

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT SPR20-22

Title

Juvenile Law: Nonminor Disposition
Hearing–Dependency

Action Requested

Review and submit comments by June 9, 2020

Proposed Rules, Forms, Standards, or Statutes

Adopts Cal. Rules of Court, rule 5.697;
amend rules 5.682 and 5.684; adopt forms JV-
461, JV-461(A) and JV-463

Proposed Effective Date

January 1, 2021

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Proposed by

Family and Juvenile Law Advisory
Committee
Hon. Jerilyn L. Borack, Cochair
Hon. Mark A. Juhas, Cochair

Executive Summary and Origin

To implement recent legislation creating a new disposition hearing for nonminors, the Family and Juvenile Law Advisory Committee proposes the Judicial Council adopt a new rule to the California Rules of Court, amend two rules, and adopt three new Judicial Council forms. The statutory amendments created a process to address a class of youth who were found to be within the jurisdiction of the juvenile court due to abuse or neglect as a child but reached the age of majority before a disposition hearing could be held, and thus ensure their eligibility for extended foster care. This proposal would create a uniform procedure for these nonminor disposition hearings through a new rule of court, two forms for the court’s findings and orders, and a form for the youth to provide the required informed consent to proceed with the nonminor disposition hearing.

Background

Assembly Bill 748 (Gibson; Stats. 2019, ch. 682)¹ addresses those situations in which a juvenile court takes jurisdiction of a child who is fast approaching the age of majority. It ensures that these youth will not be excluded from extended foster care because a disposition hearing could not be held prior to their 18th birthday. The legislation seeks to eliminate administrative barriers

¹ The full text of this statute is available at
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB748.

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 It is circulated for comment purposes only.

to ensure that a limited number of youth in certain narrow situations are able to enter or reenter extended foster care.² The legislation was partially in response to *In re David B.* (2017) 12 Cal.App.5th 633, in which an appellate court “reluctantly” agreed that the trial court’s denial of dependency jurisdiction for a wheelchair-bound diabetic youth just before he turned 18 prevented the appellate court from reversing the decision.³

The legislation creates a procedure for a new version of a disposition proceeding, specifically tailored for young adults. Under section 358(d), to hold a disposition hearing for a nonminor, the nonminor must have been found to be a minor described by section 300 at a hearing pursuant to section 355 prior to turning 18 and must have remained continuously detained pursuant to section 319(c).⁴ In addition, the nonminor must provide “informed consent” for the disposition proceeding. If these conditions are met, the court is required to hold a disposition hearing and determine by clear and convincing evidence if one of the conditions of section 361(c) existed *immediately prior to the youth turning 18*. If the court makes this finding, the youth meets the legal definition of a nonminor dependent (NMD) under section 11400(v) and is eligible for extended foster care. If the court does not make this finding, or the youth does not give informed consent, section 358(d)(5)(A) requires that dependency or general jurisdiction not be retained.

The Proposal

The legislation requires the Judicial Council to adopt implementing rules and forms as necessary on or before July 1, 2020.⁵ This proposal will seek to provide a unified approach to these nonminor disposition hearings. It blends together many important concepts related to extended foster care and calls for a hybrid type of hearing, one which must respect the nonminor’s status as an adult and their legal decision-making authority while also fulfilling the functions of a dependency disposition hearing which typically involve a child.

The committee proposes adoption of a new rule of court to implement the requirements of section 358(d), and minor amendments to two rules related to jurisdictional hearings and the setting of the disposition hearing. The committee also proposes adoption of three mandatory forms.

² Assem. Bill 748 analysis (Sen. Floor Analysis, Sept. 1, 2019, p. 4) available at: https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200AB748.

³ Assem. Bill 748 analysis (Assem. Com. on Judiciary, Mar. 29, 2019, p. 5) available at: https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200AB748.

⁴ All unspecified statutory references are to the Welfare and Institutions Code, and all rule references are to the California Rules of Court.

⁵ § 358(d)(8).

The following actions are proposed:

- Adopt rule 5.697, entitled “Disposition Hearing for a Nonminor”;
- Amend rules 5.682 and 5.684 on uncontested and contested jurisdiction hearings to clarify that the setting of a nonminor disposition hearing is required when the child will turn 18 prior to the holding of the disposition hearing; and
- Adopt three Judicial Council forms, *Findings and Orders after Nonminor Disposition Hearing* (form JV-461), *Dispositional Attachment: Nonminor Dependent* (JV-461(A)) and *Nonminor’s Informed Consent to Hold Disposition Hearing* (form JV-463);

New rule and rule amendments

Rule 5.697. Disposition Hearing for a Nonminor

The rule addresses several issues that the court would address at a disposition hearing for a child and combines these with the required reporting and findings and orders for a nonminor dependent status review hearing. It creates a procedure for providing informed consent to the nonminor disposition hearing, by requiring the completion and filing of the proposed mandatory form JV-463 10 days prior to the scheduled hearing, which sets out the information that nonminor must be aware of before giving consent. It also states the findings a court is required to make if a nonminor does not consent, before dismissing jurisdiction. In addition, the rule lists required contents for a social worker report or social study to be considered if the disposition hearing is held.

