

Court Hearings and Advocate Reports

Note that full court reports rather than Memorandums should be submitted for each hearing unless you have submitted a full court report within the previous 4 months. If there are extenuating circumstances preventing you from writing a report rather than a memorandum, please discuss in advance with your supervisor. Your supervisor will make every attempt to give you ample notice of hearings as well as send you the report template to use for the upcoming hearing. Your court report is due to your supervisor 4 weeks prior to the hearing date.

Contested Hearings

An attorney for the parent or child or the CASA advocate can object to the information contained in the social worker's report or object to the recommendations of the social worker contained in the report they prepared for any of the hearings listed below. If they do object, they then set a contested hearing, (also known as a trial) in which they present evidence to the judge to support their position. The Department, or any of the other attorneys, can also present information and ask witnesses questions to support their position during the contested hearing. The judge makes the final determination. We do not write reports specifically for the contested hearings, but rather for the hearing that lead to the contested hearing.

A. Detention Hearing

The first hearing is called the Initial or Detention Hearing, and occurs as soon as possible after the petition is filed; must be on either the same day or on the next court day. The child is required by law to have a Detention hearing within 3 days of their removal from the home. There are times, however, that non-detained petitions are filed wherein the child is not detained out of the home.

At this hearing:

- The Court gives the parents a notice about what is going on (the "proceedings").
- The parents get a copy of the petition and any other papers for the case, including the social worker's report with initial information of the facts.
- The Court tells the parents what can happen in a dependency case.
- The lawyers for both sides (called "parties") introduce themselves to the Court.
- The Court writes down the names of the child's relatives, if possible.
- The Court confirms who the parents of the child are, if possible. This is called Parentage.
- The Court decides if the child should stay with a parent or live somewhere else for now. If the Court takes the child away from a parent, it can make visitation orders so the parent can see the child.
- The court will also tell the parents where they can get help so the child can come back to them.
- The Court also decides if the Department of Family and Children's Services made a "reasonable effort" to keep the child with the parents.

B. Jurisdiction Hearing*

If the child is detained, this hearing occurs within 15 days of detention. It can be continued indefinitely by approval of the parties. At this hearing, it is determined if there

is enough evidence for the court to take the jurisdiction of the child. If CASA is appointed prior to jurisdiction, we MAY write a report to the court but only if necessary to advocate for the health or educational needs of the child only and not address any issues that could affect the court deciding to take jurisdiction of the case.

At the Jurisdictional Hearing the Court decides if what the petition says is true. The Court has three ways to do this:

- (1) The parents or guardians admit the petition is true.
- (2) The parents or guardians don't disagree with the petition (called "submission").
- (3) The parents or guardians dispute, or contest the petition.

If the dispute or contest the petition, both sides (parents and county counsel) give the Court evidence at a hearing. Then, the court finds the petition to be true or not. Before the judge accepts an admission or submission, the Court has to be sure the parents want to give up (waive) their right to a trial. This means they give up the right to: see, hear and question witnesses, bring their own witnesses, testify or stay silent.

C. Disposition Hearing*

If the child is detained, this hearing occurs within 10 days of the jurisdiction hearing. After jurisdiction has been taken, the court determines what each of the parents needs to do to so that their child is no longer under the jurisdiction of the court and writes it out succinctly in what's called a Case Plan. The court also orders what services need to be in place for the child and what the child needs to be doing, such as going to school. The social worker draws up a Case Plan and the court orders it at the following hearing. The Case Plan also addresses visitation between the child and parents and possibly other family members. The Case Plan should contain a recommendation regarding the Concurrent Plan (if reunification does not work out for the child, will the concurrent plan be Planning Permanent Living Arrangement, Guardianship, or Adoption.) Frequently case plans are modified at the 6 and 12 Month hearings. The court will state in its Order that the Case Plan of such and such a date is ordered to be complied with. You can find the date of the case plan on its last page, near the social worker's signature. The new case plan should be attached to the social worker's report for the hearing.

