
California's Fostering Connections to Success Act

The Legal Process

The Legal Process Covers:

- Overview of the Basics (Eligibility, Mutual Agreement)
 - Preparing for EFC: Last Court Hearing as a Minor
 - EFC Requirements and Roles
 - Meeting/Report Requirements
 - Hearing Requirements
 - Participant Roles
 - Termination of Jurisdiction
 - Re-entry
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The Basics of Extended Foster Care in the Juvenile Court

Eligibility

- Extended foster care applies to Non-Minor Dependents (NMDs).
- On or after January 1, 2012, a NMD is defined as a dependent or ward who is *all* of the following:
 - Attained age 18 but is/was younger than 19 as of Jan 1, 2012; or younger than 20 as of Jan 1, 2013, and
 - At 18 is/was *under* a foster care placement order or in foster care as a dependent or ward or WIC 450 status (defined later in the presentation), and
 - Is participating in one of the five eligibility conditions.

**Youth must also agree to placement in a supervised placement in an eligible facility.*

Youth Over 18 Who Do Not Meet The Definition of a NMD

- There are youth over 18 who wish to remain in care, but are unable to do so because they do not meet the definition of a NMD (i.e. do not meet the age eligibility requirements).
 - **Jurisdiction can continue for these youth until the youth reaches 21 years of age** *even* the young adult does not meet eligibility requirements for status of a NMD because court's continue to have discretion to maintain jurisdiction. *WIC 303, WIC 607(a)*
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Participation Requirements

- Youth must satisfy 1 of the following 5 requirements as documented in the youth's TILP:
 - ❑ Be enrolled in high school or equivalent
 - ❑ Be enrolled in college/vocational school
 - ❑ Work at least 80 hours/month
 - ❑ Participate in a program/activity that helps you find a job or removes barriers to employment
 - ❑ Be unable to do one of the above because of a medical or mental health condition

WIC 11400 [Amended] & WIC 11403 [New]

Mutual Agreement

- In addition to meeting the definition of a NMD, to receive extended foster care, youth must sign a mutual agreement within six months of turning 18.
 - This is an agreement between the NMD and the agency specifying the youth's willingness to:
 - Remain under the juvenile court's jurisdiction as a NMD,
 - Remain in a "supervised placement,"
 - Report changes relevant to eligibility and placement, and
 - Work with the Agency on the implementation of the TILP participation activities.
 - This is NOT a condition of payment.
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Important to Remember...

- Participation in extended foster care is *voluntary*. Youth may opt-out.
 - If they do not opt out, NMD still has the same rights as any other adult
 - Child Welfare/Probation does not “have custody” of the NMD. *WIC 303(d)*
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Planning For Extended Foster Care in the Juvenile Court

Minor Dependents: Last Status Review Hearing Before a Youth Turns 18

- At the last review hearing prior to a 18th birthday, court report must include:
 - A **transitional independent living case plan** that addresses: *WIC 11400(y)*:
 - A plan for the youth to satisfy the extended care participation criteria, and *WIC 11403 (b)*
 - Anticipated Placement *WIC 11402*
 - The TIL Case Plan should also include the **Transitional Independent Living Plan (TILP)** as an attachment.

Or

- **90 Day Transition Plan**
 - Alternate plan for transition to independence if the youth is expressing that s/he does not plan to remain under court jurisdiction after turning 18.
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RULES OF COURT

Minor Dependents: Last Status Review Hearing Before a Youth Turns 18

- Rule 5.707 (Chart)
 - Planning for transition to independence:
 - Benefits of remaining in foster care
 - Right to have jurisdiction terminated & exit foster care
 - Right to have jurisdiction resumed & return to foster care
 - Form JV-460
 - Findings and Orders-Child Approaching Majority
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RULES OF COURT

Wards: Last Status Review Hearing Before a Youth Turns 18

- Rule 5.812 (Chart)
 - Availability of: Dependency or Transition Jurisdiction
 - Planning for transition to independence:
 - Benefits of remaining in foster care
 - Termination of jurisdiction & exiting foster care
 - Right to have jurisdiction resumed & return to foster care
 - Form JV-680
 - Findings and Orders-Child Approaching Majority
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RULES OF COURT

