

## 5. JUVENILE RULES

### 5.1 JUVENILE COURT RULES - GENERALLY

#### A. Judicial Administration

The Juvenile Court hears both Juvenile Dependency and Juvenile Justice actions. All cases in Juvenile Court shall be subject to assignment to a judicial officer for all purposes at the time of filing of the action who shall thereafter handle all proceedings involving the matter, including trial, except as otherwise provided or required by law.

#### B. Filing Requirements

1. No noticed motion shall be accepted by the Court Clerk unless it is accompanied by a proof of service.

2. Pre-hearing motions must be filed in accordance with CRC 5.544.

3. Represented parties in juvenile cases who are entitled to service are not required to receive documents electronically, but may agree to receive electronic service by filing with the Clerk of the Court and serving all parties, a Consent to Electronic Service and Notice of Electronic Service Address, local form (JUV022).

4. Any proposed order submitted to the Court for signature must contain a footer with the title of the order on every page. The signature and date lines must not be on a page by themselves; the signature page must contain some text of the order.

#### C. Discovery

1. Pre-hearing discovery shall be conducted informally in accordance with CRC 5.546.

2. Only after informal means have been exhausted may a party petition the Court for discovery. Any noticed motion shall state the relevancy and materiality of the information sought and the reasons why informal discovery was not adequate to secure that information. The motion shall be served on all parties at least five (5) judicial days before the hearing date. The date for the hearing shall be obtained from the Court Clerk, Juvenile Division. A copy shall be served on the Court before whom the matter is scheduled to be heard at least five (5) judicial days before the hearing date.

3. There shall be no depositions, requests for production of documents, interrogatories, requests for admissions or other similar types of civil discovery without approval of the Judge of the Juvenile Court upon noticed motion. See *Joe Z. v. Superior Court* 3 Cal.3d 807.

#### D. Ex Parte Orders

1. Before submitting ex parte orders to a judge for approval, the applicant must give notice of, and a copy of the application for ex parte orders, to all counsel, social workers, probation officers, parents and/or legal guardians who are not represented by counsel by 10:00 a.m. one (1) court day prior to presentation to the Court. If a hearing

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is requested, then notice shall include the date, time, and department of the ex parte hearing.

2. The party requesting ex parte orders must inform the judge that notice has been given either on the application form (JV-180) or by declaration.

3. An opposing party may present any written opposition to the request for ex parte orders upon receipt of notice or may have their opposition noticed on the application form. The Court may render its decision on the ex parte application or set the matter for hearing. The applicant is responsible for serving all noticed parties with copies of the Court's decision or notice that the Court has calendared the matter, and the applicant shall notify all persons entitled to notice of any hearing date and time set by the Court.

4. Notice may be excused for good cause or if the giving of such notice would frustrate the purpose of the order.

5. Notice may also be excused, if following a good faith attempt, the giving of notice is not possible.

### **E. Attendance at Hearings (CRC 5.530)**

1. In Juvenile Dependency matters, any minor over ten (10) years of age must be notified of their right to be present at hearings but are not required to be present. If the child is present, the judicial officer may speak with the child.

2. In Juvenile Justice matters, minors shall attend all hearings unless specifically excused by the Court or Probation on a showing of good cause. If a minor is in foster care out of county or out of state, the physical presence of the minor can be excused and the minor may appear remotely, with leave of the Court.

3. The Juvenile Court may require the personal appearance of a non-minor dependent for good cause.

**F. Continuances** shall be requested and granted in accordance with W&I Code § 352. The Court recognizes that practical realities sometimes require continuances and may be granted where good cause exists, and the continuance is not contrary to the child's welfare.

**G. Adding Matters to Calendar.** Any party wishing to add a matter to calendar shall file a calendar request at least two (2) court days before the calendar in question (absent exigent circumstances) setting forth the reason the matter is sought to be calendared and showing that the attorneys for all other parties, all self-represented parties, and CASA have been contacted. Attorneys are responsible for notifying their clients of such calendaring.

**H. Safety Issues** shall be communicated to the Courtroom Clerk as soon as they become known to allow for additional security measures.

**I. Interpreters.** If and when a party or attorney becomes aware of the need for an interpreter, said need shall be promptly communicated to the Courtroom Clerk. Please specify the language (and dialect where applicable) along with the date, time, and place where the interpreter's services will be required. While Spanish language interpreters can be arranged on short notice, interpreters for other languages must be specially retained and are in high demand, requiring advance notice.

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**J. In Custody Parents.** Counsel for an in custody parent who has made known their desire to attend a dependency proceeding are responsible for notifying the Courtroom Clerk of the need to produce the parent in court, and if applicable for securing an appropriate transportation order. If the parent is in custody in the Marin County Jail, counsel shall notify the Courtroom Clerk at the earliest possible time, but no later than twenty-four (24) hours prior to the scheduled court appearance, to arrange for the parent's presence in court. This local rule does not confer any rights to be present in excess of those described by Penal Code § 2625.

