



## JUDICIAL COUNCIL OF CALIFORNIA

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### MEMORANDUM

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<b>Date</b> January 28, 2019	<b>Action Requested</b> Please Review
<b>To</b> Appellate Advisory Committee; Family & Juvenile Law Advisory Committee	<b>Deadline</b> N/A
<b>From</b> Christy Simons Attorney, Legal Services  Daniel Richardson Attorney, Center for Families, Children & the Courts	<b>Contact</b> Christy Simons Legal Services 415-865-7694 phone <a href="mailto:christy.simons@jud.ca.gov">christy.simons@jud.ca.gov</a>  Daniel Richardson Center for Families, Children & the Courts 415-865-7619 <a href="mailto:daniel.richardson@jud.ca.gov">daniel.richardson@jud.ca.gov</a>
<b>Subject</b> Access to Juvenile Case Files in Appellate Court Proceedings	

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#### Introduction

In 2017, the Appellate Advisory Committee, after consultation with the Family and Juvenile Law Advisory Committee, recommended that the Judicial Council sponsor legislation to amend the statute that specifies who may access and copy records in a juvenile case file to clarify that people who are entitled to seek review of certain orders in juvenile proceedings or who are respondents in such appellate proceedings may, for purposes of those appellate proceedings, access and copy those records to which they were previously given access by the juvenile court.

This legislation, Assembly Bill 1617 (AB 1617), added new paragraph (a)(6) to Welfare and Institutions Code section 827 (section 827) and took effect on January 1, 2019.<sup>1</sup> New paragraph (a)(6) of section 827 authorizes a person who is not otherwise authorized to access the case file under section 827(a)(1)(A)-(P), to access the case file for purposes of the appeal or writ if they have previously been granted access under section 827(a)(1)(Q) by the juvenile court after filing a petition for access.<sup>2</sup> New paragraph (a)(6) also requires the Judicial Council to adopt rules to implement the paragraph.

This memorandum describes the issue giving rise to the proposal and the new statutory provision. It addresses the work done by a working group convened to address changes to the rules of court and Judicial Council forms to implement the legislation.

## **Background**

The confidentiality of juvenile case files is established by Welfare and Institutions Code section 827. This confidentiality is intended to protect the privacy rights of the child who is the subject of the juvenile court proceedings. Subdivision (a)(1) of this statute identifies those who may inspect and receive copies of a juvenile court case file.<sup>3</sup> These include the child who is the subject of the proceeding, the child's parent or guardian, the attorneys for the parties, the petitioning agency in a dependency action, or the district attorney, city attorney, or city prosecutor authorized to prosecute criminal or juvenile cases under state law, among others.

Ordinarily, to help resolve these matters as quickly as possible, when an appeal or petition is filed challenging a judgment or order in a juvenile proceeding, the record for that appellate proceeding is prepared and sent to the Court of Appeal and the parties very quickly. The items that must be included in the record on appeal or for certain writ proceedings are listed in California Rules of Court, rules 8.407, 8.450, and 8.454. The trial court is required to begin preparing the record in these proceedings as soon as a notice of appeal or notice of intent to file a writ petition is filed. A premise of this practice seems to be that all the parties to the appellate proceeding are entitled under section 827 to inspect and receive copies of the records from the juvenile case file that would be included in the record.

However, some individuals who were authorized to participate in juvenile proceedings and had the right to seek review of certain orders in those proceedings or who had a right to respond to an

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<sup>1</sup> All further code references are to the Welfare and Institutions Code and all rule references are to the California Rules of Court unless otherwise indicated.

<sup>2</sup> See California Rules of Court, rule 5.552 regarding the procedure for filing a petition for access to juvenile case files. The petition must identify the specific records and explain why they are being sought.

<sup>3</sup> You can access the full text of this section at [http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=827.&lawCode=WIC](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=827.&lawCode=WIC).

appeal or petition seeking such review were not entitled under section 827 to inspect or copy any records in a juvenile case file. This situation occurred, for example, when the appellant was a relative or other person who filed a petition seeking de facto parent status and was appealing the denial of that petition or who filed a petition under Welfare and Institutions Code section 388 to change, modify, or set aside a juvenile court order on grounds of change of circumstance or new evidence, such as a change in visitation, and was appealing the denial of that petition.

In these situations, the juvenile courts and Court of Appeal were following various procedures to decide, on a case-by-case basis, what records the parties to the appellate proceeding could receive. Doing so took time and resources for the persons who sought review or who were respondents in such proceedings, for the juvenile court, and for the Court of Appeal. It also resulted in delays and, particularly when the appellant or petitioner was self-represented, procedural dismissals of these appeals without consideration of their merit.

### **The legislative proposal**

The amendment to section 827 proposed by the Appellate Advisory Committee provided that persons not otherwise entitled to access the juvenile case file under 827 who file a notice of appeal or writ petition challenging a juvenile court order or who are a respondent or real party in interest in such an appellate proceeding may, for purposes of the appellate proceeding, access and copy those records to which they were previously given access by the juvenile court.

The legislative proposal was developed after consultation with the Family and Juvenile Law Advisory Committee. The two committees formed an ad hoc joint working group to develop the proposed statutory amendment. The goal in drafting the proposed amendment was to appropriately balance the policy considerations favoring confidentiality of juvenile case files against the need for access to certain records by individuals for purposes of effectuating their right to participate in appellate proceedings in these cases. The proposal developed by the joint working group and recommended by the committee would not dilute the confidentiality protections for the child because it would only provide access without a court order to those records to which an individual was already privy in the juvenile court proceedings. By eliminating the necessity for special procedures to authorize the individuals' access to these records, the proposal would increase efficiency and access to justice while reducing costs and delays for the parties and the courts.

New section 827(a)(6) provides:

An individual other than a person described in subparagraphs (A) to (P), inclusive, of paragraph (1) who files a notice of appeal or petition for writ challenging a juvenile court order, or who is a respondent in that appeal or real party in interest in that writ proceeding, may, for purposes of that appeal or writ proceeding, inspect and copy any

records in a juvenile case file to which the individual was previously granted access by the juvenile court pursuant to subparagraph (Q) of paragraph (1), including any records or portions thereof that are made a part of the appellate record. The requirements of paragraph (3) shall continue to apply to any other record, or a portion thereof, in the juvenile case file or made a part of the appellate record. The requirements of paragraph (4) shall continue to apply to files received pursuant to this paragraph. The Judicial Council shall adopt rules to implement this paragraph.

### **The Proposal**

Although AB 1617 speaks only to permitting an individual, who was not authorized to access the juvenile case file but who was granted access to certain records by the juvenile court, to have the same access to those records in the appellate court, implementing this provision raises a number of issues regarding these individuals and the limited record on appeal to which they are entitled.

A joint working group comprised of members from the Appellate Advisory Committee and the Family and Juvenile Law Advisory Committee was formed to develop rules for implementing the legislation. The working group met on January 10 and January 17, 2019.

The working group reviewed the rules for juvenile appeals and writs, and proposed rule changes to account for these parties with limited access to the juvenile case file and the limited record on appeal to which they are entitled. One issue in particular requires further consideration: how to alert the juvenile court clerk that an appellate proceeding will require preparation of a limited record. The options include: (1) requiring the appellant to include a notice with the notice of appeal stating that the proceeding includes a party who is not authorized to access the normal record; (2) requiring that such party provide the notice with its first filing; or (3) requiring the juvenile court clerk to determine from the case file that the proceeding involves such a party. The Riverside superior court suggests requiring that a party with a section 827 order granting access to specific records attach that order to its notice of appeal (or to its first filing if that party is the respondent).

In addition, working group members suggested revisions to Judicial Council juvenile forms and the creation of a new juvenile Information Sheet to help avoid delays that can occur when an appellant does not seek timely access to the case file.

### **Revised rule amendments**

The attached rules document includes all of the juvenile appeals and writs rules so the advisory bodies can consider the rule amendments in context. Proposed amendments are underlined and highlighted in yellow. Please consider whether Advisory Committee Comments explaining any

of the amendments or providing more information would be helpful. *[Staff notes and questions are presented in brackets in bold and italicized text.]*

### **General provisions (rules 8.400-8.402)**

Rule 8.400, Application: Revise to add definitions to the title of the rule and a new subdivision (b) containing definitions of “designated person” and “limited record,” and clarifying the scope of records included in a juvenile case file. Working group members felt that new terms and definitions were necessary to avoid lengthy repetition in the rules.

A “designated person” means a person authorized by order of the juvenile court upon filing a petition under Welfare and Institutions Code section 827(a)(1)(Q) to inspect and copy specified records a juvenile case file and who is a party to the appeal or writ proceeding. “Limited record” means the record prepared for a designated person for purposes of the appeal or writ proceeding which contains the documents in a juvenile case file that the juvenile court has ordered be made available under Welfare and Institutions Code section 827(a)(1)(Q). The definition of “juvenile case file” clarifies that it includes the records listed in rule 5.552(a), including reporters’ transcripts.

Rule 8.401, Confidentiality: Revise language to subdivision (b) to specify that access to the record on appeal by designated persons is limited to the limited record.

### **Appeals (rules 8.405-8.416)**

Rule 8.405, Filing the Appeal: Add a requirement to subdivision (a) that an appellant who is a designated person must attach to the notice of appeal any juvenile court order granting access to specified records in the juvenile case file. Revise language of subdivision (b) regarding the superior court clerk’s duties to address the preparation of the reporter’s transcript for a limited record, and to identify any designated person in the notification of the filing of the notice of appeal.

Rule 8.407, Record on Appeal: Add subdivision (f) regarding a limited record for designated persons to specify that a designated person is authorized to receive only the limited record. Also add limiting language to subdivision (c), which addresses applications in the superior court for additions to the normal record on appeal.

Rule 8.408, Record in multiple appeals in the same case: Add a sentence to clarify that if a case with multiple appeals involves a designated person, a limited record must also be prepared.

Rule 8.409, Preparing and sending the record: Add new subdivision (f) to provide instructions for the clerk and the reporter regarding preparing a limited record for a designated person and sending that record to all parties. Add limiting language to subdivisions (c) and (e) regarding new subdivision (f). Add an Advisory Committee Comment specifying that there is no

requirement to prepare a limited record if party is not authorized to access records in the juvenile case file under section 827.

The working group considered how best to create a limited record to address the pagination of the limited record and how the limited record could be cited on appeal. The working group considered two options: (1) creating a separate limited record that would be a separate citable document provided to all parties; or (2) redacting the portions of the normal record to which the designated person was not granted access by the juvenile court. The working group sought feedback from court clerks who will be preparing these records as to which option they would prefer. Ten counties responded, with 8 preferring option (1) and 2 preferring option (2).<sup>4</sup> Most of the clerks felt that redacting the record would be too burdensome and preferred to prepare a separate limited record. Subdivision (f) therefore requires that a separate limited record be prepared and a copy sent to the appellant, the respondent, the child's Indian tribe if the tribe has intervened, and the child if the child is represented by counsel on appeal.

Rule 8.410, Augmenting and correcting the record in the reviewing court: Add language to include a limited record. Augmentation or correction of a limited record by a reviewing court can only include documents or transcripts to which the designated person has been granted access by the juvenile court.

Rule 8.412, Briefs: Add (a)(4) to clarify that a designated person's brief must support any reference to the limited record with a citation to volume and page number of the limited record. This mirrors a provision in rule 8.204 that is referenced in this rule and applies to parties using the normal record. Also add (a)(5) to account for cases involving designated persons and the situation in which a party's brief refers to matter in the normal record that is not also part of the limited record. *[Staff question: Is paragraph (a)(5) appropriate? It does not state a rule or a requirement; rather, it is guidance and may be better as an advisory committee comment, if it is included at all.]*

Rule 8.416, Appeals from all terminations of parental rights; dependency appeals in Orange, Imperial, and San Diego Counties and in other counties by local rule: Include references to designated persons and limited records.

### **Writs (rules 8.450-8.456)**

Rule 8.450, Notice of intent to file writ petition challenging order setting hearing under section 366.26: Amend subdivision (e) to require the party filing a notice of intent to file a writ petition

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<sup>4</sup> Counties that responded include: Amador, Calaveras, Del Norte, El Dorado, Inyo, Los Angeles, Riverside, Santa Cruz, Solano, and Sutter. Riverside and Santa Cruz preferred option 2 because it would be easier to cite to a single record. All other counties preferred option 1, because preparing a redacted version of the record would be too difficult.

and a request for the record to also request a limited record if any party is a designated person. ***[Staff note: Is this the best way to alert the superior court clerk that a limited record will have to be prepared? Is it appropriate to require the party filing the notice of intent to determine whether any other party is a designated person?]*** Amend subdivisions (h), preparing the record, and (i), sending the record, to include designated person and limited record provisions.

Rule 8.452, Writ petition to review order setting hearing under section 366.26: Amend subdivision (b) regarding contents of the memorandum to add a paragraph clarifying that the summary of significant facts in a designated person's memorandum is limited to matters in the limited record and that references to these matters must be supported by citations to the limited record.

Rule 8.454, Notice of intent to file writ petition under section 366.28: Same as for rule 8.450. Amend subdivision (e) to require the party filing a notice of intent to file a writ petition and a request for the record to also request a limited record if any party is a designated person. ***[Staff note: Is this the best way to alert the superior court clerk that a limited record will have to be prepared? Is it appropriate to require the party filing the notice of intent to determine whether any other party is a designated person?]*** Amend subdivisions (h), preparing the record, and (i), sending the record, to include designated person and limited record provisions.

Rule 8.456, Writ petition under section 366.28: Same as for rule 8.452. Amend subdivision (b) regarding contents of the memorandum to add a paragraph clarifying that the summary of significant facts in a designated person's memorandum is limited to matters in the limited record and that references to these matters must be supported by citations to the limited record.

## **Addressing Designated Persons and the Limited Record in the Juvenile Court**

The working group considered how to help ensure that potential designated persons are aware of the requirement to get access to the case file through an approved 827 petition. An issue that will likely recur is that parties to appellate proceedings who are not entitled to access the juvenile case file under section 827 will not be aware of the requirement to file a petition in the juvenile case file and will therefore seek access to records in the juvenile case file after the appeal has commenced. This could create delays which the legislation intended to avoid, and could create a difficult situation for the juvenile court.<sup>5</sup>

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<sup>5</sup> New subdivision (a)(6) of section 827 states that the individual not authorized to access the case file, may inspect and copy any records in the case file to which the individual was "previously granted access." It could be argued that this language requires that the petition process under section 827 be resolved prior to the commencement of the appeal.

