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## 2012 California Rules of Court

### **Rule 5.906. Request by nonminor for the juvenile court to resume jurisdiction (§§ 224.1(b), 303, 388(e))**

#### **(a) Purpose**

This rule provides the procedures that must be followed when a nonminor wants to have juvenile court jurisdiction resumed over him or her as a nonminor dependent described in section 11400(v).

#### **(b) Contents of the request**

- (1) The request to have the juvenile court resume jurisdiction must be made on the *Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-466).
- (2) The request must be liberally construed in favor of its sufficiency. It must be verified by the nonminor or the nonminor's designee and, to the extent known to the nonminor, must include the following information:
  - (A) The nonminor's name and date of birth;
  - (B) The nonminor's address and contact information, unless the nonminor requests that this information be kept confidential from those persons entitled to access to the juvenile court file, including his or her parents, by filing *Confidential Information-Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-468). Form JV-468 must be kept in the court file under seal, and only the court, the child welfare services agency, the probation department, or the Indian tribe with an agreement under section 10553.1 to provide child welfare services to Indian children (Indian tribal agency), and the nonminor's attorney may have access to this information;
  - (C) The name and action number or court file number of the nonminor's case and the name of the juvenile court that terminated its dependency jurisdiction, delinquency jurisdiction, or transition jurisdiction and retained general jurisdiction for the purpose of considering a request to assume or resume its jurisdiction over him or her as a nonminor dependent;
  - (D) The date the juvenile court entered the order terminating its dependency jurisdiction, delinquency jurisdiction, or transition jurisdiction and retained general jurisdiction over him or her.
  - (E) If the nonminor wants his or her parents or former legal guardians to receive notice of the filing of the request and the hearing, the name and residence addresses of the nonminor's parents or former guardians;
  - (F) The name and telephone number of the court-appointed attorney who represented the nonminor at the time the juvenile court terminated its dependency jurisdiction, delinquency jurisdiction, or transition jurisdiction and retained general jurisdiction if the nonminor wants that attorney to be the attorney appointed to represent him or her for the purposes of the hearing on the request;
  - (G) If the nonminor is an Indian child within the meaning of the Indian Child Welfare Act and he or she chooses to have the Indian Child Welfare Act apply to him or her, the name of the tribe and the name, address, and telephone number of his or her tribal representative;
  - (H) If the nonminor had a Court Appointed Special Advocate (CASA) when he or she was a dependent or ward of the court and wants the CASA to receive notice of the filing of the request and the hearing, the CASA's name;
  - (I) The condition or conditions under section 11403(b) that the nonminor intends to satisfy; and

- (J) Whether the nonminor requires assistance to maintain or secure an appropriate, supervised placement, or is in need of immediate placement and will agree to a supervised placement under a voluntary reentry agreement.

(3) The court may dismiss without prejudice a request filed under this rule that is not verified.

**(c) Filing the request**

- (1) The form JV-466 may be filed by the nonminor or the county child welfare services, probation department, or Indian tribe (placing agency) on behalf of the nonminor.
- (2) For the convenience of the nonminor, the form JV-466 and, if the nonminor wishes to keep his or her contact information confidential, the *Confidential Information-Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-468) may be:
  - (A) Filed with the juvenile court that retained general jurisdiction in the same action in which the nonminor was found to be a dependent or ward of the court, or
  - (B) Submitted to the juvenile court in the county in which the nonminor currently resides:
    - (i) The court clerk must record the date and time received on the face of the originals submitted and provide a copy of the originals marked as received to the nonminor at no cost to the him or her.
    - (ii) To ensure receipt of the original JV-466 and, if submitted the JV-468, by the court that retained general within five court days as required in section 388(e), the court clerk must forward those originals to the clerk of the court that retained general jurisdiction within two court days of submission of the originals by the nonminor.
    - (iii) The court in the county in which the nonminor resides is responsible for all costs of processing, copying, and forwarding the form JV-466 and form JV-468 to the clerk of the court that retained general jurisdiction.
    - (iv) The court clerk in the county in which the nonminor resides must retain a copy of the documents submitted.
    - (v) The form JV-466 and, if submitted, the form JV-468 must be filed immediately upon receipt by the clerk of the juvenile court that retained general jurisdiction.
  - (C) For a nonminor living outside the state of California, the form JV-466 and, if the nonminor wishes to keep his or her contact information confidential, the form JV-468 must be filed with the juvenile court that retained general jurisdiction.
- (3) If form JV-466 is filed by the nonminor, within two court days of its filing with the clerk of the court in the county that retained general jurisdiction, the clerk of that court must notify the placing agency that was supervising the nonminor when juvenile court jurisdiction was terminated that the nonminor has filed form JV-466 and provide the placing agency with the nonminor's contact information. The notification must be by telephone, fax, e-mail, or other method approved by the presiding juvenile court judge that will ensure prompt notification and inform the placing agency that a copy of form JV-466 will be served on the agency and that one is currently available in the office of the juvenile court clerk.
- (4) If form JV-466 has not been filed at the time the nonminor completes the voluntary reentry agreement described in section 11400(z), the placing agency must file form JV-466 on the nonminor's behalf within 15 court days of the date the voluntary reentry agreement was signed, unless the nonminor files form JV-466 prior to the expiration of the 15 court days.
- (5) No filing fees are required for the filing of form JV-466 and, if filed, form JV-468. An endorsed, filed copy of each form filed must be provided at no cost to the nonminor or the placing agency that filed the request on the nonminor's behalf.

