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January 18, 2019

ALL COUNTY INFORMATION NOTICE (ACIN) NO. 1-07-19

TO: ALL CHIEF PROBATION OFFICERS
ALL COUNTY WELFARE DIRECTORS
ALL INDEPENDENT LIVING PROGRAM MANAGERS
ALL INDEPENDENT LIVING PROGRAM COORDINATORS
ALL FOSTER CARE MANAGERS
ALL TITLE IV-E AGREEMENT TRIBES
ALL TRANSITIONAL HOUSING COORDINATORS

SUBJECT: JUDICIAL COUNCIL INFORMATION SHEET ABOUT RE-ENTRY OF
FORMER PROBATION YOUTH TO TRANSITION JURISDICTION

REFERENCE: [ASSEMBLY BILL \(AB\) 12](#) (CHAPTER 559, STATUTES OF 2010);
[AB 212](#) (CHAPTER 459, STATUTES OF 2012); [ALL COUNTY LETTER
\(ACL\) 11-69](#), [ACL 11-85](#), AND [ACL 12-12](#); [WELFARE AND
INSTITUTIONS CODE \(WIC\) SECTION 388](#), [WIC 450](#) AND [WIC 607.2](#)

BACKGROUND

Youth placed in foster care under delinquency jurisdiction are generally required to complete rehabilitative goals to satisfactorily complete the terms of their probation. Once they complete these goals, and meet all other eligibility criteria, the judge can move a youth from delinquency jurisdiction to transition jurisdiction. Transition jurisdiction, pursuant to [WIC section 450](#) requires that “rehabilitative goals of the minor or nonminor, as set forth in the case plan, have been met and juvenile court jurisdiction over the minor or nonminor as a ward is no longer required.”

As described in [WIC section 388, subdivision \(e\)](#), a nonminor who exited foster care through the delinquency court at or after age 18, and is still under the age of 21, may petition the court to assume transition jurisdiction over the nonminor pursuant to [WIC section 450](#). Circumstances exist, however, where a case under delinquency jurisdiction is terminated prior to the nonminor clearly meeting their rehabilitative goals,

as required by [WIC section 450](#) for transition jurisdiction. This has resulted in questions and concerns about how to handle these cases.

RE-ENTRY TO FOSTER CARE WHEN REHABILITATIVE GOALS WERE NOT MET

The California Department of Social Services would like to inform probation departments and other interested parties of an information sheet, entitled Extended Foster Care Information Sheet 8. The Judicial Resources and Technical Assistance Project of the Center for Families, Children and the Courts has developed and provided this document to the juvenile courts for consideration when they encounter cases of otherwise eligible nonminors who seek to re-enter foster care after termination of their juvenile delinquency case, but where there is a question as to whether they had previously met their rehabilitative goals. A copy of the information sheet is attached to this ACIN.

If you have questions or concerns regarding this ACIN, you may contact the Transition Age Youth Policy Unit at (916) 651-7465 or TAYPolicy@dss.ca.gov.

Sincerely,

Original Document Signed By:

VALERIE EARLEY, Chief
Child and Youth Permanency Branch
Children and Family Services Division

Attachment

Extended Foster Care Information Sheet 8

Dismissal under Welfare and Institutions Code section 602 and

Reentry under Welfare and Institutions Code Section 450

Reentry into the foster care system was first introduced in California through Assembly Bill 12. The introductory language states that this bill “would allow a nonminor who left foster care at or after the age of majority to petition the court to have dependency or delinquency jurisdiction resumed.” Reentry was meant as a safety net for those children who met the definition of nonminor dependents.

A “nonminor dependent” is defined in Welfare and Institutions code section 11400(v) as a foster child that was under a foster care placement at the age of 18 and had a transitional independent living case plan.¹ A young adult can be a nonminor dependent under dependency, delinquency, or transition jurisdiction.

Although commonly done, the code does not contemplate the dismissal of a foster care case when probation has not been satisfied. Section 607 allows the court to retain jurisdiction over a ward until the age of 21. Section 607.2 discusses termination of jurisdiction over a ward who is a minor under a foster care placement order, a nonminor who is subject to a foster care placement order, and a ward who is under a foster care placement order and was a dependent at the time he or she became a ward. Under section 607.2, at the hearing to terminate jurisdiction the court must continue jurisdiction over a ward as a nonminor dependent unless the court finds that after reasonable and documented efforts, the ward cannot be located or does not wish to become a nonminor dependent. In making its findings, the court must ensure that the ward was informed of his or her options including the right to reenter foster care. Section 607.3 describes the duties of the probation officer at the hearing to terminate jurisdiction over a ward, which includes the right to reenter. Finally, section 782 discusses the right of the court to dismiss a petition or set aside findings if the child was not in need of treatment or rehabilitation.

There is little guidance on this issue. There are a few recent cases that discuss satisfactorily completing probation and sealing.^{2,3} However, neither of these cases discuss any of the dismissal statutes above nor do they involve children that had placement orders.

Section 388(e) allows for nonminors to petition the court to reenter foster care until they reach the age of 21. The juvenile court must find that: 1) the nonminor was under a foster care placement order at the age of 18 and has not yet attained the age of 21; 2) the nonminor intends to satisfy one of the eligibility criteria; 3) reentry and remaining in foster care is in the nonminor’s best interest, and 4) the nonminor wants assistance in maintaining or securing an appropriate supervised placement and agrees to supervised

placement pursuant to a signed voluntary reentry agreement. The nonminor reenters under either section 300 or section 450 jurisdiction. The nonminor cannot reenter under 602 jurisdiction. Since the law does not contemplate a termination of wardship without meeting rehabilitative goals, the court does not need to make a finding that rehabilitative goals have been met for a nonminor dependent to reenter. If the court can make the findings required in section 388(e)(5)(A), the nonminor can reenter.

Endnotes

1. All further statutory references are to the Welfare and Institutions Code, unless otherwise indicated.
2. See *In re A.V.* (2017), 11 Cal. App. 5th 697, 217 [A juvenile court has discretion to find, or not to find, that a ward before the court has satisfactorily completed his or her probation, justifying dismissal of wardship petition and sealing of records; however, whichever way the juvenile court exercises its discretion, it applies to both dismissing and sealing the petition.]
3. See *In re N.R.* (2017), 15 Cal. App. 5th 590 [Determination that juvenile's decision to not complete his high school education, in violation of his DEJ probation, reflected current lack of rehabilitation precluding sealing of records related to underlying juvenile delinquency petition did not preclude a finding of rehabilitation at some point in the future that would support sealing of records; juvenile court was permitted to order that records be sealed upon finding that, since termination of jurisdiction, juvenile had not been convicted of felony or of any misdemeanor involving moral turpitude and that rehabilitation had been attained to the satisfaction of the court.]

Opinion from the Judicial Resources and Technical Assistance (JRTA) Project, not the Judicial Council. The information in this document is based on laws in effect at the time of publication (January 2018). Federal and state laws may change at any time. This is not legal advice. This information sheet may not be altered without the consent of the JRTA project.

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