

**11.00.00 JUVENILE PROCEEDINGS**

(Effective January 1, 1994)

**11.00.01 SESSIONS**

A. Juvenile Court matters shall be scheduled to be heard before the Assigned Judge or Referee on days and times as directed by the Court. Contested matters will be scheduled for hearing by the presiding judicial officer assigned such calendar during times allocated for such matters on the calendar.

B. Detention hearings are conducted by the Assigned Judge or Referee at such times as are necessary to comply with the applicable provisions of the Welfare and Institutions Code and the California Rules of Court.

C. Rehearing of matters heard by Referees shall be governed by the California Rules of Court.

(Effective January 1, 1994)

**11.00.02 RULES OF PROCEDURE**

California Rules of Court Sections 1301-1396 shall apply to all juvenile proceedings.  
(Effective January 1, 1994)

**11.00.03 JUVENILE TRAFFIC HEARINGS**

It is the policy of this court that a probation officer sitting as a juvenile traffic-hearing officer shall hear only matters designated as infractions. Any matter designated a misdemeanor or felony shall be processed by juvenile court in the usual manner except those assigned to "Teen Court".

(Effective January 1, 1994)

**11.00.04 DISCLOSURE OF RECORDS IN JUVENILE CASE FILE**

The disclosure of records in a juvenile case file is governed by California Rules of Court, rules 5.552 and 5.553. All persons or agencies seeking disclosure are referred to those rules. The Court requires the use of the mandatory Judicial Council forms referenced in those rules.

(Revised January 1, 2010)

**11.00.05 AGENCY REPRESENTATION**

The District Attorney shall be present to represent the Probation Department in all proceedings conducted pursuant to Welfare and Institutions Code Section 602. County Counsel shall be present to represent the Department of Social Services in all proceedings conducted pursuant to Welfare and Institutions Code Sections 300 et seq.

(Effective January 1, 1994)

**11.00.06 DUE DILIGENCE SEARCH FOR PARENTS IN JUVENILE COURT**

## **PROCEEDINGS**

In all matters where the law requires notice to be given to the parents, guardian or other person of a hearing, the Child Welfare Worker, El Dorado County Department of Social Services, shall conduct a diligent search in an effort to locate the parents of the minor and shall complete and file (prior to the hearing) a declaration of the due diligence detailing said search for parents.

(Effective January 1, 1994)

### **11.00.07 MOTION FOR PREHEARING DISCOVERY**

All motions for pretrial hearing pursuant to California Rules of Court, Rule 1420(f), shall be noticed for hearing no later than ten (10) court days prior to the jurisdictional hearing. The motion for discovery shall comply in all respects with subdivision (f) of Rule 1420.

(Effective January 1, 1994)

### **11.00.08 ADOPTION OF PROGRAM GUIDELINES FOR COURT APPOINTED SPECIAL ADVOCATE PROGRAMS**

The Superior Court hereby adopts the guidelines for the Court Appointed Special Advocate Program, as more particularly set forth under the caption, "Program Guidelines for Court Appointed Special Advocate Programs" established by section 100 of the Welfare and Institutions Code of the State of California, as a Rule of Court applicable to the Court Appointed Special Advocate Program for El Dorado County. By a copy of said program, guidelines are incorporated herein by reference.

(Effective January 1, 1994)

### **11.00.08A THE ADVOCATE PROGRAM**

A. Request for Appointment. A request for appointment of a child advocate in dependency proceedings, wardship proceedings, or other appropriate proceedings as determined by the judicial officer before whom the case is pending, may be made orally or by written application in open court, or ex parte by any interested person, or by the Court on its own motion. After approval by the court, the referral shall be forwarded to the CASA program's office for screening and assignment. When an appropriate advocate has been selected by CASA, CASA must submit its selection to the Court for review and appointment.

B. Officer of the Court. An advocate is an officer of the Court and is bound by the California Rules of Court and the El Dorado Superior Court Local Rules. Each advocate shall be sworn in by a Superior Court Judicial Officer before beginning his or her duties, and must subscribe to the written oath required by this Court. The duties and responsibilities of a child advocate are set forth in Welfare and Institutions Code § 356.5.

C. Advocates' Functions. Advocates serve at the pleasure of the Court having jurisdiction over the proceeding in which the advocate has been appointed. In general, an advocate's functions are as follows:

- (1) To support the child throughout the court proceedings;
- (2) To establish a relationship with the child to better understand his or her particular needs and desires;
- (3) To communicate the child's needs and desires to the Court in written reports and recommendations;
- (4) To identify and explore potential resources which will facilitate early family reunification or alternative permanency planning;
- (5) To provide continuous attention to the child's situation to ensure the Court's plans for the child are being implemented;
- (6) To the fullest extent possible, to communicate and coordinate efforts with the case manager, social worker, and/or probation officer;
- (7) To the fullest extent possible, to communicate and coordinate efforts with the child's attorneys; and
- (8) To investigate the interests of the child in other judicial or administrative proceedings outside the Juvenile Court, report to the Juvenile Court concerning same, and, with the approval of the Court, offer his or her services on behalf of the child to such other courts or tribunals.

D. Specific Duties. The Court will, in its initial order of appointment and/or in subsequent orders, specifically state the advocate's duties in each case. Such duties may include conducting an independent investigation of the circumstances of the case; interviewing and observing the child as well as other individuals where appropriate; reviewing appropriate records and reports; and recommending visitation rights for the child's grandparents, siblings, and other relatives and reporting back directly to the Court as indicated. If no specific duties are outlined by court order, the advocate shall discharge his or her obligations to the child and the Court as set forth in subsection C above.

E. Required Reporting of Child Abuse. A CASA advocate is a mandated child abuse reporter with respect to the case to which he or she has been assigned [California Rules of Court, rule 1424(j)(2); Penal Code § 11166 et seq.]