There were three prominent issues that the committee considered in drafting the rule:

Title IV-E Case Review

Disposition hearings in California are treated as case reviews for title IV-E⁶ purposes to ensure that California law meets the title IV-E timeline requirements that a review hearing be held within six months of the date of entry into foster care. A similar approach may be needed for the nonminor disposition hearing. If the nonminor disposition hearing did not address the title IV-E case review requirements, a case review six months after the date of the nonminor disposition hearing would not be timely for title IV-E because it would not be held six months from the date of entry into foster.⁷

To ensure that title IV-E timelines are maintained, the committee has elected to develop rules that treat the nonminor disposition hearing as a title IV-E case review as well. The committee is mindful, however, of the fact that more time may be needed to meet the requirements of section 358(d) and the requirements of section 366.31, which include the findings required by title IV-E. The committee therefore elected to give the court the option to make the findings and orders

⁶ See 42 U.S.C. § 675.

⁷ 42 U.S.C. § 675(5)(B).

required for an NMD status review as part of the disposition order or hold a separate NMD status review within 60 days of the disposition hearing. The committee is seeking specific comment on this issue from commenters.

Parent Participation

The committee also considered whether the nonminor's parent or guardian should be allowed to participate in the hearing. Section 358(d) is silent as to what right a parent or guardian has to participate in the nonminor disposition hearing. For NMD status review hearings, section 295(b) and rule 5.903 require notice to parents only if the parent is receiving family reunification services pursuant to section 361.6, otherwise, they may only participate in the hearing if they are invited by the NMD.⁸

When their child becomes an adult, parents no longer have a liberty interest in the custody of their adult offspring, as no one has legal custody of an adult. Parents therefore do not have the same liberty interest at stake in a nonminor disposition hearing as in a disposition hearing for a child, where the court can consider removing a child from parental custody. However, the finding under section 361(c) at a nonminor disposition hearing may have implications for parents in collateral proceedings by, for example, being disclosed by a social worker in a future petition or disclosed in a future application for a foster license. There is then some deprivation for the parent, triggering a possible due process right.

The committee proposes that the rule clarify that a parent or guardian may participate in the hearing for the limited purpose of the court's consideration of a finding of detriment under section 361(c). The committee is seeking specific comment on this issue from commenters.

Informed Consent

The committee also addressed how "informed consent" from the nonminor must be provided. The rule requires that informed consent be provided at least 10 days before the hearing date. To ensure that the nonminor is "informed," the proposed rule requires that the youth be informed by their social worker about extended foster care in the same way that a minor approaching the age of majority is informed about extended foster care under section 366.31(a).⁹ In addition, the rule proposes that the court ensure the nonminor has had an opportunity to confer with his or her attorney on providing consent for the disposition hearing. The proposed form JV-463 has the nonminor sign confirming that they have been informed of each of these points and provides additional information on the second page about the nonminor disposition hearing and extended foster care.

⁸ Section 317(d) also specifies that "in the case of a nonminor dependent, as described in subdivision (v) of Section 11400, no representation by counsel shall be provided for a parent, unless the parent is receiving court-ordered family reunification services."

⁹ That is, that the nonminor understands the potential benefits of continued dependency, has been informed of his or her right to seek termination of dependency jurisdiction pursuant to section 391 if the court establishes dependency, and has been informed of his or her right to have dependency reinstated pursuant to subdivision (e) of section 388 if the court establishes dependency.

If the court finds that the nonminor is not competent to give informed consent, the rule requires that the court appoint a guardian ad litem to decide whether to consent on behalf of the nonminor. Under section 317(e), a guardian ad litem is required to be appointed for a nonminor dependent when the nonminor dependent is not competent to direct counsel. The committee believes a similar approach is needed for a determination on informed consent for a youth approaching a nonminor disposition hearing who does not have the capacity to give informed consent. The committee is seeking specific comment from commenters on how to approach these situations.

Rules 5.682 and 5.684, jurisdiction

Rules 5.682 and 5.684, related to uncontested and contested jurisdiction hearings respectively, are updated to address the setting of the nonminor disposition hearing by adding the following language: “the court must proceed to a disposition hearing under rule 5.690, or rule 5.697 if the child will turn 18 years old prior to the holding of the disposition hearing.”

New and revised forms

The committee proposes that three new Judicial Council forms be adopted to (1) provide for the court’s findings and orders after the nonminor disposition hearing, and (2) provide a form for the youth to provide his or her informed consent.

Findings and Orders After Nonminor Disposition Hearing (form JV-461)

A new mandatory form is proposed to provide for the court’s findings and orders after a nonminor disposition hearing. The form includes the findings and orders discussed above. It also can be used by the court to dismiss jurisdiction if either the nonminor does not provide informed consent or if the court does not find one of the conditions of section 361(c) existed immediately prior to the nonminor turning 18.