There may be ways to help alleviate this problem by amending JV forms to provide notice of requirements under section 827. Below are listed proposed changes to forms to provide notice of the need to request access to the juvenile case file prior to the appeal:

### **Proposed Information Sheet JV-291**

*Information Sheet-Right to Appeal for a Nonparty-Requirement to Request Access to Juvenile Record* (form JV-291): A new JV form information sheet is proposed to provide information on the right to appeal for nonparties such as relatives and de facto parents, and of the requirement to request access to the juvenile case file through a petition under section 827(a)(1)(Q).

This form will be referenced in the notice proposed on other JV forms and provide a reference for nonparties who may have a right to appeal and notify them of the requirement to request access to records in the juvenile case file for purposes of an appeal. The form emphasizes that an appeal by nonparties to a dependency or delinquency case is available only in limited circumstances.

### **Notify Potential Designated Persons Through JV Forms**

A short notice referencing the right to appeal, and the JV-291 Information Sheet mentioned above can be added to forms typically used by nonparties in a dependency or delinquency case. The notice would read as follows:

“If you are not the parent of the child, the child, or the child’s legal guardian, in very limited circumstances, a right to appeal may exist. Please see form JV-291-*Information Sheet – Right To Appeal For A Nonparty – Requirement To Request Access To Juvenile Record* for further information on the requirements for an appeal. “

The notice is recommended for the following forms that are often used by nonparties in dependency and delinquency cases, including a notice of appeal:

- *JV-285-Relative Information*
- *JV-290-Caregiver Information Form*
- *JV-295-De Facto Parent Request*
- *JV-321-Request for Prospective Adoptive Parent Designation*
- *JV-325-Objection to Removal*
- *JV-800-Notice of Appeal*
- *JV-820-Notice of Intent to File Writ Petition*

In addition, a new checkbox is proposed to be added to *JV-800-Notice of Appeal* and *JV-820-Notice of Intent to File Writ Petition*, to indicate whether the appellant or writ petitioner is a “designated party,” and if so, to attach the court order on form *JV-574-Order After Hearing* (the form used for the juvenile court to order a release of records under section 827(a)(1)(Q)), to the



form. Doing so was the recommendation of the Riverside Court clerk mentioned above, and will alert the clerk that a limited record needs to be prepared.

The amended forms are attached to this proposal.

### **Amend Form JV-570-Request for Disclosure**

Form *JV-570-Request for Disclosure of Juvenile Case File* is the mandatory form used to request disclosure of the juvenile case file. It requires the petitioner to describe in detail the records being requested and why the records are needed. Additional guidance for petitioners regarding appellate proceedings could be provided here. Item 6 requires that the petitioner state the reason for the request, and lists typical reasons for the request including pending civil, criminal, or juvenile court cases. A new option could be added that specifies the request is for a pending or anticipated appellate court case. This option could also require the petitioner to list the specific juvenile court hearing dates related to the appeal and that they are requesting the reports admitted for that hearing and the transcripts.

### **Committee Task**

The committee's task is to review the proposal, provide feedback on the draft rules and forms, and determine whether to recommend that the proposal be circulated for public comment.

### **Attachments**

1. Cal. Rules of Court, rules 8.400-8.474, at pp. 10-48.
2. *JV-291-Information Sheet-Right to Appeal for a Nonparty-Requirement to Request Access to Juvenile Record*
3. *JV-285-Relative Information.*
4. *JV-290-Caregiver Information Form.*
5. *JV-295-De Facto Parent Request.*
6. *JV-321-Request for Prospective Adoptive Parent Designation.*
7. *JV-325-Objection to Removal.*
8. *JV-570-Request for Disclosure of Juvenile Case File.*
9. *JV-800-Notice of Appeal.*
10. *JV-820-Notice of Intent to File Writ Petition.*

## Title 8. Appellate Rules

### Division 1. Rules Relating to the Supreme Court and Courts of Appeal

#### Chapter 5. Juvenile Appeals and Writs

##### Article 1. General provisions

*Title 8, Appellate Rules—Division 1, Rules Relating to the Supreme Court and Courts of Appeal—Chapter 5, Juvenile Appeals and Writs—Article 1, General Provisions; adopted effective July 1, 2010.*

**Rule 8.400. Application**

**Rule 8.401. Confidentiality**

**Rule 8.400. Application and Definitions**

**(a) The rules in this chapter govern:**

- (1) Appeals from judgments or appealable orders in:
  - (A) Cases under Welfare and Institutions Code sections 300, 601, and 602; and
  - (B) Actions to free a child from parental custody and control under Family Code section 7800 et seq. and Probate Code section 1516.5;
- (2) Appeals of orders requiring or dispensing with an alleged father's consent for the adoption of a child under Family Code section 7662 et seq.; and
- (3) Writ petitions under Welfare and Institutions Code sections 366.26 and 366.28.

**(b) In addition to the definitions and use of terms in rule 8.10, the following apply to the rules in this chapter:**

(1) "Designated person" means a party to the appeal or writ proceeding who is not otherwise authorized to access the juvenile case file under section 827 and who has been granted access to inspect and copy specified records in a juvenile case file by order of the juvenile court after filing a petition under Welfare and Institutions Code section 827(a)(1)(Q).

(2) "Limited record" means the record prepared for a designated person for purposes of the appeal or writ proceeding which contains the records in the juvenile case file to

which the designated person has been granted access by order of the juvenile court under Welfare and Institutions Code section 827(a)(1)(Q).

(3) “Juvenile case file” includes the records listed in rule 5.552(a).

#### **Rule 8.401. Confidentiality**

##### **(a) References to juveniles or relatives in documents**

To protect the anonymity of juveniles involved in juvenile court proceedings:

- (1) In all documents filed by the parties in proceedings under this chapter, a juvenile must be referred to by first name and last initial; but if the first name is unusual or other circumstances would defeat the objective of anonymity, the initials of the juvenile may be used.
- (2) In opinions that are not certified for publication and in court orders, a juvenile may be referred to either by first name and last initial or by his or her initials. In opinions that are certified for publication in proceedings under this chapter, a juvenile must be referred to by first name and last initial; but if the first name is unusual or other circumstances would defeat the objective of anonymity, the initials of the juvenile may be used.
- (3) In all documents filed by the parties and in all court orders and opinions in proceedings under this chapter, if use of the full name of a juvenile’s relative would defeat the objective of anonymity for the juvenile, the relative must be referred to by first name and last initial; but if the first name is unusual or other circumstances would defeat the objective of anonymity for the juvenile, the initials of the relative may be used.

*(Subd (a) adopted effective January 1, 2012.)*

##### **(b) Access to filed documents**

- (1) Except to the extent limited under (2) or as provided in ~~(2)–(3)–(4)~~, the record on appeal and documents filed by the parties in proceedings under this chapter may be inspected only by the reviewing court and appellate project personnel, the parties including their attorneys, and other persons the court may designate.

(2) Only the limited record on appeal may be inspected and copied by a party who is a designated person.

~~(2)~~(3) Filed documents that protect anonymity as required by (a) may be inspected by any person or entity that is considering filing an amicus curiae brief.

~~(3)~~(4) Access to records that are sealed or confidential under authority other than Welfare and Institutions Code section 827 is governed by rules 8.45–8.47 and the applicable statute, rule, sealing order, or other authority.

\*\*Add Advisory Committee Comment?

**(c) Access to oral argument**

The court may limit or prohibit public to oral argument.

**Article 2. Appeals**

*Title 8, Appellate Rules—Division 1, Rules Relating to the Supreme Court and Courts of Appeal—Chapter 5, Juvenile Appeals and Writs—Article 2, Appeals; renumbered effective July 1, 2010; adopted as Article 1 effective January 1, 2007.*

***Rule 8.403. Right to appointment of appellate counsel and prerequisites for appeal***

***Rule 8.404. Stay pending appeal***

***Rule 8.405. Filing the appeal***

***Rule 8.406. Time to appeal***

***Rule 8.407. Record on appeal***

***Rule 8.408. Record in multiple appeals in the same case***

***Rule 8.409. Preparing and sending the record***

***Rule 8.410. Augmenting and correcting the record in the reviewing court***

***Rule 8.411. Abandoning the appeal***

***Rule 8.412. Briefs by parties and amici curiae***

***Rule 8.416. Appeals from all terminations of parental rights; dependency appeals in Orange, Imperial, and San Diego Counties and in other counties by local rule***

**Rule 8.403. Right to appointment of appellate counsel and prerequisites for appeal**

**(a) Welfare and Institutions Code section 601 or 602 proceedings**

In appeals of proceedings under Welfare and Institutions Code section 601 or 602, the child is entitled to court-appointed counsel.

**(b) Welfare and Institutions Code section 300 proceedings**

- (1) Any judgment, order, or decree setting a hearing under Welfare and Institutions Code section 366.26 may be reviewed on appeal following the order at the Welfare and Institutions Code section 366.26 hearing only if:
  - (A) The procedures in rules 8.450 and 8.452 regarding writ petitions in these cases have been followed; and
  - (B) The petition for an extraordinary writ was summarily denied or otherwise not decided on the merits.
- (2) The reviewing court may appoint counsel to represent an indigent child, parent, or guardian.
- (3) Rule 5.661 governs the responsibilities of trial counsel in Welfare and Institutions Code section 300 proceedings with regard to appellate representation of the child.

#### **Advisory Committee Comment**

The right to appeal in Welfare and Institutions Code section 601 or 602 (juvenile delinquency) cases is established by Welfare and Institutions Code section 800 and case law (see, for example, *In re Michael S.* (2007) 147 Cal.App.4th 1443, *In re Jeffrey M.* (2006) 141 Cal.App.4th 1017 and *In re Sean R.* (1989) 214 Cal.App.3d 662). The right to appeal in Welfare and Institutions Code section 300 (juvenile dependency) cases is established by Welfare and Institutions Code section 395 and case law (see, for example, *In re Aaron R.* (2005) 130 Cal.App.4th 697, and *In re Merrick V.* (2004) 122 Cal.App.4th 235).

**Subdivision (b)(1).** Welfare and Institutions Code section 366.26(l) establishes important limitations on appeals of judgments, orders, or decrees setting a hearing under section 366.26, including requirements for the filing of a petition for an extraordinary writ and limitations on the issues that can be raised on appeal.

#### **Rule 8.404. Stay pending appeal**

The court must not stay an order or judgment pending an appeal unless suitable provision is made for the maintenance, care, and custody of the child.

#### **Rule 8.405. Filing the appeal**

##### **(a) Notice of appeal**

- (1) To appeal from a judgment or appealable order under these rules, the appellant must file a notice of appeal in the superior court. Any notice of appeal on behalf of the child in a Welfare and Institutions Code section 300 proceeding must be authorized by the child or the child's CAPTA guardian ad litem.

(2) The appellant or the appellant's attorney must sign the notice of appeal.

(3) If the appellant is a designated person as defined in rule 8.400, the appellant must attach the juvenile court's order under section 827(a)(1)(Q), if one exists, to the notice of appeal.

~~(4)~~ (3) The notice of appeal must be liberally construed, and is sufficient if it identifies the particular judgment or order being appealed. The notice need not specify the court to which the appeal is taken; the appeal will be treated as taken to the Court of Appeal for the district in which the superior court is located.

**(b) Superior court clerk's duties**

(1) When a notice of appeal is filed, the superior court clerk must immediately:

(A) Send a notification of the filing to:

(i) Each party other than the appellant, including the child if the child is 10 years of age or older;

(ii) The attorney of record for each party;

(iii) Any person currently awarded by the juvenile court the status of the child's de facto parent;

(iv) Any Court Appointed Special Advocate (CASA) volunteer;

(v) If the court knows or has reason to know that an Indian child is involved, the Indian custodian, if any, and tribe of the child or the Bureau of Indian Affairs, as required under Welfare and Institutions Code section 224.2; and

(vi) The reviewing court clerk; and

(B) Notify the reporter by telephone and in writing to prepare a reporter's transcript and any limited reporter's transcript and deliver it or them to the clerk within 20 days after the notice of appeal is filed.

(2) The notification must show the name of the appellant, the date it was sent, the number and title of the case, and the date the notice of appeal was filed, and must identify the appellant as a designated person if the appellant attached a juvenile court

order under section 827(a)(1)(Q) granting access to specified records in the juvenile case file. If the information is available, the notification must also include:

- (A) The name, address, telephone number, e-mail address, and California State Bar number of each attorney of record in the case;
  - (B) The name of the party that each attorney represented in the superior court; and
  - (C) The name, address, telephone number and e-mail address of any unrepresented party.
- (3) The notification to the reviewing court clerk must also include a copy of the notice of appeal and any sequential list of reporters made under rule 2.950.
  - (4) A copy of the notice of appeal is sufficient notification if the required information is on the copy or is added by the superior court clerk.
  - (5) The mailing of a notification is a sufficient performance of the clerk's duty despite the discharge, disqualification, suspension, disbarment, or death of the attorney.
  - (6) Failure to comply with any provision of this subdivision does not affect the validity of the notice of appeal.

#### **Advisory Committee Comment**

**Subdivision (a).** *Notice of Appeal—Juvenile (California Rules of Court, Rule 8.400)* (form JV-800) may be used to file the notice of appeal required under this rule. This form is available at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

#### **Rule 8.406. Time to appeal**

##### **(a) Normal time**

- (1) Except as provided in (2) and (3), a notice of appeal must be filed within 60 days after the rendition of the judgment or the making of the order being appealed.
- (2) In matters heard by a referee not acting as a temporary judge, a notice of appeal must be filed within 60 days after the referee's order becomes final under rule 5.540(c).
- (3) When an application for rehearing of an order of a referee not acting as a temporary judge is denied under rule 5.542, a notice of appeal from the referee's order must be filed within 60 days after that order is served under rule 5.538(b)(3) or 30 days after entry of the order denying rehearing, whichever is later.

**(b) Cross-appeal**

If an appellant timely appeals from a judgment or appealable order, the time for any other party to appeal from the same judgment or order is either the time specified in (a) or 20 days after the superior court clerk sends notification of the first appeal, whichever is later.

**(c) No extension of time; late notice of appeal**

Except as provided in rule 8.66, no court may extend the time to file a notice of appeal. The superior court clerk must mark a late notice of appeal “Received [date] but not filed,” notify the party that the notice was not filed because it was late, and send a copy of the marked notice of appeal to the district appellate project.

**(d) Premature notice of appeal**

A notice of appeal is premature if filed before the judgment is rendered or the order is made, but the reviewing court may treat the notice as filed immediately after the rendition of judgment or the making of the order.

**Advisory Committee Comment**

**Subdivision (c).** See rule 8.25(b)(5) for provisions concerning the timeliness of documents mailed by inmates or patients from custodial institutions.