If the Court decides the petition is true, at the Disposition Hearing, the Court will say what should happen. The judge can:

- Dismiss the case.
- Let the child live with a parent in "Family Maintenance." This means that a social worker and the court supervise the child while they are living with their parent(s).
- Take the child away from the parents and send to live with a relative, foster parent or group home and offer the parents Family Reunification services.
- Take the child away from the parents and not offer Family Reunification services to get their child back. If this is the case, there will be a hearing within 120 days to decide what the permanent plan will be for the child, i.e., adoption, guardianship, or Planned Permanent Living Arrangement (or Long Term Foster Care).

The Court **may** not order Family Reunification Services if:

- The child or brother or sister has been seriously abused or killed.
- The parent had another child taken away by the court.

- The parents previously received Family Reunification services and they were terminated.
- The parents have serious drug problems that have not been ameliorated with previous treatment.
- There are other reasons the Court can skip family reunification services and order a permanent plan for the child.

***Jurisdiction and Disposition hearings are often held on the same day.**

At the hearings listed below, the needs of the child and the parent's ability to gain insight and make progress into the issues which placed their children under the jurisdiction of the court need to be examined and reported on by the advocate.

D. Six Month Review Hearing- 366.21(e)

This hearing lets the Court see:

- (1) How the child is doing, and
- (2) How the parents are doing with the services the court ordered.

If the child is living with the parent at this time, the Court can:

- (1) Dismiss the case, or
- (2) Keep supervising the child with Family Maintenance services in place.

If the child doesn't live at home, the court can:

- (1) Give the child back to the parent at this hearing. The family will then receive Family Maintenance Services, or
- (2) Keep the child out of the house and order continued Family Reunification Services.

The Court rarely terminates services for the parent at the Six Month Review Hearing unless the child is under 3 years old and not engaged at all in services.

The advocate should address the following with factual information in their report for the Six Month Review Hearing:

How is Reunification going?

- I. Are parents visiting as stated in the case plan, or regularly? Are they canceling visits or not showing up? Do they relate well with the child during visitation? How does the child act around their parent? Is the parent meeting the child's needs during visitation? Is the parent appropriate with the child? Does the parent call the child?
- II. How is each of the parents doing on their case plan? Each item that was ordered should be completed by the parent prior to the 12 month hearing, or should be substantially complied with by then. A lack of compliance indicates a problem

and shows lack of motivation by the parent to reunify with the child. If the parents were ordered to drug test, for instance, the social worker should know how many times they tested in a certain period and if the parent tested positive, negative, or failed to test. Even though parents may be working their case plan, they still may not have the ability to protect the child.

- III. Does the child have needs that may create a barrier for the parent to reunify? For instance, a low functioning parent may not be able to meet the needs of a child with severe physical or mental issues.
- IV. How extensive a history does the parent have? Have they had that particular problem for many years? What kind of treatment have they been offered in the past and have they availed themselves of the treatment? Have they lost other children to the Child Welfare system? (There is a law relating losing other children and its effect on ability to reunite.)
- V. Are there services that the parents may need to enable them to meet their child's needs that they are not being offered? If so, recommend that those services be added to their case plan. (Much after the 6 Month hearing it is too far along in their timeframe to expect them to complete an additional service.)
- VI. How badly does the child want to reunite with the parent? Most children want to reunify with their parents no matter what their history has been. However, some children decompensate quite a bit and that, too, needs to be taken into account in any recommendation for reunification. The same issues addressed above should be considered.

E. Twelve Month Review 366.21(f)

At this hearing the Court needs to make the determination of whether or not the child will be reunified with the parents this date or not. By this time the parent should be actively involved in their case plan. If not, the Court will terminate the parent's services at this hearing. If the parent is participating in their case plan but have not yet completed everything, the court may give them an additional 6 months of reunification services. At this hearing you need to make the recommendation to reunify, not to reunify and terminate parental services, or to continue to offer reunification services for an additional 6 months. Your recommendation should be supported by facts stated in your report including:

How is Reunification going?