Dispositional Attachment: Nonminor Dependent (form JV-461(A))

This form will be used to complete the findings and orders if the court does declare dependency. It includes the findings and orders required at nonminor dependent status review hearing and required title IV-E findings and orders. This form would only be used if the nonminor provides informed consent and the court found one of the conditions of section 361(c) existed immediately prior to the nonminor turning 18.

Nonminor’s Informed Consent to Hold Disposition Hearing (form JV-463)

This mandatory form would be used to verify the youth’s informed consent or lack thereof. The form requires the youth verify that the requirements mentioned above to be informed about extended foster care have been met and gives the youth (or guardian ad litem) the option to consent to the hearing or not. The youth’s attorney is also required to sign the form, declaring they have discussed the implications of setting a nonminor disposition hearing with their client. The form also provides information intended for the youth explaining the nonminor dependent hearing and extended foster care on the second page.

Alternatives Considered

The committee never considered not proposing rules and forms changes because the legislation requires the Judicial Council to adopt implementing rules and forms.

The committee did consider various options in the construction of rule 5.697 as described above. The committee considered whether a parent or guardian had a due process right to participate in the nonminor disposition hearing when they no longer have a liberty interest in the right to custody of the child. Some committee members believed there was no due process right, but the committee as a whole elected to proceed with a rule that gives a parent the right to participate in the hearing on the issue of whether a condition in section 361(c) existed immediately before the nonminor turned 18. The committee also considered whether the nonminor disposition hearing should include a title IV-E case review, or whether more time should be given to complete the requirements of the case review and require the setting of a case review hearing under section 366.31 within sixty days of the hearing. The committee elected to give the court the option to proceed with the case review at the nonminor disposition hearing or hold a case review within 60 days.

Fiscal and Operational Impacts

The committee anticipates that there will be additional costs to courts when a hearing under the rule is held, but this is the result of the implementation of Assembly Bill 748 rather than the proposal. A uniform procedure for these hearings as proposed can benefit judicial economy and provide cost saving for courts and litigants. Courts will be able to save time using the procedure created in this proposal as opposed to having to create their own procedures for these hearings.

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 adequately address the stated purpose?
- Should rule 5.697 permit a parent or guardian to participate in the nonminor disposition hearing as a party with standing limited to the court's determination of whether clear and convincing evidence of the conditions described in section 361(c) existed immediately prior to the nonminor turning 18 years of age?
- Does the rule appropriately address nonminors who do not have capacity to give informed consent by requiring that the court appoint a guardian ad litem to make a decision on behalf of the nonminor whether or not to give informed consent?
- Should the rule provide that the nonminor disposition hearing must meet the requirements for a title IV-E case review, or should the rule instead require that a nonminor dependent status review hearing be held within 60 days? Or should courts be giving the option to choose between conducting the title IV-E case review at the nonminor disposition hearing or holding a nonminor dependent status review hearing within 60 days, as set out in the proposed rule?

The advisory committees also seek 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 three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?

Attachments and Links

1. Cal. Rules of Court, rules 5.682, 5.684, and 5.697, at pages 8–15
2. Forms JV-461, JV-461(A) and JV-463 at pages 16–22

Rule 5.697 of the California Rules of Court would be adopted, and rules 5.682 and 5.684 would be amended, effective January 1, 2021, to read:

1 **Rule 5.682. Commencement of jurisdiction hearing—advisement of trial rights;**
2 **admission, no contest, submission**

3
4 (a)–(e) * * *

5
6 (f) **Disposition**

7
8 After accepting an admission, plea of no contest, or submission, the court must
9 proceed to a disposition hearing under rule 5.690 or rule 5.697 if the child will turn
10 18 years old prior to the holding of the disposition hearing.

11
12
13 **Rule 5.684. Contested hearing on petition**

14
15 (a)–(e) * * *

16
17 (f) **Disposition and continuance pending disposition hearing (§§ 356, 358)**

18
19 After making the findings in (e), the court must proceed to a disposition hearing
20 under rule 5.690 or rule 5.697 if the child will turn 18 years old prior to the holding
21 of the disposition hearing. The court may continue the disposition hearing as
22 provided in section 358.

23
24 (g) * * *

25
26
27 **Rule 5.697. Disposition Hearing for a Nonminor (Welf. & Inst. Code, §§ 224.1, 295,**
28 **303, 358, 358.1, 361, 366.31, 390, 391)**

29
30 (a) **Purpose**

31
32 This rule provides the procedures that must be followed when a disposition hearing
33 for a nonminor is set under Welfare and Institution Code section 358, subdivision
34 (d).

35
36 (b) **Notice of hearing (§ 295)**

37
38 (1) The social worker must serve written notice of the hearing in the manner
39 provided in section 295 to all persons required to receive notice under section
40 295, including the nonminor’s parent or guardian.

