

388 Motions on Guardianships by Parents or Guardians

(Revised 02/07/25)

[Related Policies](#)

[Forms](#)

[Policy](#)

[Reinstating Dependency](#)

[WIC 300 Petition to Terminate on Guardianship Cases](#)

[Procedure For Filing A 388 Motion By Guardian/Parent](#)

[Assignment And Duties On 388 Motions](#)

[Alignment with SET](#)

Related Policies

Additional information can be found in the following policies:

- Change of Placement (COP) Requirements-When Notice is Given to Move Child/Youth
- ICWA Inquiry and Noticing Manual
- Independent Adoptions
- Guardianship
- Petitions (Motions) - 388

Forms

The Following forms are referenced in this policy:

- 07-65 Placement Information and Payment Authorization (CWS/CMS Template)
- [GC-255](#) Petition for Termination of Guardianship
- 04-600 RFA Referral (CWS/CMS Template)
- [JV-180](#) Request to Change Court Order
- [GC-255](#) Petition for Termination of Guardianship (probate)

Policy

This policy is specific to 388 motions on guardianships by a parent or guardian. For all other 388 motions, see [Motions-388](#) policy.

A 388 motion is a request for a modification to a current court order and may be filed by social workers (SWs), parents, legal guardians, attorneys, or others with an interest in a child who is a dependent of the juvenile court.

A 388 motion can be filed on a dependency guardianship case when:

- A guardian wants to adopt the child/youth.
 - A guardian wants to name a successor guardian.
 - A guardian wants to dissolve the guardianship.
 - A parent is asking for termination of the guardianship and return of the child/youth.
 - A parent wants to modify visitation orders.
 - Death or incapacitation of a legal guardian.
-

Policy (cont.)

If a guardian wants to request modification of a probate guardianship to dissolve or appoint a successor guardian, they should file the [GC-255 Petition for Termination of Guardianship](#) with probate court. If the SW is considering court intervention in a probate guardianship, the SW will contact county counsel to screen a WIC 300 petition and discuss any additional steps necessary.

For general information on guardianships and/or case management of guardianship cases, refer to the [Guardianship](#) policy.

NOTE: The SW has an on-going duty to inquire whether a child/youth has Native Ancestry regardless if ICWA was found to apply or not in a prior dependency case. Additionally, if a missing parent or relative is located, ICWA inquiry must be made at that time. See [ICWA Inquiry and Noticing Manual](#) for additional information.

**Reinstating
Dependency**

If a 388 motion is filed with Juvenile Dependency Court, the Court may reinstate dependency depending on the type of 388 motion. The table below outlines when Juvenile Court dependency is reinstated on a guardianship case when a 388 motion is filed:

| If | Then |
|---|---|
| a parent files a 388 motion asking for termination of the guardianship and return of the child/youth, | Child and Family Well-Being (CFWB) will request that there not be any changes in the guardianship or dependency status until an assessment of the parent's ability to care for their child/youth is completed by the guardianship unit. |
| a parent files a 388 motion asking for a modification of visitation orders | CFWB will request that there not be any changes in the guardianship or dependency status. |
| a guardian files a 388 motion because they want to adopt the child/youth or name a successor guardian | CFWB will request the guardianship remain intact, and dependency not be reinstated until the Resource Family Approval (RFA) is completed. This enables funding to the guardian to continue without interruption. |
| A guardian files a 388 motion requesting to terminate the guardianship | the court will usually terminate the guardianship and re-instate dependency at the time the 388 motion is filed. |

NOTE: SWs will make placement preservation efforts when a 388 motion involving a change of placement is received, see [Change of Placement \(COP\) Requirements- When Notice Is Given to Move Child/Youth](#).

**WIC 300 Petition
to Terminate
Guardianship**

If a WIC 300 petition is filed on a guardianship case, in addition to following the normal petition filing procedures, in the Detention Report the SW must address the assessment of termination of guardianship versus keeping the guardianship intact, and the guardian's ability/willingness to accept and engage in services. When in a child/youth's best interest, SWs will attempt to preserve a guardianship by providing the family referrals, services, cultural needs/services, and convening Child and Family Team Meetings (CFTM) and/or Facilitated Mappings.

