

## **Transition Jurisdiction**

### **A fact sheet prepared by the Youth Law Center**

#### **What is Transition Jurisdiction?**

Transition jurisdiction under Welfare and Institutions Code § 450 is designed to provide continued foster care services and supports to probation supervised foster youth once they have met their rehabilitative goals and delinquency jurisdiction is no longer necessary.<sup>1</sup> Once the juvenile court has modified its jurisdiction from delinquency jurisdiction to transition jurisdiction, the youth will no longer be subject to terms and conditions of probation and they will have their case managed as a dependent or nonminor dependent rather than as a delinquent.<sup>2</sup> A minor under transition jurisdiction is referred to as a “transition dependent” and a youth over the age of 18 subject to transition jurisdiction is referred to as a “nonminor dependent.”<sup>3</sup>

For minors, the court may modify its jurisdiction over the youth to transition jurisdiction at the status review hearing closest to the youth’s 18<sup>th</sup> birthday, or when it is ready to terminate court jurisdiction over a ward who is older than 17 years, 5 months.<sup>4</sup> The requirements for a nonminor to be transitioned from delinquency jurisdiction to transition jurisdiction are outlined in the next section. Note: if a former probation supervised foster youth exits foster care after age 18 pursuant to Welf. & Inst. Code Sections 607.2 or 452, they would reenter foster care as a nonminor dependent under transition jurisdiction.<sup>5</sup>

#### **Who is Eligible for Transition Jurisdiction?**

The court can modify its jurisdiction from delinquency jurisdiction to transition jurisdiction for minors and nonminor wards if:

- 1) The ward’s rehabilitation goals have been met and delinquency jurisdiction over the ward is no longer required;<sup>6</sup> AND
- 2) The child has been removed from their parents and either, determined a ward of the court and ordered into a foster care placement, or they were in foster care as a dependent of the court at the time that they were adjudged a ward;<sup>7</sup> AND
- 3) Either
  - a. The minor dependent
    - i. Is between 17 years, 5 months and 18 years,<sup>8</sup>

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<sup>1</sup> Welf. & Inst. Code §§ 450 and 452

<sup>2</sup> Welf. & Inst. Code § 451(b)

<sup>3</sup> Welf. & Inst. Code § 450(b), (c)

<sup>4</sup> California Rules of Court, Rule 5.812, Welf. & Inst. Code §§ 450, 451, 607.2, and 727.2(i)

<sup>5</sup> Welf. & Inst. Code § 388(e)(5)

<sup>6</sup> Welf. & Inst. Code § 450(a)(3)

<sup>7</sup> Welf. & Inst. Code § 450(a)(2)

<sup>8</sup> Welf. & Inst. Code § 450(a)(1)(A)

- ii. They are currently in a foster care placement,<sup>9</sup>
- iii. Reunification has been terminated, there is no plan for adoption or legal guardianship, and there is a substantial risk of detriment to the child's safety, protection, or physical or emotional well-being if they were to return home,<sup>10</sup> and
- iv. Indicated an intent to sign a mutual agreement with the responsible agency for placement in a supervised setting as a nonminor dependent.<sup>11</sup>

OR

- b. The nonminor dependent
  - i. Is between 18 years and 21 years,<sup>12</sup>
  - ii. They are in a foster care placement<sup>13</sup>, or were subject to an order of foster care placement on their 18<sup>th</sup> birthday,<sup>14</sup> and
  - iii. The ward signs a mutual agreement with the probation department or social services agency for placement in a supervised setting.<sup>15</sup>

For nonminor dependents, the youth must meet one of the following participation conditions while in extended foster care:<sup>16</sup>

- a. Attend high school or program to receive an equivalent credential;
- b. Enroll in a program that provides postsecondary or vocational education;
- c. Participate in a program or activity designed to promote, or remove barriers to employment;
- d. Employed at least 80 hours per month; or
- e. Unable to do any of the above activities due to a medical condition, and that incapability is supported by regularly updated information in the case plan of the nonminor.

If the youth exits and reenters care after age 18, they must agree to start meeting one of the participation criteria when they reenter.

Nonminors who elect to participate in extended foster care enter into a voluntary written mutual agreement with the placing agency in which the nonminor consents to the continued jurisdiction of the court.<sup>17</sup> In addition, nonminors agree to regularly meet with their social worker or probation officer, work with the probation officer or social worker to ensure that they satisfy at least one of the above listed participation conditions, and agree to work together with the social

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<sup>9</sup> Welf. & Inst. Code § 450(a)(1)(A). Note: the language “in a foster care placement” refers to the youth being subject to a court order for foster care placement. It does not refer to whether the youth is physically in a foster care placement.