1 (2) The social worker must serve a copy of the *Nonminor's Informed Consent to*
2 *Hold Disposition Hearing* (form JV-463) with the notice to the child or
3 nonminor.

4
5 **(c) Informed Consent (§§ 317, 358)**

6
7 (1) The court must ensure that the nonminor understands the potential benefits of
8 continued dependency, has been informed of his or her right to seek
9 termination of dependency jurisdiction pursuant to section 391 if the court
10 establishes dependency, and that the nonminor has been informed of his or
11 her right to have dependency reinstated pursuant to subdivision (e) of section
12 388 if the court establishes dependency.

13
14 (2) The nonminor must give informed consent to the disposition hearing by
15 completing and signing *Nonminor's Informed Consent to Hold Disposition*
16 *Hearing* (form JV-463) and filing it with the court at least 10 days before the
17 scheduled disposition hearing.

18
19 (3) If the nonminor is not competent to direct counsel and give informed consent,
20 the court must appoint a guardian ad litem to make a determination on
21 informed consent on the nonminor's behalf.

22
23 **(d) Conduct of the hearing (§§ 295, 303, 358, 361)**

24
25 (1) The hearing may be attended, as appropriate, by participants invited by the
26 nonminor in addition to those entitled to notice under (b).

27
28 (2) The nonminor may appear by telephone as provided in rule 5.900.

29
30 (3) If the nonminor or the nonminor's guardian ad litem does not provide
31 informed consent, the court must vacate the temporary orders made under
32 section 319 and dependency or general jurisdiction must not be retained.
33 Before dismissing jurisdiction, the court must make the following findings:

34
35 A. That notice was given as required by law;

36
37 B. That, unless a guardian ad litem has been appointed for the nonminor,
38 the nonminor has had an opportunity to confer with his or her attorney
39 on providing consent for a disposition hearing;

40
41 C. That, unless a guardian ad litem has been appointed for the nonminor,
42 the nonminor has been informed of the potential benefits of continued
43 dependency, has been informed of his or her right to seek termination

1 of dependency jurisdiction pursuant to section 391 if the court
2 establishes dependency, and that the nonminor has been informed of his
3 or her right to have dependency reinstated pursuant to subdivision (e)
4 of section 388 if the court establishes dependency; and

5
6 D. That, if the reason for the nonminor not giving informed consent is
7 because the social worker cannot locate the nonminor, the court must
8 find that after reasonable and documented efforts the nonminor cannot
9 be located.

10
11 (4) If the nonminor or the nonminor’s guardian ad litem does provide informed
12 consent, the court must proceed to a disposition hearing consistent with this
13 rule and section 358(d). The parent or guardian of the nonminor may
14 participate as a party in the disposition hearing, receive the social study and
15 other evidence submitted for the hearing, and present evidence. The parent’s
16 participation is limited to addressing the court’s consideration of whether one
17 of the conditions of section 361(c) existed immediately prior to the nonminor
18 attaining 18 years of age.

19
20 **(e) Social Study (§§ 358, 358.1)**

21
22 The petitioner must prepare a social study of the nonminor if the court proceeds to
23 a disposition hearing. The social study must include a discussion of all matters
24 relevant to disposition and a recommendation for disposition.

25
26 (1) The petitioner’s social study must include information regarding:

27
28 (A) Whether one of the conditions of section 361(c) existed immediately
29 prior to the youth attaining 18 years of age.

30
31 (B) Reasonable efforts made to prevent or eliminate the need for removal.

32
33 (C) A plan for achieving legal permanence or successful adulthood if
34 reunification is not being considered.

35
36 (D) If reunification services are being considered:

37
38 (i) A plan for reuniting the nonminor with the family, including a
39 plan of visitation. The plan should be developed in collaboration
40 with the nonminor, the parents or legal guardian, and the child
41 and family team;
42

- 1 (ii) Whether the nonminor and parent or guardian were actively
2 involved in the development of the case plan;
3
4 (iii) The extent of progress the parent or guardian have made toward
5 alleviating or mitigating the cause necessitating placement in
6 foster care;
7
8 (iv) Whether the nonminor dependent and parent, parents, or guardian
9 are in agreement with the continuation of reunification services;
10
11 (v) Whether continued reunification services are in the best interest
12 of the nonminor dependent; and
13
14 (vi) Whether there is a substantial probability that the nonminor
15 dependent will be able to safely reside in the home of the parent
16 or guardian by the next review hearing date.
17
18 (E) The social worker's efforts to comply with rule 5.637, including but not
19 limited to:
20
21 (i) The number of relatives identified and the relationship of each to
22 the nonminor;
23
24 (ii) The number and relationship of those relatives described by item
25 (i) who were located and notified;
26
27 (iii) The number and relationship of those relatives described by item
28 (ii) who are interested in ongoing contact with the nonminor;
29
30 (iv) The number and relationship of those relatives described by item
31 (ii) who are interested in providing placement for the nonminor;
32 and
33
34 (v) If it is known or there is reason to know the nonminor is an
35 Indian child, efforts to locate extended family members as
36 defined in section 224.1, and evidence that all individuals
37 contacted have been provided with information about the option
38 of obtaining approval for placement through the tribe's license or
39 approval procedure.
40
41 (F) If siblings are not placed together, an explanation of why they have not
42 been placed together in the same home, what efforts are being made to

1 place the siblings together, or why making those efforts would be
2 contrary to the safety and well-being of any of the siblings.

