

## SUPPLEMENT

# Extended Foster Care/Non-Minor Dependents/Permanency

### **BACKGROUND: Fostering Connections, 2008**

**Slides 5-7** “Perhaps the most obvious example of our failure is when foster children are literally pushed out into the streets when they are 18 years old. No parent I know abandons their children at age 18, and yet that is what our Federal policy for foster care does. It says to kids to have been abused or neglected, who have been removed from their homes, or who have been placed many times in multiple foster homes that we expect more of them than we would expect of anyone else, including our own children. We displace them from their homes and from any meaningful financial support, and tell them, make it on your own, you are on your own. Another example is our failure and the inconsistent effort to help foster children stay connected to their families. We have a system that tells grandparents that they will be denied any assistance if they become legal guardians for a foster child. This is contrary to the growing base of research illustrating that children do better living with relative guardians than they do living in traditional foster care.”

***Chairman McDermott stated when introducing this bill***

“The foster care system too often unnecessarily disrupts connections to family and home and school, whether it is expecting foster kids to go it alone at age 18 or denying assistance to grandparents who become legal guardians or unnecessarily displacing kids from their schools or separating them from their siblings. Now, the result is to sever and to reduce the links that foster children need to successfully navigate their way to adulthood...Congress passed the bipartisan Fostering Connections to Success and Increasing Adoptions Act to provide for the most significant changes in child welfare policy in over a decade. The new law includes specific requirements aimed at **“improving the oversight of foster kids' health care needs, educational stability, and connection to family members.”**

***House Ways and Means Committee- SUBCOMMITTEE ON INCOME SECURITY AND FAMILY SUPPORT - Chairman McDermott a year later at hearing to report on implementation***

“The law said that States must notify the adult relatives of children entering foster care of their option to participate in the care and placement of the child. And a new demonstration grant program will encourage establishment and support of intensive family finding efforts to locate biological kin and then to work to reestablish relationships and to explore permanent family placements. Can either of you tell us how the implementation process for these two notice of

relative provisions is going in your States?” *House Ways and Means Committee-SUBCOMMITTEE ON INCOME SECURITY AND FAMILY SUPPORT - Chairman McDermott a year later at hearing to report on implementation*

**What other states are doing to implement the Act:**

<http://www.ncsl.org/research/human-services/fostering-connections-act-2011-legislation.aspx>

**Citations:**

<http://www.gpo.gov/fdsys/pkg/CHRG-111hrg53733/html/CHRG-111hrg53733.htm>

<http://beta.congress.gov/bill/110th-congress/house-bill/6893/committees>

<http://beta.congress.gov/congressional-record/2008/09/17/house-section/article/H8304-1>

<http://waysandmeans.house.gov/media/pdf/110/fulldocumentfinal010209.pdf>

**Slide #9**

**I. KIDS GROW UP IN THE “SYSTEM”**

- ▶ Some enter young and are never reunited
- ▶ Absent adherence to time lines and concurrent planning it is often too late for a truly permanent plan
- ▶ Some enter as pre-teens or teens and WILL grow up in group homes

**Slide #10**

**II. “Emancipated” Youth: What happens?**

- 75% work below grade level
- 50% do not complete h.s.
- 45% are unemployed
- 33% are arrested
- 30% are on welfare
- 25% are homeless

[www.chapinhall.org](http://www.chapinhall.org)

**Slide #12**

**III. Concurrent Planning—Does it apply?**

FUNDAMENTAL—

Applies to every dependent or ward in out-of-home placement THROUGHOUT the case!  
Important from the beginning of the case, as well as when the youth nears 18 AND after 18.

## Slides 13-14

### **IV. Family Finding. For Nonminor dependents?????**

- ▶ WHAT?
  - Search for relatives as defined in statute...
- ▶ WHY?
  - Information
  - Placement
  - Connections
- ▶ WHEN?
  - From the beginning and throughout the case
- ▶ WHERE?
  - No limit
- ▶ HOW?
  - Diligently and repeatedly
- ▶ FOR HOW LONG?
  - As long as it takes

## Slide #15

### **V. What are the legal permanency options for Nonminor Dependents?**

#### Dependency (366.26)

- ▶ Adoption
- ▶ Guardianship
- ▶ PPLA

#### Delinquency (727.3)

- ▶ Adoption
- ▶ Guardianship
- ▶ PPLA

## Slide #16

### **VI. What about emotional permanence? Does that matter?**

- ▶ W&IC § 366.21
- ▶ Lifelong connections
- ▶ At every review hearing for a child out of home for 6 months or more, report MUST include efforts to maintain relationships important to the child.