F. Advocate's Right to Appear and be Represented. An advocate has the same right to be present and to be heard at all court proceedings involving the child, and to accompany the child into chambers for conferences. The advocate will not be subject to exclusion by virtue of the fact that he or she may be called to testify at some point in the proceedings. An advocate is not a "party" but, in the Court's discretion, may be given *amicus curiae* status which shall include the right to appear with counsel and to request court-appointed counsel if the need arises.

G. Visitation Throughout Dependency. The advocate must visit the child regularly until the child is secure in a permanent placement. Thereafter, the advocate must monitor the

case as appropriate until dependency is dismissed or the advocate is relieved from appointment.

H. Advocate's Right to Timely Notice. CASA shall be given timely notice, by the moving party, or any motion concerning a child for whom a CASA advocate has been appointed. (Effective January 1, 2003)

#### **11.00.08B SERVICE OF CASA REPORTS**

Absent good cause, not later than five calendar days prior to any hearing at which a CASA Report will first be considered or, in the case of a report for a Status Review, ten calendar days prior to the hearing, copies of the Report shall be filed with the Court and served on all counsel of record, on the Department of Social Services, and on any party to the proceeding not represented by counsel. It shall be the responsibility of CASA to copy and distribute the Report. A proof of service must accompany any document filed by a CASA advocate, including CASA Reports. (Effective January 1, 2003)

#### **11.00.08C RELEASE OF INFORMATION TO CASA ADVOCATES**

A. To Accomplish Appointment. To accomplish the appointment of an advocate, the judicial officer making the appointment shall make an order granting the advocate the authority to review specific relevant documents and to interview parties involved in the case, as well as other persons having significant information relating to the child, to the same extent as any other officer appointed to investigate proceedings on behalf of the Court.

B. Access to Records. An advocate shall have the same legal rights to records relating to the child he or she is appointed to represent as any case manager, social worker, or probation officer with regard to records pertaining to the child held by any agency, school, organization, division or department of the state, physician, surgeon, nurse, other health care provider, psychologist, psychiatrist, mental health provider or law enforcement agency. The advocate shall present his or her identification as a court-appointed advocate to any such record holder in support of his or her request for access to specific records. No consent from the parent or guardian is necessary for the advocate to have access to any records relating to the child.

C. Communication. There shall be ongoing, regular communication concerning the child's best interests, current status, and significant case developments maintained among the advocate, case manager, social worker, or probation officer, the child's attorney, attorneys for parents, relatives, foster parents and any therapist for the child. (Effective January 1, 2003)

#### **11.00.08D FAMILY LAW ADVOCACY**

Should the Juvenile Court dismiss dependency and create family law orders pursuant to Welfare & Institutions Code § 362.4, the advocate's appointment may be continued in the family law proceeding, in which case the Juvenile Court order shall set forth the nature, extent and duration of the advocate's duties in the family law proceeding. (Effective January 1, 2003)

**11.00.08E CALENDAR PRIORITY**

Because advocates are rendering a volunteer service to children and the Court, matters on which they appear should be granted priority on the Court's calendar, whenever possible.  
(Effective January 1, 2003)

**11.00.09 CASE SELECTION PROCEDURE**

Recognizing that a CASA Volunteer cannot be assigned to each case, the following procedure will be followed by the Juvenile Court Judge with regard to assignment of CASA Volunteers:

- (1) Procedure upon commencement of program.
  - (a) Cases previously adjudicated will be reviewed as they are calendared for regular reviews.
  - (b) Special cases known to be in progress will be reviewed.
- (2) After start up, each case will be reviewed at the time of jurisdiction hearing or, if especially unique, at detention hearing.
- (3) The review of each case shall consider the following factors:
  - (a) Age of the child.
  - (b) Number of children in the family subject of court proceedings.
  - (c) Specific areas where a CASA Volunteer would be of assistance which are out of the normal situation.
  - (d) The Court shall consider all factors set forth in Paragraph 6.2 of the CASA Program Guidelines for Court Appointed Special Advocate Programs as set forth following Section 100 of the Welfare and Institutions Code.
  - (e) Areas where Child Protective Services would have limited or no ability to provide specific information or assistance which the court believes essential.
  - (f) Recommendations from any agency or parent that a CASA volunteer be appointed.
  - (g) Any other factor the juvenile judge believes important.
- (4) The final decision shall be exercised in the sound discretion of the appointing juvenile judge.

(Effective January 1, 1994)

### **11.00.10 FINANCIAL DECLARATION**

In all juvenile proceedings, the parents of the minor in Welfare and Institutions Code §602 Ord. §300, shall execute a financial declaration as to their ability to pay attorneys fees for the minor in §602 and themselves in §300 proceedings when the court appoints such an attorney. (Effective January 1, 1994)

### **11.00.11 NOTICE OF ADDRESS - NATIVE AMERICAN HERITAGE**

In all Welfare and Institutions Code §300 matters, at the first hearing at which said parents attend, each shall execute a notice of address and agreement for future service of notice and a Declaration under Penalty of Perjury as to Native American heritage which shall become a part of the file. (Effective January 1, 1994)

### **11.00.12 APPOINTMENT OF PRIVATE ATTORNEYS**

A. **Purpose.** This rule is established to comply with California Rules of Court, Rule 5.660.

B. **General Competency Requirement.** All attorneys appearing in juvenile dependency proceedings must meet minimum standards of competence as set forth in these rules. These rules are applicable to attorneys employed by public agencies, attorneys appointed by the court to represent any party in a juvenile dependency proceeding, and attorneys who are privately retained to represent a party to a juvenile dependency proceeding.