3
4 (G) How and when the Transitional Independent Living Case Plan was
5 developed, including the nature and the extent of the nonminor's
6 participation in its development, and, for the nonminor who has elected
7 to have the Indian Child Welfare Act continue to apply, the extent of
8 consultation with the tribal representative.

9
10 (H) The nonminor's plans to remain under juvenile court jurisdiction
11 including the criteria in section 11403(b) that he or she meets.

12
13 (I) The efforts made by the social worker or probation officer to help the
14 nonminor meet the criteria in section 11403(b).

15
16 (J) The efforts made by the social worker to comply with the nonminor's
17 Transitional Independent Living Case Plan, including efforts to finalize
18 the permanent plan and prepare him or her for successful adulthood.

19
20 (K) The continuing necessity for the nonminor's placement and the facts
21 supporting the conclusion reached.

22
23 (L) The appropriateness of the nonminor's current foster care placement.

24
25 (M) Progress made by the nonminor toward meeting the Transitional
26 Independent Living Case Plan goals and the need for any modifications
27 to assist the nonminor in attaining the goals.

28
29 (N) Verification that the nonminor was provided with the information,
30 documents, and services as required under section 391(e).

31
32 (2) The petitioner must submit the social study and copies of it to the court clerk
33 at least 48 hours before the disposition hearing is set to begin, and the clerk
34 must make the copies available to the parties and attorneys. A continuance
35 within statutory time limits must be granted on the request of a party who has
36 not been furnished a copy of the social study in accordance with this rule.

37
38 **(f) Case Plan and Transitional Independent Living Case Plan (§§ 11401, 16501.1)**

39
40 (1) Whenever child welfare services are provided, the social worker must prepare
41 a case plan consistent with section 16501.1 and the requirements of rule
42 5.690(c).

43

1 (2) The nonminor's Transitional Independent Living Case Plan must be submitted
2 with the social worker's report prepared for the hearing at least 48 hours
3 before the hearing, and must include:

4
5 (A) The individualized plan for the nonminor to satisfy one or more of the
6 criteria in section 11403(b) and the nonminor's anticipated placement
7 as specified in section 11402; and

8
9 (B) The nonminor's alternate plan for his or her transition to independence,
10 including housing, education, employment, and a support system in the
11 event the nonminor does not remain under juvenile court jurisdiction.

12
13 **(g) Evidence considered (§§ 358, 360)**

14
15 At a hearing held under this rule, the court must receive in evidence and consider
16 the following:

17
18 (1) The social study described in subdivision (d), the report of any CASA
19 volunteer, and any relevant evidence offered by the petitioner, the nonminor,
20 or the parent or guardian. The court may require production of other relevant
21 evidence on its own motion. In the order of disposition, the court must state
22 that the social study and the study or evaluation by the CASA volunteer, if
23 any, have been read and considered by the court.

24
25 (2) The case plan if applicable, and the Transitional Independent Living Case
26 plan.

27
28 **(h) Findings and orders (§§ 358, 358.1, 361, 390)**

29
30 After the nonminor provides informed consent, the court must consider the safety
31 of the nonminor, determine if notice was given as required by law and, determine if
32 by clear and convincing evidence one of the conditions of section 361(c) existed
33 immediately prior to the youth attaining 18 years of age.

34
35 (1) If the court does not find by clear and convincing evidence that one of the
36 conditions of section 361(c) existed immediately prior to the youth attaining
37 18 years of age, the court must vacate the temporary orders made under
38 section 319 and dismiss dependency jurisdiction.

39
40 (2) If the court does find by clear and convincing evidence that one of the
41 conditions of section 361(c) existed immediately prior to the youth attaining
42 18 years of age, it must declare dependency, and:

1 (A) Order the continuation of juvenile court jurisdiction, and set a
2 nonminor dependent review hearing under rule 5.903 within 60 days or
3 six months, or
4

5 (B) Set a hearing to consider termination of juvenile court jurisdiction over
6 the nonminor dependent under rule 5.555 within 30 days if the
7 nonminor dependent chooses not to remain in foster care.
8

9 (3) If the court makes the finding in (2), the court must consider the safety of the
10 nonminor dependent, and the following findings and orders must be made
11 and included in the written court documentation of the hearing, with the
12 exception of those findings and orders stated in (C) that may be made instead
13 at a nonminor dependent status review hearing pursuant to section 366.31 and
14 rule 5.903 to be held within 60 days:
15