- VII. Are parents visiting as stated in the case plan, or regularly? Are they canceling visits or not showing up? Do they relate well with the child during visitation? How does the child act around their parent? Is the parent meeting the child's needs during visitation? Is the parent appropriate with the child? Does the parent call the child?
- VIII. How is each of the parents doing on their case plan? Each item that was ordered should be completed by the parent prior to the 12 month hearing, or should be substantially complied with by then. A lack of compliance indicates a problem and shows lack of motivation by the parent to reunify with the child. If the parents were ordered to drug test, for instance, the social worker should know how many times they tested in a certain period and if the parent tested positive, negative, or

failed to test. Even though parents may be working their case plan, they still may not have the ability to protect the child.

- IX. Does the child have needs that may create a barrier for the parent to reunify? For instance, a low functioning parent may not be able to meet the needs of a child with severe physical or mental issues.
- X. How extensive a history does the parent have? Have they had that particular problem for many years? What kind of treatment have they been offered in the past and have they availed themselves of the treatment? Have they lost other children to the Child Welfare system? (There is a law relating losing other children and its effect on ability to reunite.)
- XI. Are there services that the parents may need to enable them to meet their child's needs that they are not being offered? If so, recommend that those services be added to their case plan. (Much after the 6 Month hearing it is too far along in their timeframe to expect them to complete an additional service.)
- XII. How badly does the child want to reunite with the parent? Most children want to reunify with their parents no matter what their history has been. However, some children decompensate quite a bit and that, too, needs to be taken into account in any recommendation for reunification. The same issues addressed above should be considered.

F. Eighteen Month Review

If the parents have not been able to do what is required on their case plan by this hearing date, there is no alternative but for you to recommend termination of parental services. (The court will no longer pay for the parents to complete the services that are necessary for them to reunite with their child.) At this hearing only one of two things can happen: parental services will be terminated or the child will be returned to their parent under Court Ordered Family Maintenance. At this hearing you need to make the recommendation to reunify or not to reunify and terminate parental services. Your recommendation should be supported by facts stated in your report including:

How is Reunification going?

- XIII. Are parents visiting as stated in the case plan, or regularly? Are they canceling visits or not showing up? Do they relate well with the child during visitation? How does the child act around their parent? Is the parent meeting the child's needs during visitation? Is the parent appropriate with the child? Does the parent call the child?
- XIV. How is each of the parents doing on their case plan? Each item that was ordered should be completed by the parent prior to the 12 month hearing, or should be substantially complied with by then. A lack of compliance indicates a problem and shows lack of motivation by the parent to reunify with the child. If the parents were ordered to drug test, for instance, the social worker should know how many times they tested in a certain period and if the parent tested positive, negative, or failed to test. Even though parents may be working their case plan, they still may not have the ability to protect the child.
- XV. Does the child have needs that may create a barrier for the parent to reunify? For instance, a low functioning parent may not be able to meet the needs of a child with severe physical or mental issues.

- XVI. How extensive a history does the parent have? Have they had that particular problem for many years? What kind of treatment have they been offered in the past and have they availed themselves of the treatment? Have they lost other children to the Child Welfare system? (There is a law relating losing other children and its effect on ability to reunite.)
- XVII. Are there services that the parents may need to enable them to meet their child's needs that they are not being offered? If so, recommend that those services be added to their case plan. (Much after the 6 Month hearing it is too far along in their timeframe to expect them to complete an additional service.)
- XVIII. How badly does the child want to reunite with the parent? Most children want to reunify with their parents no matter what their history has been. However, some children decompensate quite a bit and that, too, needs to be taken into account in any recommendation for reunification. The same issues addressed above should be considered.

G. Service Review Hearing

When parental services are terminated, this hearing must be held to verify that the parents were offered the services that they needed to comply with their case plan. CASA does not prepare a report for this hearing.