**Slide #17**

**VII. How about those Acronyms?**

- **EFC:** Extended Foster Care
- **NMD:** Non Minor Dependent
- **SILP:** Supervised Independent Living Placement
- **THP+FC:** Transitional Housing Program Plus Foster Care
- **TILCP:** Transitional Independent Living *Case* Plan
- **TILP:** Transitional Independent Living Plan
- **VRA:** Voluntary Reentry Agreement

**Slide #19**

**VIII. There are Four Types of Jurisdiction for NMD's:**

1. Dependency Jurisdiction
  - Youth in foster care at the age of 18 either in reunification or post-permanency
2. Transition Jurisdiction
  - Youth in foster care at age 17.5 or older who has met rehabilitative goals
3. Delinquency Jurisdiction
  - Ward under a foster care placement order at age 18 who has not met rehabilitative goals.
  - \* in a IV-E approved placement for federal reimbursement.
4. General Jurisdiction

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**Slides #20-22**

**Extended foster care applies to NonMinor Dependents. What are the requirements for Program Eligibility:**

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

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

### There are Participation Requirements:

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

*WIC 11400 [Amended] & WIC 11403 [New]*

### **Slides # 24-30**

#### TILP Vs. TILCP

- These are two separate, yet closely related documents.
- The Transitional Independent Living Plan (**TILP**) is a 2 page form attached to the Transitional Independent Living Case Plan (**TILCP**).
- The case plan (**TILP**) describes the goals and objectives of how the NMD will make progress in transitioning to living independently, and includes sections of the court report narrative. **TILCP** addresses the supportive services to ensure meaningful participation in one or more of the participation criteria described in section 11403(b), housing, and plans for transitioning to living independently.
- The **TILP** is the written individualized service delivery plan that identifies the nonminor's current level of functioning, emancipation goals and specific skills needed to prepare the nonminor to live independently.
- It describes **shared responsibilities**.
- **TILP** is *forward looking* and **TILCP** is what is happening *currently*

*WIC 11400(y), ACL 11-69 , Rule of Court 5.50*

### **Slide #31**

#### There must be Mutual Agreement (SOC 162)

#### **WIC 303(d), 11400(u)**

This is an agreement between the youth and the county welfare agency that should be signed when the youth turns 18, but no later than 6 months after the youth turns 18:

- **NMD** agrees to:
  - Stay under the court's jurisdiction
  - Live in a supervised placement
  - Report changes to eligibility

- Participate in a TILP
- Participate in court hearings.
- **Agency** agrees to:
  - Help NMD remain eligible for EFC by providing supports and services
  - Help NDM develop/achieve goals
  - Update TILP every 6 months

**Slide #32**

**Don't forget...**

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

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**Slides #33-36**

**Planning For Extended Foster Care in the Juvenile Court**

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

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

**Or**

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

**RULES OF COURT**

Rule 5.707 (Chart)

- Planning for transition to independence:
  - Benefits of remaining in foster care
  - Right to have jurisdiction terminated & exit foster care
  - Right to have jurisdiction resumed & return to foster care
- ▶ Form JV-460

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

### Slide #37

## Minor Ward – Modification to Dependency or Transition Jurisdiction

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

### Slides # 38-41

## Options After Hearing: Rule 5.812

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

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

## Slides #42-50

### Additional Planning For Wards

#### Three Ways for Wards to Become Eligible for Extended Benefits

- Youth under WIC 602 (who are still on probation) with an order for foster care placement at age 18.

#### OR

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

#### OR

Eligible youth under 17 years 5 months old may resume or assume 300 dependency status if they are at risk.

#### #1: Youth Under Delinquency Jurisdiction

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

*WIC 727.2(i)&(j)*

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

#### # 2: Youth Under Transition Jurisdiction

New jurisdiction (WIC 450) for youth no longer on probation.

Designed to encourage youth to take advantage of extended benefits without forcing them to remain under “delinquency” supervision.



## Eligibility for Transition Jurisdiction

- Delinquent youth whose rehabilitative goals *have* been met,
- **AND**
- Between ages 18 -21 **AND** had a foster care placement order on the day of 18 b-day

### OR

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

### AND

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

### OR

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

## WHEN TO CONSIDER TRANSITION JURISDICTION

- At the status review hearing held closest to the ward's 18<sup>th</sup> b-day. Hearing must occur at least 90 days before the b-day:
  - The Court **MUST** consider whether to assume transition jurisdiction over the ward pursuant to WIC §450.
  - The Probation Department **MUST** address this issue in its report to the court and make a recommendation as to whether transition jurisdiction is appropriate for the ward.