16 (A) Findings
17

18 (i) Whether reasonable efforts to prevent or eliminate the need for
19 removal have been made;
20

21 (ii) Whether the social worker has exercised due diligence in
22 conducting the required investigation to identify, locate, and
23 notify the nonminor dependent's relatives consistent with section
24 309(e); and
25

26 (iii) Whether a nonminor who is an Indian child chooses to have the
27 Indian Child Welfare Act apply to him or her as a nonminor
28 dependent.
29

30 (B) Orders
31

32 (i) That placement and care is vested with the placing agency.
33

34 (ii) That the county agency comply with rule 5.481 if there was no
35 inquiry or determination of whether the nonminor dependent was
36 an Indian child prior to the nonminor dependent's 18th birthday,
37 and the nonminor dependent requests an Indian Child Welfare
38 Act determination.
39

40 (iii) The court may order family reunification services pursuant
41 section 361.6 for the nonminor and the parent or legal guardian.
42 The continuation of the court-ordered reunification services must
43 not exceed the timeframes as set forth in section 361.5.

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(C) The following findings and orders must be considered either at the nonminor disposition hearing held pursuant to this rule and section 358(d), or at a nonminor dependent status review hearing pursuant to rule 5.903 and section 366.31 held within 60 days of the nonminor disposition hearing:

(i) The findings contained in rule 5.903(e)(1)(A)–(P);

(ii) The orders contained in rule 5.903(e)(2)(A)(i) and (ii);

(iii) For a nonminor dependent whose case plan is court-ordered family reunification services, a determination of the following:

a. The extent of the agency’s compliance with the case plan in making reasonable efforts or, in the case of an Indian child, active efforts, as described in section 361.7, to create a safe home of the parent or guardian for the nonminor dependent to reside in or to complete whatever steps are necessary to finalize the permanent placement of the nonminor dependent; and

b. The extent of progress the parents or legal guardians have made toward alleviating or mitigating the causes necessitating placement in foster care.

NONMINOR'S NAME:	CASE NUMBER:
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BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS

- 8. Notice of the date, time, and location of the hearing was given as required by law.
- 9. The nonminor was neither present in court nor participating by phone and
 - a. The nonminor expressed a wish not to appear for the hearing and did not appear
 - b. The nonminor's current location is unknown. Reasonable efforts were were not made to find him or her.
- 10. The nonminor was found to be a child described under Welf. & Inst. Code, § 300 (*check all that apply*):
 - a. 300(a) 300(b) 300(c) 300(d) 300(e)
 300(f) 300(g) 300(h) 300(i) 300(j)
 - b. On (*date*):
- 11. The nonminor is not competent to provide informed consent; a guardian ad litem has been appointed for the nonminor. (*proceed to item 16*)
- 12. The nonminor has had the opportunity to confer with his or her attorney on providing consent for the disposition hearing.
- 13. The nonminor was informed that if dependency is established, the nonminor has the right to have juvenile jurisdiction terminated following a hearing under rule 5.555 of the California Rules of Court.
- 14. The potential benefits of remaining under juvenile court jurisdiction as a nonminor dependent were explained to the nonminor, and that nonminor has stated that he or she understands those benefits.
- 15. The nonminor was informed that if dependency is established, he or she may have the right to file a request to return to foster care and to have the court resume jurisdiction over him or her as a nonminor dependent.
- 16. a. The nonminor or the nonminor's guardian ad litem has provided informed consent for the holding of a disposition hearing under Welf. & Inst. Code, § 358(d) by submitting form JV-463, and
 - b. There is clear and convincing evidence that the circumstances stated in Welf. & Inst. Code, § 361 regarding the persons specified below existed immediately prior to the nonminor turning 18 years old (*check all that apply and proceed to findings and orders on item 17*):

	361(c)(1)	361(c)(2)	361(c)(3)	361(c)(4)	361(c)(5)
(1) Mother	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) Presumed father	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) Biological father	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) Legal guardian	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(5) Indian custodian	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(6) Other (<i>specify</i>):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The nonminor is adjudged a dependent of the court.

- c. Further disposition orders as stated in *Dispositional Attachment: Nonminor Dependent* (form JV-461(A)), which is attached and incorporated by reference.