**Rule 8.407. Record on appeal**

**(a) Normal record: clerk’s transcript**

The clerk’s transcript must contain:

- (1) The petition;
- (2) Any notice of hearing;
- (3) All court minutes;
- (4) Any report or other document submitted to the court;
- (5) The jurisdictional and dispositional findings and orders;
- (6) The judgment or order appealed from;



- (7) Any application for rehearing;
- (8) The notice of appeal and any order pursuant to the notice;
- (9) Any transcript of a sound or sound-and-video recording tendered to the court under rule 2.1040;
- (10) Any application for additional record and any order on the application;
- (11) Any opinion or dispositive order of a reviewing court in the same case; and;
- (12) Any written motion or notice of motion by any party, with supporting and opposing memoranda and attachments, and any written opinion of the court.

**(b) Normal record: reporter's transcript**

The reporter's transcript must contain any oral opinion of the court and:

- (1) In appeals from disposition orders, the oral proceedings at hearings on:
  - (A) Jurisdiction;
  - (B) Disposition;
  - (C) Any motion by the appellant that was denied in whole or in part; and
  - (D) In cases under Welfare and Institutions Code section 300 et seq., hearings:
    - (i) On detention; and
    - (ii) At which a parent of the child made his or her initial appearance.
- (2) In appeals from an order terminating parental rights under Welfare and Institutions Code section 300 et seq., the oral proceedings at all section 366.26 hearings.
- (3) In all other appeals, the oral proceedings at any hearing that resulted in the order or judgment being appealed.

**(c) Application in superior court for addition to normal record**

Except as provided in (f):

- (1) Any party or Indian tribe that has intervened in the proceedings may apply to the superior court for inclusion of any oral proceedings in the reporter's transcript.
- (2) An application for additional record must describe the material to be included and explain how it may be useful in the appeal.
- (3) The application must be filed in the superior court with the notice of appeal or as soon thereafter as possible, and will be treated as denied if it is filed after the record is sent to the reviewing court.
- (4) The clerk must immediately present the application to the trial judge.
- (5) Within five days after the application is filed, the judge must order that the record include as much of the additional material as the judge finds proper to fully present the points raised by the applicant. Denial of the application does not preclude a motion in the reviewing court for augmentation under rule 8.155.
- (6) If the judge does not rule on the application within the time prescribed by (5), the requested material—other than exhibits—must be included in the clerk's transcript or the reporter's transcript without a court order.
- (7) The clerk must immediately notify the reporter if additions to the reporter's transcript are required under (5) or (6).

**(d) Agreed or settled statement**

To proceed by agreed or settled statement, the parties must comply with rule 8.344 or 8.346, as applicable.

**(e) Transmitting exhibits**

Exhibits that were admitted in evidence, refused, or lodged may be transmitted to the reviewing court as provided in rule 8.224.

**(f) Limited record for designated persons**

A limited record for a designated person as defined in 8.400(b)(1) may contain only those records in a juvenile case file to which the designated person has been granted access by the juvenile court under Welfare and Institutions Code section 827(a)(1)(Q). A designated person is authorized to receive only the limited record.

Rules 8.45–8.47 address the appropriate handling of sealed or confidential records that must be included in the record on appeal. Examples of confidential records include records of proceedings closed to inspection by court order under *People v. Marsden* (1970) 2 Cal.3d 118 and in-camera proceedings on a confidential informant.

**Subdivision (a)(4).** Examples of the documents that must be included in the clerk’s transcript under this provision include all documents filed with the court relating to the Indian Child Welfare Act, including but not limited to all inquiries regarding a child under the Indian Child Welfare Act (*Indian Child Inquiry Attachment* [form ICWA-010(A)]), any *Parental Notification of Indian Status* (form ICWA-020), any *Notice of Child Custody Proceeding for Indian Child* (form ICWA-030) sent, any signed return receipts for the mailing of form ICWA-030, and any responses received to form ICWA-030.

**Subdivision (b).** Subdivision (b)(1) provides that only the reporter’s transcript of a hearing that resulted in the order being appealed must be included in the normal record. This provision is intended to achieve consistent record requirements in all appeals of cases under Welfare and Institutions Code section 300, 601, or 602 and to reduce the delays and expense caused by transcribing proceedings not necessary to the appeal.

Subdivision (b)(1)(A) recognizes that findings made in a jurisdictional hearing are not separately appealable and can be challenged only in an appeal from the ensuing disposition order. The rule therefore specifically provides that a reporter’s transcript of jurisdictional proceedings must be included in the normal record on appeal from a disposition order.

Subdivision (b)(1)(C) specifies that the oral proceedings on any motion by the appellant that was denied in whole or in part must be included in the normal record on appeal from a disposition order. Rulings on such motions usually have some impact on either the jurisdictional findings or the subsequent disposition order. Routine inclusion of these proceedings in the record will promote expeditious resolution of appeals of cases under Welfare and Institutions Code section 300, 601, or 602.

#### **Rule 8.408. Record in multiple appeals in the same case**

If more than one appeal is taken from the same judgment or related order, only one appellate record need be prepared, which must be filed within the time allowed for filing the record in the latest appeal. **If an appeal involves a designated person, a limited record must also be prepared as provided in 8.409(f).**

#### **Rule 8.409. Preparing and sending the record**

##### **(a) Application**

This rule applies to appeals in juvenile cases except cases governed by rule 8.416.

**(b) Form of record**

The clerk's and reporter's transcripts must comply with rules 8.45–8.47, relating to sealed and confidential records, and with rule 8.144.

*(Subd (b) amended effective January 1, 2015; adopted effective January 1, 2014.)*

**(c) Preparing and certifying the transcripts**

**Except to the extent limited under (f), ~~W~~within** 20 days after the notice of appeal is filed:

- (1) The clerk must prepare and certify as correct an original of the clerk's transcript and one copy each for the appellant, the respondent, the child's Indian tribe if the tribe has intervened, and the child if the child is represented by counsel on appeal or if a recommendation has been made to the Court of Appeal for appointment of counsel for the child under rule 8.403(b)(2) and that recommendation is either pending with or has been approved by the Court of Appeal but counsel has not yet been appointed; and
- (2) The reporter must prepare, certify as correct, and deliver to the clerk an original of the reporter's transcript and the same number of copies as (1) requires of the clerk's transcript

**(d) Extension of time**

- (1) The superior court may not extend the time to prepare the record.
- (2) The reviewing court may order one or more extensions of time for preparing the record, including a reporter's transcript, not exceeding a total of 60 days, on receipt of:
  - (A) A declaration showing good cause; and
  - (B) In the case of a reporter's transcript, certification by the superior court presiding judge, or a court administrator designated by the presiding judge, that an extension is reasonable and necessary in light of the workload of all reporters in the court.

**(e) Sending the record**

- (1) **Except to the extent limited under (f), ~~W~~when** the transcripts are certified as correct, the court clerk must immediately send:

- (A) The original transcripts to the reviewing court, noting the sending date on each original; and
  - (B) One copy of each transcript to the appellate counsel for the following, if they have appellate counsel:
    - (i) The appellant;
    - (ii) The respondent;
    - (iii) The child's Indian tribe if the tribe has intervened; and
    - (iv) The child.
- (2) If appellate counsel has not yet been retained or appointed for the appellant or the respondent, or if a recommendation has been made to the Court of Appeal for appointment of counsel for the child under rule 8.403(b)(2) and that recommendation is either pending with or has been approved by the Court of Appeal but counsel has not yet been appointed, when the transcripts are certified as correct, the clerk must send that counsel's copy of the transcripts to the district appellate project. If a tribe that has intervened is not represented by counsel when the transcripts are certified as correct, the clerk must send that counsel's copy of the transcripts to the tribe.
- (3) The clerk must not send a copy of the transcripts to the Attorney General or the district attorney unless that office represents a party.

**(f) Limited record**

**(1) Application**

If the appellant or the respondent is a designated person as defined in 8.400(b)(1), the clerk and the reporter must prepare, and the clerk must send, a separate limited record as defined in 8.400(b)(2) that includes only those records and transcripts in the juvenile case file to which the designated person has been granted access by the juvenile court under Welfare and Institutions Code section 827(a)(1)(Q). A designated person may receive a copy of the limited record only, and may not receive a copy of any records to which the designated person has not been granted access by the juvenile court.

**(2) Preparing and certifying the transcripts in a limited record**

**Within 20 days after the notice of appeal is filed:**

- (A) The clerk must prepare, in compliance with 8.74 and 8.144, and certify as correct an original of the clerk's transcript for a limited record and one copy each for the appellant, the respondent, the child's Indian tribe if the tribe has intervened, and the child if the child is represented by counsel on appeal or if a recommendation has been made to the Court of Appeal for appointment of counsel for the child under 8.403(b)(2) and that recommendation is either pending with or has been approved by the Court of Appeal but counsel has not yet been appointed; and
- (B) The reporter must prepare, certify as correct, and deliver to the clerk an original of the reporter's transcript for a limited record and the same number of copies as (1) requires of the clerk's transcript.

(3) Sending the limited record

- (A) When the transcripts for a limited record are certified as correct, the court clerk must immediately send:
  - (i) The original transcripts for a limited record to the reviewing court, noting the sending date on each original; and
  - (ii) One copy of each transcript for a limited record to the appellate counsel for the following, if they have appellate counsel:
    - (I) The appellant;
    - (II) The respondent;
    - (III) The child's Indian tribe if the tribe has intervened; and
    - (IV) The child.
- (B) If appellate counsel has not yet been retained or appointed for the appellant or the respondent, or if a recommendation has been made to the Court of Appeal for appointment of counsel for the child under 8.403(b)(2) and that recommendation is either pending with or has been approved by the Court of Appeal but counsel has not yet been appointed, when the transcripts for a limited record are certified as correct, the clerk must send that counsel's copy of the transcripts for a limited record to the district appellate project. If a tribe that has intervened is not represented by counsel when the transcripts are certified as correct, the clerk must send that counsel's copy of the transcripts for a limited record to the tribe.

(C) The clerk must not send a copy of the transcripts for a limited record to the Attorney General or the district attorney unless that office represents a party.

### Advisory Committee Comment

**Subdivision (a).** Subdivision (a) calls litigants' attention to the fact that a different rule (rule 8.416) governs the record in appeals from judgments or orders terminating parental rights and in dependency appeals in certain counties.

**Subdivision (b).** Examples of confidential records include records closed to inspection by court order under *People v. Marsden* (1970) 2 Cal.3d 118 and in-camera proceedings on a confidential informant.

**Subdivision (e).** Under rule 8.71(c), the superior court clerk may send the record to the reviewing court in electronic form. Subsection (1)(B) clarifies that when a child's Indian tribe has intervened in the proceedings, the tribe is a party who must receive a copy of the appellate record. The statutes that require notices to be sent to a tribe by registered or certified mail return receipt requested and generally be addressed to the tribal chairperson (25 U.S.C. § 1912(a), 25 C.F.R. § 23.11, and Welf. & Inst. Code, § 224.2) do not apply to the sending of the appellate record.

**Subdivision (f).** If a party is not otherwise authorized to access records in the juvenile case file under Welfare and Institutions Code section 827, and has not been granted access to any records in the juvenile case file by the juvenile court under section 827(a)(1)(Q) at the time the record on appeal is being prepared, there is no limited record to be prepared. To obtain access to records, and thus meet the definition of a designated person, the party must file a petition in the juvenile court.

### Rule 8.410. Augmenting and correcting the record in the reviewing court

#### (a) Omissions

If, after the record is certified, the superior court clerk or the reporter learns that the record or the limited record omits a document or transcript that any rule or order requires to be included, without the need for a motion or court order, the clerk must promptly copy and certify the document or the reporter must promptly prepare and certify the transcript and the clerk must promptly send the document or transcript—as an augmentation of the record—to all those who are listed under 8.409(e) except as limited by 8.409(f).

#### (b) Augmentation or correction by the reviewing court

(1) Except as limited by (3), On motion of a party or on its own motion, the reviewing court may order the record augmented or corrected as provided in rule 8.155(a) and (c).

- (4) If, after the record is certified, the trial court amends or recalls the judgment or makes any other order in the case, the trial court clerk must notify each entity and person to whom the record is sent under 8.409(e) and 8.409(f).
- (5) The reviewing court may order a limited record augmented or corrected only to include records to which the designated person has been granted access by the juvenile court under Welfare and Institutions Code section 827(a)(1)(Q).

### **Rule 8.411. Abandoning the appeal**

#### **(a) How to abandon**

An appellant may abandon the appeal at any time by filing an abandonment of the appeal. The abandonment must be authorized by the appellant and signed by either the appellant or the appellant's attorney of record. In a Welfare and Institutions Code section 300 proceeding in which the child is the appellant, the abandonment must be authorized by the child or, if the child is not capable of giving authorization, by the child's CAPTA guardian ad litem.

#### **(b) Where to file; effect of filing**

- (1) If the record has not been filed in the reviewing court, the appellant must file the abandonment in the superior court. The filing effects a dismissal of the appeal and restores the superior court's jurisdiction.
- (2) If the record has been filed in the reviewing court, the appellant must file the abandonment in that court. The reviewing court may dismiss the appeal and direct immediate issuance of the remittitur.

#### **(c) Clerk's duties**

- (1) If the abandonment is filed in the superior court, the clerk must immediately send a notification of the abandonment to:
  - (A) Every other party;
  - (B) The reviewing court; and
  - (C) The reporter if the appeal is abandoned before the reporter has filed the transcript.



- (2) If the abandonment is filed in the reviewing court and the reviewing court orders the appeal dismissed, the clerk must immediately send a notification of the order of dismissal to every party.

### **Advisory Committee Comment**

The Supreme Court has held that appellate counsel for an appealing minor has the power to move to dismiss a dependency appeal based on counsel's assessment of the child's best interests, but that the motion to dismiss requires the authorization of the child or, if the child is incapable of giving authorization, the authorization of the child's CAPTA guardian ad litem (*In re Josiah Z.* (2005) 36 Cal.4th 664).

### **Rule 8.412. Briefs by parties and amici curiae**

#### **(a) Contents, form, and length**

- (1) Rule 8.200 governs the briefs that may be filed by parties and amici curiae.
- (2) Except as provided in (3) **and (4)**, rule 8.204 governs the form and contents of briefs. Rule 8.216 also applies in appeals in which a party is both appellant and respondent.
- (3) Rule 8.360 (b) governs the length of briefs.
- (6) **A designated person's brief must support any reference to a matter in the limited record by a citation to the volume and page number of the limited record where the matter appears.**
- (7) **If an appeal involves a designated person, and the brief of a party who is not a designated person refers to juvenile case records that are not in the limited record, the designated person may petition the juvenile court for access to those records and may request that the reviewing grant an extension under subdivision (c).**

#### **(b) Time to file**

- (1) Except in appeals governed by rule 8.416, the appellant must serve and file the appellant's opening brief within 40 days after the record is filed in the reviewing court.
- (2) The respondent must serve and file the respondent's brief within 30 days after the appellant's opening brief is filed.
- (3) The appellant must serve and file any reply brief within 20 days after the respondent's brief is filed.

