



Children's Law Center of California

CA Fostering Connections to Success Act: Re-entry Memo No. 6

Summary: The CA Fostering Connections to Success Act (AB 12/ 212) took effect January 1, 2012. AB 12/212 extends jurisdiction for youth in foster care. In addition, AB 12 provides that nonminors who close their case have the ability to **re-enter** foster care as many times as necessary until they no longer meet the age eligibility requirement. Once the court terminates jurisdiction, it maintains **general jurisdiction** over nonminors between the ages **18-21** for purposes of re-entry.

It is important that our clients understand their right to re-entry, as well as what steps they need to take in order to take advantage of this option. Below is an explanation of the re-entry process, practice tips, and resources.

Who Is Eligible to Re-enter?

Your clients are eligible for re-entry if they:

- ✓ Were 18 years old on January 1st, 2012
- ✓ Had an open case with an order for foster care placement at age 18,
- ✓ Meet the age eligibility requirements (is not yet 21)
- ✓ **Intend** to meet 1 of the 5 participation requirements – they do not have to actually be meeting one of the five yet, they just need to express an intention, and
- ✓ Are under the general jurisdiction of the juvenile court.

NOTE: Even if not expressly stated when a case closes, courts inherently have general jurisdiction until a youth no longer meets the eligibility requirements.

Practice Tip: CASES THAT CLOSED BECAUSE THE YOUTH TURNED 19 IN 2012
Youth who were receiving extended foster care benefits but their cases closed solely because they turned 19 in 2012, can re-enter foster care and again receive benefits. However, youth who exited before their 19th birthday are only eligible to re-enter up to their 19th birthday in 2012; up to their 20th birthday in 2012; and up to their 21st birthday in 2014.

Required Documents for Re-entry

- 1) **Voluntary Re-entry Agreement** ("VRA"/SOC 163): An agreement the nonminor signs with the Department documenting his/her willingness to return to care and cooperate with the agency, as well as the Department's responsibility to assist and provide services to the nonminor.
- 2) **388 (e) petition** (JV-466): Filed with the clerk's office by the youth or other interested party.

NOTE: WIC 388 (e) provides that Nonminors have the legal right to file a 388 directly with the court. It is recommended that they sign the VRA (SOC 163) before or on the same day that the 388 (e) is filed. By signing the VRA, the youth is entitled to services and immediate assistance with housing. The VRA also authorizes the resumption of aid and allows the Department to access federal funding for the client.

Court Process

STEP 1: Filing of the 388(e)

If the nonminor signs a VRA, the Department must assist the youth in completing the 388(e) and is responsible for filing it within 15 court days. If the nonminor does not sign the VRA, s/he or an interested party can **file** it in the county of general jurisdiction or **submit** it in the county where the youth resides.

Practice Tip: RESIDING OUT OF COUNTY/OUT OF STATE

A non-minor can submit the 388(e) to request re-entry in the county where s/he lives ("county of residence"), but the petition must be forwarded to the county where his/her case closed ("county of general jurisdiction"). The county of general jurisdiction is responsible for re-opening the case.

In order to have the case transferred to the county of residence, the non-minor must have had at least a one (1) year continuous physical presence in the new county. A non-minor must also express intent to remain in that county.

If a youth wants their case transferred to a different county but it has not been 1 year, the court of general jurisdiction can re-open the case and establish nonminor dependent status. The youth can reside out of the county of general jurisdiction. The county of general jurisdiction will retain jurisdiction and continue to provide case management services and benefits. Transferring the case becomes an option 1 year from the date the youth began to reside in the new county.

STEP 2: Receipt of the 388(e)

Once the petition has been filed, the court has 3 days to make a prima facie finding that the youth is eligible.

- *If denied:* Court must enter a written order listing the issue and informing the nonminor. The nonminor will be provided notice of the denial, a blank copy of the JV 466 and contact information for attorneys approved by the court to represent children and who have agreed to provide consultation. In LA and SAC, nonminors will be provided contact information for CLC.
- *If a prima facie showing has been made:* Court directs the clerk to set the matter for a hearing **within 15 court days** of the date the request was filed, **appoints an attorney for the nonminor**, and orders the Department to prepare a WIC 388 report (see Rule 5.906 for what should be included in report).

Practice Tip: TIMEFRAMES FOR FILING

Because the Department has 15 court days to file the petition and the Court has 15 court days to set a hearing, it could be several weeks before a nonminor would be in court. If, after signing the VRA, the nonminor does not want to wait for the Department to file the petition, he/she has a right to file the petition directly with the clerk's office.

STEP 3: Appointment of Attorney and Notice

- Attorneys should receive notice of appointment as soon as possible, but no later than 1 day after the court issued the appointment. The notice will also include the nonminor's contact information.
- Nonminors have the opportunity to request that their former attorney be appointed on the 388(e). If the nonminor does not specifically include that request on the petition, the same firm that previously represented the youth should automatically be appointed.
- Notice of the hearing date should be served as soon as possible, but no later than five (5) court days prior to the date the hearing is set. Your client will also receive notice of the hearing.

STEP 4: Court Hearing on the 388(e)

At the hearing, the court will determine whether to reopen the case. If the court finds that the nonminor meets the age eligibility requirements, intends to satisfy one of the five participation conditions and the nonminor and the Department have entered into a voluntary re-entry agreement, the court **MUST**:

- Reopen the case.
- Order the Dept to develop a new Transitional Independent Living Case Plan (TILCP) and to submit it to the court within 60 days of the signing of the voluntary re-entry agreement.
- **Set a nonminor dependent status review hearing within 60 days.**

-Rule 5.906 (i)(2)/388(e)(5)(C)

Communication With Your Clients

Prior to terminating jurisdiction: The report must address when/how the youth was informed of the right to re-entry (Rule 5.555 (c)(f)). You should also review the re-entry process/ legal forms (JV-466) with your client. CLC has a one pager outlining the re-entry process for clients. **The re-entry letter should be provided to every client prior to termination of jurisdiction.**

After jurisdiction has been terminated: It is likely that many clients accessing re-entry have faced serious challenges while out of care (homeless, lack of proper medical care, etc). Signing the VRA with the Department entitles the nonminor to immediate assistance. However, given that there may be up to a six (6) week period before the hearing, it is important to establish contact with your client as soon as possible to discuss if appropriate housing and services are being provided and identify unmet needs.

Starting the Re-entry Process

Establish Contact with the Department

In Los Angeles (3 different ways)

- Nonminor calls the DCFS Hotline **(800) 540-4000**
- Nonminor goes to any regional DCFS office
- Nonminor goes directly to the DCFS office at the Children's Courthouse

In Sacramento

- Nonminor calls Sacramento County ILP **(916) 874-9412**

Practice Tip: NOT GETTING A RESPONSE FROM THE DEPARTMENT?

Even if the nonminor initiates re-entry at a Department office or the courthouse, he/she will still be directed to call the hotline/ILP #. Either way, advise clients to contact CLC immediately or to go directly to the courthouse if they do not receive the proper help or are experiencing difficulties.

Additional Resources on Re-entry

- 1) **All County Letter 12-12: Re-entry Into Extended Foster Care (3/23/12)**
- 2) **CLC Hearing Guide (page 6 for Hearing on Re-entry)**
- 3) **CLC Client Re-entry Letter: "Youth Friendly" Re-entry Letter designed for youth that explains the re-entry process**
- 4) **388(e)/JV-466**
- 5) **Rule of Court 5.906**