

**SISKIYOU COUNTY PROTOCOL UNDER
WELFARE AND INSTITUTIONS CODE §241.1 AND
CALIFORNIA RULE OF COURT 5.512**

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I. BASIC GUIDELINES AND STATEMENT OF PURPOSE

Welfare and Institutions Code (“WIC”) §241.1 requires that when a minor appears to come within the description of both §300 and §601 or 602, the county Probation Department (“Probation”) and county Child Protective Services (“CPS”) shall jointly initially determine which status will serve the best interests of the minor and the protection of society. The recommendations of both departments shall be presented to the Juvenile Court who shall determine which status is appropriate for the minor. The statute is further clarified by Rule of Court 5.512.¹

A minor may be declared a dependent of the Juvenile Court on various grounds of neglect or abuse or risk of neglect or abuse, including but not limited to physical abuse, sexual abuse, emotional abuse, neglect or exploitation. WIC §300. CPS has the sole discretion to determine if a minor meets this definition such that a §300 petition would be sustained.

A minor may be declared a ward of the Juvenile Court on the grounds that s/he is habitually disobedient and uncontrollable, s/he violates a curfew ordinance, s/he is habitually truant or habitually refuses to obey the reasonable and proper orders or directions of school authorities, s/he violates any criminal law or ordinance or s/he commits a traffic violation or other violations that may be heard by a juvenile hearing officer under WIC §256. WIC §§258, 601, 602, 603.5. Probation, in consultation with the District Attorney’s office, has the sole discretion to determine if a minor meets this definition such that a §602 petition would be sustained.

¹WIC §241.1 refers to a “minor” while Rule 5.512 refers to a “child.” This Protocol will use the term “minor.”

II. DUAL JURISDICTION

Dual jurisdiction as both a ward and dependent is no longer prohibited by WIC §241.1. The potential for dual jurisdiction arises in any of the following cases: (1) a minor who is detained by law enforcement also has an abusive or neglectful home situation, (2) a minor who is detained by CPS has simultaneously committed a crime, (3) a minor who is a dependent minor has committed an act that could bring him/her into the delinquency system, (4) a minor who is a ward of the Court is being considered for termination of wardship and s/he has an abusive or neglectful home situation, (5) a minor who has been adjudicated a dependent or ward in Siskiyou County is alleged to come under the dependency or delinquency law in another county. The first two situations will be addressed in Section III, below, the third in Section IV, the fourth in Section V and the fifth in Section VI.

III. WHEN MINOR IS NEITHER A DEPENDENT NOR WARD

When a minor is taken into protective custody by either CPS or Probation, the department receiving the minor shall determine if the minor is a dependent or ward of either the Siskiyou County Juvenile Court or any other county Juvenile Court. If so, the steps in either Section IV, V or VI, below shall be taken, as appropriate.

If the minor is neither a dependent nor a ward of any Juvenile Court, and the minor has been detained by Probation, Probation shall determine if signs of neglect or abuse are present and, if so, cross-report to CPS for a concurrent investigation. Probation shall follow up with a Suspected Child Abuse Report form (SS 8572) within 36 hours. Probation and CPS shall then meet pursuant to subparagraph A, below.

If the minor is neither a dependent nor a ward of any Juvenile Court, and the minor

comes to the attention of CPS, CPS shall immediately investigate to determine if there is a possibility that the minor may come within any of the provisions of WIC §300. If CPS determines that the minor does not fall under those provisions, and the parents allege out of control behavior by the minor, CPS shall contact Probation to determine the appropriate status of the minor. If the minor does fall under the provisions of WIC §300 and the parents allege out of control behavior by the minor, CPS and Probation shall then meet pursuant to subparagraph A, below.

A. Meeting

In situations where the minor may be both a dependent and a ward, CPS and Probation shall schedule a meeting to make an initial determination as to whether status as a dependent, ward, or both, will serve the best interests of the minor and the protection of society. The meeting shall occur as soon as possible after the minor is detained and, if possible, prior to filing a petition concerning the minor. The department in whose custody the minor is initially placed shall be responsible for the care and custody of the minor until the minor's status is determined by agreement of the departments and/or Court order.