#### **C. Screening for Competency.**

- (1) All attorneys who represent parties in juvenile court proceedings shall meet the minimum standards of training and/or experience set forth in these rules. Any attorney appearing in a dependency matter for the first time shall complete and submit a Certification of Competency to the Court within 10 days of his or her first appearance in a dependency matter.
- (2) Attorneys who meet the minimum standards of training and/or experience as set forth in subsection 11.00.12D, as demonstrated by the information contained in the Certification of Competency submitted to the court, shall be deemed competent to practice before the Juvenile Court in dependency cases except as provided in subsection 11.00.12C(3) of this rule.
- (3) Upon submission of a Certification of Competency which demonstrates that the attorney has met the minimum standards for training and/or experience, the Court may determine, based on conduct or performance of counsel before the Court in a dependency case within the six-month period prior to the submission of the certification to the court, that a particular attorney does not meet minimum competency standards. In that case, the Court shall proceed as set forth in subsection 11.00.12F(6) of this rule.

- (4) In the case of an attorney who maintains his or her principal office outside of this county, proof of certification by the Juvenile Court of the California County in which the attorney maintains an office shall be sufficient evidence of competence to appear in a juvenile proceeding in this county.

**D. Minimum Standards of Education and Training.**

- (1) Prior to certification, the attorney shall have either:
  - (a) Participated in at least eight hours of training or education on juvenile dependency law, which training or education shall have included information on the applicable case law and statutes, the rules of court, Judicial Council forms, motions, trial techniques and skills, writs and appeals, child development, child abuse and neglect, family reunification and preservation of reasonable efforts;
  - (b) At least six months of experience during which the attorney has demonstrated competence in representing clients in juvenile dependency proceedings. In determining whether competence has been demonstrated, the Court shall consider whether the attorney's performance has substantially complied with the requirements of these rules.
- (2) In order to retain certification to practice before the juvenile court, each attorney who has been previously certified shall submit a new Certificate of Competency to the court on or before January 31 of the third year after the year in which the attorney was first certified and then every third year thereafter. The attorney shall attach to the renewal Certification of Competency evidence that he or she has completed at least eight hours of continuing education or training directly related to dependency hearings since the attorney was last certified.

Evidence of completion of the required number of hours of education or training may include a copy of a certificate of attendance issued by a California MCLE provider; a certificate of attendance issued by a professional organization which provides training and/or education for its members, whether or not it is a MCLE provider; a copy of the training or educational program schedule together with evidence of attendance at the program; or such other documentation as may be reasonably considered to demonstrate the attorney's attendance at the program. Attendance at a court-sponsored or approved program will also fulfill this requirement.

- (1) The attorney's continuing education or training shall be in the areas set forth in subsection 11.00.12D(1)(a), or in other areas relating to juvenile dependency practice, including, but not limited to, special education;

mental health; health care; immigration issues; the rules of evidence; adoption practice and parentage issues; the Uniform Child Custody Jurisdiction Act; the Parental Kidnapping Prevention Act; state and federal public assistance programs; the Indian Child Welfare Act; client interviewing and counseling techniques; case investigation and settlement negotiations; mediation; basic motion practice; and the rules of civil procedure.

- (4) When a certified attorney fails to submit evidence that he or she has completed at least the minimum required education and training to the court by the due date, the Court shall notify the attorney that he or she will be decertified. The attorney shall have 20 days from the date of the mailing of notice to submit evidence that he or she has completed the required education or training. If the attorney fails to submit the required evidence or fails to complete the minimum number of required hours of continuing education or training, the Court shall order that certified counsel be substituted for the attorney who failed to complete the required continuing education, except in the case of retained counsel.

In the case of retained counsel, the Court shall notify the party that his or her attorney has failed to meet the minimum standards required by these rules. The determination whether to retain substitute counsel shall be solely within the discretion of the party so notified.

**E. Standards of Representation.** All attorneys appearing in dependency proceedings shall meet the following minimum standards of representation:

- (1) The attorney shall thoroughly and completely investigate the accuracy of the allegations of the Petition or other moving papers and the filed court reports supporting those allegations. The attorney shall conduct a comprehensive interview with the client to ascertain the client's knowledge or involvement in the matters alleged or reported; shall contact social workers and other professionals associated with the case to ascertain whether the allegations and reports are supported by accurate facts and reliable information; shall consult with experts, and, if necessary, seek to have the expert(s) appointed by the court, in order to advise the attorney or the court on matters which are beyond the expertise of the attorney or the Court; and shall obtain any other facts, evidence, or information necessary to effectively present the client's position to the Court.
- (1) The attorney shall determine the client's interests and the position the client wishes to take in the proceeding. Except in those cases in which the whereabouts of the client is unknown, this shall include a comprehensive interview with the client. If the client is a minor child who is placed outside of the home, in addition to interviewing the child the attorney shall interview the child's caretaker. The attorney or the attorney's agent shall

make at least one visit to the child at the child's placement prior to the jurisdiction hearing. Thereafter, the attorney or the attorney's agent should make at least one visit to the child at the child's placement prior to each review hearing.

- (3) The attorney shall advise the client of the possible courses of action and of the risks and benefits of each. This shall include advising the client of the risks and benefits of resolving disputed matters without the necessity for adhering to court mandated time limits.
- (4) The attorney shall vigorously represent the child within applicable legal and ethical boundaries. Representation shall include the duty to work cooperatively with other counsel and the court; to explore alternative methods of resolving disputes without the necessity for a hearing if possible to do so consistent with the client's interests; and to comply with local rules and procedures as well as with statutorily mandated time lines.