*WIC §727.2 (i)*

## ASSUMING TRANSITION JURISDICTION

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

## SUPERVISION OF YOUTH IN TRANSITION JURISDICTION

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

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

### #3: What about Youth not Eligible for Transition Jurisdiction?

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

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### Slides 51-52

## WHAT DOES EXTENDED FOSTER CARE LOOK LIKE?

### Meetings with Social Worker/Probation Officers

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

WIC 11400 (y), 16501.1 (f) (16)

**Slides #53-57**

**REVIEW HEARINGS FOR NMDS**

1) PPLA NMD Review Hearings

- Statute: WIC 366.31 & 16503, Rule: 5.900 & 5.903, Form: JV-462 (dependency and delinquency)

2) NMD Participating in Family Reunification Services

- Statute: WIC 366.31. Amended Rule and Forms 5.903 & Forms JV-462 (Available January 1<sup>st</sup>)
- Statute: WIC 727.25, Amended Rule and Forms 5.903 & Forms JV-462

3) NMD/Adult Adoption

- Statute: WIC 366.31 (dependency and delinquency)

4) Modification to Transition Jurisdiction

- Statutes: WIC 450 & 451, New Rule: 5.813 (18-21) & Form JV-683; New Rule 5.814 (17.5-18) & Form JV -682

**NMD REVIEW HEARINGS-CRC 5.9000**

- Anyone one under FC placement at the age of 18 under every jurisdiction type
- NMD may be present either in person or by telephone and may designate attorney to appear on NMD's behalf.
- Respect adult status
- Informal and nonadversarial
- Collaborative

**AT EACH REVIEW HEARING**

- Court must:
  - Ensure one or more participation conditions are being met as in TILCP
  - Ensure PO or SW is making reasonable efforts to make sure NMD is meeting requirements
  - Review and emphasize PO or SW efforts to assist NMD to obtain and maintain permanent connections with caring and committed adults.
- Inform youth of right to have jurisdiction terminated.
- Note: if FR efforts continuing, additional findings required

## Slide #57

### ADULT ADOPTION

W&IC §366.31(f)(1)---procedures

W&IC §16120—for adoption assistance

- May be an excellent option for permanency—still a goal.
- Termination of parental rights unnecessary
- Must be in best interest of the NMD
- Wishes of the NMD must be considered

## Slides #58-61

### Hearing to Terminate Jurisdiction

- Hearing to Terminate Jurisdiction for a Nonminor
  - Statute: WIC 391, Rule: 5.555, Form: JV-365 & JV-367
  - Statute: WIC 607.2, 607.3, 607.5 & WIC 391, Rule 5.555, Form JV 365 & JV 367

Relevant case law:

- ❖ Social worker must provide a 391 report prior to a NMD case being dismissed. The court cannot terminate jurisdiction without a report and making the proper 391 findings and orders.  
*In re Nadia G., 216 Cal.App.4th 1110*
- ❖ WIC 391 applies to all nonminors- regardless of their placement or status.  
*In re Shannon M., 221 Cal.App. 282*

### TERMINATION HEARING REQUIREMENTS

- SW/PO to ensure NMD is present unless NMD chooses to **participate in the hearing telephonically.**
- Court **shall** continue jurisdiction, unless
  - NMD does not wish to remain in care, or
  - NMD is not participating in reasonable and appropriate TILCP, or
  - NMD cannot be located and social worker documents reasonable efforts to locate him/her.

- Prior to the Court terminating jurisdiction, the court must find that youth was informed of:
  - His/her right to remain in care
  - The benefits of remaining in care
- The court must also find the NMD has been informed of his/her right to reenter care if under the age limits

### **Necessary Documentation at Termination**

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

### **Slides #62-67**

### **REENTRY**

#### **Request for Juvenile Court to Resume Jurisdiction**

- MUST be made on JV-466 {also referred to as § 388(e) *Petition*}
- (*Request to Return to Juvenile Court Jurisdiction*)
- MUST be verified by nonminor or designee.
- MUST be liberally construed.

### **FILING THE REQUEST**

If youth contacts agency first, VRA signed to initiate services and once VRA signed, agency must file §388(e)-JV-466.