At the meeting between CPS and Probation, all of the following shall be considered:

1. A description of the nature of the referral;
2. The age of the minor;
3. The history of any physical, sexual, or emotional abuse of the minor;
4. The prior record of the minor's parents for abuse of this or any other minor;

5. The prior record of the minor for out-of-control or delinquent behavior;
6. The parents' cooperation with the minor's school;
7. The minor's functioning at school;
8. The nature of the minor's home environment;
9. The history of involvement of any agencies or professionals with the minor and his/her family;
10. Any services or community agencies that are available to assist the minor and his/her family;
11. A statement by any counsel currently representing the minor; and
12. A statement by any Court Appointed Special Advocate currently appointed for the minor.

B. Results of the Meeting

The meeting may culminate in any of the following, with the stated procedures to be followed:

1. An agreement that neither department will file a petition and voluntary services/ supervision may be provided by either department. No Joint Assessment Report need be prepared.
2. An agreement that one department or the other will file a petition with respect to the minor. If the departments agree that the minor should be given only one status, the department which handles cases with the recommended status should file a petition alleging that the minor is a dependent or a ward. The Joint Assessment Report should then be filed in that case and may be utilized in place of a Detention Report. In this situation, subparagraphs C and D, below, need to be followed.
3. An agreement that the minor may qualify for dual status. If the

departments agree that dual jurisdiction is appropriate, they must then determine which department's case shall be placed "on hold" or which department shall have the "lead agency" status. A failure to agree shall be taken to the respective supervisors of the department representatives, up to the Department Heads of the respective departments, if necessary. If the departments agree that dual status should be given the minor, both departments shall file petitions and a Joint Assessment Report (serving also as a Detention Report) should be filed in both cases, designating which department's case shall be "on hold" or which department will be the "lead agency," if agreed upon. In this situation, subparagraphs C and D, below, need to be followed.

4. No agreement as to the recommended status of the minor. If no agreement is reached in the meeting, the supervisors of the attendees of the meeting will confer and attempt to reach an agreement, up to the Department Heads of the respective departments. If the departments do not agree as to the appropriate status of the minor or as to which department's case shall be "on hold" or which department will be the "lead agency," the department with custody of the minor should file a petition with respect to the minor. The Joint Assessment Report should then be filed in that case and the Court will determine which status, or both, most appropriately describes the minor and/or which department's case shall be "on hold" or which department will be the "lead agency." In this situation, subparagraphs C and D, below, need to be followed.

C. Joint Assessment Report

The department that filed the petition or the department whose case is not "on hold" or who has the "lead agency" status in dual jurisdiction cases shall have responsibility for preparing the Joint Assessment Report ("JAR"). The JAR must

consider all of the factors stated in subparagraph A, above. If the departments do not agree as to the status of the minor, or which department's case shall be placed "on hold" or which department will be the "lead agency," the positions of both departments shall be presented in the JAR.

Notice and a copy of the JAR must be provided to the minor, the parents and/or guardians, all attorneys of record and any appointed CASA at least five calendar days prior to the hearing. The Notice must be directed to the judicial officer or department that will conduct the hearing. In cases recommending dual jurisdiction, the matter shall be heard concurrently in both the dependency and delinquency courts.

D. Hearing

If the minor is detained, the hearing on the JAR must be held as soon as possible after or concurrent with the detention hearing, but no later than 15 court days after the order of detention and prior to the jurisdictional hearing. If the minor is not detained, the hearing on the JAR must occur prior to the jurisdictional hearing and within 30 days of the date of the petition. The Juvenile Court must conduct the hearing and determine which type of jurisdiction over the minor best meets the minor's unique circumstances. All parties and their attorneys must have an opportunity to be heard at the hearing. The Court must make a determination regarding the appropriate status of the minor and, if appropriate, which department's case shall be placed "on hold" or which department will be the "lead agency," and state its reasons on the record or in a written order.

IV. WHEN MINOR IS A DEPENDENT

When a minor who is a dependent of the Juvenile Court is also alleged to have committed a crime and is, therefore, a potential ward of the Court, the department

becoming aware of the possible dual jurisdiction shall immediately notify the other department to schedule a meeting pursuant to subparagraph A, below.