- Rule 5.812(a) **Hearing re: Termination of Jurisdiction**
 - Any status review hearing for ward less than 18 years old
 - Any hearing for ward less than 18 years old subject to order for foster care placement
 - Any hearing for ward less than 18 years old not currently subject to order for foster care placement but at time adjudged ward there was an order for foster care placement as a dependent
 - Must consider modifying to dependency or transition jurisdiction
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RULES OF COURT

- Dual Status
 - Dependency Jurisdiction: Rehabilitative goals achieved & return to parent be detrimental
 - Not Dual Status
 - Rehabilitative goals achieved and other criteria met: Transition Jurisdiction
 - Not dependent when adjudged ward with:
 - Current order for foster care placement
 - Not come within transition jurisdiction
 - Appears to come within dependency jurisdiction and return to parent may be detrimental
 - Follow §329 procedure per rule 5.812(e)(4)
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RULES OF COURT

- Ward not within transition jurisdiction who under foster care order when adjudged ward
 - Dependency Jurisdiction: Rehabilitative goals achieved, remain within description §300 & return to parent be detrimental
 - Delinquency jurisdiction not modified to transition or dependency
 - Currently subject to foster care order and more than 17 years, five months and less than 18 years
 - Currently subject to foster care order and 17 years, five months or less
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Additional Planning for Wards

Three Ways for Wards to Become Eligible for Extended Benefits

- Youth under the jurisdiction of the Delinquency Court pursuant to WIC 602 (who are still on probation) with an order for foster care placement at age 18.

OR

- Youth *no longer* requiring jurisdiction according to WIC 602 because their rehabilitative goals as set forth in the case plan have been met. They are eligible to have their status modified to **transition jurisdiction** by the Delinquency Court.

OR

- Eligible youth under 17.5 years old may resume or assume 300 dependency status if they are at risk.

WIC 450, 607.2, 607.3

#1: Youth Under Delinquency

Jurisdiction

- To continue AFDC-FC eligibility, at the last review hearing before an eligible ward's 18th birthday:
 - The court must ensure that the TILP provides for the ward meeting one of the 5 participation conditions for EFC.
 - The Ward must indicate an intent to sign mutual agreement agreeing to participate and agreeing to remain in a supervised placement.

WIC 727.2(i)&(j)

***NOTE: Once the ward meets his/her rehabilitative goals, the court may assume transition jurisdiction over eligible youth.**

2: Youth Under Transition

Jurisdiction

- New jurisdiction (WIC 450) for youth no longer on probation.
 - Designed to encourage youth to take advantage of extended benefits without forcing them to remain under “delinquency” supervision.
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Eligibility for Transition Jurisdiction

- Delinquent youth whose rehabilitative goals have been met,

AND

- Are between ages 18 -21 **AND** had a foster care placement order on the day they attain 18 years old

OR

- Are between 17.5 to 18 **AND**
 - (1) are not receiving reunification services, (2) do not have a permanent plan of adoption or guardianship & (3) return home is a substantial risk.

AND

- Are former dependents who had a foster care placement order in the dependency court at the time the delinquency court assumed jurisdiction

OR

- Have a current order for foster care placement in the delinquency court

WIC 450

When to Consider Transition Jurisdiction

- At the status review hearing held closest to the ward attaining 18 years of age, which must occur at least 90 days before the ward's 18th birthday:
 - The Court **MUST** consider whether to assume transition jurisdiction over the ward pursuant to WIC §450.
 - The Probation Department must address this issue in its report to the court and make a recommendation as to whether transition jurisdiction is appropriate for the ward.