NONMINOR'S NAME:	CASE NUMBER:
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17. The nonminor or the nonminor's guardian ad litem has not provided informed consent for the holding of the disposition hearing, or
- There is not clear and convincing evidence that the circumstances in Welf. & Inst. Code, § 361 existed immediately prior to the nonminor turning 18 years old.
- a. The temporary orders made under section 319 are vacated, and dependency jurisdiction or general jurisdiction is dismissed, or
- b. The matter is set for a further hearing:
- (1) The reason the nonminor has not provided informed consent is because items 12-15 have not been completed. The disposition hearing is continued to complete these requirements.
 - (2) The disposition hearing is continued to make reasonable efforts to locate the nonminor.
 - (3) Other (*specify*):
 - (4) Continued disposition hearing:

Hearing date:	Time:	Dept.:	Room:
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18. Other orders:

Date:

JUDICIAL OFFICER

NONMINOR'S NAME:	CASE NUMBER:
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DISPOSITIONAL ATTACHMENT: NONMINOR DEPENDENT

1. Reasonable efforts were were not made to prevent or eliminate the need for the nonminor's removal from the home.
2. Placement and care is vested with the county agency.
3. The county agency has has not exercised due diligence to locate an appropriate relative with whom the nonminor could be placed. Each relative whose name has been submitted to the department has has not been evaluated.
4. The nonminor dependent who is an Indian child has has not chosen to have the Indian Child Welfare Act apply to him or her as a nonminor dependent.
5. There was no inquiry or determination of whether the nonminor dependent was an Indian child prior to the nonminor dependent's 18th birthday:
 - a. The nonminor dependent would like an Indian Child Welfare Act determination. The county agency is ordered to comply with rule 5.481.
 - b. The nonminor dependent would not like an Indian Child Welfare Act.
6. Family reunification services are ordered pursuant to Welf. & Inst. Code, § 361.6:
 - a. The nonminor dependent and parent(s) or guardian(s) are in agreement with court-ordered family reunification services.
 - b. The provision of family reunification services is in the best interests of the nonminor dependent.
 - c. There is a substantial probability that the nonminor dependent will be able to safely reside in the home of the parent or guardian by the next review hearing.
7. Check one:
 - a. A status review hearing will be held within 60 days on the date specified in item 28, the court does not make any further findings and orders, or
 - b. The court proceeds to the remaining findings and orders.

THE COURT MUST MAKE THE FOLLOWING FINDINGS AND ORDERS AFTER THE NONMINOR DISPOSITION HEARING, OR SET A NONMINOR DEPENDENT STATUS REVIEW HEARING WITHIN 60 DAYS

8. a. The nonminor dependent's continued placement is necessary.
b. The nonminor dependent's continued placement is no longer necessary.
9. a. The nonminor dependent's current placement is appropriate.
b. The nonminor dependent's current placement is not appropriate. The county agency and the nonminor dependent must work collaboratively to locate an appropriate placement.
10. The nonminor dependent's Transitional Independent Living Case Plan does include a plan for him or her to satisfy at least one of the criteria in Welf. & Inst. Code, § 11403(b) to remain in foster care under juvenile court jurisdiction as indicated below:
 - a. Attending high school or a high school equivalency certificate (GED) program.
 - b. Attending a college, a community college, or vocational education program.
 - c. Attending a program or participating in an activity that will promote or help remove a barrier to employment.
 - d. Employed at least 80 hours per month.
 - e. The nonminor dependent is not able to attend a high school, a high school equivalency certificate (GED) program, a college, a community college, a vocational education program, or an employment program or activity, or to work 80 hours per month due to a medical condition.
11. The county agency has has not made reasonable efforts and provided assistance to help the nonminor dependent establish and maintain compliance with one of the conditions in Welfare and Institutions Code section 11403(b).
12. The nonminor dependent was was not provided with the information, documents, and services as required under Welfare and Institutions Code section 391(e).

NONMINOR'S NAME:	CASE NUMBER:
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13. The Transitional Independent Living Case Plan was was not developed jointly by the nonminor dependent and the county agency.
14. The nonminor dependent has elected to have the Indian Child Welfare act to apply, the representative from his or her tribe was was not consulted during the development of the nonminor dependent's Transitional Independent Living Case Plan.
15. The nonminor dependent's Transitional Independent Living Case Plan does does not reflect the living situation and services consistent, in the nonminor dependent's opinion, with what he or she needs to achieve successful adulthood and set out benchmarks that indicate how both the county agency and nonminor dependent will know when successful adulthood can be achieved.
16. The nonminor dependent's Transitional Independent Living Case Plan does does not include appropriate and meaningful independent living skill services that will help the youth transition from foster care to successful adulthood.
17. The county agency has has not made reasonable efforts to comply with the nonminor dependent's Transitional Independent Living Case Plan, including efforts to finalize the youth's permanent plan and prepare him or her for independence.
18. For a permanent plan of another planned permanent living arrangement, the county agency has has not made ongoing and intensive efforts to finalize the permanent plan.
19. The nonminor dependent did did not sign and receive a copy of the Transitional Independent Living Case Plan.
20. a. The extent of progress made by the nonminor dependent toward meeting the Transitional Independent Living Case Plan goals has been: excellent satisfactory minimal
- b. The modifications to the Transitional Independent Living Case Plan goals needed to assist the nonminor dependent in his or her efforts to attain those goals were stated on the record.
21. The county agency has has not made reasonable efforts to establish or maintain the nonminor dependent's relationship with his or her siblings who are under juvenile court jurisdiction.
22. The likely date by which it is anticipated the nonminor dependent will achieve successful adulthood is:
23. The nonminor dependent's permanent plan is:
- Return home
 - Adoption
 - Tribal customary adoption
 - Placement with a fit and willing relative
 - Another planned permanent living arrangement
 - Other (*specify*):
24. For a permanent plan of another planned permanent living arrangement
- The court has considered the evidence before it and finds another planned permanent living arrangement is the best permanent plan because:
 - The nonminor is 18 or older.
 - Other (*specify*):
 - The compelling reasons why other permanent plan options are not in the nonminor's best interest are:
 - The nonminor wants to live independently.
 - Other (*specify*):