**B. Procedures for Reviewing and Resolving Complaints**

- (1) Any party to a juvenile court proceeding may lodge a written complaint with the Court concerning the performance of the client's appointed counsel in the proceeding. Where the complaint concerns the performance of counsel appointed to represent a minor, the Complaint may be lodged on behalf of the child by the social worker, a caretaker relative, or a foster parent.
- (2) Promptly after appointment, each appointed attorney shall have an affirmative obligation to advise his or her client of the right to lodge a written complaint with the court concerning the performance of the appointed attorney. If the client is a minor, the caretaker of the child shall be advised of the right to lodge a written complaint; if the minor is twelve years of age or older, the minor shall be so advised as well.
- (3) The Court shall review a complaint within ten days of receipt. If the Court determines that the Complaint presents reasonable cause to believe that the attorney may have failed to act competently or may have violated local rules, the Court shall notify the attorney of the Complaint, shall provide a copy of the Complaint to him or her, and shall give the attorney 20 days from the date of the notice to respond to the Complaint in writing.
- (4) After a response has been filed by the attorney or the time for submission of a response has passed, the Court shall review the complaint and any response thereto and determine whether the attorney has acted incompetently or has violated local rules. The Court may seek additional information from the complainant or the attorney prior to making its determination.
- (5) If the Court determines that the attorney has violated Local Rules of

Court, the attorney may be sanctioned as provided in Local Rule 7.12.12.

If the Court determines that the attorney has acted incompetently, the Court may order that the attorney practice under the supervision of a mentor attorney for a period to be determined by the Court in its discretion; that the attorney complete a specified number of hours of continuing education or training in the area in which the attorney was found to be incompetent; or a combination of the two.

If the Court finds that the attorney's incompetence has resulted in actual harm to the client, the Court shall remove the attorney and substitute other counsel. The matter may be referred to the State Bar of California in the Court's discretion.

- (6) The Court shall notify the attorney and the complaining party in writing of its determination. If the Court makes a finding pursuant to subsection 11.00.12F(5), the attorney shall have 10 days from the date of the notice to request a hearing before the Court concerning the Court's proposed action. If the attorney does not request a hearing within that period of time, the Court's determination shall become final.
- (7) If the attorney requests a hearing, the attorney shall serve a copy of the request on the complaining party. The hearing shall be held as soon as practicable after the request has been made, but in no case shall it be held more than 30 days after the date of the request, except upon stipulation of the attorney and the complainant.

The attorney and the complainant shall be given at least 10 days notice of the hearing. The hearing may be held in chambers, and shall not be open to the public. The Court may designate a commissioner, referee, judge pro tempore, or any qualified member of the bar to act as hearing officer.

- (8) At the hearing, each party shall have the right to present arguments to the Hearing Officer concerning the Court's determination. The arguments shall be based on the evidence before the Court at the time the determination was made. No new evidence may be presented unless the proponent of that evidence can demonstrate to the Hearing Officer that it was not reasonably available to the party at the time that the Court made its determination.

Within 10 days after the hearing, the Court or the Hearing Officer shall issue a written determination upholding, reversing, or modifying the original determination. This written determination shall be the final determination of the Court on the matter. A copy of the determination shall be provided to both the complainant and the attorney.

**G. Procedures for Informing the Court of the Interests of a Dependent Child.**

- (1) At any time during the pendency of a juvenile dependency proceeding, any interested person may notify the court that the minor who is the subject of the proceeding may have an interest or right which needs to be protected or pursued in another judicial or administrative forum. If the attorney for the minor becomes aware that the minor may have a right or interest which needs to be protected or pursued in another judicial or administrative forum, he or she shall promptly notify the court of that right or interest.
- (2) Notice of the minor's right or interest may be given by filing Judicial Council form JV-180 or by filing a declaration. In either case, the person giving notice shall set forth the nature of the right or interest to be protected or pursued, the name and address, if known, of the judicial or administrative forum in which the right or interest may be affected, and the nature of the proceedings being contemplated or conducted there.
- (3) If the person filing the notice is the attorney for the minor, the notice shall state what action on the child's behalf counsel believes is necessary, whether the attorney is willing or able to pursue the matter on the child's behalf, whether the association of counsel specializing in practice before that court or administrative agency may be necessary or appropriate, whether appointment of a guardian ad litem is necessary for the proceedings in the other forum, whether joinder of an administrative agency to the juvenile court proceedings pursuant to Welfare and Institutions Code, section 362, may be appropriate or necessary, and what if any further investigation may be necessary.
- (4) If the person filing the notice is not the attorney for the minor, a copy of the notice shall be served upon the minor's attorney. If the minor is not represented, the notice shall so state.
- (5) The Court may set a hearing on the notice if it deems a hearing is necessary to determine the minor's right or interest, and whether that interest should be protected or pursued.
- (6) If the Court determines that further action on behalf of the minor is required, the Court shall do one or more of the following:
  - (a) Authorize the minor's attorney to pursue the matter on the minor's behalf;
  - (b) Appoint an attorney for the minor if the minor is not represented;
  - (b) Notice a joinder hearing pursuant to Welfare and Institutions Code, section 362, compelling the responsible agency to report to the court as to whether it has carried out its statutory duties concerning

the minor;

- (d) Appoint a guardian ad litem for the minor to initiate or pursue appropriate action in the other forum(s);
- (e) Take any other action the Court may deem necessary or appropriate to protect the welfare, interests, and rights of the minor.