**Procedure For
Filing A 388
Motion By
Guardian/Parent**

If the guardian or parent wants to file a 388 motion, they can obtain the paperwork from the regional courts' business office listed below, or from the California Court website at <https://www.courts.ca.gov/>.

| | | |
|---|--|--|
| Meadow Lark Courthouse 2851 Meadow Lark Drive San Diego, CA 92123 858-634-1600 | East County Courthouse 250 East Main Street El Cajon, CA 92021 619-456-4238 | North County Courthouse 325 S. Melrose Drive Vista, CA 92083 760-201-8600 |
|---|--|--|

The table below outlines the process for filing a 388 motion:

| STEP | WHO | ACTION |
|------|-----------------------|--|
| 1 | Guardian/Parent | File a 388-motion using the JV-180 Request to Change Court Order to request termination of the guardianship. NOTE: The guardian/parent can file in either the court that retains jurisdiction over the case or the juvenile court in the county where the guardian and child/youth currently resides. The decision should be based on the best interests of the child/youth. |
| 2 | Court Business Office | Forward the 388 motion paperwork to a judicial officer for review and consideration. |
| 3 | Judicial Officer | Either: <ul style="list-style-type: none">Deny the guardian's/parent's 388 motion,ORSet the matter for a hearing in 30 days to determine whether to terminate the guardianship. |
| 4 | Court Business Office | If the court sets a hearing, fax the 388 motion to the Child Abuse Hotline and Guardianship Unit. NOTE: 388 motions that are denied will not be faxed to the Child Abuse Hotline. |

**Procedure For
Filing A 388
Motion By
Guardian/Parent
(cont.)**

| STEP (cont.) | WHO | ACTION |
|--------------|--|--|
| 5 | Hotline, Guardianship Unit Social Worker, and Primary Social Worker | Complete action items outlined in the table below titled " Assignment and Duties on 388 Motions " based on type of 388 motion filed. |

**Assignment
And Duties On
388 Motions**

The table below outlines hotline actions for 388 motions, and responsibilities for primary and secondary social worker assignments:

| Type of 388 Motion | Case Status When 388 Motion Filed | Hotline Actions | Assignment | Primary and Secondary Assignment Responsibilities |
|---|-----------------------------------|---|---|--|
| Guardian Files To Name A Successor Guardian | Open case | <ul style="list-style-type: none"> Change the Intervention Reason to "Disrupted Guardianship." Email a copy of the 388 motion to the assigned SW. | Primary: <ul style="list-style-type: none"> Assigned SW Secondary: <ul style="list-style-type: none"> Guardianship Unit | Primary: <ul style="list-style-type: none"> All case management responsibilities including but not limited to, conducting monthly in person contacts, scheduling Child and Family Team meetings (CFTMs), arranging, planning any placement needs, facilitating visitation, arranging services, ensure record management/ERMS procedures are followed, etc. NOTE: Primary SW only submits a court report pertaining to the case management services and pertinent information. |
| | No open case | <ul style="list-style-type: none"> Open a new CWS/CMS case with the Intervention Reason as "Disrupted Guardianship" Upload a copy of the 388 motion paperwork to the case in CWS/CMS. | Primary: <ul style="list-style-type: none"> Court Intervention (CI) Secondary: <ul style="list-style-type: none"> Guardianship Unit | |

**Assignment And
Duties On 388
Motions (cont.)**

| Type of 388 Motion | Case Status When 388 Motion Filed | Hotline Actions | Assignment | Primary and Secondary Assignment Responsibilities (cont.) |
|--|-----------------------------------|---|--|---|
| Guardian Files To Name A Successor Guardian (cont.) | | | | Secondary: <ul style="list-style-type: none"> • Completes a successor guardian resource family assessment, meets with the family, writes a court report for the 388 hearing that only addresses the successor guardian assessment and recommendation |
| Guardian Files To Dissolve Guardianship (no successor guardian identified) | Open case | <ul style="list-style-type: none"> • Change the intervention reason to "Disrupted Guardianship." • Email a copy of the 388 motion to the assigned SW. | Primary: <ul style="list-style-type: none"> • Assigned SW | Primary: <ul style="list-style-type: none"> • Investigates the 388 motion, writes and submits a court report for the 388-motion hearing and completes all case management responsibilities |
| | No open case | <ul style="list-style-type: none"> • Open a new case in CWS/CMS using the intervention reason, "Disrupted Guardianship." | Primary: <ul style="list-style-type: none"> • CI | |

Assignment And Duties On 388 Motions (cont.)

| Type of 388 Motion | Case Status When 388 Motion Filed | Hotline Actions | Assignment | Primary and Secondary Assignment Responsibilities |
|--|-----------------------------------|---|--|--|
| Guardian Files To Dissolve Guardianship (cont.) | No open case | <ul style="list-style-type: none"> Upload a copy of the 388 motion paperwork to the case in CWS/CMS. | | |
| Guardian Files To Adopt NOTE: Verify the guardianship was established in dependency court. If the guardianship was not established through dependency, the petitioners will need to file for an Independent Adoption. Refer to the Independent Adoption policy for more information. | Open case | <ul style="list-style-type: none"> Change the intervention reason to "Adoption Services" Notify Guardian that they will need to obtain an RFA approval which should be completed prior to terminating the guardianship. Email a copy of the 388 motion to the assigned SW. | Primary: <ul style="list-style-type: none"> Assigned SW | Primary: <ul style="list-style-type: none"> Write and submit a court report requesting that court maintain the guardianship and to not reinstate dependency until the Resource Family Approval (RFA) process is completed. Submit RFA referral Submit 07-65 Complete all case management responsibilities Transfer case when .26 hearing is set |
| | No open case | <ul style="list-style-type: none"> Open a new CWS/CMS case using "Adoption Services" as the intervention reason. | Primary: <ul style="list-style-type: none"> CI | |

