documents, and Services* (form JV-361).

8
9 (2) If it is the last review hearing before the youth turns 18 years of age, the social
10 worker must provide the information, documents, and services required by section
11 391(b)–(c) and must use *Review Hearing for Youth Approaching 18 Years of Age—*
12 *Information, Documents, and Services* (form JV-362).

13
14 (3) If it is a review hearing after the youth turns 18 years of age, the social worker
15 must provide the information, documents, and services required by section 391(c)
16 and must use *Review Hearing for Youth 18 Years of Age or Older—Information,*
17 *Documents, and Services* (form JV-363). If the court is terminating jurisdiction at
18 this review hearing, the social worker must also provide the information,
19 documents, and services required by section 391(h), must follow the procedures in
20 rule 5.555, and must use *Termination of Juvenile Court Jurisdiction—Nonminor*
21 (form JV-365).

22
23 ~~(e)~~(d) * * *

24
25 **Rule 5.810. Reviews, hearings, and permanency planning**

26
27 (a)–(b) * * *

28
29 (c) **Postpermanency status review hearings (§ 727.2)**

30
31 A postpermanency status review hearing must be conducted for wards in placement
32 no less frequently than once every six months.

33
34 (1)–(2) * * *

35
36 (3) If the youth is 16 years of age or older, the procedures in section 391 must be
37 followed.

38
39 (A) If it is the first review hearing after the youth turns 16 years of age, the
40 probation officer must provide the information, documents, and
41 services required by section 391(a) and must use *First Review Hearing*
42 *after Youth Turns 16 years of Age—Information, Documents, and*
43 *Services* (form JV-361).

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(B) If it is the last review hearing before the youth turns 18 years of age, the probation officer must provide the information, documents, and services required by section 391(b)–(c) and must use *Review Hearing for Youth Approaching 18 Years of Age—Information, Documents, and Services* (form JV-362).

(C) If it is a review hearing after the youth turns 18 years of age, the probation officer must provide the information, documents, and services required by section 391(c) and must use *Review Hearing for Youth 18 Years of Age or Older—Information, Documents, and Services* (form JV-363). If the court is terminating jurisdiction at this review hearing, the probation officer must also provide the information, documents, and services required by section 391(h), must follow the procedures in rule 5.555, and must use *Termination of Juvenile Court Jurisdiction—Nonminor* (form JV-365).

(d)–(e) * * *

ATTORNEY OR PARTY WITHOUT ATTORNEY: NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
YOUTH'S NAME: DATE OF BIRTH:		
REVIEW HEARING FOR YOUTH APPROACHING 18 YEARS OF AGE— INFORMATION, DOCUMENTS, AND SERVICES		CASE NUMBER:

Directions for the social worker or probation officer: Check the appropriate boxes in items 1 through 17, complete item 18, attach documents as required, and sign and date the form.

Directions for the youth (if youth is available): Review the boxes checked by the social worker or probation officer in items 1 through 7. Sign your initials on the lines after items 1–17 **only if** you received the information, document, or service described in that item. Then sign and date the form. You may give the form to the judge on the day of the hearing if you didn't give it to your social worker, probation officer, or attorney before the hearing.

An attached report verifies that the youth has received the following information, documents, and services (*check all that apply*):

1. Social security card _____
2. Certified copy of birth certificate _____
3. California identification card or driver's license _____
4. Medi-Cal Benefits Identification card _____
5. A letter prepared by the county welfare department that includes the child's name and date of birth, the dates during which the minor was within the jurisdiction of the juvenile court, and a statement that the minor or nonminor was a foster youth in compliance with state and federal financial aid documentation requirements _____
6. The death certificate of the parent or parents, if applicable _____
7. Proof of citizenship or legal residence, if applicable _____
8. An advance health care directive form _____
9. A copy of each of the following: *How to Ask to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-464-INFO), a blank *Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-466), and a blank *Confidential Information—Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-468) _____
10. Assistance in obtaining employment _____
11. Assistance in applying for, or preparing to apply for, admission to college or to a vocational training program or other educational institution, and in obtaining financial aid _____
12. Written notice informing the youth that a current or former dependent child who is or has been in foster care is granted a preference for student assistant or internship positions with state agencies, or with participating county agencies, until the child turns 26 years of age _____
13. Written notice informing the youth that youth exiting foster care at 18 years of age or older are eligible for Medi-Cal until they reach 26 years of age, regardless of income, and are not required to apply _____

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO: _____ NAME: FIRM NAME: STREET ADDRESS: CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ EMAIL ADDRESS: ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
NONMINOR'S NAME: NONMINOR'S DATE OF BIRTH: HEARING DATE AND TIME:	
TERMINATION OF JUVENILE COURT JURISDICTION—NONMINOR	CASE NUMBER: _____
Directions for the social worker or probation officer: Check the appropriate boxes in items 1 through 6, complete item 7, attach documents as required, and sign and date item 7.	
Directions for the nonminor (if nonminor is available): Review the boxes checked by the social worker or probation officer in items 1 through 6. If the box checked in item 1 is wrong, check the correct box and sign your initials next to the box. Sign your initials on the lines after items 2a–h, 3a–l, 4, 5a–b, and 6a–h only if you received the information, document, or service described in that item. Then sign and date item 7. You may give the form to the judge on the day of the hearing if you didn't give it to your social worker, probation officer, or attorney before the hearing.	