WIC §727.2 (i)

Assuming Transition Jurisdiction

- For eligible youth age 17.5 months or older, the court can modify youth's status to transition jurisdiction *when it is prepared to terminate delinquency jurisdiction*. WIC 450, 451 607.2 & 727.2(i)
 - At the status review hearing held closest to the ward attaining 18 years of age (at least 90 days before 18th birthday), the Court must consider whether to assume transition jurisdiction. Probation must make a recommendation as to whether transition jurisdiction is appropriate. WIC §727.2 (i)
 - The court can *also* assume transition jurisdiction at re-entry for eligible former wards who exited foster care and wish to re-enter. WIC 450 & 607.2, 388 (e)
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Supervision of Youth in Transition Jurisdiction

- AB 212 requires that counties will decide whether **Probation or Child Welfare** will be charged with supervising youth eligible for AB 12/212 under transition jurisdiction based on the needs of the youth. WIC 451(c)
- It will be the responsibility of the counties to modify its protocol for Section 241.1 to include a provision for determining which agency shall supervise.
- The protocol must also address specifically what to do when a 300, 602 or 450 NMD also under adult probation.

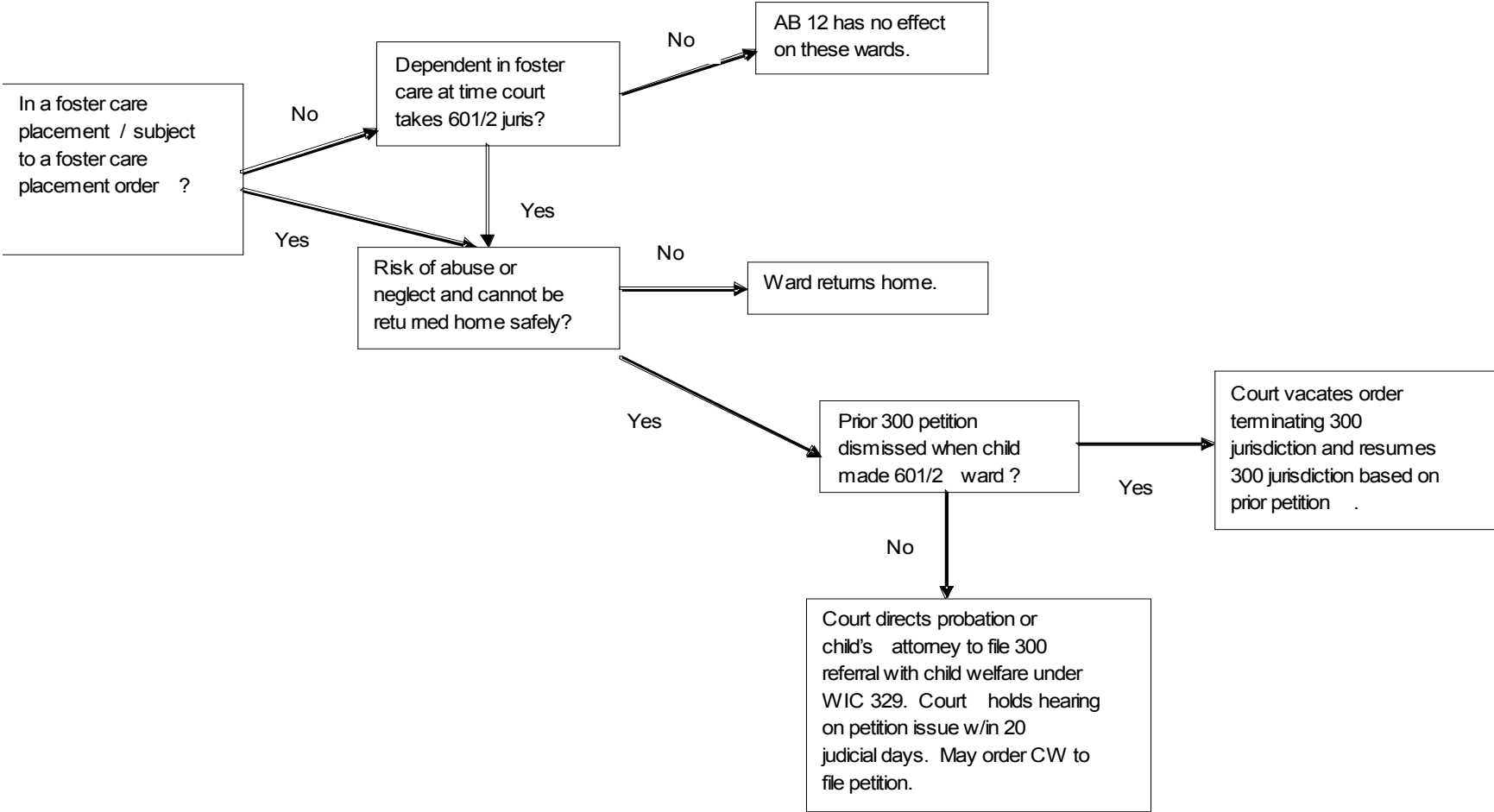
WIC 241.1 (b) (3), 300.3, 450

#3: What about youth not eligible for Transition Jurisdiction?

- If youth does not qualify for transition jurisdiction at the time court is terminating delinquency jurisdiction (i.e. under 17.5 years old), but the youth cannot return home because it is **not safe**, the delinquency judge decides if jurisdiction should be modified to dependency jurisdiction.
WIC 607.2(b) & 727.2 (i)
 - Procedural mechanism for modification would depend on whether child was a prior dependent.
 - If yes, court would re-open that petition (241.1 process).
 - If no, court can order (defense counsel or probation) to apply for 300 petition pursuant to WIC 329 process. *WIC 607.2(b) & 727.2 (i) (2)*
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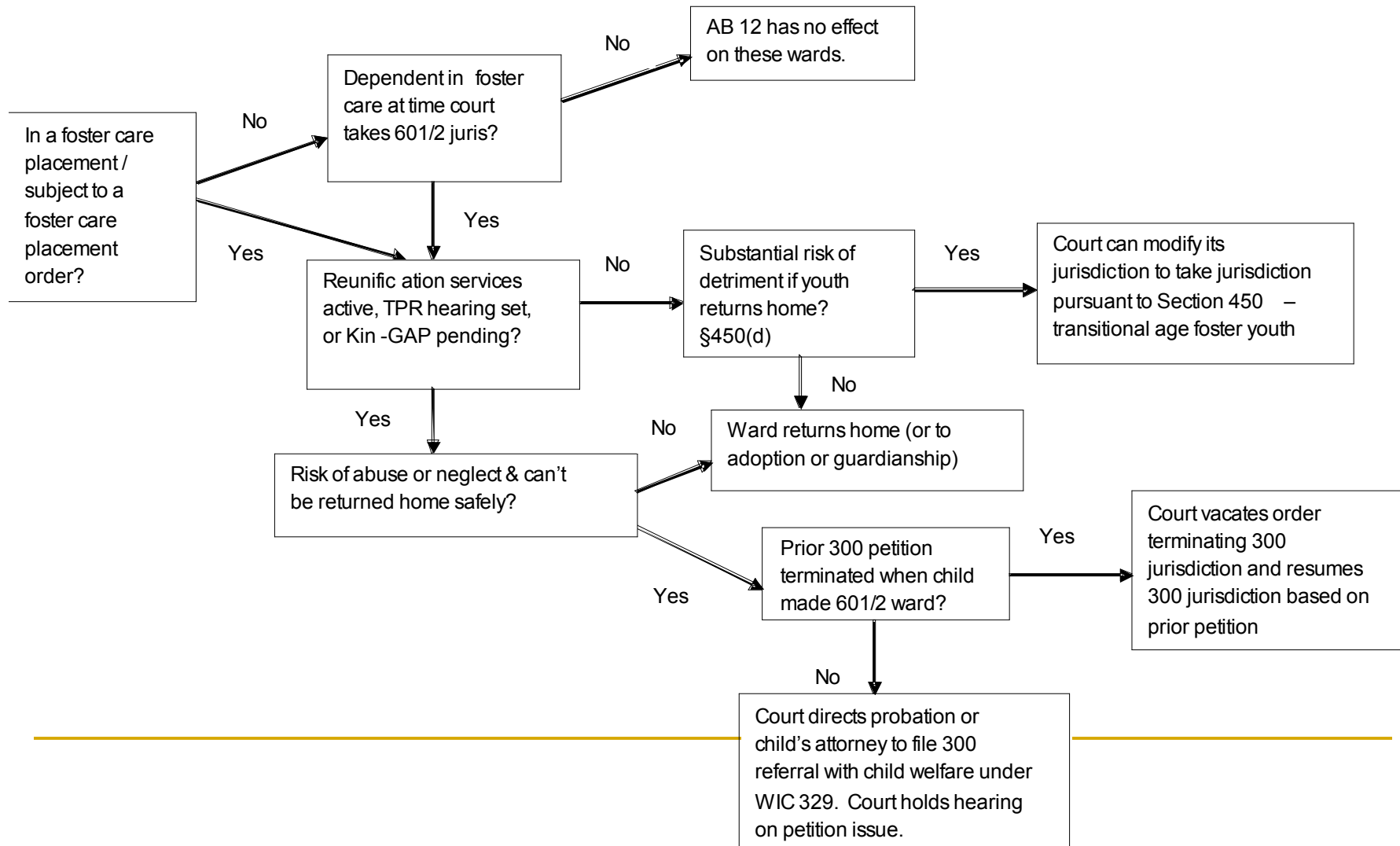
AB 212 – Impact on Wards Under Age 17.5 Who Have Met Rehabilitative Goals