**K. Settlement Conferences.** The Court encourages settlement conferences. Attorneys and parties shall be present at the settlement conference unless expressly excused by the Court. Counsel shall notify the clerk of the presiding department at least five (5) days prior to the settlement conference if there is a need for an interpreter or if a parent is in custody in Marin County and wishes to participate.

**L. Access to Courtroom by Non Parties.** Access to Courtroom is limited as set forth in W&I Code §§ 345, 346, 347 and CRC 5.530. The Court encourages trainees, interns, and appropriate students to attend juvenile proceedings in order to better understand the working of the Juvenile Court. The Court retains the discretion to determine in each case whether any such interested party shall remain in the courtroom being respectful of objections raised by any minor or party.

### **M. Discovery of Juvenile Documents or Records.**

1. Except as indicated in W&I Code §§ 827 and 828 and CRC 5.552, in all cases in which a person or agency seeks access to Juvenile Court documents or records, including documents or records maintained by the Juvenile Court Clerk, the Probation Department or the Department of Family and Children Services, the person or agency shall file a Request for Disclosure of Juvenile Case File (JV-570) with the Juvenile Clerk in Room 113.

2. This Rule applies even if no action has been commenced in Juvenile Court under W&I Code §§ 300, 601 or 602. The person or agency seeking the documents or records shall give notice to all necessary parties (See W&I Code § 827 and Judicial Council Form JV-570).

3. The Petition shall set forth with specificity the materials and information sought and the relevance of the materials to the underlying action and any related action. The Petition shall be supported by a declaration of counsel and /or a Petitioner, and if necessary, a memorandum of points and authorities.

4. Exceptions are as follows:

a. Persons or Agencies specified in W&I Code § 827(a)(1) (A)-(R). Generally, the minor, court personnel and select governmental agency personnel, or intervening tribal representatives do not require prior court approval for inspection.

b. Persons or Agencies specified in W&I Code §827(a)(1)(A) (B) (C) (D) (E) (F) (H) (I) and (J) may copy documents or records without Court authorization.

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c. Persons or Agencies specified in W&I Code § 827(a)(1)(L) (M) (N) and (O) may inspect documents or records but may not copy said documents or records without submission and approval of a Request for Disclosure of Juvenile Case File (JV-570) pursuant to W&I Code § 827.

d. Any records obtained per above may not be disseminated or used absent an application to the Court and an order from the Court. Dissemination or use of documents or records shall be in compliance with the Court's order on the W & I Code § 827 Petition.

e. The director of Juvenile Hall or their designee shall be provided a copy of all medical/mental health evaluations of minors housed in Juvenile Hall. Such information shall be used exclusively by the medical/mental health personnel in Juvenile Hall and shall not be released to any third parties without Court approval.

5. The Court may appoint a Court Appointed Special Advocate for dependents or wards. Said *CASA* shall have the same legal right to records relating to the child or youth they are appointed to represent as any case manager, social worker, or probation officer with regard to records pertaining to the youth held by any agency, school, organization, division or department of the State, physician, surgeon, nurse or other health care provider, psychologist, psychiatrist, mental health provider or law enforcement agency. The advocate shall present their identification as a Court appointed advocate to any such record holder in support of their 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 or youth.

6. Access to Non-Minor Dependent files may only be accessed as set forth in Welfare and Institution (currently W&I Code §362.5).

*[Rule 4.1 adopted effective 1/1/20; amended and renumbered as Rule 5.1 effective 1/1/22]*

### **5.2 ATTORNEYS IN JUVENILE COURT**

**A. Minimum Training Dependency.** Each court appointed attorney appearing in a dependency matter before the Juvenile Dependency Court shall complete the following minimum training and educational requirements. The attorney shall have either:

1. Participated in at least eight (8) hours of training and education in juvenile dependency law and practice before seeking appointment and must complete twenty (20) hours of training within the first year of practice, which training shall have included comprehensive information on W&I Code § 202, 213.5, 214, 241.1, 281.5, 300 et seq.; Family Code §§ 7900 et seq. (Interstate Compact), and §§ 7600 et seq. (Uniform Parentage Act); Education Code §§ 5000 et seq. (Special Education Programs); 8 United States Code (USC) § 1101 (Special Immigrant Status for Undocumented Dependent Children), 25 USC §§ 1901 et seq. (Indian Child Welfare Act), 28 USC § 1738 (Parental Kidnapping Prevention Act), and 42 USC §§ 620 et seq. and 670 et seq. (Adoption and Safe Families Act); CSEC issues, mental health, the California Rules of Court, Local Rules of Court, the rules of evidence as set forth in the California Evidence Code, and the applicable case law as well as practical training on Judicial Council forms, motions,