NONMINOR'S NAME:	CASE NUMBER:
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25. Family reunification services are ordered pursuant to Welf. & Inst. Code, § 361.6:
- a. The county agency has has not complied with the case plan by making reasonable efforts or in the case of an Indian child, active efforts, as described in section 361.7, to create a safe home for the nonminor dependent to reside in and/or to complete whatever steps are necessary to finalize the permanent placement of the nonminor dependent.
 - b. The extent of progress the parents or legal guardians have made toward alleviating or mitigating the causes necessitating placement in foster care has been: excellent satisfactory minimal none
 - c. The likely date by which the nonminor dependent may safely reside in the family home or achieve successful adulthood is:

26. The nonminor dependent has elected not to remain in foster care. A hearing to consider termination of juvenile court jurisdiction under rule 5.555 of the California Rules of Court within 30 days is ordered.

27. Other findings and orders

- a. See attachment 27a
- b. (specify):

28. The next hearings are scheduled as follows:

- a. Nonminor dependent status review hearing (Welf. & Inst. Code, § 366.31; Cal. Rules of Court, rule 5.903)

Hearing date:	Time:	Dept.:	Room:
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- b. Hearing to consider termination of jurisdiction under rule 5.555 of the California Rules of Court.

Hearing date:	Time:	Dept.:	Room:
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- c. Other (*specify*):

Hearing date:	Time:	Dept.:	Room:
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29. Number of pages attached:

What is a Nonminor Disposition Hearing?

To the youth: This page provides information on your right to agree or not to agree to holding a disposition hearing after you turn 18 years old. When you turn 18, you are legally an adult and you have the decision making authority of an adult. This form will explain what a disposition hearing is, your rights as an adult, and extended foster care or “AB 12.”

1 What is a nonminor disposition hearing?

A nonminor disposition hearing is a special hearing for a youth who became involved in the dependency court right around the time they turn 18 years old. It happens when the court take jurisdiction of someone as a child, but doesn't have the disposition hearing until after that child turns 18 years old. The disposition hearing therefore takes place when the youth is an adult.

2 What is a disposition hearing?

The disposition hearing occurs after the court takes jurisdiction of a child. The jurisdiction hearing determines whether the court should be involved in the child's life, and the disposition hearing determines what should happen to the child after the court has become involved. The court decides things such as: whether it is safe to live in the parent's or guardian's home; who the youth should live with; and what the plan will be to make the parent's or guardian's home safe.

3 What rights do I have as an adult?

When you turn 18 years old, you have all the legal decision making rights of an adult. This means that you decide things like where you live, whether you consent to medical care, where you go to school, and if your dependency case will remain open. A parent or social worker no longer make these decisions for you.

4 How is a nonminor disposition hearing different from a regular disposition hearing?

First, before the nonminor disposition hearing can be held, you have to agree to have the hearing. Also, unlike a disposition hearing for a child, the court does not decide if the youth should live with their parent or guardian. The court cannot tell an adult where to live or not live. However, while you can decide where you live, if you intend to participate in AB 12, you need to work with your social worker on where you will live and you must be in an approved placement.

5 How do I agree to the nonminor disposition hearing?

You will need to provide “informed consent.” To do this, work with your attorney and submit this form JV-463, the *Nonminor's Informed Consent to Hold Disposition Hearing*. This form must be filed with the court 10 days before the disposition hearing.

6 What happens if I agree to the nonminor disposition hearing?

If you are 18 years old, and you agree to proceed with the nonminor disposition hearing, the court will hold the hearing to determine if you were in danger in the home of your parent or guardian immediately before you turned 18 years old. This finding must be made for you to be eligible for AB 12. If the court does not make this finding, the case will be dismissed. The court will consider evidence including the social worker's report and may hear testimony to make this decision.

7 What happens if I don't agree to the disposition hearing?

When you are an adult, the law gives you the right to decide if you want to have a nonminor disposition hearing. If you do not agree, the court will dismiss your case. Your social worker, your attorney, and the court will no longer be formally involved in your life. You will not be eligible for AB 12.

It is important to remember that the decision to proceed with your case after you turn 18 years old belongs to you. A major factor in your decision may be whether you want to participate in AB 12. You should discuss this decision with your attorney and your social worker.