H. 366.26 Permanent Plan Hearing

This hearing must occur within 120 days of termination of Family Reunification services. At this hearing the court will designate a legal permanent plan for the child which would be Long Term Foster Care or Planned Permanent Living Arrangement, Guardianship, or Adoption. Your report should indicate what you feel is the best plan for the child and why. There are few circumstances when we would recommend Long Term Foster Care, but it does happen, particularly for an older child. If the child has so many needs that it seems highly improbable that a match would be found with a guardian or adoptive parent, PPLA could be recommended. But all alternatives should be explored before this recommendation is made. Guardianship is considered often for older children who are very bonded to their parents and do not want to be adopted; it can also be considered when there is a likelihood that the parent will complete in the future whatever obstacles are preventing them from reunifying now, i.e. if they have a 3 year prison sentence to serve.

I. Interim Review Hearing

While a child is under Court Ordered Family Reunification, Family Maintenance, or in Post Permanency (the child is no longer reunifying with parents or in guardianship) at any time any of the parties may request a review hearing to occur in less than 6 months, which is when the next regularly scheduled hearing takes place. If you have specific issues that you and your supervisor feel need to be addressed by the court prior to the next scheduled Review Hearing, there is a format for requesting a hearing. There is no need to write a full report for this hearing, rather a Memorandum. Your Memorandum should address your concerns as well as recommendations.

J. Post Permanency Review Hearing 366.3

This hearing occurs every 6 months when a child is in a Planned Permanent Living Arrangement. The purpose of your report is to update the court on the child's health, education, development, behavior, living situation, and any other issues that you feel are relevant, such as sibling visitation. Your report should also contain recommendations, such as the child receive therapy, have more frequent sibling visitation, continue in a Planned Permanent Living Arrangement, etc.

K. Family Maintenance Review Hearing or In Home Status Review

When the child is living in the home with the parents, the family is not in "Family Reunification," rather in Family Maintenance. The Court has review hearings every 6 months which are called Family Maintenance Review Hearings or In Home Status Review Hearings. The focus of your report for this hearing should be how the parents are meeting the child's needs and if the parents are complying with their case plans. Of course with any 6 month review hearing, you would also address the child's health, education, etc. in your report. Sometimes, for instance, services need to be put in place to enable the child to safely remain in the home. Your report would then discuss the need for the services as well as your recommendation for service. A family can remain in Family Maintenance indefinitely, although usually 6 to 12 months, sometimes shorter or longer.

L. 387 Petition

This is a Supplemental petition filed by the Department or one of the attorneys for the parents or child which because of additional facts call for re-detention of the minor after court has jurisdiction and returned the child to their parents under Family Maintenance. It is a more restrictive placement. If we receive notice that one of the parties has filed a 387 Petition, we only need to respond by writing a Memorandum if we have facts to present to the court that could affect the court's decision.

M. 388 Petition

Change of circumstances. Parents often file these motions when they want the court to modify its previous orders. If we receive notice that one of the parties has filed a 388 Petition, we only need to respond by writing a Memorandum if we have facts to present to the court that could affect the court's decision.

N. Nonminor Dependent Review Hearing

At this hearing eligibility will be established for a non-minor dependent age 18-21 to stay in extended foster care. The program is voluntary, so it is up to the youth to decide if they will do what is needed to remain in the foster care system. If the youth decides to leave foster care, they have the opportunity to return as many times as needed provided they meet the requirements. If the youth remains in extended foster care they receive approximately \$800.00 per month.

Eligibility is determined based on:

(A) completing high school or an equivalent program

- (B) being enrolled at least half-time in college, community college, or a vocational education program
- (C) being employed at least 80 hours a month
- (D) participating in a program/activity designed to remove barriers to employment, or
- (E) unable to complete any of the above because of a medical condition
- (F) the Judge has discretion to keep the youth in extended foster care even if none of the above apply

To be part of the program, youth will need to: (A) meet with their social worker or probation officer each month, (B) attend a court hearing or administrative review every 6 months, (C) sign an agreement, and (D) agree to work with their social worker or probation officer to meet the goals of their Transitional Independent Living Case Plan and receive case management services.

Written reports requirements

*The CASA Mentor is not required to write a report for a NMD hearing. The CASA Mentor and NMD can write a report together if the NMD agrees.