**(d) Determination of prima facie showing**

- (1) Within three court days of the filing of form JV-466 with the clerk of the juvenile court that retained general jurisdiction, a juvenile court judicial officer must review form JV-466 and determine whether a prima facie showing has been made that the nonminor meets all of the criteria set forth below in (d)(1)(A)-(D) and enter an order as set forth in (d)(2) or (d)(3).
  - (A) The nonminor was previously under juvenile court jurisdiction subject to an order for foster care placement when he or she attained 18 years of age;

- (B) On and after January 1, 2012, the nonminor will not have not attained 19 years of age; or commencing January 1, 2013, he or she will not have attained 20 years of age; or commencing on January 1, 2014, he or she will not have attained 21 years of age;
  - (C) The nonminor wants assistance to maintain or secure an appropriate, supervised placement or is in need of immediate placement and agrees to a supervised placement under a voluntary reentry agreement; and
  - (D) The nonminor intends to satisfy at least one of the conditions as described in section 11403(b) and set forth below:
    - (i) Complete secondary education or a program leading to an equivalent credential.
    - (ii) Enroll in an institution that provides postsecondary or vocational education.
    - (iii) Participate in a program or activity designed to promote or remove barriers to employment.
    - (iv) Be employed for at least 80 hours per month.
    - (v) Incapable of doing any of the activities described in subparagraphs (i) to (iv), inclusive, due to a medical condition;
- (2) If the court determines that a prima facie showing has not been made, the court must enter a written order denying the request, listing the issues that resulted in the denial and informing the nonminor that a new JV-466 may be filed when those issues are resolved.
- (A) The court clerk must serve on the nonminor:
    - (i) A copy of the written order;
    - (ii) A blank copy of *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-466);
    - (iii) A copy of *How to Ask the to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-464-INFO); and
    - (iv) The names and contact information for those attorneys approved by the court to represent children in juvenile court proceedings who have agreed to provide a consultation to any nonminor whose request was denied due to the failure to make a prima facie showing.
  - (B) The court clerk must serve on the placing agency a copy of the written order.
  - (C) Service must be by personal service or first-class mail within two court days of the issuance of the order.
  - (D) A proof of service must be filed.
- (3) If the judicial officer determines that a prima facie showing has been made, the judicial officer must issue a written order:
- (A) Directing the court clerk to set the matter for a hearing, and
  - (B) Appointing an attorney to represent the nonminor for the sole purpose of the hearing on the request.

**(e) Appointment of attorney**

- (1) If the nonminor included on the form JV-466 a request for the appointment of the court-appointed attorney who represented the nonminor during the period of time he or she was a ward or dependent or nonminor dependent, the judicial officer must appoint that attorney for the sole purpose of the hearing on the request, if the attorney is available to accept such an appointment.
- (2) If the nonminor did not request the appointment of his or her former court-appointed attorney, the judicial officer must appoint an attorney to represent the nonminor for the sole purpose of the hearing on the request. The attorney must be selected from the panel or organization of attorneys approved by the court to represent children in juvenile court proceedings.
- (3) In addition to complying with the requirements in (g)(1) for service of notice of the hearing, the juvenile court clerk must notify the attorney of his or her appointment as soon as possible, but no later than one court day from the date the order for his or her appointment was issued under (d)(3). This notification must be made by telephone, fax, e-mail, or other method approved by the presiding juvenile court judge that will ensure prompt notification.

The notice must also include the nonminor's contact information and inform the attorney that a copy of the JV-466 will be served on him or her and that one is currently available in the office of the juvenile court clerk.