- (4) In dependency cases in which the child is not an appellant but has appellate counsel, the child must serve and file any brief within 10 days after the respondent's brief is filed.
- (5) Rule 8.220 applies if a party fails to timely file an appellant's opening brief or a respondent's brief, but the period specified in the notice required by that rule must be 30 days.

**(c) Extensions of time**

The superior court may not order any extensions of time to file briefs. Except in appeals governed by rule 8.416, the reviewing court may order extensions of time for good cause.

**(d) Failure to file a brief**

- (1) Except in appeals governed by rule 8.416, if a party fails to timely file an appellant's opening brief or a respondent's brief, the reviewing court clerk must promptly notify the party's counsel or the party, if not represented, in writing that the brief must be filed within 30 days after the notice is sent and that failure to comply may result in one of the following sanctions:
  - (A) If the brief is an appellant's opening brief:
    - (i) If the appellant is the county, the court will dismiss the appeal;
    - (ii) If the appellant is other than the county and is represented by appointed counsel on appeal, the court will relieve that appointed counsel and appoint new counsel;
    - (iii) If the appellant is other than the county and is not represented by appointed counsel, the court will dismiss the appeal.
  - (B) If the brief is a respondent's brief, the court will decide the appeal on the record, the opening brief, and any oral argument by the appellant.
- (2) If a party fails to comply with a notice under (1), the court may impose the sanction specified in the notice.
- (3) Within the period specified in the notice under (1), a party may apply to the presiding justice for an extension of that period for good cause. If an extension is granted beyond the 30-day period and the brief is not filed within the extended period, the court may impose the sanction under (2) without further notice.

**(e) Additional service requirements**

- (1) A copy of each brief must be served on the superior court clerk for delivery to the superior court judge.
- (2) A copy of each brief must be served on the child’s trial counsel, or, if the child is not represented by trial counsel, on the child’s guardian ad litem appointed under rule 5.662.
- (3) If the Court of Appeal has appointed counsel for any party:
  - (A) The county child welfare department and the People must serve two copies of their briefs on that counsel; and
  - (B) Each party must serve a copy of its brief on the district appellate project.
- (4) In delinquency cases the parties must serve copies of their briefs on the Attorney General and the district attorney. In all other cases the parties must not serve copies of their briefs on the Attorney General or the district attorney unless that office represents a party.
- (5) The parties must not serve copies of their briefs on the Supreme Court under rule 8.44(b)(1).

**Advisory Committee Comment**

**Subdivision (b).** Subdivision (b)(1) calls litigants’ attention to the fact that a different rule (rule 8.416(e)) governs the time to file an appellant’s opening brief in appeals from judgments or orders terminating parental rights and in dependency appeals in certain counties.

**Subdivision (c).** Subdivision (c) calls litigants’ attention to the fact that a different rule (rule 8.416(f)) governs the showing required for extensions of time to file briefs in appeals from judgments or orders terminating parental rights and in dependency appeals in certain counties.

**Rule 8.416. Appeals from all terminations of parental rights; dependency appeals in Orange, Imperial, and San Diego Counties and in other counties by local rule**

**(a) Application**

- (1) This rule governs:

- (A) Appeals from judgments or appealable orders of all superior courts terminating parental rights under Welfare and Institutions Code section 366.26 or freeing a child from parental custody and control under Family Code section 7800 et seq.; and
  - (B) Appeals from judgments or appealable orders in all juvenile dependency cases of:
    - (i) The Superior Courts of Orange, Imperial, and San Diego Counties; and
    - (ii) Other superior courts when the superior court and the District Court of Appeal with jurisdiction to hear appeals from that superior court have agreed and have adopted local rules providing that this rule will govern appeals from that superior court.
- (2) In all respects not provided for in this rule, **including appeals involving designated persons and limited records as defined in rule 8.400.** rules 8.403–8.412 apply.

**(b) Form of record**

- (1) The clerk’s and reporter’s transcripts and any transcripts for a limited record must comply with rules 8.45–8.467, relating to sealed and confidential records, and, except as provided in (2) and (3), with rule 8.144.
- (2) In appeals under (a)(1)(A), the cover of the record must prominently display the title “Appeal From [Judgment or Order] Terminating Parental Rights Under [Welfare and Institutions Code Section 366.26 or Family Code Section 7800 et seq.],” whichever is appropriate.
- (3) In appeals under (a)(1)(B), the cover of the record must prominently display the title “Appeal From [Judgment or Order] Under [Welfare and Institutions Code Section 300 et seq. or Family Code Section 7800 et seq.],” whichever is appropriate.

**(c) Preparing, certifying, and sending the record**

- (1) Within 20 days after the notice of appeal is filed:
  - (A) The clerk must prepare and certify as correct an original of the clerk’s transcript **and, if any party is a designated person, an original of the clerk’s transcript for a limited record** and one copy each for the appellant, the respondent, the district appellate project, the child’s Indian tribe if the tribe has intervened, and the child if the child is represented by counsel on appeal or if a recommendation has been made to the Court of Appeal for appointment of

counsel for the child under rule 8.403(b)(2) and that recommendation is either pending with or has been approved by the Court of Appeal but counsel has not yet been appointed; and

- (B) The reporter must prepare, certify as correct, and deliver to the clerk an original of the reporter's transcript and, if any party is a designated person, an original of the reporter's transcript for a limited record and the same number of copies as (A) requires of the clerk's transcript.
- (2) When the clerk's and reporter's transcripts, and any transcripts for a limited record, are certified as correct, the clerk must immediately send:
- (A) The original transcripts to the reviewing court by the most expeditious method, noting the sending date on each original; and
  - (B) One copy of each transcript to the district appellate project and to the appellate counsel for the following, if they have appellate counsel, by any method as fast as United States Postal Service express mail:
    - (i) The appellant;
    - (ii) The respondent;
    - (iii) The child's Indian tribe if the tribe has intervened; and
    - (iv) The child.
- (C) If any party is a designated person as defined in rule 8.400(b)(1), one copy of only the transcripts for the limited record to the designated person as provided in rule 8.409(f).
- (3) If appellate counsel has not yet been retained or appointed for the appellant or the respondent or if a recommendation has been made to the Court of Appeal for appointment of counsel for the child under rule 8.403(b)(2) and that recommendation is either pending with or has been approved by the Court of Appeal but counsel has not yet been appointed, when the transcripts are certified as correct, the clerk must send that counsel's copies of the transcripts to the district appellate project. If a tribe that has intervened is not represented by counsel when the transcripts are certified as correct, the clerk must send that counsel's copy of the transcripts to the tribe.

**(d) Augmenting or correcting the record**

- (1) Except as provided in (2) and (3), rule 8.410 governs any augmentation or correction of the record.
- (2) An appellant must serve and file any motion for augmentation or correction within 15 days after receiving the record. A respondent must serve and file any such motion within 15 days after the appellant's opening brief is filed.
- (3) The clerk and the reporter must prepare any supplemental transcripts within 20 days, giving them the highest priority.
- (4) The clerk must certify and send any supplemental transcripts as required by (c).

**(e) Time to file briefs**

- (1) To permit determination of the appeal within 250 days after the notice of appeal is filed, the appellant must serve and file the appellant's opening brief within 30 days after the record is filed in the reviewing court.
- (2) Rule 8.412(b) governs the time for filing other briefs.

**(f) Extensions of time**

The superior court may not order any extensions of time to prepare the record or to file briefs; the reviewing court may order extensions of time, but must require an exceptional showing of good cause.

**(g) Failure to file a brief**

Rule 8.412(d) applies if a party fails to timely file an appellant's opening brief or a respondent's brief, but the period specified in the notice required by that rule must be 15 days.

**(h) Oral argument and submission of the cause**

- (1) Unless the reviewing court orders otherwise, counsel must serve and file any request for oral argument no later than 15 days after the appellant's reply brief is filed or due to be filed. Failure to file a timely request will be deemed a waiver.
- (2) The court must hear oral argument within 60 days after the appellant's last reply brief is filed or due to be filed, unless the court extends the time for good cause or counsel waive argument.

- (3) If counsel waive argument, the cause is deemed submitted no later than 60 days after the appellant’s reply brief is filed or due to be filed.

### **Advisory Committee Comment**

**Subdivision (c).** Under rule 8.71(c), the superior court clerk may send the record to the reviewing court in electronic form.

**Subdivision (g).** Effective January 1, 2007, revised rule 8.416 incorporates a new subdivision (g) to address a failure to timely file a brief in all termination of parental rights cases and in dependency appeals in Orange, Imperial, and San Diego Counties. Under the new subdivision, appellants would not have the full 30-day grace period given in rule 8.412(d) in which to file a late brief, but instead would have the standard 15-day grace period that is given in civil cases. The intent of this revision is to balance the need to determine the appeal within 250 days with the need to protect appellants’ rights in this most serious of appeals.

**Subdivision (h).** Subdivision (h)(1) recognizes certain reviewing courts’ practice of requiring counsel to file any request for oral argument within a time period other than 15 days after the appellant’s reply brief is filed or due to be filed. The reviewing court is still expected to determine the appeal “within 250 days after the notice of appeal is filed.” (*Id.*, Subd 8.416(e).)

### **Article 3. Writs**

*Title 8, Appellate Rules—Division 1, Rules Relating to the Supreme Court and Courts of Appeal—Chapter 5, Juvenile Appeals and Writs—Article 3, Writs; renumbered effective July 1, 2010; adopted as Article 2 effective January 1, 2007.*

***Rule 8.450. Notice of intent to file writ petition to review order setting hearing under Welfare and Institutions Code section 366.26***

***Rule 8.452. Writ petition to review order setting hearing under Welfare and Institutions Code section 366.26***

***Rule 8.454. Notice of intent to file writ petition under Welfare and Institutions Code section 366.28 to review order designating specific placement of a dependent child after termination of parental rights***

***Rule 8.456. Writ petition under Welfare and Institutions Code section 366.28 to review order designating or denying specific placement of a dependent child after termination of parental rights***

**Rule 8.450. Notice of intent to file writ petition to review order setting hearing under Welfare and Institutions Code section 366.26**

**(a) Application**

Rules 8.450–8.452 and 8.490 govern writ petitions to review orders setting a hearing under Welfare and Institutions Code section 366.26.

**(b) Purpose**

Rules 8.450–8.452 are intended to encourage and assist the reviewing courts to determine on their merits all writ petitions filed under these rules within the 120-day period for holding a hearing under Welfare and Institutions Code section 366.26.

**(c) Who may file**

The petitioner's trial counsel, or, in the absence of trial counsel, the party, is responsible for filing any notice of intent and writ petition under rules 8.450–8.452. Trial counsel is encouraged to seek assistance from or consult with attorneys experienced in writ procedure.

**(d) Extensions of time**

The superior court may not extend any time period prescribed by rules 8.450–8.452. The reviewing court may extend any time period but must require an exceptional showing of good cause.

**(e) Notice of intent**

- (1) A party seeking writ review under rules 8.450–8.452 must file in the superior court a notice of intent to file a writ petition and a request for the record. The party must also file a request for the limited record if any party is a designated person as defined in rule 8.400(b).
- (2) The notice must include all known dates of the hearing that resulted in the order under review.
- (3) The notice must be authorized by the party intending to file the petition and must be signed by that party or by the attorney of record for that party.
- (4) The date of the order setting the hearing is the date on which the court states the order on the record orally, or issues an order in writing, whichever occurs first. The notice of intent must be filed according to the following timeline requirements:



- (A) If the party was present at the hearing when the court ordered a hearing under Welfare and Institutions Code section 366.26, the notice of intent must be filed within 7 days after the date of the order setting the hearing.
- (B) If the party was notified of the order setting the hearing only by mail, the notice of intent must be filed within 12 days after the date the clerk mailed the notification.
- (C) If the party was notified of the order setting the hearing by mail, and the notice was mailed to an address outside California but within the United States, the notice of intent must be filed within 17 days after the date the clerk mailed the notification.
- (D) If the party was notified of the order setting the hearing by mail, and the notice was mailed to an address outside the United States, the notice of intent must be filed within 27 days after the date the clerk mailed the notification.
- (E) If the order was made by a referee not acting as a temporary judge, the party has an additional 10 days to file the notice of intent as provided in rule 5.540(c).

**(f) Premature or late notice of intent to file writ petition**

- (1) A notice of intent to file a writ petition under Welfare and Institutions Code section 366.26 is premature if filed before an order setting a hearing under Welfare and Institutions Code section 366.26 has been made.
- (2) If a notice of intent is premature or late, the superior court clerk must promptly:
  - (A) Mark the notice of intent “Received [date] but not filed;”
  - (B) Return the marked notice of intent to the party with a notice stating that:
    - (i) The notice of intent was not filed either because it is premature, as no order setting a hearing under Welfare and Institutions Code section 366.26 has been made, or because it is late; and
    - (ii) The party should contact his or her attorney as soon as possible to discuss this notice, because the time available to take appropriate steps to protect the party’s interests may be short; and
  - (C) Send a copy of the marked notice of intent and clerk’s notice to the party’s counsel of record, if applicable.

**(g) Sending the notice of intent**

- (1) When the notice of intent is filed, the superior court clerk must immediately send a copy of the notice to:
  - (A) The attorney of record for each party;
  - (B) Each party, including the child if the child is 10 years of age or older;
  - (C) Any known sibling of the child who is the subject of the hearing if that sibling either is the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court as follows:
    - (i) If the sibling is under 10 years of age, on the sibling's attorney;
    - (ii) If the sibling is 10 years of age or over, on the sibling and the sibling's attorney.
  - (D) The mother, the father, and any presumed and alleged parents;
  - (E) The child's legal guardian, if any;
  - (F) Any person currently awarded by the juvenile court the status of the child's de facto parent;
  - (G) The probation officer or social worker;
  - (H) Any Court Appointed Special Advocate (CASA) volunteer;
  - (I) The grandparents of the child, if their address is known and if the parents' whereabouts are unknown; and
  - (J) If the court knows or has reason to know that an Indian child is involved, the Indian custodian, if any, and tribe of the child or the Bureau of Indian Affairs as required under Welfare and Institutions Code section 224.2.
- (2) The clerk must promptly send by first-class mail, e-mail, or fax a copy of the notice of intent and a list of those to whom the notice of intent was sent to:
  - (A) The reviewing court; and

- (B) The petitioner if the clerk sent the notice of intent to the Indian custodian, tribe of the child, or the Bureau of Indian Affairs.
- (3) If the party was notified of the order setting the hearing only by mail, the clerk must include the date that the notification was mailed.