All Statutory References Are to the Welfare and Institutions Code



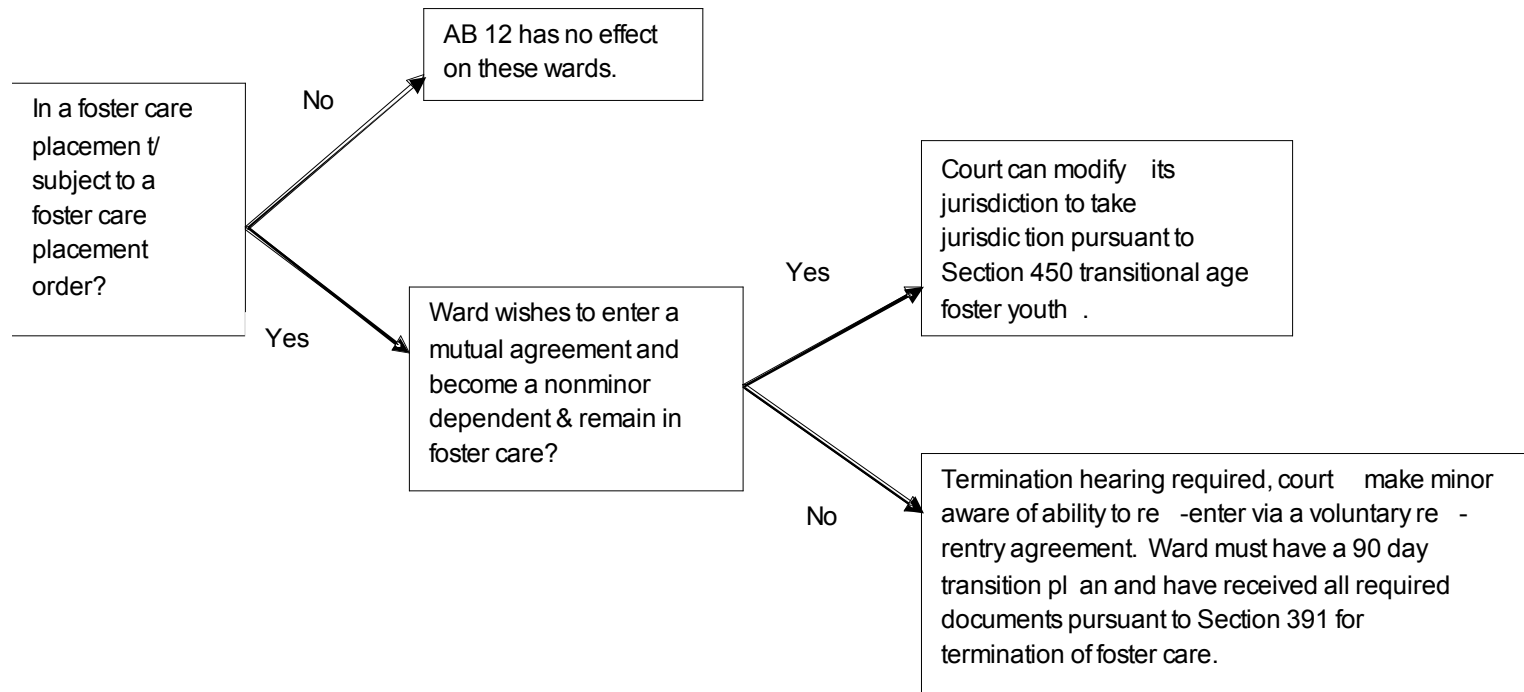
Proposed Amendments to AB 12 – Impact on Wards Age 17.5 to 18 Who Have Met Rehabilitative Goals