**Assignment
And Duties On
388 Motions
(cont.)**

| Type of 388 Motion | Case Status When 388 Motion Filed | Hotline Actions | Assignment | Primary and Secondary Assignment Responsibilities |
|--|-----------------------------------|---|---|--|
| Guardian Files To Adopt (cont.) | No open case (cont.) | <ul style="list-style-type: none"> Notify Guardian that they will need to obtain an RFA approval which should be completed prior to terminating the guardianship. Upload a copy of the 388 motion paperwork to the case in CWS/CMS. | Primary: <ul style="list-style-type: none"> CI | |
| Parent Wants To Dissolve Guardianship And Requests Return Of Child/Youth | Open case | <ul style="list-style-type: none"> Change the intervention reason to "Disrupted Guardianship." Email a copy of the 388 motion to the assigned SW. | Primary: <ul style="list-style-type: none"> Assigned SW Secondary: <ul style="list-style-type: none"> Guardianship Unit | Primary: <ul style="list-style-type: none"> All case management responsibilities. NOTE: Primary SW only submits a court report pertaining to the case management services and pertinent information. |
| | No open case | <ul style="list-style-type: none"> Open a new CWS/CMS case. Change the intervention reason to "Disrupted Guardianship." Upload a copy of the 388 motion paperwork to the case in CWS/CMS. | Primary: <ul style="list-style-type: none"> CI Secondary: <ul style="list-style-type: none"> Guardianship Unit | |

**Assignment And
Duties On 388
Motions (cont.)**

| Type of 388 Motion | Case Status When 388 Motion Filed | Hotline Actions | Assignment | Primary and Secondary Assignment Responsibilities |
|--|-----------------------------------|---|---|--|
| | | | | Secondary: <ul style="list-style-type: none"> Completes the parent's assessment, meets with the family, and writes a court report for the 388-motion hearing that only addresses the parent's assessment and recommendation |
| Parent Wants To Modify Visitation Orders | Open case | <ul style="list-style-type: none"> Email a hard copy of the 388 motion paperwork to the assigned SW. | Primary: <ul style="list-style-type: none"> Assigned SW NOTE: Guardianship Unit is not involved in 388 motions regarding modification to visitation orders. | Primary: <ul style="list-style-type: none"> Investigates 388 motions Writes court report for the 388-motion hearing Completes all case management responsibilities |
| | No open case | <ul style="list-style-type: none"> Upload a copy of the 388 motion paperwork to the case in CWS/CMS. | Primary: <ul style="list-style-type: none"> CI NOTE: Guardianship Unit is not involved in 388 motions regarding modification to visitation orders. | Primary: <ul style="list-style-type: none"> Investigates 388 motions Writes court report for the 388-motion hearing Completes all case management responsibilities |

Assignment And Duties On 388 Motions (cont.)

| Type of 388 Motion | Case Status When 388 Motion Filed | Hotline Actions | Assignment | Primary and Secondary Assignment Responsibilities |
|--|-----------------------------------|--|--|--|
| Court Reinstates Dependency On A Filed 388 Motion Prior To Notifying Hotline | Open case | <ul style="list-style-type: none"> Create and assign the referral to the assigned SW. Email a copy of the 388 motion to the assigned SW. | Primary: <ul style="list-style-type: none"> Assigned SW Secondary: <ul style="list-style-type: none"> Consult Guardianship Unit to determine if secondary assignment is necessary. | <ul style="list-style-type: none"> Investigates 388 motions Writes court report for the 388-motion hearing Completes all case management responsibilities |
| | No open case | <ul style="list-style-type: none"> Open a new case in CWS/CMS Upload a copy of the 388 motion paperwork to the case in CWS/CMS. | Primary: <ul style="list-style-type: none"> CI Secondary: <ul style="list-style-type: none"> Consult Guardianship Unit to determine if secondary assignment is necessary. | |

Alignment With SET

This policy supports the following SET Values: [Value 1](#): Relationships with Children, Youth, and Families Are the Foundation, by partnering with families to identify family support systems, [Value 2](#): Collaborative Partnerships with Kinship and Resources Families, by offering supportive services for resource families to maintain placements, [Value 3](#): Helping Children and Youth Achieve Their Full Potential and Develop Lifelong Relationships, by prioritizing child safety and permanence and [Value 5](#): A Strong Working Relationship with the Legal System, by collaborating with legal partners with a primarily focus on the child's best interests and right to permanence.