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writs and mediation, family group conferencing, team decision making, child development, child abuse and neglect, family reunification and preservation, restraining order, rights of de facto parents, reasonable efforts,

Or

-At least six (6) months of experience within the last twelve (12) months in dependency proceedings in another county in which the attorney has had primary responsibility for representation for their clients in said proceedings. In determining whether the attorney has demonstrated competence, the Court shall consider whether the attorney's performance has substantially complied with the requirements of these rules. (W&I Code §§ 317, 317.6, CRC 5.660)

2. Each court appointed attorney who practices before the Juvenile Dependency Court shall complete within every one (1) year period at least twelve (12) hours of continuing education related to dependency proceedings. Evidence of completion of the required number of hours of training or education shall be retained by the attorney and may include a copy of a certificate of attendance issued by a California MCLE provider or 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. Attendance at a Court sponsored or approved program will also fulfill this requirement. The attorney's continuing training or education shall be in the areas set forth in above.

**B. Minimum Training Delinquency.** Each court appointed attorney who practices before the Juvenile Delinquency Court must meet the educational requirements of CRC 5.664. Note, the Court may require counsel to complete and submit a Declaration of Eligibility for Appointment (JV-700). Once appointed, counsel continues to represent the minor unless relieved by the Court or on the substitution of another counsel. CRC 5.663(c).

**C. Notwithstanding Compliance** with the standards set forth above, the Court may refuse to allow an attorney to practice before the Juvenile Court if, in the opinion of the presiding judicial officer, the attorney has demonstrated actual incompetence or lack of minimum competency in handling juvenile cases.

**D. Costs for Appointed Counsel in Dependency Proceedings.** Pursuant to W&I Code § 903.1, a parent/guardian or person responsible for support of a minor is liable for the costs of appointed counsel for a parent/guardian and minor in Dependency Court. At a financial hearing, the judge shall assess the repayment amount after a review of the Declaration for Financial Evaluation, Local Form (JUV011). An Order for Repayment of Costs and Legal Services, Local Form (JUV013) shall be prepared and served on the responsible party and appointed counsel at the conclusion of a financial hearing.

**E. Complaints.** Any party to a juvenile dependency proceeding may lodge a written complaint with the Court concerning the performance of their attorney. A complaint concerning the performance of an attorney appointed to represent a minor in a dependency matter may be lodged on the child's behalf by the social worker, Court Appointed Special Advocate (CASA), guardian ad litem, a caretaker relative, or a foster parent. The Court shall review the complaint and, if it appears that the attorney may have failed to act competently, shall provide a copy of the complaint to the attorney and allow a reasonable opportunity for the attorney to respond in writing. The Court shall consider the complaint and the response, if any, and issue such orders

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as it deems appropriate, on a case by case basis. Upon determination that an attorney has acted incompetently, the Court shall order that the attorney be discharged and that competent counsel be substituted. Notice of the substitution of counsel shall be served on counsel for all parties or record.

*[Rule 4.2 adopted effective 1/1/20; renumbered as Rule 5.2 effective 1/1/22]*

### **5.3 INFORMING THE COURT OF THE INTEREST OF THE CHILD; ACCESS TO MINOR; NOTICE OF CHANGE IN PLACEMENT**

**A. Interest of Child.** At any time during the pendency of a 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 that needs to be protected or pursued. This may be done by filing a petition to modify a previous order, under W&I Code § 388 (Judicial Council form JV-180). The petition or affidavit shall set forth the nature of the interest or right to be protected and the action on the child's behalf that is being requested. The person filing the W&I Code § 388 petition, shall serve a copy of the notice on each of the parties or their attorneys, the child advocate and others as prescribed by law. Notice may be dispensed with upon Order of the Court.

**B. Notification by Minor's Counsel.** If counsel for the child becomes aware that the child may have a right or interest that needs to be protected or pursued in another judicial or administrative forum, counsel for the child shall notify the Court in the manner indicated above as soon as it is reasonably possible to do so.

**C. Response by Court.** The Court upon receiving such notification may make any orders that are appropriate to protect the rights of the child, including, but not limited to:

1. Determining if the child's attorney is willing and able to pursue the matter on the child's behalf. If the court finds that the child's attorney is willing and qualified to initiate and pursue appropriate action, it may make any orders necessary to facilitate this representation;
2. Appoint counsel for the child specializing in the practice before the agency or Court in which the proceeding will occur;
3. Appoint a guardian ad litem for the child to initiate or pursue the proposed action;
4. Join an administrative agency to the Juvenile Court proceedings pursuant to W&I Code § 362;
5. Take any other action to protect the interest and rights of the child.