**(h) Preparing the record**

When the notice of intent is filed, the superior court clerk must:

- (1) Immediately notify each court reporter by telephone and in writing to prepare a reporter's transcript and, if any party is a designated person, any reporter's transcript for a limited record, of the oral proceedings at each session of the hearing that resulted in the order under review and deliver the transcript to the clerk within 12 calendar days after the notice of intent is filed; ~~and~~
- (2) Within 20 days after the notice of intent is filed, prepare a clerk's transcript that includes the notice of intent, proof of service, and all items listed in rule 8.407(a); and
- (3) If any party is a designated person, within 20 days after the notice of intent is filed, prepare a clerk's transcript for a limited record in accordance rule 8.409(f) that contains only those records in the juvenile case file to which the designated person has been granted access by the juvenile court under Welfare and Institutions Code section 827(a)(1)(Q).

**(i) Sending the record**

When the transcripts are certified as correct, except as limited by (3), the superior court clerk must immediately send:

- (1) The original transcripts and any original transcripts for a limited record to the reviewing court by the most expeditious method, noting the sending date on each original, ~~and~~
- (2) One copy of each transcript and one copy of any transcript for a limited record to each counsel of record and any unrepresented party, by any means as fast as United States Postal Service express mail; and
- (3) Only a limited record as provided in (h) to any party who is a designated person.

**(j) Reviewing court clerk's duties**

- (1) The reviewing court clerk must immediately lodge the notice of intent. When the notice is lodged, the reviewing court has jurisdiction of the writ proceedings.
- (2) When the record is filed in the reviewing court, that court's clerk must immediately notify the parties, stating the date on which the 10-day period for filing the writ petition under rule 8.452(c)(1) will expire.

#### **Advisory Committee Comment**

**Subdivision (d).** The case law generally recognizes that the reviewing courts may grant extensions of time under these rules for exceptional good cause. (See, e.g., *Jonathan M. v. Superior Court* (1995) 39 Cal.App.4th 1826, and *In re Cathina W.* (1998) 68 Cal.App.4th 716 [recognizing that a late notice of intent may be filed on a showing of exceptional circumstances not under the petitioner's control].) It may constitute exceptional good cause for an extension of the time to file a notice of intent if a premature notice of intent is returned to a party shortly before the issuance of an order setting a hearing under Welfare and Institutions Code section 366.26.

**Subdivision (e)(4).** See rule 8.25(b)(5) for provisions concerning the timeliness of documents mailed by inmates or patients from custodial institutions.

**Subdivision (f)(1).** A party who prematurely attempts to file a notice of intent to file a writ petition under Welfare and Institutions Code section 366.26 is not precluded from later filing such a notice after the issuance of an order setting a hearing under Welfare and Institutions Code section 366.26.

**Subdivision (i).** Under rule 8.71(c), the superior court clerk may send the record to the reviewing court in electronic form.

#### **Rule 8.452. Writ petition to review order setting hearing under Welfare and Institutions Code section 366.26**

##### **(a) Petition**

- (1) The petition must be liberally construed and must include:
  - (A) The identities of the parties;
  - (B) The date on which the superior court made the order setting the hearing;
  - (C) The date on which the hearing is scheduled to be held;
  - (D) A summary of the grounds of the petition; and
  - (E) The relief requested.

- (2) The petition must be verified.
- (3) The petition must be accompanied by a memorandum.

**(b) Contents of the memorandum**

**Except as limited by (4):**

- (1) The memorandum must provide a summary of the significant facts, limited to matters in the record.
- (2) The memorandum must state each point under a separate heading or subheading summarizing the point and support each point by argument and citation of authority.
- (3) The memorandum must support any reference to a matter in the record by a citation to the record. The memorandum should explain the significance of any cited portion of the record and note any disputed aspects of the record.

**(4) If the petitioner is a designated person, the summary of significant facts in the memorandum is limited to matters in the limited record. The memorandum must support any reference to a matter in the limited record by a citation to the limited record.**

**(c) Serving and filing the petition and response**

- (1) The petition must be served and filed within 10 days after the record is filed in the reviewing court. The petitioner must serve a copy of the petition on:
  - (A) Each attorney of record;
  - (B) Any unrepresented party, including the child if the child is 10 years of age or older;
  - (C) Any known sibling of the child who is the subject of the hearing if that sibling either is the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court as follows:
    - (i) If the sibling is under 10 years of age, on the sibling's attorney;
    - (ii) If the sibling is 10 years of age or over, on the sibling and the sibling's attorney.

- (D) The child’s Court Appointed Special Advocate (CASA) volunteer;
  - (E) Any person currently awarded by the juvenile court the status of the child’s de facto parent; and
  - (F) If the court sent the notice of intent to file the writ petition to an Indian custodian, tribe, or Bureau of Indian Affairs, then to that Indian custodian, tribe of the child, or the Bureau of Indian Affairs as required under Welfare and Institutions Code section 224.2.
- (2) Any response must be served on each of the people and entities listed above and filed:
- (A) Within 10 days—or, if the petition was served by mail, within 15 days—after the petition is filed; or
  - (B) Within 10 days after a respondent receives a request from the reviewing court for a response, unless the court specifies a shorter time.

**(d) Order to show cause or alternative writ**

If the court intends to determine the petition on the merits, it must issue an order to show cause or alternative writ.

**(e) Augmenting or correcting the record in the reviewing court**

- (1) Except as provided in (2) and (3), rule 8.410 governs any augmentation or correction of the record.
- (2) The petitioner must serve and file any request for augmentation or correction within 5 days—or, if the record exceeds 300 pages, within 7 days; or, if the record exceeds 600 pages, within 10 days—after receiving the record. A respondent must serve and file any such request within 5 days after the petition is filed or an order to show cause has issued, whichever is later.
- (3) A party must attach to its motion a copy, if available, of any document or transcript that the party wants added to the record. The pages of the attachment must be consecutively numbered, beginning with the number one. If the reviewing court grants the motion, it may augment the record with the copy.
- (4) If the party cannot attach a copy of the matter to be added, the party must identify it as required under rules 8.122 and 8.130.

- (5) An order augmenting or correcting the record may grant no more than 15 days for compliance. The clerk and the reporter must give the order the highest priority.
- (6) The clerk must certify and send any supplemental transcripts as required by rule 8.450(h). If the augmentation or correction is ordered, the time to file any petition or response is extended by the number of additional days granted to augment or correct the record.

**(f) Stay**

The reviewing court may stay the hearing set under Welfare and Institutions Code section 366.26, but must require an exceptional showing of good cause.

**(g) Oral argument**

- (1) The reviewing court must hear oral argument within 30 days after the response is filed or due to be filed, unless the court extends the time for good cause or counsel waive argument.
- (2) If argument is waived, the cause is deemed submitted not later than 30 days after the response is filed or due to be filed.

**(h) Decision**

- (1) Absent exceptional circumstances, the reviewing court must decide the petition on the merits by written opinion.
- (2) The reviewing court clerk must promptly notify the parties of any decision and must promptly send a certified copy of any writ or order to the court named as respondent.
- (3) If the writ or order stays or prohibits proceedings set to occur within 7 days or requires action within 7 days—or in any other urgent situation—the reviewing court clerk must make a reasonable effort to notify the clerk of the respondent court by telephone or e-mail. The clerk of the respondent court must then notify the judge or officer most directly concerned.
- (4) The reviewing court clerk need not give telephonic or e-mail notice of the summary denial of a writ, unless a stay previously issued will be dissolved.

**(i) Filing, modification, finality of decision, and remittitur**

Rule 8.490 governs the filing, modification, finality of decisions, and remittitur in writ proceedings under this rule.

## Advisory Committee Comment

**Subdivision (d).** Subdivision (d) tracks the second sentence of former rule 39.1B(l). (But see *Maribel M. v. Superior Court* (1998) 61 Cal.App.4th 1469, 1471–1476.)

**Subdivision (h).** Subdivision (h)(1) tracks former rule 39.1B(o). (But see *Maribel M. v. Superior Court* (1998) 61 Cal.App.4th 1469, 1471–1476.)

### **Rule 8.454. Notice of intent to file writ petition under Welfare and Institutions Code section 366.28 to review order designating specific placement of a dependent child after termination of parental rights**

#### **(a) Application**

Rules 8.454–8.456 and 8.490 govern writ petitions to review placement orders following termination of parental rights entered on or after January 1, 2005. “Posttermination placement order” as used in this rule and rule 8.456 refers to orders following termination of parental rights.

#### **(b) Purpose**

The purpose of this rule is to facilitate and implement Welfare and Institutions Code section 366.28. Delays caused by appeals from court orders designating the specific placement of a dependent child after parental rights have been terminated may cause a substantial detriment to the child.

#### **(c) Who may file**

The petitioner’s trial counsel, or, in the absence of trial counsel, the party, is responsible for filing any notice of intent and writ petition under rules 8.454–8.456. Trial counsel is encouraged to seek assistance from, or consult with, attorneys experienced in writ procedure.

#### **(d) Extensions of time**

The superior court may not extend any time period prescribed by rules 8.454–8.456. The reviewing court may extend any time period, but must require an exceptional showing of good cause.

#### **(e) Notice of intent**



- (1) A party seeking writ review under rules 8.454–8.456 must file in the superior court a notice of intent to file a writ petition and a request for the record. **The party must also file a request for the limited record if any party is a designated person as defined in rule 8.400(b).**
- (2) The notice must include all known dates of the hearing that resulted in the order under review.
- (3) The notice must be authorized by the party intending to file the petition and signed by the party or by the attorney of record for that party.
- (4) The notice must be served and filed within 7 days after the date of the posttermination placement order or, if the order was made by a referee not acting as a temporary judge, within 7 days after the referee’s order becomes final under rule 5.540(c). The date of the posttermination placement order is the date on which the court states the order on the record orally or in writing, whichever first occurs.
- (5) If the party was notified of the posttermination placement order only by mail, the notice of intent must be filed within 12 days after the date that the clerk mailed the notification.

**(f) Premature or late notice of intent to file writ petition**

- (1) A notice of intent to file a writ petition under Welfare and Institutions Code section 366.28 is premature if filed before a date for a posttermination placement order has been made. The reviewing court may treat the notice as filed immediately after the posttermination order has been made.
- (2) The superior court clerk must mark a late notice of intent to file a writ petition under section 366.28 “Received [date] but not filed,” notify the party that the notice was not filed because it was late, and send a copy of the marked notice to the party’s counsel of record, if applicable.

**(g) Sending the notice of intent**

- (1) When the notice of intent is filed, the superior court clerk must immediately send a copy of the notice to:
  - (A) The attorney of record for each party;
  - (B) Each party, including the child if the child is 10 years of age or older;

- (C) Any known sibling of the child who is the subject of the hearing if that sibling either is the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court as follows:
    - (i) If the sibling is under 10 years of age, on the sibling's attorney;
    - (ii) If the sibling is 10 years of age or over, on the sibling and the sibling's attorney;
  - (D) Any prospective adoptive parent;
  - (E) The child's legal guardian if any;
  - (F) Any person currently awarded by the juvenile court the status of the child's de facto parent;
  - (G) The probation officer or social worker;
  - (H) The child's Court Appointed Special Advocate (CASA) volunteer, if any; and
  - (I) If the court knows or has reason to know that an Indian child is involved, the Indian custodian, if any, and tribe of the child or the Bureau of Indian Affairs as required under Welfare and Institutions Code section 224.2.
- (2) The clerk must promptly send by first-class mail, e-mail, or fax a copy of the notice of intent and a list of those to whom the notice of intent was sent to:
- (A) The reviewing court; and
  - (B) The petitioner if the clerk sent a copy of the notice of intent to the Indian custodian, tribe of the child, or the Bureau of Indian Affairs.
- (3) If the party was notified of the post placement order only by mail, the clerk must include the date that the notification was mailed.

**(h) Preparing the record**

When the notice of intent is filed, the superior court clerk must:

- (1) Immediately notify each court reporter by telephone and in writing to prepare a reporter's transcript of the oral proceedings at each session of the hearing that resulted in the order under review and to deliver the transcript to the clerk within 12 calendar days after the notice of intent is filed; **and**

(2) If any party is a designated person, immediately notify each court reporter by telephone and in writing to prepare a reporter's transcript for a limited record of the oral proceedings at each session of the hearing that resulted in the order under review, and to which the designated person has been granted access by the juvenile court under Welfare and Institutions Code section 827(a)(1)(Q), and to deliver the transcript to the clerk within 12 calendar days after the notice of intent is filed;

(2) (3) Within 20 days after the notice of intent is filed, prepare a clerk's transcript that includes the notice of intent, proof of service, and all items listed in rule 8.409(a);

(3) (4) If any party is a designated person, within 20 days after the notice of intent is filed, prepare a clerk's transcript for a limited record that includes only those records in the juvenile case file to which the designated person has been granted access by the juvenile court under Welfare and Institutions Code section 827(a)(1)(Q).

**(i) Sending the record**

When the transcripts are certified as correct, the superior court clerk must immediately send:

- (1) The original transcripts to the reviewing court by the most expeditious method, noting the sending date on each original; ~~and~~
- (2) One copy of each transcript to each counsel of record and any unrepresented party and unrepresented custodian of the dependent child, except that a copy must not be sent to any parties who are designated persons, by any means as fast as United States Postal Service express mail; ~~and~~
- (3) One copy of the limited record as provided in (h)(2) and (4) to any party who is a designated person.

**(j) Reviewing court clerk's duties**

- (1) The reviewing court clerk must promptly lodge the notice of intent. When the notice is lodged, the reviewing court has jurisdiction over the writ proceedings.
- (2) When the record is filed in the reviewing court, that court's clerk must immediately notify the parties, stating the date on which the 10-day period for filing the writ petition under rule 8.456(c)(1) will expire.

**Advisory Committee Comment**

**Subdivision (f)(2).** See rule 8.25(b)(5) for provisions concerning the timeliness of documents mailed by inmates or patients from custodial institutions.

**Subdivision (i).** Under rule 8.71(c), the superior court clerk may send the record to the reviewing court in electronic form.

**Rule 8.456. Writ petition under Welfare and Institutions Code section 366.28 to review order designating or denying specific placement of a dependent child after termination of parental rights**

**(a) Petition**

- (1) The petition must be liberally construed and must include:
  - (A) The identities of the parties;
  - (B) The date on which the superior court made the posttermination placement order;
  - (C) A summary of the grounds of the petition; and
  - (D) The relief requested.
- (2) The petition must be verified.
- (3) The petition must be accompanied by a memorandum.

