

# DEPENENCY COURT PROCESS

## FOSTER CHILDREN'S RIGHTS IN COURT

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# INITIATING DEPENDENCY COURT

A dependency case starts when the agency files a petition under Welfare and Institutions Code section 300 (a)-(j). The (a)-(j) paragraphs state the various reasons the court can become involved with a family.

# JURISDICTION GROUNDS

300 (a) Physical Abuse

300 (b) Physical Neglect

300 (c) Emotional Damage

300 (d) Sexual Abuse

300 (e) Severe Physical Abuse

# JURISDICTION GROUNDS

300 (f) Death of Child by Abuse or Neglect

300 (g) No Support; Incarceration; Whereabouts Unknown

300 (h) Child Freed for 12 Months, Not Adopted

300 (i) Cruelty

330 (j) Sibling Abused or Neglected

# CUSTODY STATUS AT FILING

Detained - Imminent risk of serious physical harm.

Custody Warrant or Order - Home environment may endanger the health person or welfare of the minor.

Non-detained - Reasonable belief child comes within section 300.



# DETENTION HEARING

- PRIMA FACIA EVIDENCE THAT:
  - CHILD COMES WITHIN SECTION 300
  - FOUR BASIS; MOST COMMON IS -  
Substantial danger to physical health of the child or child is suffering severe emotional damage, and no reasonable means to protect the child without removing child from the parents.

# JURIDICTION



Court must decide if allegations in the petition are true.



County must prove petition is true by preponderance of the evidence.

# DISPOSITION

- REMOVAL - Clear and convincing evidence substantial danger to physical health, safety, protection, or physical or emotional well-being of child, and no reasonable means to protect the child without removal from the home.
- ICWA - Is there reason to know child is an Indian Child.
- BY-PASS - 17 Reasons court may decline to offer reunification services.
- PLACEMENT - Relatives have priority.
- PARENTAGE
- VISITATION - Court must order visitation unless finds it would be detrimental to the child.



REUNIFICATION  
REVIEW  
HEARINGS - 6,  
12, 18 MONTH  
REVIEWS

- COURT MUST RETURN UNLESS FINDS DETRIMENT
- PRIMA FACIA DETRIMENT IS ESTABLISHED IF:
  1. PARENT FAILED TO PARTICIPATE REGULARLY, AND
  2. FAILED TO MAKE SUBSTANTIVE PROGRESS

FAMILY  
MAINTENANCE  
REVIEW  
HEARING

COURT MAY CONTINUE  
JURISDICTION IF:

CONDITIONS WHICH LED  
TO COURT STILL EXIST



CONDITIONS ARE LIKELY  
TO REOCCURE





# PERMANENCE - 366.26 HEARING

- FIVE POSSIBLE PLANS
  - ADOPTION/TERMINATION OF PARENTAL RIGHTS
  - TRIBAL CUSTOMARY ADOPTION - NO TERMINATION OF PARENTAL RIGHTS
  - GUARDIANSHIP - NO TERMINATION OF PARENTAL RIGHTS
  - APPLA - ONLY IF CHILD OVER 16
  - FOSTER CARE WITH A GOAL OF ?

Architectural blueprints are spread out on a light-colored wooden surface. The blueprints show various floor plans with dimensions and labels. One blueprint in the foreground has a large rectangular area outlined in black, with dimensions like 2500 and 3175. Other blueprints in the background show different sections of a building with various measurements and annotations.

# PERMANENT PLAN REVIEW HEARING

- IS THE PERMANENT PLAN BEING IMPLEMENTED
- ARE THERE IMPEDIMENTS TO IMPLEMENTING THE PLAN
- SHOULD THE PLAN BE CHANGED?
- REOPEN REUNIFICATION SERVICES?

# NON-MINOR DEPENDENT REVIEW HEARING

The former dependent must meet one of the following criteria:

1. Completing high school or equivalent.
2. Enrolled in post-secondary (college) or vocational education.
3. Participating in program to remove barriers to employment.
4. Employed at least 80 hours per month.
5. Unable to meet one of the above criteria due to a documented medical condition.

If not qualifying, why not, what is being done to help the NMD qualify?

# PARTIES TO DEPENDENCY COURT

- COUNTY SOCIAL SERVICES AGENCY
- CHILD
- PARENTS AND/OR LEGAL GUARDIANS
- TRIBE
  
- DEFACTO PARENTS\*

# NOT PARTIES

- STEP-PARENTS
- SIGNIFICANT OTHERS (LIVE IN BOY FRIENDS, GIRL FRIENDS, ETC.)
- NON-FEDERALLY RECOGNIZED TRIBE
- ADULT SIBLILNGS
- RELATIVES
- FOSTER PARENTS OR OTHER CARE GIVERS
- CASA

ATTORNEYS  
IN COURT  
AND THEIR  
ROLES

COUNTY COUNSEL

MINOR'S COUNSEL AND GAL

PARENTS' COUNSEL

TRIBAL ATTORNEY



# FOSTER CHILD'S RIGHTS IN COURT

- Right to an attorney with training in ICWA and SOGIE and confidential communication with attorney.
- Right to relative placement or NREFM if available.
- Right to have names and contact information for attorney, CASA, foster youth advocates and education rights holder.
- Right to visit parents, siblings and relatives privately unless court orders otherwise.
- Right to be free of psychotropic medication unless ordered by court or emergency. Have input regarding medications.

# FOSTER CHILD'S RIGHTS IN COURT

- Right to receive notice of hearings, copy of report, attend court, speak to judge.
- Right to review and copy all juvenile court records at no cost up to age 26.
- Right to confidentiality of juvenile court records.
- Right to be involved in development of their case plan, case plan decisions and placement issues.
- Right to review own case plan.
- Right to request and participate in FTM within 60 days of entering care, every 6 months thereafter (90 days if in STRTP or therapeutic foster care.)

QUESTIONS?



# THAT'S ALL!



Thank you.



Be Sure to Complete the  
Evaluation.