**D. Access to Minors Petitioned Pursuant to W&I Code § 300.** No party or attorney (other than the social worker) in a dependency proceeding shall interview the minor about the events relating to the allegations in the petition on file without permission of the minor's attorney or Court order. No party or attorney in a dependency proceeding shall cause the minor to undergo a physical, medical, or mental health examination or evaluation except as authorized by law.

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**E. Notice Regarding Change in Placement.** Any changes in placement shall be communicated to minor's counsel within three (3) business days.

*[Rule 4.3 adopted effective 1/1/20; renumbered as Rule 5.3 effective 1/1/22]*

### **5.4 REQUESTS TO MODIFY JUVENILE COURT CUSTODY ORDERS POST DISMISSAL**

Requests to modify juvenile custody orders within one (1) year of dismissal of the juvenile petition and the issuance of the custodial order shall be assigned to the issuing juvenile judge for hearing to ensure there is a significant change in circumstances to warrant modification of juvenile orders as set forth in W&I Code §302(d). The juvenile judge shall sit as a family judge for purposes of hearing the motions regarding modification of custody and/or visitation. Thereafter, any future litigation relating to the custody, visitation and control of the child shall be heard in Family Court.

*[Rule 4.4 adopted effective 1/1/20; renumbered as Rule 5.4 effective 1/1/22]*

### **5.5 JUVENILE DEPENDENCY, JUVENILE DELINQUENCY, FAMILY AND PROBATE COURTS EXCHANGE OF INFORMATION**

This rule addresses the exchange of information between Family Court Services (FCS), Juvenile Probation (JP), the Department of Family and Children's Services (DFCS), the Adult Probation Department (APD) and the Probate Court Investigator's staff (PCI). The Court finds that the best interest of children and victims appearing before Juvenile, Family, Criminal and Probate Courts, the public interest of avoiding duplication of effort by the Courts and the investigative and supervisory agencies serving the Juvenile Court or Court-serving agency outweighs the confidentiality interest reflected in Penal Code Section 11167 and 11167.5, W&I Code §§ 827 and 10850, Family Code §1818 and Probate Code §1513, and therefore good cause exists for the following rule:

**A. Sharing of Information.** FCS, PCI, APD, DFCS and JP staff may orally disclose to staff of those entities that are investigating or supervising a child abuse, neglect, or delinquency case the following information:

1. Whether the child, parents, guardians, or caretakers are or have been the subject of a custody, juvenile, criminal or probate investigation, the findings and status of that investigation, the recommendations made or anticipated to be made, the progress while under Court supervision including compliance with Court orders, and a copy of any Court orders in existence with respect to the child, parents, guardians, or caretakers.
2. Any statement made by the child or the child's parents, guardians or caretakers which might bear upon the issue of the child's best interest in the pending case.
3. DFCS and JP may include this information in Court reports and keep such information in their case files.
4. JP, PCI, APD, FCS and DFCS may provide written documents to each other. However, child abuse and neglect reports described by Penal Code § 11167.5 information disclosing the identity of a reporting party, or Court ordered psychological evaluations, will not be exchanged between the agencies absent a court order. Copies of exchanged documents are not available to the public without a court order.

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**B. Restraining/Protective Orders.** Subject to available resources, the Family, Juvenile and Probate Courts shall examine appropriate available databases for existing restraining or protective orders involving the same restrained and protected parties.

*[Rule 4.5 adopted effective 1/1/20; renumbered as Rule 5.5 effective 1/1/22]*

### **5.6 ASSIGNMENT OF FAMILY, PROBATE OR DOMESTIC VIOLENCE MATTERS TO JUVENILE COURT**

In keeping with the idea of unifying information and handling of cases involving children and minors, any pending family law or related probate matter involving a dependent under W&I Code § 300, shall be assigned to the Juvenile Court for handling. Any Requests for Domestic Violence Restraining Orders involving a 300 dependent, a 600 ward, parents, or guardians of said dependent/ward shall be assigned to the Juvenile Court for handling. The judges of the Unified Family court are encouraged to discuss problems relating to the coordination of cases involving child abuse allegations.

*[Rule 4.6 adopted effective 1/1/20; renumbered as Rule 5.6 effective 1/1/22]*

**5.7 DUAL STATUS** –Marin County is a Dual Status Jurisdiction. The dual status protocol is attached as Appendix C.

*[Rule 4.7 adopted effective 1/1/20; amended and renumbered as Rule 5.7 effective 1/1/22]*

### **5.8 COMPETENCY PROTOCOL**

Juvenile Court will follow local protocol attached as Appendix B. This protocol is consistent with and supplements the requirements of W&I Code § 709 and CRC 5.645. In the event of modifications to W&I Code § 709 and CRC 5.645 the Statute and Rule of Court shall control.

*[Rule 4.8 adopted effective 1/1/20; renumbered as Rule 5.8 effective 1/1/22]*