JV-466 and JV-468 (*Confidential Information—Request to Return to Juvenile Court Jurisdiction and Foster Care*) MAY be:

1. Filed w/court w/general juris, OR
2. Submitted to clerk in county of residence.
  - Clerk records date and time submitted; copies to nonminor;

- Clerk forwards to clerk of general juris w/in 2 days
  - Sending county bears costs of copies and forwarding
  - Sending county retains a copy
3. If forms filed by nonminor, clerk of general juris. must notify placing agency w/in 2 court days and provide contact info. May be by phone, fax, email or other method approved by Court.
4. If §388(e)/JV-466 not filed at time nonminor has completed Voluntary Reentry Agreement (VRA) per § 11400(z) agency to file JV-466 w/in 15 court days of date VRA signed unless nonminor does so first.
5. No filing fees! Nonminor to receive copies.

### **Prima Facie Showing**

- Court to review JV-466 w/in 3 court days of filing to determine prima facie showing of:
  1. Nonminor had FC order at 18;
  2. Not yet 19 in 2012, or 20 in 2013 or 21 in 2014;
  3. Nonminor wants assistance in placement and agrees to VRA;
  4. Nonminor intends to satisfy at least one of the conditions in §11403(b).

### **Findings and Orders re Prima Facie Showing**

If court finds prima facie:

- Set hearing w/in 15 days from date JV-466 filed and
- Appoint attorney for that hearing.
- Continue or appoint CASA if requested

If prima facie not made:

- Deny request w/reasons. Nonminor may file new request when issues addressed.

Court clerk to serve copy of order on nonminor and placing agency by personal service or 1<sup>st</sup> class mail w/in 2 court days of order.

If request denied include:

- Blank copies of JV-466 and JV-468
- Copy of JV-464-INFO (*How to Ask to Return to Juvenile Court Jurisdiction and Foster Care*)
- Names and info re attys approved to represent minors in juvenile court and who agree to consult w/nonminors whose requests are denied.

## Slides #68+69

### Attorneys

#### Appointment

JV-466 requested same attorney, court MUST appoint, if available.

No request—MUST appoint and court clerk to notify atty. ASAP, but no later than 1 court day after order for appointment. Include contact info.

If request is granted, atty's appointment continues unless finding NMD would not benefit. Same standards as Rule 5.660(b.)

No cost to nonminor unless retains own counsel.

## Slide #70

### NOTICE REQUIREMENTS FOR RE-ENTRY HEARING

Clerk to serve notice ASAP, but no later than 5 court days before hearing.

Date, time, place and purpose PLUS the JV-466 on: nonminor, attorney and placing agency .

Date, time, place and purpose on: parents, if JV-466 requested; tribal rep if requested, and CASA if requested.

Notice to nonminor: Statement re appearing by phone and how to do it.

## Slides #71-73

### FINDINGS AT HEARING

1. Notice as required
2. Nonminor had FC order at 18
3. Court retained general jurisdiction
4. Not yet 19 in 2012, or 20 in 2013 or 21 in 2014
5. Nonminor intends to satisfy 1 or more conditions
6. Specify which conditions:
  - High school or GED
  - College or vocational ed. prog.
  - Program to remove barriers
  - Employed at least 80 hrs @month
  - Unable due to medical condition
7. Reentry agreement between nonminor and agency
8. Indian child chooses or does not choose to have ICWA apply.

## Slides #73-74

### ORDERS SERVED BY CLERK ON ALL NOTICED

1. If eligible and all requirements met:
  - a. Request granted
  - b. Placement and care vested w/placing agency
  - c. Agency to develop TILCP and file w/in 60 days
  - d. For Indian child choosing Act to apply and not under supervision of tribal case worker, S.W. or P.O. to consult w/tribal rep for new TILCP
  - e. Set review w/in 6 mo. from date VRA signed
  - f. Continue appointment of attorney
2. If eligible but does not intend to satisfy at least one of the conditions or no VRA:
  - a. Request denied. State reasons.
  - b. Nonminor may file a new request when circumstances change.
  - c. Attorney is relieved as of 7 days after the hearing

## IN REVIEW:

### SLIDE #76

#### What are the goals of the legislation?

- BETTER PREPARE YOUTH FOR INDEPENDENCE
  - Employment
  - Education
  - Secure Housing
  - Safety net
- SUPPORT YOUTH DURING TRANSITION TO ADULTHOOD
- ESTABLISH LIFELONG CONNECTIONS
- PERMANENCE

### SLIDE #77

#### Studies of 23 and 24 Year Olds

- 79% of women and 75% of men had a GED or diploma
- BUT only 7% of women and 5% of men had even an AA degree
- At the time of the Midwest study, only 17% were still enrolled in school
- Fewer than half had a job, and most did not earn a living wage
- Almost 30% faced food insecurity
- Rates of incarceration and single motherhood still high