1.
 - a. The nonminor wants to attend the termination hearing in person by telephone.
 - b. The nonminor does not want to attend the termination hearing. The petitioner has attached verification that the nonminor has been informed of the potential consequences of failure to attend the termination hearing.
 - c. The nonminor is unavailable or has refused to sign this form. Documentation of reasonable efforts to locate the nonminor and to obtain **the nonminor's** signature is attached.

2. An attached report verifies that the nonminor has received written information about **the minor's** juvenile court case, including (*check all that apply*):
 - a. The nonminor's Indian heritage or tribal connections _____
 - b. The nonminor's family history _____
 - c. The nonminor's placement history _____
 - d. The nonminor's educational history and medical history _____
 - e. Any photographs of the nonminor or **the** family in the possession of the county welfare department or probation department, other than forensic photographs _____
 - f. Contact information for all siblings under juvenile court jurisdiction, except for any siblings whose safety or welfare would be jeopardized by contact with the nonminor, as determined by the court _____
 - g. Instructions on how the nonminor may exercise **the** right to inspect, receive, and copy **their** juvenile case file, including how to access sealed records (see Welf. & Inst. Code, §§ 389(a), 781(a)(4), 786(f)(1)(F), 826.6 & 827; Cal. Rules of Court, rule 5.552) _____
 - h. The date on which the jurisdiction of the court would be terminated _____

3. The nonminor has been provided with the following documents (*check all that apply*):
 - a. A certified copy of **the** birth certificate _____
 - b. **Social** security card _____
 - c. **California** identification card or driver's license _____
 - d. Proof of **citizenship** or lawful permanent resident status _____
 - e. A copy of the death certificate of **the** parent or parents _____
 - f. **Health** and Education Passport _____

NONMINOR'S NAME:	CASE NUMBER:
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- 3. g. A blank advance health care directive form _____
- h. A letter prepared by the county welfare department that includes the nonminor's name and date of birth, the dates during which **the nonminor** was within the jurisdiction of the juvenile court, and a statement that the nonminor was a foster child in compliance with state and federal financial aid documentation requirements _____
- i. Written information notifying the nonminor of any financial literacy programs or other available resources provided through the county or other community organizations to help the nonminor obtain financial literacy skills, including, but not limited to, banking, credit card debt, student loan debt, credit scores, credit history, and personal savings _____
- j. Written information notifying the nonminor that state agencies, when hiring for internships and student assistant positions, must give preference to qualified applicants up to 26 years of age who are or have been dependent children in foster care _____
- k. The nonminor's 90-day Transition Plan _____
- l. A copy of each of the following: *How to Ask to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-464-INFO), a blank *Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-466), and a blank *Confidential Information—Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-468) _____
- 4. The nonminor continues to be eligible for services or accommodations under the Individuals with Disabilities Education Act, the Americans with Disabilities Act, or section 504 of the Rehabilitation Act of 1973, and **the nonminor** has been provided with **the** most recent service or accommodation plan. _____
- 5. The nonminor has been receiving services as provided in the Individuals with Disabilities Education Act (see 34 C.F.R. §§ 300.320(b)–(c) & 300.321(b)), and
 - a. has received a copy of **their** transition service plan. _____
 - b. has been informed of the rights that will transfer to **them** under this Act. _____
- 6. The nonminor received the following assistance or services (*check all that apply*):
 - a. Written verification of continued enrollment in Medi-Cal with no interruption in coverage, and provision of _____
 - i. **Medi-Cal Benefits Identification Card (BIC)** _____
 - ii. Information about eligibility for extended Medi-Cal benefits until age 26 _____
 - b. Help applying to college, a vocational training program, or another educational or employment program _____
 - c. Help obtaining financial aid for college, a vocational training program, or another educational or employment program _____
 - d. A referral to transitional housing, if available, or assistance in securing other housing _____
 - e. Help obtaining employment or other financial support _____
 - including completing enrollment in CalFresh _____
 - f. Help maintaining relationships with individuals important to **the nonminor**, consistent with **their** best interests (*required only if the nonminor has been in an out-of-home placement for six months or longer*) _____
 - g. Help accessing the Independent Living Aftercare Program in the nonminor's county of residence _____
 - h. Other services ordered by the court (*specify*): _____

7. Number of pages attached: _____

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

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF SOCIAL WORKER OR PROBATION OFFICER)

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

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF NONMINOR)