- (4) If the request is granted, the court must continue the attorney's appointment to represent the nonminor regarding matters related to his or her status as a nonminor dependent until the jurisdiction of the juvenile court is terminated, unless the court finds that the nonminor would not benefit from the appointment of an attorney.
  - (A) In order to find that a nonminor would not benefit from the appointment of an attorney, the court must find all of the following:
    - (i) The nonminor understands the nature of the proceedings;
    - (ii) The nonminor is able to communicate and advocate effectively with the court, other attorneys, and other parties, including social workers, probation officers, and other professionals involved in the case; and
    - (iii) Under the circumstances of the case, the nonminor would not gain any benefit from representation by an attorney.
  - (B) If the court finds that the nonminor would not benefit from representation by an attorney, the court must make a finding on the record as to each of the criteria in (e)(4)(A) and state the reasons for each finding.
- (5) Representation of the nonminor by the court-appointed attorney for the hearing on the request to return to juvenile court jurisdiction and for matters related to his or her status as a nonminor dependent must be at no cost to the nonminor.
- (6) If the nonminor chooses to be represented by an attorney other than a court-appointed attorney, the fees for an attorney retained by the nonminor are the nonminor's responsibility.

**(f) Setting the hearing**

- (1) Within two court days of the issuance of the order directing the court clerk to do so, the court clerk must set a hearing on the juvenile court's calendar within 15 court days from the date the JV-466 was filed with the court that retained general jurisdiction.
- (2) The hearing must be placed on the appearance calendar, heard before a juvenile court judicial officer, and recorded by a court reporter.

**(g) Notice of hearing**

- (1) The juvenile court clerk must serve notice as soon as possible but no later than five court days before the date the hearing is set, as follows:
  - (A) The notice of the date, time, place, and purpose of the hearing and a copy of the JV-466 must be served on the nonminor, the nonminor's attorney, and the child welfare services agency, the probation department, or the Indian tribal agency that was supervising the nonminor when the juvenile court entered the order retaining general jurisdiction over the nonminor.
  - (B) The notice of the date, time, place, and purpose of the hearing must be served on the nonminor's parents only if the nonminor included in the JV-466 a request that notice be provided to his or her parents.
  - (C) The notice of the date, time, place, and purpose of the hearing must be served on the nonminor's tribal representative if the nonminor is an Indian child and indicated on the JV-466 his or her choice to have the Indian Child Welfare Act apply to him or her as a nonminor dependent.
  - (D) The notice of the date, time, place, and purpose of the hearing must be served on the local CASA office if the nonminor had a CASA and included on the JV-466 a request that notice be provided to his or her former CASA.
- (2) The written notice served on the nonminor dependent must include:
  - (A) A statement that the nonminor may appear for the hearing by telephone; and
  - (B) Instructions regarding the local juvenile court procedures for arranging to appear and appearing at the hearing by telephone.
- (3) Service of the notice must be by personal service or by first-class mail.
- (4) Proof of service of notice must be filed by the juvenile court clerk at least two court days prior to the hearing.

**(h) Reports**

- (1) The social worker, probation officer, or Indian tribal agency case worker (tribal case worker) must submit a report to the court that includes:
  - (A) Confirmation that the nonminor was previously under juvenile court jurisdiction subject to an order for foster care placement when he or she attained 18 years of age, that the juvenile court retained general jurisdiction over the nonminor, and that on and after January 1, 2012, the nonminor will not have not attained 19 years of age; or commencing January 1, 2013, he or she will not have attained 20 years of age; or commencing on January 1, 2014, he or she will not have attained 21 years of age;
  - (B) The condition or conditions under section 11403(b) that the nonminor intends to satisfy;
  - (C) The social worker, probation officer, or tribal case worker's opinion as to whether continuing in a foster care placement is in the nonminor's best interests and recommendation about the resumption of juvenile court jurisdiction over the nonminor as a nonminor dependent;
  - (D) Whether the nonminor and the placing agency have entered into a reentry agreement for placement in a supervised setting under the placement and care responsibility of the placing agency;
  - (E) The type of placement recommended if the request to return to juvenile court jurisdiction and foster care is granted;
  - (F) If the type of placement recommended is a placement in a setting where minor dependents also reside, the results of the background check of the nonminor under section 16504.5.
    - (i) The background check under section 16504.5 is required only if a minor dependent resides in the placement under consideration for the nonminor.
    - (ii) A criminal conviction is not a bar to a return to foster care and the resumption of juvenile court jurisdiction over the nonminor as a nonminor dependent.
- (2) At least two court days before the hearing, the social worker, probation officer, or tribal case worker must file the report and any supporting documentation with the court and provide a copy to the nonminor and to his or her attorney of record; and
- (3) If the court determines that the report and other documentation submitted by the social worker, probation officer, or tribal case worker does not provide the information required by (h)(1) and the court is unable to make the findings and orders required by (i), the hearing must be continued for no more than five court days for the social worker, probation officer, tribal case worker, or nonminor to submit additional information as ordered by the court.