H. **Time lines.** Attorneys for parties are required to adhere to the statutory time lines for all hearings. Time waivers will be accepted and continuances granted only on a showing of exceptional circumstances. The statutory time lines for hearings are as follows:

- (1) Detention Hearing. A detention hearing shall be held no later than the next court day after the Petition has been filed [W&I C § 315; CRC 1440].
- (2) Jurisdiction Hearing. If the minor is not detained, the hearing on the Petition shall begin within 30 calendar days from the date of the filing of the Petition. If the minor has been detained, the hearing shall begin within 15 court days from the date of the detention order [W&I C § 334; CRC 1447].
- (3) Disposition Hearing. If the minor has been detained, the Disposition Hearing shall begin within 10 court days from the date on which the petition was sustained. If the minor has not been detained, the disposition hearing shall begin no later than 30 calendar days after jurisdiction is found [W&I C § 358; CRC 1451].
- (4) Six-Month Review Hearing. The Court is required to review the status of every dependent child within six months of the declaration of dependency and at least every six months thereafter [W&I C §§ 364, 366, 366.21; CRC 1460].
- (5) Twelve-Month Review. The Court is required to review the status of every child who has been removed from the custody of a parent or guardian within twelve months of the declaration of dependency [W&I C § 366.21; CRC 1461].
- (6) Eighteen-Month Review. If the child has not been returned at the twelve-month review, the Court is required to conduct a review no later than eighteen months from the *date of the original detention* [W&I C §§ 366.21, 366.22; CRC 1462].
- (7) Notice of Intent to File Writ Petition. A notice of intent to file a petition for an extraordinary writ shall be filed within 7 days of the date of the order setting a hearing pursuant to W&I C § 366.26, with an extension of 5 days if the party received notice of the order only by mail [CRC 39.1B].

- (8) Petition for Writ. A petition seeking writ review of orders setting a hearing under the Welfare and Institutions Code shall be served and filed within 10 days after the filing of the record in the reviewing court [CRC 39.1B].
- (9) Response to Writ Petition. Any response to a writ petition shall be served and filed within 10 days after the filing of the writ petition, or within 10 days of receiving a request for response from the reviewing court [CRC 39.1B].
- (10) Selection Hearing for Permanent Placement. The hearing shall begin within 120 days of the review at which reunification services are terminated and a hearing pursuant to W&I C § 366.26 was ordered [W&I C §§ 366.31, 399.22; CRC 1460, 1461, 1462].
- (11) Notice of Appeal. A notice of appeal shall be filed within 60 days after the rendition of the judgment.

**I. Certificate of Competency**

**SUPERIOR COURT OF CALIFORNIA  
IN AND FOR THE COUNTY OF EL DORADO  
JUVENILE COURT  
CERTIFICATE OF ATTORNEY COMPETENCY**

I, \_\_\_\_\_  
(Name - Office Address - Telephone Number)

am an attorney licensed to practice law in the State of California. My State Bar Number is \_\_\_\_\_. I hereby certify that I meet the minimum standards for practice before a Juvenile Court set forth in California Rules of court, Rule 5.660 and Local Rule 11.00.12 and that I have completed the minimum requirements for training, education and/or experience as set forth below.

This is a [  ] New Certification [  ] Recertification

**Training and Education:** (Attach copies of MCLE certificates or other documentation of attendance)

<b>Course Title</b>	<b>Date Completed</b>	<b>Hours</b>	<b>Provider</b>
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**Summary of Juvenile Dependency Experience:**

**Date** \_\_\_\_\_ **Signature** \_\_\_\_\_

**11.00.13      RESERVED FOR FUTURE USE**

(Revised July 1, 2006)

**11.00.14      INVESTIGATION SERVICES IN JUVENILE COURT**

Investigative services in juvenile court cases shall be the same as criminal investigative expenses as set forth in Rule 5.15.02.

(Effective January 1, 1994)

**11.00.15      EXPERT FEES AND EXPENSES**

Expert fees and expenses shall be as set forth in criminal cases in Rule 5.15.03.

(Effective January 1, 1994)

**11.00.16      CONTESTED DETENTION HEARINGS**

The following provisions shall apply to all dependency detention hearings:

A. CPS shall advise the Clerk of the Superior Court in the Department handling the Dependency Calendar of the need to have a hearing and counsel appointed for the parties, not later than 2 hours prior to filing the Petition, or as soon as a determination is made to file a Petition, whichever is first. At that time:

- (1) CPS shall advise the Court Clerk of the following, to the extent it is available to CPS:
  - (a) Name or names of the children involved and birth dates.
  - (b) Full names, addresses and phone numbers of the parents, guardians, or caregivers.
  - (c) Any possible conflict of interests between the parents, alleged parents, and/or custodial caregivers, which would require the appointment of a separate attorney for each of them.
  - (d) The name of the emergency social worker who effected the removal or the placement in protective custody.
  - (e) Any special circumstances, which would require the appointment of attorneys for parties other than the minors, mother and/or father.
- (2) Not later than two hours after receipt of notice of the filing of the Petition or the determination that the Petition will be filed, the Clerk of the Dependency Court shall, after conferring with the court:
  - (a) First, notify the office of the Public Defender, of the names involved in the action; the Public Defender's Office shall be

required to check its index to determine any potential conflicts it has with any of the parties.

- (b) Appoint attorneys from the Juvenile Dependency Counsel List, in rotation, to represent the interested parties (parents, alleged parents, custodial caregivers, guardians, and minors).
- (c) Attorneys contacted by the Clerk shall only accept the appointment if he or she can appear at the Detention Hearing no later than one day after the filing of the Petition.

B. Prior to the Detention Hearing, all parties and counsel shall comply with the following time frame:

- (1) Designated court appearance time shall be set by the Judge or referee over the session of the Juvenile Court, but shall be at least 2 hours prior to the time of the detention hearing. CPS shall have the caseworker, or a person familiar with the case, together with the full file, at the courthouse at the designated court appearance time, so as to be available to discuss the facts of the case with the attorneys. In addition, CPS shall provide to all counsel access to all of the following documents, which shall bear a stamp stating "THESE ABOVE NOTED DOCUMENTS, TAPES, AND REPORTS SHALL BE DEEMED TO BE ORDERED DISCLOSED PURSUANT TO STANDING DEPENDENCY COURT ORDER OF CONFIDENTIALITY."
  - (a) SART report;
  - (b) Any and all police reports;
  - (c) All other documents in the file, including, but not limited to any out of county reports as to other dependency filings, other CPS contacts with the family, and any other information CPS is relying upon as a basis for the Petition;
  - (d) Any MDIC tape which may exist; CPS shall make arrangements for any such tape to be delivered to the El Dorado County Deputy Sheriff, serving as the Court's Bailiff;
  - (e) Any other audio or video tape that exists regarding the matter, or transcripts thereof;
  - (f) All other items in the file that may be exculpatory for any party.
- (2) County counsel shall be available by telephone or, at his or her option, personally present to meet with the other attorneys at the designated court appearance time.