All Statutory References Are to the Welfare and Institutions Code



AB 212 – Impact on Wards 18 to 21 Who Have Met Rehabilitative Goals

All Statutory References Are to the Welfare and Institutions Code



What Will Extended Foster Care Look Like?

Meetings with Social Worker/Probation

Officers

- Youth will continue to have monthly, face-to-face meetings.
- There will be collaborative case planning focusing on the **TILP**, which should include:
 - Services that ensure meaningful participation to maintain eligibility, including a back-up plan.
 - Accounting for NMD's supervised placement setting.
 - Developing a permanent plan for transitioning to living independently.
 - Maintaining or obtaining permanent connections with caring, committed adults.
- The Transitional Independent Living Case Plan and the TILP will be updated every 6 months.

RULES OF COURT

NMD Overview

- Rule 5.900-Preliminary Provisions
 - Purpose of extension of jurisdiction
 - Status as adults
 - General conduct of hearings
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RULES OF COURT

Status Review Hearing

- Rule 5.903-Status Review Hearing (Chart)
 - Purpose
 - Setting
 - Notice
 - Conduct
 - Report contents
 - Findings and orders

 - Form JV-462
 - Findings and Orders After NMD Status Review Hearing
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Review Hearings

- IV-E case plan review requirements are still in place – including the subsequent 12th month Permanency Planning Hearing.
 - Youth continue to have 366.3 hearings every 6 months.
 - Every other review may be an administrative review. *WIC 16503*
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Conduct of Hearings

- Conducted in a manner that respects the person's legal status as an adult.
 - Should facilitate candid conversations between NMD and other parties.
 - Resolve disputes when necessary, including disputes regarding:
 - Placement
 - Participation
 - Other issues that may arise
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Content of Hearing

- At each review hearing, the Court is to:
 - Ensure that the youth is meeting one or more of the participation conditions as described in the TILP.
 - SW/PO is to ensure ample supports for the youth to remain eligible
 - Inform the youth of his/her right to have the Court's jurisdiction terminated,
 - Ensure that the social worker/probation officer is assisting the youth in meeting the participation conditions;
 - Focus on the goals and services of the TILP and efforts to achieve permanence.
 - Review the efforts to assist the youth in obtaining permanent connections with care and committed adults.
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Case Plan Goal

- As a NMD, the young adult is in a Planned Permanent Living Arrangement (PPLA) with the goal of a successfully transitioning to independence with caring, committed lifelong connections.
 - Because NMD is legal adult:
 - ❑ No Reunification
 - ❑ No termination of parental rights
 - ❑ No guardianship of minor.
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More Effects of Legal Adult Status

- Hearings can only be attended by parties or participants “invited” by the youth.
 - Parents no longer provided notice. *WIC 295*
 - No Protective Custody Warrants. *WIC 303(d)*
 - Court cannot order psychotropic medication. *WIC 303(d)*
 - No Caregiver consent for medical/education decisions.
WIC 303(d)
 - NMD has **privacy rights** about medical information.
 - No discussion of educational limits on parents.
- *However, personal rights of foster children do still apply.** *WIC 16001.9*
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Roles/Responsibilities