**(i) Findings and orders**

The court must read and consider, and state on the record that it has read and considered, the report; supporting documentation submitted by the social worker, probation officer, or tribal case worker; the evidence submitted by the nonminor; and any other evidence. The following judicial findings and orders must be made on the record and included in the written, signed court documentation of the hearing:

- (1) *Findings*
  - (A) Whether notice was given as required by law;
  - (B) Whether the nonminor was previously under juvenile court jurisdiction subject to an order for foster care placement when he or she attained 18 years of age;
  - (C) Whether the juvenile court retained general jurisdiction over the nonminor;
  - (D) Whether on and after January 1, 2012, the nonminor will not have not attained 19 years of age; or commencing January 1, 2013, he or she will not have attained 20 years of age; or commencing on January 1, 2014, he or she will not have attained 21 years of age;
  - (E) Whether the nonminor intends to satisfy a condition or conditions under section 11403(b);
  - (F) The condition or conditions that the nonminor intends to satisfy under section 11403(b);
  - (G) Whether continuing in a foster care placement is in the nonminor's best interests;
  - (H) Whether the nonminor and the placing agency have entered into a reentry agreement for placement in a supervised setting under the placement and care responsibility of the placing agency; and

- (l) Whether a nonminor who is an Indian child chooses to have the Indian Child Welfare Act apply to him or her as a nonminor dependent.

(2) *Orders*

- (A) If the court finds that the nonminor comes within the age requirements under (i)(1)(D), that the juvenile court entered an order retaining general jurisdiction over the nonminor, that the nonminor does intend to satisfy at least one condition under section 11403(b), and that the nonminor and placing agency have entered into a reentry agreement, the court must:
  - (i) Grant the request and enter an order resuming juvenile court jurisdiction over the nonminor as a nonminor dependent and vesting responsibility for the nonminor's placement and care with the placing agency;
  - (ii) Order the social worker, probation officer, or tribal case worker to develop with the nonminor and file with the court within 60 days a new Transitional Independent Living Case Plan;
  - (iii) Order the social worker or probation officer to consult with the tribal representative regarding a new Transitional Independent Living Case Plan for the nonminor who chooses to have the Indian Child Welfare Act apply to him or her as a nonminor dependent and who is not under the supervision of a tribal case worker;
  - (iv) Set a nonminor dependent review hearing under rule 5.903 within the next six months; and
  - (v) Make the findings and enter the appropriate orders under (e)(4) regarding appointment of an attorney for the nonminor.
- (B) If the court finds that the nonminor comes within the age requirements under (i)(1)(D) and that the juvenile court entered an order retaining general jurisdiction over the nonminor, but the nonminor does not intend to satisfy at least one of the conditions under section 11403(b) and/or the nonminor and placing agency have not entered into a reentry agreement, the court must:
  - (i) Enter an order denying the request, listing the reasons for the denial, and informing the nonminor that a new JV-466 may be filed when those circumstances change;
  - (ii) Enter an order terminating the appointment of the attorney appointed by the court to represent the nonminor, effective seven calendar days after the hearing; and
  - (iii) In addition to the service of a copy of the written order as required in (i)(3), the juvenile court clerk must cause to be served on the nonminor a blank copy of the *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), and a copy of *How to Ask to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-464-INFO).
- (C) If the court finds that the nonminor does not come within the age requirements under (i)(1)(D) and/or the juvenile court did not retain general jurisdiction over the nonminor, the court must:
  - (i) Enter an order denying the request to have juvenile court jurisdiction resumed; and
  - (ii) Enter an order terminating the appointment of the attorney appointed by the court to represent the nonminor, effective seven calendar days after the hearing.

(3) *Findings and orders: service*

- (A) The written findings and order must be served by the juvenile court clerk on all persons provided with notice of the hearing under (g)(1).
- (B) Service must be by personal service or first-class mail within three court days of the issuance of the order.
- (C) A proof of service must be filed.

*Rule 5.906 adopted effective January 1, 2012.*

**Advisory Committee Comment**

Assembly Bill 12 (Beall; Stats. 2010, ch. 559), the California Fostering Connections to Success Act and Assembly Bill 212 (Beall; Stats. 2011, ch. 459), implement the federal Fostering Connections to Success and Increasing Adoptions Act, Pub.L. No. 110-351, which provides funding resources to extend the support of the foster care system to children who are still in a foster care placement on their 18th birthday. Every effort was made in the development of the rules and forms to provide an efficient framework for the implementation of this important and complex legislation.

The extension of benefits for nonminors up to 18 years of age during the first year and for nonminors up to 19 years of age during the following year is fully provided for in Assembly Bill 12 and does not require further action by the Legislature; however, extension of those benefits to nonminors between 20 and 21 years of age is contingent upon an appropriation by the Legislature. (Welf. & Inst. Code, § 11403(k).)

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