- (3) The attorneys shall meet with clients at the courthouse no later than one-half hour after the designated court appearance time.
- (4) All of the documents disclosed to the attorneys, pursuant to Subsection a, above, shall be subject to the rules of confidentiality. Counsel shall not duplicate the documents, nor provide to any person, including the client, copies of the documents. No copies shall be made of the MDIC tape or of the SART report or of any other document, without court order, supported by a showing of good cause, approving disclosure, on specified terms and conditions. Unless a report is by a doctor, hospital or other medical personnel, the reporter on any WIC §11666 reports shall not be named.
- (5) At a time set by the Judge or Referee presiding over the session of the Juvenile Court, before the detention hearing time, the Dependency Court Judge shall hear the following matters (which hearing may be held in chambers), and rule upon each of them:
  - (a) All objections to the production of case worker's notes;
  - (b) Objections to all other items, whether or not described in Subsection a, above;
  - (c) Matters as to which CPS asserts confidentiality;
- (6) The parent(s) or custodial caregiver's attorney shall, so far as possible, provide a full family history. Counsel for the parents and or custodial caregivers shall, as is consistent with confidentiality requirements, make disclosure of any defenses asserted, provided there shall be no divulging of the client's statement without the consent of the client. All information disclosed by or to any participating attorney during this meeting shall be confidential and shall not be used in a contested hearing, or for any other purpose if no contested hearing takes place, other than drafting a plan for reunification services.
- (7) Not less than one hour prior to the detention hearing appearance time, the parties shall meet and confer and attempt to obtain a resolution by any of the following:
  - (a) Dismissal of the Petition.
  - (b) Waiver of time and delay of the hearing as to permit trial periods for reunification.
  - (c) Dismissal pursuant to provisions in WIC §301.
  - (d) Amendment of the Petition so as to permit admission or no contest

plea.

- (e) Agreement of the Petition as worded and entry of no contest plea or admission to establish jurisdiction.
  - (f) Determination that the only possible resolution is a contested hearing.
  - (g) Implementation of guardianship for the minors.
- (8) Attorneys must meet and act in good faith in an attempt to resolve all issues.
- (9) Parents' attorney or any other person involved must advise CPS at the earliest possible time (preferably at the meet and confer conference), of any relative who would be suitable for potential placement, providing the name, address and phone number.
- Parents' attorney shall also confirm as soon as possible the willingness of said person or persons to act as caregiver.
- (10) All requested visitation matters shall be discussed prior to the Detention Hearing and resolution obtained if possible.
- (11) Counsel for the parents shall obtain and complete for delivery to the Court the Court Address Form and the Native American Involvement Form.
- (12) The Detention Hearing shall be at a time designated by the Judge or referee presiding over the session of the Juvenile Court, which shall be at least 2 hours after the designated court appearance time. Counsel shall advise the Court when they are prepared to proceed with the matter and the proposed resolution, if any.
- (13) All agreements reached shall be reported on the Court's stipulation form, contained in the appendix to these rules.

C. Notification of Minor's Attorney: If a minor has been detained by Child Protective Services (CPS) and placed with a caretaker, CPS shall provide the attorney for the minor the name, address, and telephone number of the caretaker no later than the time set for the detention hearing.

If there is a change in placement of the minor, CPS shall notify the attorney for the minor no later than five (5) court days prior to the change in placement. CPS shall provide the attorney for the minor with any and all information CPS has considered in making a determination that a change in placement may be necessary.

If CPS determines that a minor is in imminent danger and that a change in placement must be made immediately, CPS shall notify the attorney for the minor no later than 5:00 p.m.

the following court day. CPS shall provide the attorney for the minor with the name, address, and telephone number of the new caretaker.

(Revised January 1, 1998)

#### **11.00.17 NON-DETENTION HEARINGS**

A. In non-detention cases, the attorneys and the parties shall meet and confer not less than two days prior to the jurisdiction hearing.

B. All discovery and negotiation shall take place prior to the jurisdiction hearing, at a mutually agreeable time for the parties, not less than 2 court days prior to the jurisdiction hearing.

C. Counsel shall be appointed on non-detention matters not later than one court day after the filing of the petition.

(Effective January 1, 1996)

#### **11.00.18 CONTESTED JURISDICTIONAL/DISPOSITIONAL HEARINGS**

The following shall be requirements for all contested jurisdictional/dispositional hearings:

A. Additional discovery shall be made available in cases of contested jurisdictional/dispositional hearing, as follows:

- (1) In addition to matters set forth herein above, CPS shall prepare and serve the jurisdictional report not later than three calendar weeks after detention. If the jurisdictional report is filed on Friday, it shall be not later than 12:00 noon and the readiness & settlement shall be deemed automatically set at 1:00 p.m. on the next succeeding Tuesday. If the report is filed and served on any other day, the readiness and settlement will be at 1:00 p.m. on the Thursday next following said date of filing.

Every jurisdictional report shall have appended to it a list of witnesses to be called by Petitioner. The jurisdictional report shall include as exhibits all police reports, child abuse reports, etc., deleting reporter's name (Government Code §11666) and case history. The case notes of CPS Social Worker shall be selectively included only as to the matters relevant in the jurisdictional report. Exhibits shall also include any follow-up police reports, SART reports, or transcripts, if available, of MDIC hearings. CPS shall arrange for all attorneys to view videotapes of MDIC, in accordance with Rule 1.