<sup>10</sup> Welf. & Inst. Code § 450(a)(4)(A)

<sup>11</sup> *Id.*

<sup>12</sup> Welf. & Inst. Code § 450(a)(1)(A)-(B)

<sup>13</sup> *See supra* footnote 9.

<sup>14</sup> Welf. & Inst. Code § 450(a)(1)(A)

<sup>15</sup> Welf. & Inst. Code § 450(a)(4)(B)

<sup>16</sup> Welf. & Inst. Code §§ 11403(b), 388(e)(2)(A)(ii)

<sup>17</sup> Welf. & Inst. Code § 11400(u).

worker or probation officer to develop and implement a mutually agreed upon supervised placement agreement and transitional independent living case plan.<sup>18</sup>

Additionally, while a child welfare placing agency may conduct a background check to assess the appropriateness of placing a nonminor with minor dependents,<sup>19</sup> neither delinquency history nor adult convictions are bars to reentry or participation in extended foster care.

### **Are Dual Status Youth Eligible for Transition Jurisdiction?**

A dual status youth is a youth who is under the jurisdiction of both the dependency court (child welfare system) and the delinquency court (juvenile justice system) at the same time.<sup>20</sup> A dual status youth is not eligible for transition jurisdiction. Instead, dual status children will return to dependency jurisdiction once their rehabilitation goals have been met, and returning home would still be detrimental.<sup>21</sup> The attorney representing a dual status youth should look to local county protocols concerning the status of the dependency determination under WIC § 241.1 (i.e. whether the county is operating an “on hold”<sup>22</sup> system or a “lead court/lead agency”<sup>23</sup> system).

### **Is Transition Jurisdiction Mandatory for Youth?**

Transition jurisdiction is optional for nonminors. A nonminor may opt out of the benefits and the court’s transition jurisdiction, and must be advised of this option.<sup>24</sup> If the youth does not wish to remain under the transition jurisdiction of the court, the court must terminate its jurisdiction pursuant to Welf. & Inst. Code § 391. However, the court will maintain general jurisdiction over the youth until they no longer meet the eligibility requirements of a nonminor dependent, allowing the youth to exit and reenter transition jurisdiction an unlimited number of times until they reach the age of 21.<sup>25</sup> The youth can request an attorney to represent the youth in the reentry process, and may also request reassignment of the attorney that previously represented them.<sup>26</sup>

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<sup>18</sup> Welf. & Inst. Code § 11403(u), (y)

<sup>19</sup> Welf. & Inst. Code § 16504.5(a)(1)(D)

<sup>20</sup> Welf. & Inst. Code § 241.1(e)

<sup>21</sup> Welf. & Inst. Code §§ 241.1(e)(5)(A)-(B), 450(a)(3), 450(a)(4)(A); Rule of Court 5.812(e)(1)-(2)

<sup>22</sup> Under an “on hold” system, the dependency jurisdiction is suspended or put on hold while the child is subject to jurisdiction as a ward of the court. Once the youth has met their rehabilitative goals and the court is ready to dismiss delinquency jurisdiction, dependency jurisdiction should resume if the child still cannot be safely returned home. See, Welf. & Inst. Code §§ 241.1(e)(5)(A); Rule of Court 5.812(e)(1).

<sup>23</sup> Under a “lead court/lead agency” system where the probation department is the lead agency, the court must terminate dual status, dismiss delinquency jurisdiction, and continue dependency jurisdiction with the child welfare services department responsible for the child’s placement if the court finds that the child’s rehabilitative goals have been achieved and a return to the home of the parents or legal guardian would be detrimental to the child. See, Rule of Court 5.812(e)(2).

<sup>24</sup> Rule of Court 5.707(c)(1)

<sup>25</sup> Welf. & Inst. Code §§ 303(b), 388(e); Reentry process pursuant to: Rule of Court 5.906, Welf. & Inst. Code §§ 11400(z), 11403(e)

<sup>26</sup> Welf. & Inst. Code § 317, Rule of Court 5.906(b)(2)(F), (e)

While transition jurisdiction is technically optional for minors because they can state a lack of intention to sign a mutual agreement under WIC § 450(a)(4)(A), opting out of transition jurisdiction does not end the court's jurisdiction or the foster care placement. The court must make appropriate, continuing orders for the care of a minor who is described in WIC § 607.2. This may include transition jurisdiction, reinstatement of dependency jurisdiction, establishment of dependency jurisdiction, or continuation of delinquency.<sup>27</sup>