A. Meeting

In situations where the minor is a dependent and may also be a ward, CPS and Probation shall schedule a meeting to make an initial determination as to whether status as a dependent, ward, or both, will serve the best interests of the minor and the protection of society. The meeting shall occur as soon as possible after one department becomes aware that the dependent minor may also be a ward, and, if possible, prior to filing a delinquency petition concerning the minor.

At the meeting between CPS and Probation, all of the following shall be considered:

1. A description of the nature of the referral;
2. The age of the minor;
3. The history of any physical, sexual, or emotional abuse of the minor;
4. The prior record of the minor's parents for abuse of this or any other minor;
5. The prior record of the minor for out-of-control or delinquent behavior;
6. The parents' cooperation with the minor's school;
7. The minor's functioning at school;
8. The nature of the minor's home environment;
9. The history of involvement of any agencies or professionals with the minor and his/her family;
10. Any services or community agencies that are available to assist the minor and his/her family;

11. A statement by any counsel currently representing the minor; and
12. A statement by any Court Appointed Special Advocate currently appointed for the minor.

B. Results of the Meeting

The meeting may culminate in any of the following, with the stated procedures to be followed:

1. An agreement that no new petition need be filed on the minor and s/he should remain a dependent of the Juvenile Court. No new petition needs to be filed, but a JAR needs to be prepared pursuant to subparagraph C, below, and filed in the dependency action.

2. An agreement that the minor's status should be changed to a ward and Probation needs to file a petition on the minor. Probation will file a petition on the minor and will also prepare a JAR pursuant to C, below, to file in the new delinquency matter. The JAR should be filed concurrently with the petition, if possible, and may be utilized in place of a Detention Report. If the Court later determines that the minor should remain a dependent rather than become a ward, Probation will withdraw the delinquency petition on the minor.

3. An agreement that dual status will serve the best interests of the minor. If the departments agree that dual jurisdiction is appropriate, they must then determine which department's case shall be placed "on hold" or which department shall have the "lead agency" status. A failure to agree shall be taken to the respective supervisors of the department representatives, up to the Department Heads of the respective departments, if necessary. Probation will file a new petition, the department

whose case is not “on hold” or who has been given “lead agency” status shall prepare a JAR pursuant to C, below, and the Joint Assessment hearing shall be held concurrently in both courts. The JAR should be filed concurrently with the petition, if possible, and may be utilized in place of a Detention Report. If the Court later determines that the minor should remain a dependent rather than have dual status, Probation will withdraw the delinquency petition on the minor.

4. No agreement as to the recommended status of the minor. If no agreement is reached in the meeting, the supervisors of the attendees of the meeting will confer and attempt to reach an agreement, up to the Department Heads of the respective departments. Probation will file a new petition and a JAR pursuant to subparagraph C, below, and file it in the delinquency matter, for the Court to determine the proper status of the minor. The JAR should be filed concurrently with the petition, if possible, and may be utilized in place of a Detention Report. The JAR shall state the positions of both departments. If the Court later determines that the minor should remain a dependent rather than become a ward, Probation will withdraw the delinquency petition on the minor.

C. Joint Assessment Report

Where a Joint Assessment Report (“JAR”) is required, as stated above, the Court will make the final determination as to the proper status of the minor. The JAR must consider all of the factors stated in subparagraph A, above. If dual jurisdiction is recommended, the hearing on the JAR should be heard in both courts concurrently.

Notice and a copy of the JAR must be provided to the minor, the parents and/or guardians, all attorneys of record and any appointed CASA at least five calendar days

prior to the hearing. The Notice must be directed to the judicial officer or department that will conduct the hearing.

D. Hearing

If the minor is detained by Probation, the hearing on the JAR must be held as soon as possible after or concurrent with the detention hearing, but no later than 15 court days after the order of detention and prior to the jurisdictional hearing. If the minor is not detained by Probation, the hearing on the JAR must occur prior to the jurisdictional hearing and within 30 days of the date of the delinquency petition. The Juvenile Court must conduct the hearing and determine which type of jurisdiction over the minor best meets the minor's unique circumstances. All parties and their attorneys must have an opportunity to be heard at the hearing. The Court must make a determination regarding the appropriate status of the minor and, if appropriate, which department's case shall be placed "on hold" or which department will be the "lead agency," and state its reasons on the record or in a written order. Within five calendar days after the hearing, the clerk of the Juvenile Court must transmit the Court's findings and orders to any other Juvenile Court with current jurisdiction over the minor.