NMD's Responsibilities

- Work with the Agency to ensure eligibility
 - Report changes of eligibility
 - Demonstrate incremental responsibility
 - Participate in hearings in person or telephonically
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NMD Attorney's Role

- NMDs continue to have legal counsel
 - Traditional role maintained except:
 - Minor's Counsel will now work on behalf of the NMD's stated interest, no longer "hybrid model" as defined in WIC 317.
 - NMD can designate attorney to appear on behalf of NMD. Rule 5.900(d)(3)
 - Upon re-entry, youth can request former attorney to represent him/her for re-entry.
Rule 5.90(b)(2)(F)
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Social Worker/PO Responsibilities

- Continued monthly contact with NMD
 - Supervise Placement
 - Certify initial and ongoing eligibility
 - Every Six Months
 - Based Upon TILP
 - Court reports
 - Case planning
 - Foster increasing levels of responsibility
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Caregiver's Role

- Discuss Extended Foster Care options with youth at least one year prior to age 18
 - Sign and actively support youth in TILP activities
 - Work with young adult to develop “House rules”/Shared Living Agreements
 - Respect privacy and autonomy of NMD (i.e. HIPPA, etc.)
 - “Assist” rather than “Do”
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Terminating Jurisdiction Over Non-Minors

Hearing to Terminate Jurisdiction

- There are a number of reasons the court may terminate jurisdiction over a Non-Minor, including:
 - Youth opting-out
 - Youth exiting because of age
 - Ineligibility
 - A hearing must be held *prior* to terminating jurisdiction pursuant to:
 - **WIC 391** (for dependents)
 - **WIC 607.2** (for wards)
 - **WIC 452** (for youth under transition jurisdiction)
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Ineligibility

- Examples of reasons why a youth may be deemed ineligible:
 - Failure to meet one of five participation requirements
 - Not residing in a licensed or approved placement
 - Youth is AWOL
 - It is the Court's role to determine if NMD is not participating in a reasonable TILP.
 - The *burden of proof* of nonparticipation/noncompliance is on the Social Worker/PO.
 - Social Worker/PO must document *reasonable efforts* to provide NMD with assistance to meet/maintain participation in TILP activities.
 - Copies of NOA's go to NMD & his/her counsel, SW/PO, and the payee. *WIC 11403 (c)*
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WIC 391/607.2/452 Hearing

- SW/PO to ensure NMD is present unless NMD chooses to participate in the hearing telephonically.
 - Court **shall** continue jurisdiction, unless
 - NMD does not wish to remain in care, or
 - NMD is not participating in reasonable and appropriate TILP, or
 - NMD cannot be located and SW/PO documents reasonable efforts to locate NMD.
 - Prior to the Court terminating jurisdiction, it must inform the youth of:
 - His/her right to remain in care
 - The benefits of remaining in care
 - His/her right to reenter care if under the age limits
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Necessary Documentation at 391/607.2/452 Hearing

- **Transitional Independent Living Case Plan** *WIC 11400 (y)*
 - Most recent **Transitional Independent Living Plan (TILP)**
 - **Completed 90-day Exit Transition Plan.** *WIC 16501.1(f)(16)*
Developed with the youth. Should be as personalized and detailed as the youth directs. Must discuss:
 - Options for housing, health insurance, education, local opportunities for mentors and continuing support services & workforce and employment services.
 - Information regarding the advance health care directive form
 - Information regarding any current applications for SSI and Special Juvenile Immigration Status.
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RULES OF COURT

Termination of Jurisdiction: NMD

- Rule 5.555-Termination of Juvenile Court Jurisdiction Over a Nonminor (Chart)
 - Applicability-Dependent, Ward, & Nonminor Dependent
 - Setting
 - Report Contents
 - Findings and Orders
 - Form JV-365
 - Termination of Juvenile Court Jurisdiction-Nonminor
 - Form JV-367
 - Findings and Orders After Hearing to Consider Termination
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RULES OF COURT

Termination of Jurisdiction: Transition

- Rule 5.812 (Chart)**Jurisdiction**
 - More than 17 years, 5 months and less than 18 years
Availability of: Dependency or Transition Jurisdiction
 - 17 years, 5 months or less
Availability of: Dependency Jurisdiction
 - Form JV-681
 - Findings and Orders: Hearing for Dismissal
 - NOTE: Transition jurisdiction is also available to nonminor ward who was under an order for foster care placement on his or her 18th birthday.
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Available Benefits for Youth Who Exit Care

- Extended Medi-CAL up to age 21
- Aftercare ILP services up to age 21
- Non-federally funded THP-Plus to age 24 (space is limited)
- CalFresh (Food Stamps)

In addition, youth also remain eligible for re-entry if they meet the age requirements of NMDs.