### **What are the Benefits of Modification from Delinquency Jurisdiction to Transition Jurisdiction for Minors?**

For many young people between the ages of 17 years, 5 months and 18, transition jurisdiction presents the best option because it is simpler and less confrontational than establishing dependency under WIC § 607.2(b)(2) and it allows a youth to revisit their options upon turning 18. **Importantly, the option relieves a youth of delinquency jurisdiction and its accompanying probation conditions.**

### **What Options are Available for Minor Youth not Eligible for Transition Jurisdiction?**

When a minor ward younger than 17 years, 5 months who was previously under dependency jurisdiction when adjudged a ward has met their rehabilitative goals and would suffer detriment if returned home, the court must resume dependency jurisdiction upon the completion of their rehabilitative goals.<sup>28</sup> If the minor was subject to an order for foster care placement described in WIC § 11402 as a dependent of the court at the time the delinquency court adjudged the minor to be a ward, the court can vacate the order terminating jurisdiction over the minor as a dependent of the court, resume dependency jurisdiction, and terminate the court's jurisdiction over the minor as a ward.<sup>29</sup>

If a minor ward younger than the required age was not under dependency jurisdiction when adjudged a ward of the court, but qualifies as a dependent child, where return to the home would be detrimental, the court may order the child welfare agency to investigate and may ultimately order the agency to commence proceedings to declare the youth a dependent once the minor has met their rehabilitative goals.<sup>30</sup>

### **Are Youth Eligible for Extended Foster Care if They Did Not Successfully Complete Probation?**

Yes, once probation is terminated they are eligible to participate in extended foster care as transition dependents despite a court finding that probation was terminated unsuccessfully, so long as the youth meets the eligibility criteria in WIC § 450. While there is a tendency to conflate the completion of probation conditions with the completion of rehabilitation goals as set forth in the case plan, they are not one in the same. There is no provision for dismissal of a

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<sup>27</sup> Welf. & Inst. Code § 607.2(b)

<sup>28</sup> Welf. & Inst. Code § § 607.2(b), 727.2(i), Rule of Court 5.812(e)(1)-(2)

<sup>29</sup> Welf. & Inst. Code § 607.2(b)(3)

<sup>30</sup> Welf. & Inst. Code §§ 607.2(b)(2), 727.2(i)

delinquency case despite the unsuccessful completion of rehabilitative goals. In fact, the reference to rehabilitative goals in WIC § 450 was intended to make clear that a youth does not automatically move from delinquency to transition jurisdiction at a specified age but rather when the delinquency case would otherwise be dismissed.

The concept of an unsuccessful dismissal of probation is not one taken from that code, but it is a description that courts sometimes use when dismissing delinquency.<sup>31</sup> The question of whether a youth has satisfactorily completed a term of probation arises in the context of record sealing,<sup>32</sup> which is unrelated to transition jurisdiction. The Judicial Council discusses this in Extended Foster Care Sheet 8<sup>33</sup>, which ultimately concludes that youth may participate in extended foster care despite a finding that probation was not successfully completed because they would nonetheless be able to reenter under WIC § 388.

## **Resources**

All County Letter regarding Extension of Foster Care (Probation):

<http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2011/11-85.pdf>

All County Letter regarding Re-Entry into Extended Foster Care:

<http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2012/12-12.pdf>

California Judicial Branch on Extended Foster Care:

[http://www.courts.ca.gov/documents/efc\\_infosheet\\_1\\_deltotrans\\_over18.pdf](http://www.courts.ca.gov/documents/efc_infosheet_1_deltotrans_over18.pdf)

[http://www.courts.ca.gov/documents/efc\\_infosheet\\_2\\_deltotrans\\_under18.pdf](http://www.courts.ca.gov/documents/efc_infosheet_2_deltotrans_under18.pdf)

Extended Foster Care Rules and Forms:

[http://www.courts.ca.gov/documents/Extended\\_Foster\\_Care\\_Rules\\_and\\_Forms.pdf](http://www.courts.ca.gov/documents/Extended_Foster_Care_Rules_and_Forms.pdf)

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<sup>31</sup> California Department of Social Services (CDSS) All-County Information Notice (ACIN) I-07-19, available here: <https://www.cdss.ca.gov/portals/9/acin/2019/i-07-19-two.pdf?ver=2019-01-24-160206-707>

<sup>32</sup> Welf. & Inst. Code § 786

<sup>33</sup> Extended Foster Care Sheet 8 is attached to ACIN I-07-19 *supra* footnote 31, pages 3-4.