V. WHEN MINOR IS A WARD

When a minor who has been adjudged a ward of the Court may also be a dependent of the Juvenile Court, the department becoming aware of the possible dual jurisdiction shall immediately notify the other department to schedule a meeting pursuant to subparagraph A, below.

A. Meeting

In situations where the minor is a ward and may also be a dependent, CPS and

Probation shall schedule a meeting to make an initial determination as to whether status as a dependent, ward, or both, will serve the best interests of the minor and the protection of society. The meeting shall occur as soon as possible after one department becomes aware that the delinquent minor may also be a dependent and, if possible, prior to filing a dependency petition concerning the minor.

At the meeting between CPS and Probation, all of the following shall be considered:

1. A description of the nature of the referral;
2. The age of the minor;
3. The history of any physical, sexual, or emotional abuse of the minor;
4. The prior record of the minor's parents for abuse of this or any other minor;
5. The prior record of the minor for out-of-control or delinquent behavior;
6. The parents' cooperation with the minor's school;
7. The minor's functioning at school;
8. The nature of the minor's home environment;
9. The history of involvement of any agencies or professionals with the minor and his/her family;
10. Any services or community agencies that are available to assist the minor and his/her family;
11. A statement by any counsel currently representing the minor; and
12. A statement by any Court Appointed Special Advocate currently appointed for the minor.

B. Results of the Meeting

The meeting may culminate in any of the following, with the stated procedures to be followed:

1. An agreement that no new petition need be filed on the minor and s/he should remain a ward of the Juvenile Court. No new petition needs to be filed but a JAR needs to be prepared pursuant to subparagraph C, below, and filed in the delinquency action.

2. An agreement that the minor's status should be changed to a dependent and CPS needs to file a petition on the minor. CPS will file a petition on the minor and will also prepare a JAR pursuant to C, below, to file in the new dependency matter. The JAR should be filed concurrently with the petition, if possible and may be utilized in place of a Detention Report. If the Court later determines that the minor should remain a ward rather than become a dependent, CPS will withdraw the dependency petition on the minor.

3. An agreement that dual status will serve the best interests of the minor. If the departments agree that dual jurisdiction is appropriate, they must then determine which department's case shall be placed "on hold" or which department shall have the "lead agency" status. A failure to agree shall be taken to the respective supervisors of the department representatives, up to the Department Heads of the respective departments, if necessary. CPS will file a petition on the minor and the department whose case is not "on hold" or who has been given "lead agency" status shall prepare a JAR pursuant to C, below, and the Joint Assessment hearing shall be held concurrently in both courts. The JAR should be filed concurrently with the petition, if possible and may be utilized in place of a Detention Report. If the Court later determines

that the minor should remain a ward rather than have dual status, CPS will withdraw the dependency petition on the minor.

4. No agreement as to the recommended status of the minor. If no agreement is reached in the meeting, the supervisors of the attendees of the meeting will confer and attempt to reach an agreement, up to the Department Heads of the respective departments. CPS will file a new petition and shall prepare the JAR pursuant to subparagraph C, below, and file it in the dependency matter, for the Court to determine the proper status of the minor. The JAR should be filed concurrently with the petition, if possible and may be utilized in place of a Detention Report. The JAR shall state the positions of both departments. If the Court later determines that the minor should remain a ward and not become a dependent or have dual status, CPS will withdraw the dependency petition on the minor.

C. Joint Assessment Report

Where a Joint Assessment Report (“JAR”) is required, as stated above, the Court will make the final determination as to the proper status of the minor. The JAR must consider all of the factors stated in subparagraph A, above. If dual jurisdiction is recommended, the hearing on the JAR should be heard in both courts concurrently.

Notice and a copy of the JAR must be provided to the minor, the parents and/or guardians, all attorneys of record and any appointed CASA at least five calendar days prior to the hearing. The Notice must be directed to the judicial officer or department that will conduct the hearing.