General Jurisdiction

- If the Court terminates jurisdiction, it will maintain **general jurisdiction** until the youth no longer meets the age eligibility requirements of a NMD.
- This allows for re-entry into foster care without a new finding of abuse or neglect.
- There is no court or agency supervision of the youth (for all practical purposes the case is closed, but can be re-opened).

WIC 303(b) & WIC 366.31(c)

RE-ENTRY

The Basics of Re-entry

- Youth who have their case closed can re-enter unlimited times prior to no longer meeting the age eligibility requirements of NMDs.
- Youth must be informed of right to reentry at termination hearing.
- Re-entry process is intended to be as accessible and easy as possible.
- This is a major change to the current law.

*****The goal of re-entry is to permit youth to experience independence, while allowing a safety net.***

Two Ways to Re-Enter

- Re-entry is requested by:
 - Signing a **Voluntary Re-Entry Agreement** documenting:
 - Willingness to re-enter foster care
 - Be placed in a supervised placement setting
 - Participate in eligibility requirements
 - Have a transitional independent living case plan
 - Participate in the filing of the 388 (must be done by social worker/probation officer within 15 judicial days or sooner by the youth/youth representative),

OR

- Filing a **388 (e) petition** in the county of residence or the county of jurisdiction

WIC 11400 (z), 388 (e), 11403 (e)

Timelines

- Funding and services (i.e. placement) begin:
 - The day the youth signs the Voluntary Re-Entry Agreement if one is signed *WIC 11403 (e)*, OR
 - If a VRA is not signed, the day the court orders the youth back into care.

 - The court has **15 court days** from the filing of the 388 to set a hearing if the 388 (e) makes a prima facie showing that the youth intends to satisfy one of the participating conditions.
 - NMD may appear telephonically
 - If jurisdiction is resumed, the supervising agency has **60 days** to develop a new Transitional Independent Living Case Plan to submit to court. *WIC 388(e)*
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RULES OF COURT

Re-entry

- Rule 5.906-Request to Return to Juvenile Court Jurisdiction and Foster Care (Chart)
 - Purpose
 - Contents of Request and Filing
 - Prima facie Showing
 - Appointment of Attorney
 - Setting and Notice
 - Report Contents
 - Findings and Orders
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FORMS

Re-entry

- Form JV-464-INFO
 - How to Ask to Return to Juvenile Court Jurisdiction and Foster Care
 - Form JV-466
 - Request to Return to Juvenile Court Jurisdiction and Foster Care
 - Form JV-468
 - Confidential Information-Request to Return to Juvenile Court Jurisdiction and Foster Care
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County of Jurisdiction vs. Residence

- NMD can sign VRA or file 388(e) in the county of general jurisdiction OR the county of physical residence.
 - If filed in county of physical residence, court has **5 court days** of filing to transfer case to county of general jurisdiction.
 - Case and payment remains with the county of general jurisdiction over NMD. However, existing intercounty transfer (ICT) may be used.
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Other Important Facts About Re-

entry

- Youth must meet the age limits of 388(e).
 - A background check on the petitioning youth *may* be completed to assess appropriateness and safety of placing the youth in foster care with minor dependents. *WIC 16504.5(a)(1)(D)*
 - **However, convictions are NOT a bar to re-entry.**
 - If a former ward files for re-entry, the court may access a sealed file for limited purpose of verifying prior 602 status. *WIC 781(e)*
 - IV-E eligibility for youth re-entering is based on “child-only case,” not parental income.
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