- (2) All discovery, not otherwise provided, as set forth in these rules shall be delivered to all counsel by CPS, and by all counsel to Petitioner, County Counsel, and CPS, not later than two weeks prior to the hearing. Attorneys other than County Counsel shall be responsible for subpoenaing or making arrangements for any witnesses desired other than those

designated in the attachments to the jurisdictional report.

- (3) The names, addresses and reports of any expert witnesses or witnesses to be called by any and all parties shall be disclosed as soon as possible, and not later than two weeks before the hearing.
- (4) Not later than 4:00 p.m. on the day before the Readiness and Settlement Hearing, each attorney for each party shall file a readiness and settlement statement, disclosing:
  - (a) All witnesses to be called and a time estimate for each witness;
  - (b) A short summary of the proposed testimony of each witness;
  - (c) A statement of the contested issues and facts, and applicable law;
  - (d) Each party shall be responsible for subpoenaing witnesses they have designated in their statements and/or reports.

B. A readiness and settlement conference shall be set by the Court on a regular calendar day, in the second week prior to the hearing. A readiness and settlement statement shall be filed by the parties, in the court-approved format, contained in the Appendix to these rules.

- (1) All exhibits reasonably known to be used at the hearing shall be pre-marked, listed, and copied for exchange among counsel not later than the commencement of the readiness and settlement hearing.
- (2) Counsel shall all meet and confer prior to the readiness and settlement conference, and shall attempt, in good faith, to resolve the matter; counsel shall clarify and delineate the factual and legal issues to be resolved at the hearing. All agreements reached shall be reported on the Court's stipulation form, contained in the appendix to these rules.
- (3) Anyone requesting notes of witnesses, expert and otherwise, must request such in writing at the Readiness and Settlement Hearing, and such shall be delivered and copies by the producing counsel not later than 4:00 p.m. on the date prior to the hearing. Any objection to production of notes shall be made at the readiness and Settlement Hearing, and the Court will calendar an In Camera review prior to the delivery date.
- (4) Counsel and parties shall be prepared to discuss disposition of the matter at the Readiness and Settlement Conference. CPS, if possible, shall include a tentative dispositional recommendation in summary form or give an indication of ultimate resolution, including service plan and placement prior to the Readiness and Settlement.
- (5) Counsel shall be required to deliver to CPS the names and addresses of

any reasonably requested relative who may be a placement option, and such shall be discussed at the Readiness and Settlement Hearing.

C. The Jurisdictional Hearing, if contested, shall be combined with the Dispositional Hearing, which may be conducted to address issues not possible to be resolved at the Jurisdictional/ Dispositional Hearing.

D. Unless stipulated otherwise, with appropriate waivers, contested Jurisdictional/Dispositional Hearings shall be heard not later than 30 calendar days following detention hearings. However, if there is an agreement and appropriate waivers, the dispositional portion may be continued for evaluation of placement of residence, or psychological evaluation of party.

(Effective January 1, 1996)

#### **11.00.19 VISITATION**

It shall not be necessary to file a Petition under 388 of the Welfare & Institutions Code to modify a visitation order set at the dispositional hearing; however, if visitation is an issue for a parent, or any other party, counsel for the parent shall file a letter with the Court and serve the other parties with a copy, which said letter shall state that visitation is an issue and shall include the parent or other party's proposed visitation request and schedule, and the grounds therefore, including the circumstances, changed or otherwise, justifying the request. This letter shall be filed not later than 5 days prior to the hearing.

(Effective January 1, 1996)

#### **11.00.20 CONTESTED REVIEW HEARINGS**

##### **A. Review Reports**

- (1) CPS review reports shall be delivered to counsel and the Court ten days prior to the hearing, if mailed. All reports shall address visitation issues, including place of visitation, frequency, time, and any supervision requirement.
- (2) Attorneys shall demand discovery for any issues set forth in the report, subject of which is asserted to be necessary, and discovery shall be provided all parties by 4:00 p.m. on the day before the review hearing.

##### **B. Readiness and Settlement**

- (1) Counsel must meet and confer with their respective clients and other counsel regarding resolution of contested issues not later than thirty minutes prior to the court hearing (30 minutes shall mean 30 minutes for each readiness and settlement hearing the attorney shall have, if there are more than one on any given date).

- (2) A report of the meeting between attorneys and clients, without violating attorney-client privilege, shall be made at the Readiness and Settlement Hearing.

C. Hearing

- (1) At any time a report recommends a termination of visitation, termination of services, or setting of a W & I §366.26 hearing, the report shall be filed 10 court days before the hearing set on the report.
- (2) Not later than the date set for the review hearing, and in the event counsel wish to contest any of the recommendations in the report, the attorney contesting the report shall advise the Court of the contest.
- (3) At the hearing, the court shall set a readiness and settlement hearing, and a contested hearing date.
- (4) Counsel shall file a readiness and settlement statement, as provided in Rule 3, not later than 10 court days before the Readiness and Settlement Hearing.
- (5) Not later than 5 days before the hearing, CPS shall file a responsive statement, which shall include the witnesses that will be called to testify.

D. Emergency Orders

Nothing herein shall limit the court's power for good cause to make any emergency orders regarding visitation.  
(Effective January 1, 1996)

**11.00.21 CONTESTED W & I §366.26 HEARINGS**

A. Contested 366.26 hearings shall be set with not less than 90 days advance notice and all discovery shall be provided not later than 21 days before notice.

- (1) There shall be a statement of proposed plan attached to the Notice of Hearing on the 366.26 petition.
- (2) Discovery shall include service of the above-noted documents, not later than 30 days prior to the hearing date of the 366.26 petition.