D. Hearing

If the minor is detained by CPS, the hearing on the JAR must be held as soon as

possible after or concurrent with the detention hearing, but no later than 15 court days after the order of detention and prior to the jurisdictional hearing. If the minor is not detained by CPS, the hearing on the JAR must occur prior to the jurisdictional hearing and within 30 days of the date of the dependency petition. The Juvenile Court must conduct the hearing and determine which type of jurisdiction over the minor best meets the minor's unique circumstances. All parties and their attorneys must have an opportunity to be heard at the hearing. The Court must make a determination regarding the appropriate status of the minor and, if appropriate, which department's case shall be placed "on hold" or which department will be the "lead agency," and state its reasons on the record or in a written order. Within five calendar days after the hearing, the clerk of the Juvenile Court must transmit the Court's findings and orders to any other Juvenile Court with current jurisdiction over the minor.

VI. WHEN TWO COUNTIES ARE INVOLVED

In the event another county is involved, for example when a minor is a dependent or ward in Siskiyou County and may also be a ward or dependent in another county, or vice versa, the Siskiyou County department involved should endeavor to follow the procedures noted above, noting that this Protocol is not binding on other counties, and they may have conflicting protocols. The Siskiyou County department involved shall endeavor to conduct a joint assessment, pursuant to subparagraph A, below, with the other county's involved department, and engage in the other actions listed below.

A. Meeting

In situations where the minor is a ward or dependent in one county and may also be a dependent or ward in another county, the respective county CPS and Probation

departments shall schedule a meeting to make an initial determination as to whether status as a dependent, ward, or both, will serve the best interests of the minor and the protection of society. The meeting shall occur as soon as possible after either department becomes aware that the minor may also be a dependent or ward in another county, and, if possible, prior to filing a new petition concerning the minor.

At the meeting between CPS and Probation, all of the following shall be considered:

1. A description of the nature of the referral;
2. The age of the minor;
3. The history of any physical, sexual, or emotional abuse of the minor;
4. The prior record of the minor's parents for abuse of this or any other minor;
5. The prior record of the minor for out-of-control or delinquent behavior;
6. The parents' cooperation with the minor's school;
7. The minor's functioning at school;
8. The nature of the minor's home environment;
9. The history of involvement of any agencies or professionals with the minor and his/her family;
10. Any services or community agencies that are available to assist the minor and his/her family;
11. A statement by any counsel currently representing the minor; and
12. A statement by any Court Appointed Special Advocate currently appointed for the minor.

B. Results of the Meeting

The meeting may culminate in any of the following, with the stated procedures to be followed:

1. An agreement that no new petition need be filed on the minor and s/he should remain a ward or dependent of the initial county's Juvenile Court. No new petition needs to be filed, but a JAR needs to be prepared pursuant to subparagraph C, below, and filed in the initial county's Juvenile Court.

2. An agreement that the minor's status should be changed and CPS or Probation in the new county needs to file a petition on the minor. The appropriate department in the new county will file a petition on the minor and will also prepare a JAR pursuant to subparagraph C, below, to file in the new county's matter. The JAR should be filed concurrently with the petition, if possible and may be utilized in place of a Detention Report. If the Court later determines that the minor should retain his/her status in the initial county, the appropriate department in the new county will withdraw the new petition on the minor.

3. An agreement that dual status of the minor is appropriate, if available in the other county. If the departments agree that dual jurisdiction is appropriate, they must then determine which department's case shall be placed "on hold" or which department shall have the "lead agency" status. A failure to agree shall be taken to the respective supervisors of the department representatives, up to the Department Heads of the respective departments, if necessary. The appropriate department in the new county will file a petition on the minor and will also prepare a JAR pursuant to subparagraph C, below, to be filed in the new county's matter. The JAR should be filed concurrently with the petition, if possible and may be utilized in place of a Detention Report. If the Court

later determines that the minor should retain his/her status in the initial county, the appropriate department in the new county will withdraw the new petition on the minor.

4. No agreement as to the recommended status of the minor. If no agreement is reached in the meeting, the supervisors of the attendees of the meeting will confer and attempt to reach an agreement, up to the Department Heads of the respective departments. The appropriate department in the new county will file a new petition and shall prepare the JAR pursuant to subparagraph C, below, and file it in the new county's action, for the Court to determine the proper status of the minor. The JAR should be filed concurrently with the petition, if possible and may be utilized in place of a Detention Report. The positions of both departments shall be stated in the JAR. If the Court later determines that the minor should retain his/her status in the initial county, the appropriate department in the new county will withdraw the new petition on the minor.