**(b) Contents of memorandum**

**Except as limited by (4):**

- (1) The memorandum must provide a summary of the significant facts, limited to matters in the record.
- (2) The memorandum must state each point under a separate heading or subheading summarizing the point and support each point by argument and citation of authority.
- (3) The memorandum must support any reference to a matter in the record by a citation to the record. The memorandum should explain the significance of any cited portion of the record and note any disputed aspects of the record.

**(4) If the petitioner is a designated person, the summary of significant facts in the memorandum is limited to matters in the limited record. The memorandum must**

support any reference to a matter in the limited record by a citation to the limited record.

**(c) Serving and filing the petition and response**

- (1) The petition must be served and filed within 10 days after the record is filed in the reviewing court. The petitioner must serve the petition on:
  - (A) Each attorney of record;
  - (B) Any unrepresented party, including the child if the child is 10 years of age or older;
  - (C) Any known sibling of the child who is the subject of the hearing if that sibling either is the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court as follows:
    - (i) If the sibling is under 10 years of age, on the sibling's attorney;
    - (ii) If the sibling is 10 years of age or over, on the sibling and the sibling's attorney;
  - (D) Any prospective adoptive parent;
  - (E) The child's Court Appointed Special Advocate (CASA) volunteer;
  - (F) Any person currently awarded by the juvenile court the status of the child's de facto parent; and
  - (G) If the court sent the notice of intent to file the writ petition to an Indian custodian, tribe, or Bureau of Indian Affairs, then to that Indian custodian, tribe, or the Bureau of Indian Affairs as required under Welfare and Institutions Code section 224.2.
- (2) Any response must be served on each of the people and entities listed in (1) and filed:
  - (A) Within 10 days—or, if the petition was served by mail, within 15 days—after the petition is filed; or
  - (B) Within 10 days after a respondent receives a request from the reviewing court for a response, unless the court specifies a shorter time.

**(d) Order to show cause or alternative writ**

If the court intends to determine the petition on the merits, it must issue an order to show cause or alternative writ.

**(e) Augmenting or correcting the record in the reviewing court**

- (1) Except as provided in (2) and (3), rule 8.410 governs augmentation or correction of the record.
- (2) The petitioner must serve and file any request for augmentation or correction within 5 days—or, if the record exceeds 300 pages, within 7 days; or, if the record exceeds 600 pages, within 10 days—after receiving the record. A respondent must serve and file any such request within 5 days after the petition is filed or an order to show cause has issued, whichever is later.
- (3) A party must attach to its motion a copy, if available, of any document or transcript that it wants added to the record. The pages of the attachment must be consecutively numbered, beginning with the number one. If the reviewing court grants the motion, it may augment the record with the copy.
- (4) If the party cannot attach a copy of the matter to be added, the party must identify it as required under rules 8.122 and 8.130.
- (5) An order augmenting or correcting the record may grant no more than 15 days for compliance. The clerk and the reporter must give the order the highest priority.
- (6) The clerk must certify and send any supplemental transcripts as required by rule 8.454(i). If the augmentation or correction is ordered, the time to file any petition or response is extended by the number of additional days granted to augment or correct the record.

**(f) Stay**

A request by petitioner for a stay of the posttermination placement order will not be granted unless the writ petition shows that implementation of the superior court's placement order pending the reviewing court's decision is likely to cause detriment to the child if the order is ultimately reversed.

**(g) Oral argument**

- (1) The reviewing court must hear oral argument within 30 days after the response is filed or due to be filed, unless the court extends the time for good cause or counsel waive argument.
- (2) If argument is waived, the cause is deemed submitted not later than 30 days after the response is filed or due to be filed.

**(h) Decision**

- (1) Absent exceptional circumstances, the reviewing court must review the petition and decide it on the merits by written opinion.
- (2) The reviewing court clerk must promptly notify the parties of any decision and must promptly send a certified copy of any writ or order to the court named as respondent.
- (3) If the writ or order stays or requires action within 7 days—or in any other urgent situation—the reviewing court clerk must make a reasonable effort to notify the clerk of the respondent court by telephone or e-mail. The clerk of the respondent court must then notify the judge or officer most directly concerned.
- (4) The reviewing court clerk need not give telephonic or e-mail notice of the summary denial of a writ, unless a stay previously issued and will be dissolved.
- (5) Rule 8.490 governs the filing, modification, finality of decisions, and remittitur in writ proceedings under this rule.

**(i) Right to appeal other orders**

This section does not affect the right of a parent, a legal guardian, or the child to appeal any order that is otherwise appealable and that is issued at a hearing held under Welfare and Institutions Code section 366.26.

**Article 4. Hearing and Decision**

*Division 1, Rules Relating to the Supreme Court and Courts of Appeal—Chapter 5, Juvenile Appeals and Writs—Article 4, Hearing and Decision, renumbered effective January 1, 2011.*

***Rule 8.470. Hearing and decision in the Court of Appeal***

***Rule 8.472. Hearing and decision in the Supreme Court***

***Rule 8.474. Procedures and data***

**Rule 8.470. Hearing and decision in the Court of Appeal**

Except as provided in rules 8.400–8.456, rules 8.252–8.272 govern hearing and decision in the Court of Appeal in juvenile cases.

**Rule 8.472. Hearing and decision in the Supreme Court**

Rules 8.500–8.552 govern hearing and decision in the Supreme Court in juvenile cases.

**Rule 8.474. Procedures and data**

**(a) Procedures**

The judges and clerks of the superior courts and the reviewing courts must adopt procedures to identify the records and expedite the processing of all appeals and writs in juvenile cases.

**(b) Data**

The clerks of the superior courts and the reviewing courts must provide the data required to assist the Judicial Council in evaluating the effectiveness of the rules governing appeals and writs in juvenile cases.



In very limited circumstances, a person who is not the child, parent or guardian in a dependency or delinquency case has the right to appeal decisions made by the juvenile court. These individuals however are not entitled to access information in the juvenile court case file for purposes of appeal unless they get approval from the juvenile court. The purpose of this information sheet is to inform those individuals who are not the child, parent or guardian, who may have the right to appeal, of the requirement to request access to the juvenile court record by filing a JV-570-*Request for Disclosure of Juvenile Case File*.

### ① When would I have the right to appeal?

To have a right to appeal, the person must have had a legal right that was aggrieved by the judgment of juvenile court. In the vast majority of cases, only the child, parent, or guardian will have the right to appeal a juvenile court ruling. However, the law also protects those individuals that have a compelling relationship to the child in certain situations.

The following individuals might have a right to appeal:

- A relative of the child, in the limited situation where the placing agency does not assess their home for placement sometime before a hearing to terminate parental rights.
- Someone who has cared for the child and requested de facto parent status and the request was denied.
- Someone who requested a change of court order through a section 388 petition (JV-180).
- A sibling to the child who made a request to the juvenile court for visitation for example, or for an exception to adoption based on preserving the sibling relationship.
- A prospective adoptive parent when the child is removed from their home.

### ② If I appeal, what additional steps must I take?

If you believe that you might have a right to appeal, or if you anticipate that you may need to appeal an order of the juvenile court, you will need to request access to the record with the juvenile court. To make this request, file the JV-570-*Request for Disclosure of Juvenile Case File*. You will need to provide a copy of this form to all interested parties to the case if you know their names and addresses, including the child, parents, and social worker.

On the request form, specify the reason that you are requesting a release of the records. You can say you are requesting the release to have access to the record on appeal. You will need to explain to the court why you think you should be given access to the records and which records you are requesting. You should indicate you are requesting the record and transcripts relating to the dates of the hearings related to the issue you are appealing, and that you are requesting the transcript as well.

When you file the notice of appeal on the form JV-800 *Notice of Appeal-Juvenile* or form JV-820 *Notice of intent to File Writ Petition and Request for Record to Review Order Setting a Hearing Under Welfare and Institutions Code Section 366.26*, you will need to attach the court's order indicating which records the court has granted you access. Doing so will alert the clerk that you are entitled to access the case file and will ensure that a record on appeal will be prepared for you. The court's order is made on form JV-574 *Order After Judicial Review*.

It is recommended that you consult with an attorney when considering whether you should appeal a case and request access to the juvenile court record.

Clerk stamps date here when form is filed.

As the relative of a child who has been removed from the home, you may give written information to the court about the child at any time on this form or in a letter. After filling out this form, give it to the clerk of the court.

Please note that other people involved in the case, including the parents, will see your answers on this form. If you prefer to keep your contact information private, fill out the *Confidential Information* (form JV-287) and do not write your address or telephone number below.

**DRAFT**  
**Not approved by**  
**the Judicial Council**

Social worker fills in court name and street address:

**Superior Court of California, County of**

Social worker fills in child's name and date of birth:

**Child's Name:**  
  
**Date of Birth:**

Social worker fills in case number:

**Case Number:**

① Your name: \_\_\_\_\_

Your Address: \_\_\_\_\_

\_\_\_\_\_

Your telephone number: \_\_\_\_\_

Check here if contact information is confidential and form JV-287 is attached.

② Your relation to the child:  maternal  paternal

grandparent  brother/sister  aunt/uncle  cousin

family friend

tribal extended family member

other (specify): \_\_\_\_\_

③ Child's name: \_\_\_\_\_

④  I would like to talk to the judge at the next court hearing.

Please fill in as much of the following information as you know. If you need more space to respond to any section on this form, attach additional pages as needed and check the box at item 12.

⑤ Information about the child's medical, dental, and general physical health:

\_\_\_\_\_  
\_\_\_\_\_

⑥ Information about the child's emotional and behavioral health:

\_\_\_\_\_  
\_\_\_\_\_

⑦ Information about the child's education:

\_\_\_\_\_  
\_\_\_\_\_

⑧ Other information that might be helpful to the court:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Child's name: \_\_\_\_\_

Case Number: \_\_\_\_\_

*Below are some things you might do to help the child. You can pick some or none of the things listed below. It is up to the social worker and the court whether you will be asked to do these things.*

- 9 I want to
- |   |   |
|---|---|
| <input type="checkbox"/> telephone the child.                                   | <input type="checkbox"/> take the child to visits with parents.                       |
| <input type="checkbox"/> write letters to the child.                            | <input type="checkbox"/> take the child to medical appointments.                      |
| <input type="checkbox"/> take the child on outings.                             | <input type="checkbox"/> supervise the child during visits with brothers and sisters. |
| <input type="checkbox"/> take the child to/from school.                         | <input type="checkbox"/> watch the child after school.                                |
| <input type="checkbox"/> take the child to visits with brothers or sisters.     | <input type="checkbox"/> have the child live with me.                                 |
| <input type="checkbox"/> take the child to therapy.                             | <input type="checkbox"/> other (describe): _____                                      |
| <input type="checkbox"/> take the child to family gatherings.                   | _____   |
| <input type="checkbox"/> help the social worker make a case plan for the child. | _____   |

*You can also help the parents. For example, you might help with transportation, housing, visits, or child care. It is up to the social worker and the court whether you will be asked to do these things.*

- 10 I want to help the  father  mother  
 (Describe): \_\_\_\_\_  
 \_\_\_\_\_

- 11 Other relatives who might be able to help the child:
- a. Name: \_\_\_\_\_ Relationship to child: \_\_\_\_\_  
 Contact information: \_\_\_\_\_  
 or  I want to keep the contact information confidential and ask that the child's social worker get this information from me.
- b. Name: \_\_\_\_\_ Relationship to child: \_\_\_\_\_  
 Contact information: \_\_\_\_\_  
 or  I want to keep the contact information confidential and ask that the child's social worker get this information from me.
- c. Name: \_\_\_\_\_ Relationship to child: \_\_\_\_\_  
 Contact information: \_\_\_\_\_  
 or  I want to keep the contact information confidential and ask that the child's social worker get this information from me.

- 12  If you need more space to respond to any section on this form, please check this box and attach additional pages.  
 Number of pages attached: \_\_\_\_\_

**NOTICE**

If you are not the parent to the child, the child, or the child's legal guardian, in very limited circumstances, a right to appeal may exist. Please see form JV-291-INFO – *Right To Appeal For A Nonparty – Requirement To Request Access To Juvenile Record* for further information on the requirements for an appeal.

Date: \_\_\_\_\_  
 \_\_\_\_\_  
 Type or print your name

▶  
 \_\_\_\_\_  
 Sign your name

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY  <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b>
CHILD'S NAME: HEARING DATE AND TIME:	
<b>CAREGIVER INFORMATION FORM</b>	CASE NUMBER:

**To the current caregiver, preadoptive parent, community care facility, or foster family agency caring for the child: You may submit written information to the court and you may attend review and permanency hearings. You may use this optional form to provide written information to the court. Please type or print clearly in ink and submit the original and eight copies of the form to the court clerk's office at least five calendar days (or seven calendar days if filing by mail) before the hearing. Be aware that other individuals involved in the case have access to this information. See form JV-290-INFO for instructions on how to complete this form and file it with the court.**

1. a. Child's name:  
 b. Child's date of birth: \_\_\_\_\_ c. Child's age: \_\_\_\_\_
2. **Caregiver Information** (Answer only if you are a caregiver, skip #3.):
  - a. Name of caregiver:
  - b. Type of caregiver:     Foster parent     Relative     Legal guardian     Preadoptive parent  
                                   Nonrelative extended family member     Other (specify): \_\_\_\_\_
  - c. The child has been living in my home for (specify): \_\_\_\_\_ years \_\_\_\_\_ months.
3. **Agency or Facility Information** (Answer only if you are an Agency or Facility, skip #2.):
  - a. Name of agency or facility:
  - b. Address:
  - c. Telephone number:
  - d. Type of facility:     Foster family agency     Community care agency     Other (specify): \_\_\_\_\_
  - e. The child has been placed with our agency/facility for (specify): \_\_\_\_\_ years \_\_\_\_\_ months and in the current home for (specify): \_\_\_\_\_ years \_\_\_\_\_ months.
  - f. Name of person completing form: \_\_\_\_\_ Title: \_\_\_\_\_
  - g. Hours per week the person completing this form spends with the child (specify): \_\_\_\_\_ hours/week.
  - h. The information on this form consists of
    - (1)  the observations and recommendations of the person filling out this form.
    - (2)  the observations and recommendations of a group or team made up of the following individuals (specify): \_\_\_\_\_
4. **Current Status of Child's Medical, Dental, and General Physical and Emotional Health**
  - a.  There is no new or additional information since the last court hearing.
  - b.  There is new or additional information since the last court hearing, as follows (do not include the names of doctors): \_\_\_\_\_
5. **Current Status of Child's Education**
  - a.  There is no new or additional information since the last court hearing.
  - b.  There is new or additional information since the last court hearing, as follows (do not include the names of schools): \_\_\_\_\_

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

**6. Child's Special Education Status**

- a.  The child is a special education student. Date of last Individualized Education Plan (IEP):
- b.  The child is not a special education student.
- c.  I do not know the child's special education status.