B. A readiness and settlement conference shall be heard not less than two weeks prior to the 366.26 hearing. Counsel shall meet before the readiness and settlement hearing to narrow issues and shall provide a time estimate to the court for the hearing. Issues shall generally include, but not be limited to, the following:

- (1) Assertions that there are changed circumstances;
- (2) The best interests of the child require a different plan;
- (3) Adoption, and/or guardianship of the minors, unless resolved, and/or terminated, prior to the setting of the hearing.
- (4) All agreements reached shall be reported on the Court's stipulation form, contained in the appendix to these rules.

C. Petition for Writ of Mandate

The record, prior to 366.26 hearing, for any petition for writ of mandate, may be limited by counsel filing a stipulation. The form shall be provided at the time of setting the 366.26 hearing and shall provide that the Court shall retain the original Clerk's Transcript, send a copy to the Appellate Court, or in the alternative, sending the original court file to the Appellate Court, with a full copy retained and indexed. The Court Clerk shall, upon forwarding the Clerk's Transcript to the Appellate Court with index, send by mail or via attorney box to each attorney a copy of the index. The Clerk shall provide at no cost to any attorney a copy of any document included in the Clerk's Transcript.

(Effective January 1, 1996)

**11.00.22 CONFIDENTIALITY IN DEPENDENCY MATTERS**

The District Attorney shall not release, by way of discovery or in any other manner, files as obtained from Probation or Child Protective Services in any criminal proceeding or other type of proceeding which involves a minor (excepting a 602 proceeding where the information directly pertains to the offense charged and no other offenses) without permission of the Court. The permission may be obtained ex parte. At the time permission is granted, an order shall issue from the Juvenile Court restricting dissemination of the information to the attorney involved as the requesting attorney entitled to discovery, and shall prohibit that attorney from making any copies or distributing any copies to his client or any other person or persons. This shall not prohibit the attorney from reviewing the contents with his client or witnesses, insofar as it shall be necessary to properly prepare a defense. The purpose of this rule is to eliminate the possibility that copies will be made and disseminated to persons not entitled to possession thereof. The Court Order form shall be used:

- (1) In dependency proceedings, any party thereto, including but not limited to each parent, a child, guardians or other care givers, shall be entitled to receive a report that deals solely with the recipient and does not discuss factual situations involving any other person, including the minor if the minor is not the person requesting the same.
- (2) The normal report, such as the Six Month Reunification Review, 18 Month Reunification Review, and all subsequent review hearings, 366.26

Reports and other such reports, may be duplicated by the attorney and provided to the client, provided that the names of all persons other than the client shall be deleted by the attorney and said persons shall be designated by initials for both names or first and last initial. The purpose of this is to protect confidentiality. Any report given to a client or expert shall have stamped or typed in bold on it the following; "YOU ARE ADVISED ANY REPORT YOU RECEIVE IN THIS CASE OF WHATEVER NATURE IS CONFIDENTIAL AND ITS DISCLOSURE TO ANYONE MAY BE A CRIME."

- (3) The client shall be entitled to receive detention/jurisdictional/disposition reports, provided that the copies given to clients shall be redacted in the same manner as in Paragraph (2) above.
- (4) In the case where any report is given to a client by any attorney, the client shall sign a Confidentiality Statement in the form approved by the Court and adopted by these rules which shall require that the person receiving the report will not release it to any other person or persons or duplicate it. The purpose of this is to preserve the confidentiality of the proceedings as such will have a direct or indirect effect on the minor.
- (5) Psychological or psychiatric evaluations or similar type evaluations must be retained by the attorney and can only be duplicated and released in the event of a contested hearing.

Psychological evaluations are never to be released to anyone and can be read in the attorney's office. Notes may be taken if the client wishes. In the event the client insists on obtaining a copy, then a noticed motion and hearing in Court shall be required prior to release of the same, so as to allow all parties present to make any objection to release of a copy of the report to the person who is requesting the same. If a copy is delivered, it will be subject to Court Order that it not be released to any party other than the party to who directed unless specified in the Court Order by name or profession.

- (6) In the event the Court receives any ex parte communication from anyone involved in the case where the party is represented, the Court Clerk shall return the documents, unread, to the person sending the same to the Court and advise them to contact their counsel of record; in the event of a non-represented party, the Court Clerk shall duplicate the same, send them to all counsel, and the Court may read the documents only after consent of all counsel.
- (7) In the case of any restriction as to duplication and confidentiality provided by these rules, the following shall be inserted: NOTICE TO PERSONS RECEIVING THIS REPORT. YOU SHALL NOT RELEASE THIS DOCUMENT TO ANY PERSON OTHER THAN YOUR ATTORNEY

PURSUANT TO A COURT ORDER ENTERED IN YOUR CASE. IF YOU PERMIT ANY UNAUTHORIZED PERSON TO READ THIS REPORT, YOU MAY BE IN VIOLATION OF CALIFORNIA PENAL CODE §166(D) WHICH CAN SUBJECT YOU TO BEING HELD IN CONTEMPT OF COURT. SHOULD A FINDING OF CONTEMPT BE MADE, YOU ARE SUBJECT TO THE IMPOSITION OF A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT IN THE EL DORADO COUNTY JAIL FOR A TERM NOT TO EXCEED ONE (1) YEAR.

- (8) Upon termination of the case, any and all documents distributed to a client must be destroyed by said client or returned to attorney.
- (9) Any and all documents which fall within the privileged status and have restricted delivery shall be stamped prior to filing by Child Protective Services with a statement they are confidential.
- (10) Transcripts of any hearing under section 602 or 300 and any subsequent hearing or any hearing involving the minors in the above situation shall be prepared only as required by law. In the event the party or interested person requests a copy, they shall file a noticed motion with the Court and a hearing shall be held to determine whether or not such shall be released. No transcripts other than as required by law, being appeal writs, etc., may be prepared without a specific order of Court after hearing.
- (11) There shall be no confidentiality as regards attorneys with regard to court appointed experts, and any professional so appointed shall be advised of the requirement that there shall not be confidentiality.

(Effective January 1, 1996)