C. Joint Assessment Report

Where a Joint Assessment Report ("JAR") is required, as stated above, the Court will make the final determination as to the proper status of the minor. The JAR must consider all of the factors stated in subparagraph A, above. If dual jurisdiction is recommended, the hearing on the JAR should be heard in both courts concurrently.

Notice and a copy of the JAR must be provided to the minor, the parents and/or guardians, all attorneys of record and any appointed CASA at least five calendar days prior to the hearing. The Notice must be directed to the judicial officer or department that will conduct the hearing.

D. Hearing

If the minor is detained in the new county, the hearing on the JAR must be held as

soon as possible after or concurrent with the detention hearing, but no later than 15 court days after the order of detention and prior to the jurisdictional hearing. If the minor is not detained in the new county, the hearing on the JAR must occur prior to the jurisdictional hearing and within 30 days of the date of the petition. The Juvenile Court must conduct the hearing and determine which type of jurisdiction over the minor best meets the minor's unique circumstances. All parties and their attorneys must have an opportunity to be heard at the hearing. The Court must make a determination regarding the appropriate status of the minor and, if appropriate, which department's case shall be placed "on hold" or which department will be the "lead agency," and state its reasons on the record or in a written order. If dual jurisdiction is recommended, the Juvenile Courts of both counties should confer regarding the status prior to making a determination. Within five calendar days after the hearing, the clerk of the Juvenile Court must transmit the Court's findings and orders to any other Juvenile Court with current jurisdiction over the minor.

VII. WHEN MINOR HAS A DUAL STATUS

A. On Hold Cases

1. Role of Department Whose Case is Not On Hold

The department whose case is not "on hold" (the "primary department") will have primary responsibility for the minor and will have primary IV-E funding rights. The primary department will be responsible for housing the minor, noting the provisions of WIC §16514(c) which allow housing 300 minors with 602 minors in limited situations only. The primary department will be responsible for complying with Title IV-E and Division 31 regulations, conducting court hearings and preparing reports therefor.

2. Role of Department Whose Case is On Hold

The department whose case is on hold (the “secondary department”) shall assign a social worker or probation officer to the case who will be the contact point for the social worker or probation office of the primary department. The secondary department shall not be responsible for providing any services to the minor or his or her family while the case is on hold.

B. Lead Agency Cases

1. Role of Lead Department

The department which has been determined to be the lead department will have primary responsibility for the minor and will have primary IV-E funding rights. The lead department will be responsible for housing the minor, noting the provisions of WIC §16514(c) which allows housing 300 minors with 602 minors in limited circumstances only. The lead department will be responsible for complying with Title IV-E and Division 31 regulations, conducting court hearings and preparing reports therefor.

2. Role of Department Which is Not the Lead Department

The department which has not been determined to be the lead department (the “secondary department”) shall assign a social worker or probation officer to the case who will be the contact point for the social worker or probation office of the primary department. If the secondary department provides any services to the minor or his family (but there shall be no duplication of services) while the case is with the lead department, the primary department shall reimburse the secondary department for the cost of such services upon presentation to the primary department.

C. Termination of One Status

At each review hearing, the status of the minor shall be reconsidered and the

departments shall consult regarding whether any change in status is appropriate. The primary or lead department shall discuss the minor's status in its report to the Court.

If at any time it comes to the attention of either department that one status is no longer appropriate, that department shall immediately arrange a meeting between the departments to discuss dismissal of one or both of the ongoing cases. If appropriate, both cases shall be dismissed and dependency and wardship terminated. If it is the delinquency case that is to be dismissed and the dependency case has been placed "on hold," CPS will bring a petition pursuant to §387(c) to take the case out of "on hold"

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status. If the dependency case is to be terminated, CPS will file a JV-180 petition for modification to terminate the dependency.

Dated: _____

Siskiyou County Superior Court

Roger T. Kosel, Presiding Judge

Dated: _____

Siskiyou County Probation
Department

Adele Arnold, Chief Probation Officer

Dated: _____

Siskiyou County Department of
Human Services

Michael Noda, Director