**7. Current Status of Child's Adjustment to Living Arrangement**

- a.  There is no new or additional information since the last court hearing.
- b.  There is new or additional information since the last court hearing, as follows:

**8. Current Status of Child's Social Skills and Peer Relationships**

- a.  There is no new or additional information since the last court hearing.
- b.  There is new or additional information since the last court hearing, as follows:

**9. Current Status of Child's Special Interests and Activities**

- a.  There is no new or additional information since the last court hearing.
- b.  There is new or additional information since the last court hearing, as follows:

**10. Other Helpful Information**

- a.  There is no new or additional information since the last court hearing.
- b.  There is new or additional information since the last court hearing, as follows:

**11. Recommendation for Disposition (Outcome)**

- a.  I have no recommendation for disposition (*outcome*).
- b.  I am recommending the following disposition (*outcome*).

12.  If you need more space to respond to any section on this form, please check this box and attach additional pages.  
 Number of pages attached:

**NOTICE**

If you are not the parent to the child, the child, or the child's legal guardian, in very limited circumstances, a right to appeal may exist. Please see form JV-291-INFO – *Right To Appeal For A Nonparty – Requirement To Request Access To Juvenile Record* for further information on the requirements for an appeal.

Date:

\_\_\_\_\_

(TYPE OR PRINT NAME)

\_\_\_\_\_

(SIGNATURE OF CAREGIVER OR FACILITY/AGENCY STAFF PERSON WHO HAS COMPLETED THIS FORM)

*Clerk stamps date here when form is filed.*

**DRAFT**  
**Not approved by**  
**the Judicial Council**

The address of any licensed foster family home must remain confidential unless the judge or the foster parent authorizes release of the address. Court clerks should not send this page to the parties without a court order or authorization of the foster parent. (Welf. & Inst. Code, § 308(a).)

**1** My/Our name(s): \_\_\_\_\_

My/Our address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

My/Our phone #: \_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

**2** I am/We are asking that I/we be appointed de facto parent(s) of  
(Child's name): \_\_\_\_\_

*Court fills in case number when form is filed.*

**Case Number:**

Date: \_\_\_\_\_  
Type or print your name

\_\_\_\_\_  
Signature of person requesting de facto parent status

Date: \_\_\_\_\_  
Type or print your name

\_\_\_\_\_  
Signature of person requesting de facto parent status

Date: \_\_\_\_\_  
Type or print attorney's name

\_\_\_\_\_  
Signature of attorney (if applicable)

Attorney's address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Attorney's phone #: \_\_\_\_\_

**NOTICE**

If you are not the parent to the child, the child, or the child's legal guardian, in very limited circumstances, a right to appeal may exist. Please see form JV-291-INFO – *Right To Appeal For A Nonparty – Requirement To Request Access To Juvenile Record* for further information on the requirements for an appeal.

**Request for Prospective Adoptive Parent Designation**

Clerk stamps date here when form is filed.

After filling out this form, bring it to the clerk of the court. If you want to keep an address or telephone number confidential, do not write the information on this form. Instead, fill out Form JV-322, Confidential Information—Prospective Adoptive Parent.

**DRAFT**  
**Not approved by**  
**the Judicial Council**

- ① Information about the person or persons you want to be designated as prospective adoptive parents:
  - a. Name: \_\_\_\_\_
  - b. Name: \_\_\_\_\_
  - c. Street address: \_\_\_\_\_
  - d. City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_
  - e. Telephone number: \_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

- ② If you are not a person in ①, fill out below.
  - a. Name: \_\_\_\_\_
  - b. I am the  child  child's attorney  other  
(specify role): \_\_\_\_\_
  - c. Street address: \_\_\_\_\_
  - d. City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_
  - e. Telephone number: \_\_\_\_\_

Fill in child's name and date of birth:

**Child's Name:**  
  
**Date of Birth:**

Fill in case number:

**Case Number:**

- ③ If you are not the child's attorney and you know who the child's attorney is, fill out below.
  - a. Name of child's attorney: \_\_\_\_\_
  - b. Street address of child's attorney: \_\_\_\_\_
  - c. City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_
  - d. Telephone number of child's attorney: \_\_\_\_\_

- ④  The child is 10 years of age or older. Child's telephone number: \_\_\_\_\_  
or  Telephone number is confidential.

- ⑤ The child has lived with the person from (date): \_\_\_\_\_ to the present.  
In order for the person in ① to become a prospective adoptive parent, the child must be living with that person now.

- ⑥ Date of Welfare and Institutions Code section 366.26 hearing: \_\_\_\_\_  
The person in ① should not file this form with the court until a Welfare and Institutions Code section 366.26 hearing has been scheduled.

- ⑦  The person in ① is committed to adopting the child.



Child's name: \_\_\_\_\_

Case Number: \_\_\_\_\_

8 The person in 1 has (check all that apply):

- a.  Applied for an adoptive home study
- b.  In a case in which tribal customary adoption is the permanent plan, been identified by the Indian child's tribe as the prospective adoptive parent.
- c.  Cooperated with an adoptive home study
- d.  Signed an adoptive placement agreement
- e.  Requested de facto parent status
- f.  Been designated by the juvenile court or the licensed adoption agency as the adoptive parent
- g.  Discussed a postadoption contact agreement with the social worker, child's attorney, child's Court Appointed Special Advocate (CASA) volunteer, adoption agency, or court
- h.  Worked to overcome any impediments that have been identified by the California Department of Social Services or the licensed adoption agency
- i.  Attended any of the classes required of prospective adoptive parent
- j.  Taken other steps toward adopting the child (explain): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If you need more space, attach a sheet of paper and write "JV-321, Item 8—Steps Toward Adoption" at the top. Number of pages attached: \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the information in items 1 through 8 is true and correct, which means if I lie on this form, I am committing a crime.

Date:

\_\_\_\_\_  
Type or print your name

▶ \_\_\_\_\_  
Sign your name

\_\_\_\_\_  
Type or print your name

▶ \_\_\_\_\_  
Sign your name

**NOTICE**

If you are not the parent to the child, the child, or the child's legal guardian, in very limited circumstances, a right to appeal may exist. Please see form JV-291-INFO – *Right To Appeal For A Nonparty – Requirement To Request Access To Juvenile Record* for further information on the requirements for an appeal.



If you do not agree with the removal, you can request a court hearing by filling out this form. The following people can object to removal: a current caregiver, the child's attorney, the child (if 10 years of age or older), the child's identified Indian tribe or custodian, and the child's CASA program. Bring this form to the clerk of the court. If you want to keep an address or a phone number confidential, fill out form JV-322, Confidential Information—Prospective Adoptive Parent, and do not write the address or phone number on this form.

If you are a caregiver or the child and you requested the hearing, the clerk will provide notice of the hearing to you and any other participants.

If you are the child's attorney and you requested the hearing, you must provide notice of the hearing to all other participants.

**DRAFT**  
**Not approved by**  
**the Judicial Council**

Fill in court name and street address:

**Superior Court of California, County of****1** Information about the caregiver or caregivers:

- a. Name: \_\_\_\_\_
- b. Name: \_\_\_\_\_
- c. Address: \_\_\_\_\_
- d. Phone number: \_\_\_\_\_

Fill in child's name and date of birth:

**Child's Name:****Date of Birth:****2** If you (*the person objecting to the removal*) are not the caregiver, fill out below.

- a. Name: \_\_\_\_\_
- b. I am the  child  child's attorney  child's identified Indian tribe  
 child's identified Indian custodian  child's CASA program

Fill in case number:

**Case Number:**

- c. Address: \_\_\_\_\_
- d. Phone number: \_\_\_\_\_

**3** If you are not the child's attorney and you know who the child's attorney is, fill out below.

- a. Name of child's attorney: \_\_\_\_\_
- b. Address of child's attorney: \_\_\_\_\_
- c. Phone number of child's attorney: \_\_\_\_\_

- 4**  The child is 10 years of age or older. Child's telephone number: \_\_\_\_\_  
 Confidential phone number in court file

- 5**  The child has an identified Indian tribe (*specify tribe*): \_\_\_\_\_  
Phone number of tribe: \_\_\_\_\_

- 6**  The child has a Court Appointed Special Advocate (CASA) volunteer.  
Phone number of CASA program, if known: \_\_\_\_\_

- 7**  The caregiver or caregivers have been designated by the judge as the child's prospective adoptive parent or parents.



Child's name: \_\_\_\_\_

Case Number: \_\_\_\_\_

8  The caregiver or caregivers may meet the definition of prospective adoptive parent or parents. Form JV-321, *Request for Prospective Adoptive Parent Designation*, will be filed with this objection and request for hearing.

9 The social worker should not remove the child from the caregiver's home because (*give reasons*):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*If you need more space, attach a sheet of paper and write "JV-325, Item 9—Reasons to Not Remove Child" at the top. Number of pages attached: \_\_\_\_\_*


I declare under penalty of perjury under the laws of the State of California that the information on this form is true and correct, which means that if I lie on this form, I am committing a crime.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Type or print your name*

\_\_\_\_\_  
\_\_\_\_\_  
*Sign your name*

**NOTICE**  
If you are not the parent to the child, the child, or the child's legal guardian, in very limited circumstances, a right to appeal may exist. Please see form JV-291-INFO – *Right To Appeal For A Nonparty – Requirement To Request Access To Juvenile Record* for further information on the requirements for an appeal.

**What if I am deaf or hard of hearing?**

 **Requests for Accommodations**  
Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for *Request for Accommodations by Persons With Disabilities and Response* ([form MC-410](#)). (Civ. Code, § 54.8.)

If you are requesting a court order to obtain the juvenile case file of a child who is alive, fill out all items on this form, and file it with the court. You must also fill out and file Proof of Service—Request for Disclosure (form JV-569).

If you are a member of the public requesting the juvenile case file of a child who is deceased, you can:

a. Fill out items 1–4 and 7 on this form and file it with the court. You must then provide a copy of this form to the Custodian of Records of the county child welfare agency, who will then provide notice of this request.

**Or**

b. Do not complete the form and request the juvenile case file from the child welfare agency under Welfare and Institutions Code section 10850.4.

**DRAFT**  
**Not approved by**  
**the Judicial Council**

Fill in court name and street address:

**Superior Court of California, County of**

Fill in case number if known:

**Case Number:**

① Your name: \_\_\_\_\_  
 Relationship to child (if any): \_\_\_\_\_  
 Street address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone number: \_\_\_\_\_  
 Lawyer (if any) (name, address, telephone numbers, and State Bar number): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

② Name of child (if known): \_\_\_\_\_

③ Child's date of birth (if known): \_\_\_\_\_

④ a.  A petition regarding the child in ② has been filed under  
 Welfare and Institutions Code section 300  
 Welfare and Institutions Code section 601  
 Welfare and Institutions Code section 602 or  
 b.  I believe the child in ② died as a result of abuse or neglect. Approximate date of death: \_\_\_\_\_

**Note: You must provide a copy of this form to all interested parties if you know their names and addresses.**



Your name: \_\_\_\_\_

Case Number: \_\_\_\_\_

5 The records I want are: *(Describe in detail. Attach more pages if you need more space.)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Continued on Attachment 5.

6 The reasons for this request are:

a.  Civil court case pending in *(name of county)*: \_\_\_\_\_  
Case number: \_\_\_\_\_ Hearing date: \_\_\_\_\_

b.  Criminal court case pending in *(name of county)*: \_\_\_\_\_  
Case number: \_\_\_\_\_ Hearing date: \_\_\_\_\_

c.  Juvenile court case pending in *(name of county)*: \_\_\_\_\_  
Case number: \_\_\_\_\_ Hearing date: \_\_\_\_\_

d.  Appeal of a juvenile court order in the child's case by a nonparty.  
 I am requesting access to the transcripts and the reports and evidence considered at the following hearings that resulted in the order I am appealing or will consider appealing:  
List hearing dates: \_\_\_\_\_

e.  Other *(specify)*: \_\_\_\_\_  
Case number: \_\_\_\_\_ Hearing date: \_\_\_\_\_

7 I need the records because: *(Describe in detail. Attach more pages if you need more space.)*


\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Continued on Attachment 7.

8 I declare under penalty of perjury under the laws of the State of California that the information in this form is true and correct. This means that if I lie on this form, I am guilty of a crime.

Date:

\_\_\_\_\_  
*Type or print your name*

 \_\_\_\_\_  
*Sign your name*

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY  <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
<b>NOTICE OF APPEAL—JUVENILE</b>	CASE NUMBER:

**— NOTICE —**

- You or your attorney **must** fill in items 1 and 2 and sign this form at the bottom of the page. If possible, to help process your appeal, fill in items 4–6 on the reverse of this form.
- Rule 8.406 says that to appeal from an order or judgment, you must file a written notice of appeal within **60** days after rendition of the judgment or the making of the order being appealed or, in matters heard by a referee, within **60** days after the order of the referee becomes final.
- You are advised that if you wish to file an appeal of the order for transfer to a tribal court, you (1) may ask the juvenile court to stay (delay the effective date of) the transfer order and (2) must file the appeal before the transfer to tribal jurisdiction is finalized. Read rule 5.483 and the advisory committee comment.
- If you are not the parent to the child, the child, or the child's legal guardian, in very limited circumstances, a right to appeal may exist. Please see form JV-291-INFO – *Right To Appeal For A Nonparty – Requirement To Request Access To Juvenile Record* for further information on the requirements for an appeal.

1. I appeal from the findings and orders of the court (*specify date of order or describe order*):
  
2. This appeal is filed by
  - a. Appellant (*name*):
  - b. Address:
  - c. Phone number:
  - d. Name, address, and phone number of person to be contacted (*if different from appellant*):
  - e.  If not the child, legal guardian, parent, or their attorney, the court's order under Welfare and Institutions Code section 827 (a)(1)(Q) on form JV-574 *Order after Judicial Review*, if one exists, is attached.
3.  I request that the court appoint an attorney on appeal. I  was  was not represented by an appointed attorney in the superior court.

Date: \_\_\_\_\_

\_\_\_\_\_  
 TYPE OR PRINT NAME

\_\_\_\_\_  
 SIGNATURE OF  APPELLANT  ATTORNEY

4. Items 5 through 7 on the reverse are  completed  not completed.

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

5. Appellant is the
- |   |   |
|---|---|
| a. <input type="checkbox"/> child           | f. <input type="checkbox"/> county welfare department   |
| b. <input type="checkbox"/> mother          | g. <input type="checkbox"/> district attorney   |
| c. <input type="checkbox"/> father          | h. <input type="checkbox"/> child's tribe   |
| d. <input type="checkbox"/> guardian        | i. <input type="checkbox"/> other ( <i>state relationship to child or interest in the case</i> ): |
| e. <input type="checkbox"/> de facto parent |   |
6. This notice of appeal pertains to the following child or children (*specify number of children included*):
- |   |   |
|---|---|
| a. Name of child:<br>Child's date of birth: | c. Name of child:<br>Child's date of birth: |
| b. Name of child:<br>Child's date of birth: | d. Name of child:<br>Child's date of birth: |
- Continued in Attachment 5.
7. The order appealed from was made under Welfare and Institutions Code (*check all that apply*):
- a.  **Section 305.5** (transfer to tribal court)  
 Granting transfer to tribal court
- b.  **Section 360** (declaration of dependency)     Removal of custody from parent or guardian     Other orders  
 with review of section 300 jurisdictional findings  
 Dates of hearing (*specify*):
- c.  **Section 366.26** (selection and implementation of permanent plan in which a petition for extraordinary writ review that substantively addressed the specific issues to be challenged was timely filed and summarily denied or otherwise not decided on the merits)  
 Termination of parental rights     Appointment of guardian     Planned permanent living arrangement  
 Dates of hearing (*specify*):
- d.  **Section 366.28** (order designating a specific placement after termination of parental rights in which a petition for extraordinary writ review that substantively addressed the specific issues to be challenged was timely filed and summarily denied or otherwise not decided on the merits)  
 Dates of hearing (*specify*):
- e.  Other appealable orders relating to dependency (*specify*):  
 Dates of hearing (*specify*):
- f.  **Section 725** (declaration of wardship and other orders)  
 with review of section 601 jurisdictional findings  
 with review of section 602 jurisdictional findings  
 Dates of hearing (*specify*):
- g.  Other appealable orders relating to wardship (*specify*):  
 Dates of hearing (*specify*):
- h.  Other (*specify*):

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY  <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
<b>NOTICE OF INTENT TO FILE WRIT PETITION                  AND REQUEST FOR RECORD TO REVIEW ORDER SETTING A HEARING                  UNDER WELFARE AND INSTITUTIONS CODE SECTION 366.26                  (California Rules of Court, Rule 8.450)</b>	CASE NUMBER:

**NOTICE**

The juvenile court has decided it will make a permanent plan for this child that may result in the termination of your parental rights and adoption of the child. If you want an appeals court to review the juvenile court's decision, you must first tell the juvenile court by filing a Notice of Intent. You may use this form as your Notice of Intent. In most cases, you have only 7 days from the court's decision to file a Notice of Intent. Please see page 2 for your specific deadline for filing this form.

If you are not the parent to the child, the child, or the child's legal guardian, in very limited circumstances, a right to appeal may exist. Please see form JV-291-INFO – *Right To Appeal For A Nonparty – Requirement To Request Access To Juvenile Record* for further information on the requirements for an appeal.

1. Petitioner's name:
2. Petitioner's address:
3. Petitioner's phone number:
4. Petitioner is
  - a.  parent (name):
  - b.  guardian
  - c.  County welfare agency
  - d.  child
  - e.  other (state relationship to child or interest in the case):
5. Child's name: \_\_\_\_\_ Child's date of birth: \_\_\_\_\_
6. a. On (date): \_\_\_\_\_ the juvenile court made an order setting a hearing under Welfare and Institutions Code section 366.26. Petitioner intends to file a writ petition to challenge the findings and orders made by the court on that date and requests that the clerk assemble the record.  
 b. List all known dates of the hearing that resulted in the order:
7. The hearing under Welfare and Institutions Code section 366.26 is set for (date, if known): \_\_\_\_\_
8.  If not the child, legal guardian, parent, or their attorney, the court's order under Welfare and Institutions Code section 827(a)(1)(Q) on form JV-570 *Order after Judicial Review*, if one exists, is attached.

Date: \_\_\_\_\_

\_\_\_\_\_  
 TYPE OR PRINT NAME ▶ SIGNATURE OF  PETITIONER  ATTORNEY

The *Notice of Intent to File Writ Petition* must be signed by the person who intends to file the writ petition or by the attorney of record.

PLEASE READ THE BACK OF THIS FORM FOR IMPORTANT INFORMATION AND DEADLINES

APPELLATE CASE TITLE:	APPELLATE CASE NUMBER:
-----------------------	------------------------

**WHAT WILL HAPPEN AT THE HEARING TO MAKE A PERMANENT PLAN?**

- The court may order the termination of parental rights and adoption of the child.
- The court may order a legal guardianship for the child.
- The court may order a permanent plan of placement of the child with a fit and willing relative.
- The court may order a permanent plan of placement of the child in a foster home.

The above options are listed in the normal order of preference, because the main goal is to give the child a stable and permanent living situation.

**SEE WELF. & INST. CODE, § 366.26 FOR MORE INFORMATION**

**HOW DO I CHALLENGE THE COURT'S DECISION TO SET A HEARING TO MAKE A PERMANENT PLAN?**

- File this Notice of Intent to File Writ Petition and Request for Record in the juvenile court within the time specified below in the next box. This will let the court know you intend to file a writ petition, and the court will prepare the record.
- You will be notified after the record is filed in the Court of Appeal, and you will get copies of the record. **You have 10 days after the record is filed in the Court of Appeal to file and serve your writ petition.**
- You may use the optional Judicial Council form JV-825 to complete your writ petition, or, if you have an attorney, your attorney can write the writ petition for you.
- After you file a writ petition in the Court of Appeal, you must send copies of the petition to all of the parties in the case, to the child's CASA volunteer, to the child's present caregiver, and to any de facto parent who has standing to participate in the juvenile court proceedings. With your writ petition, you must file a Proof of Service confirming you have sent a copy of the petition to these people.

**SEE WELF. & INST. CODE, § 366.26(l); CAL. RULES OF COURT, RULES 8.450-8.452**

**WHEN DO I HAVE TO FILE MY NOTICE OF INTENT TO FILE WRIT PETITION AND REQUEST FOR RECORD?**

- If you were present when the court set the hearing to make a permanent plan, you must file the Notice of Intent within 7 days from the date the court set the hearing.
- If you were not present in court but were given notice by mail of the court's decision to set a hearing to make a permanent plan and you live in California, you must file the Notice of Intent within 12 days from the date the clerk mailed the notification.
- If you were not present in court but were given notice by mail of the court's decision to set a hearing to make a permanent plan and you live in a state other than California, you must file the Notice of Intent within 17 days from the date the clerk mailed the notification.
- If you were not present in court but were given notice by mail of the court's decision to set a hearing to make a permanent plan and you live outside the United States, you must file the Notice of Intent within 27 days from the date the clerk mailed the notification.
- If you are a party in a custodial institution you must give the Notice of Intent to custodial officials for mailing within the time specified in this box.

**SEE CAL. RULES OF COURT, RULES 8.450, 5.540(c)**

- If the order setting the hearing was made by a referee not acting as a temporary judge, you have an additional 10 days to file the Notice of Intent.

**SEE WELF. & INST. CODE, §§ 248-252; CAL. RULES OF COURT, RULES 5.538, 5.540**

**SIGNATURE ON NOTICE OF INTENT**

- Must be signed by the person who intends to file the writ petition, or
- By the attorney of record



# JUDICIAL COUNCIL OF CALIFORNIA

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## INVITATION TO COMMENT

### SPR19-\_\_

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**Title**

Appellate Procedure: Word limits for petitions for rehearing in unlimited civil cases

**Proposed Rules, Forms, Standards, or Statutes**

Amend Cal. Rules of Court, rule 8.204

**Proposed by**

Appellate Advisory Committee  
Hon. Louis R. Mauro, Chair  
Christy Simons, Attorney

**Action Requested**

Review and submit comments by June 7, 2019

**Proposed Effective Date**

January 1, 2020

**Contact**

Christy Simons, 415-865-7694  
[christy.simons@jud.ca.gov](mailto:christy.simons@jud.ca.gov)

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### Executive Summary and Origin

To establish limits on the length of petitions for rehearing that reflect the limited scope of the procedure, the Appellate Advisory Committee proposes reducing the maximum length of petitions and answers by amending the rule that governs the content and form of briefs in the Court of Appeal. Currently, the rule sets forth maximum limits for briefs produced on a computer of 14,000 words and 50 pages for briefs produced on a typewriter. These limits apply to all briefs, including briefs on the merits of the issues raised on appeal. The proposal would provide lower limits of 7,000 words and 25 pages. This proposal arises out of suggestions from appellate practitioners, including a current committee member, that the committee consider reducing word limits for civil briefs in the Court of Appeal.

### Background

Until 2002, Court of Appeal briefs were subject only to a page limit: “Excluding tables and indices, a brief shall not be longer than 50 pages, whether the brief is typewritten or proportionally spaced.” (Cal. Rules of Court, rule 15(e) [2001, repealed].)

In 2002, as part of a project to rewrite and reorganize the appellate rules, a word count was added as an alternative to a page count.<sup>1</sup> The amended rule was based on the federal appellate rules, as explained in the 2001 report summary: “Length of brief measured by word count. Revised rule

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<sup>1</sup> Judicial Council of Cal., staff rep., *Revision of Rules on Appeal: First Installment, Rules 1-18* (July 3, 2001), [insert hyperlink].

*This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. It is circulated for comment purposes only.*

14(c)(1), which governs the maximum permissible length of a brief, is derived from the federal procedure for measuring the length of a brief produced on a computer by the number of words in the brief. (FRAP32(a)(7).) Like FRAP 32(a)(7)(B)(i), revised rule 14(c)(1) imposes a limit of 14,000 words if the brief is produced on a computer.”<sup>2</sup>

The permissible length of Court of Appeal briefs is now governed by rule 8.204(c), which provides the limits of 14,000 words<sup>3</sup> and 50 pages.

Rehearing in the Court of Appeal is governed by rule 8.268. Subdivision (b)(3) provides that “[t]he petition and answer must comply with the relevant provisions of rule 8.204.” Thus, petitions for rehearing are subject to the 14,000 word and 50 page limits.

## **The Proposal**

This proposal would amend rule 8.204 to reduce the word limit to 7,000 words and the page limit to 25 pages for petitions for rehearing and answers to those petitions. The proposal is intended to encourage brevity and concise, focused arguments, eliminate repetition, and set length limits that reflect the limited purpose of petitions for rehearing. Such petitions are appropriate to raise particular issues such as the court’s opinion contains a material omission or misstatement of fact or a material misstatement of the law, or the opinion is based on an issue that was not raised or briefed by the parties, or the court lacked subject matter jurisdiction. Conversely, a petition for rehearing is not an opportunity to reargue the case, raise arguments the parties did not address, or generally argue that the court reached the wrong result. In addition, the court is familiar with the case, so no summary of the factual and procedural background in the petition is needed. For these reasons, the current limits seem to far exceed what is reasonably necessary.

The committee is proposing new limits of 7,000 words and 25 pages to reduce by 50 percent the permissible length of these briefs. The committee expects that this will assist courts by reducing the time it takes for judicial officers to review these petitions. For litigants, the reduced limits may also save them time, effort, and expense. In the rare instance when longer briefing may be necessary, rule 8.204 provides, and will continue to provide, that, “[o]n application, the presiding justice may permit a longer brief for good cause.”

## **Alternatives Considered**

The committee considered whether to propose reduced limits for other types of briefs in unlimited civil appeals. The topic is timely because the United States Supreme Court is currently considering reducing the length of briefs filed in that court. However, the committee recognizes

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<sup>2</sup> *Id.*, at p. 20.

<sup>3</sup> In 2016, FRAP 32 was amended to reduce the 14,000 word limit to 13,000, based on what the committee notes to the rule explain as a revision to the conversion ratio: “When Rule 32(a)(7)(B)’s type-volume limits for briefs were adopted in 1998, the word limits were based on an estimate of 280 words per page. In the course of adopting word limits for the length limits in Rules 5, 21, 27, 35, and 40, and responding to concern about the length of briefs, the Committee has reevaluated the conversion ratio (from pages to words) and decided to apply a conversion ratio of 260 words per page.” (FRAP, rule 32, Com. Notes on Rules–2016 Amend.)

that the topic is complex and implicates a number of competing concerns. More research and data would be needed to support any such proposal in the future.

The committee also considered not proposing any change to the length of briefs. The committee rejected this option because the benefits of reducing the length of petitions for rehearing—reducing time spent by justices to review them and resources expended by the parties to prepare them—seem clear, and any downsides—a possible increase in applications to file an overlong brief—seem minimal.

### **Fiscal and Operational Impacts**

There are no fiscal or operational impacts, and no costs of implementation other than informing courts and litigants of the new rule amendment.

#### **Request for Specific Comments**

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Are the proposed limits of 7,000 words and 25 pages appropriate for petitions for rehearing?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

### **Attachments and Links**

1. Cal. Rules of Court, rule 8.204, at p. 4

1 Title 8. Appellate Rules

2  
3 Division 1. Rules Relating to the Supreme Court and Courts of Appeal

4  
5 Chapter 2. Civil Appeals

6  
7 Article 3. Briefs in the Court of Appeal

8  
9  
10 Rule 8.204. Contents and form of briefs

11  
12 (a)–(b) \* \* \*

13  
14 (c) Length

15  
16 (1) Except as provided in (5), Aa brief produced on a computer must not exceed  
17 14,000 words, including footnotes. Such a brief must include a certificate by  
18 appellate counsel or an unrepresented party stating the number of words in  
19 the brief. The person certifying may rely on the word count of the computer  
20 program used to prepare the brief..

21  
22 (2) Except as provided in (5), Aa brief produced on a typewriter must not exceed  
23 50 pages.

24  
25 (3) The tables required under (a)(1), the cover information required under  
26 (b)(10), the Certificate of Interested Entities or Persons required under rule  
27 8.208, a certificate under (1), any signature block, and any attachment under  
28 (d) are excluded from the limits stated in (1) or (2).

29  
30 (4) A combined brief in an appeal governed by rule 8.216 must not exceed  
31 double the limits stated in (1) or (2).

32  
33 (5) A petition for rehearing or an answer to a petition for rehearing produced on  
34 a computer must not exceed 7,000 words, including footnotes. A petition or  
35 answer produced on a typewriter must not exceed 25 pages.

36  
37 ~~(5)~~(6) On application, the presiding justice may permit a longer brief for good  
38 cause.

39  
40 (d) \* \* \*