

Petitions (Motions) - 388

(Revised 08/17/18)

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Forms

The following form is referenced in this file:

- [JV-180](#) Request to Change Court Order

388 motions

388s are motions to request a modification to a current court order and may be filed by SWs, parents, attorneys, and others with an interest in a child who is a dependent of the juvenile court. The petitioner must clearly and concisely describe the alleged change of circumstance or new evidence that would warrant a change of court order or a termination of jurisdiction, and explain how such a change would be in the best interest of the child.

388 motions are commonly filed to:

- change the permanent plan (see Changing a Permanent Plan) and the level of placement from adoption to guardianship or APPLA
- request a change in visits (e.g., from supervised to unsupervised or vice versa)
- request that services be reinstated
- request a modification of a current court order- e.g., request by parent for continued reunification services, request for unsupervised visits
- terminate jurisdiction
- terminate guardianship (see Failed Guardianships) by parent or guardian or change in guardian (successor guardian)
- assert a relationship as a sibling or request visitation or other contact (per WIC 388[(b)[1-4])
- terminate court-ordered services prior to the 366.21 Hearing (per WIC 388[c][1])
- request resumption of jurisdiction over a NMD (per WIC 388[e])
- request early termination of services due to new evidence or a change in circumstances
- request sibling visitation or contact
- terminate reunification services for the parents of a NMD.

NOTE: The above is not a complete list.

388 motions (cont.)

This table describes the procedure for CWS filing a 388 motion.

Step	Who	Action
1	SW	Consult with CC to see if a 388 is warranted. If CC says yes , then go to Step 2. If CC says no , then STOP.
2	SW	Contact the applicable CC Secretary to advise that a 388 is going to be filed (refer to the County Counsel - Juvenile Dependency Phone Roster for the name and number of who handles which court department).
3	CC Secretary	Email the JV-180 (Request to Change Court Order) and its instructions to the SW.
4	SW	<ul style="list-style-type: none"> • Fill out the JV-180 per CC's instructions. • Complete a Court Report Addendum. • Return (via email) the draft JV-180 and Court Report Addendum to the CC Secretary, who will provide it to the CC deputy for review.
5	CC	Review JV-180 and Court Report Addendum. Are any revisions needed? If yes , then return to SW. If no , then go to Step 5.
6	SW	<ul style="list-style-type: none"> • Sign JV-180 and Court Report Addendum (PSS approval needed on Addendum). • Wait for further instructions from CC Secretary.
7	CC Secretary	<ul style="list-style-type: none"> • Send 388 to court, requesting a hearing date. • When date is received, notify SW. • Provide instructions to SW re: making copies and providing notice.

388 to terminate services

WIC 388(c)(1) allows parties to petition the court to terminate court-ordered reunification services prior to the 6-month or 12-month review hearing if:

- it appears that a change of circumstance or new evidence exists that satisfies a condition set forth in 361.5(b) or (e) justifying termination of court-ordered reunification services
- the action or inaction of the parent or guardian creates a substantial likelihood that reunification will not occur, including, but not limited to, the parent's or guardian's failure to visit the child, or the failure of the parent or guardian to participate regularly and make substantive progress in a court-ordered treatment plan.

Prior to screening a 388 to terminate services, the SW will discuss with CC whether or not the parent's failure to participate/visit regularly is related to the parent's incarceration, institutionalization, detention by the United States Department of Homeland Security, deportation, or participation in a court-ordered residential substance abuse treatment program.

For 388s to terminate a Guardianship, see Failed Guardianships.

If the court terminates reunification services, it will set a 366.26 hearing.

Reinstating jurisdiction

Because CWS/CMS cannot reopen a closed case without contacts and case plans appearing to be out-of-compliance, whenever a case needs to be opened as a result of a 388 being filed, the Hotline will:

- open a new case without a referral
 - select the applicable intervention reason
 - assign it to the appropriate Region or Program.
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Alignment with SET

This policy supports the following SET Values:

- [Value 3: Helping Children and Youth Achieve Their Full Potential and Develop Lifelong Relationships](#) by prioritizing the child's safety, well-being, permanence, and the voice of the parents and caregivers
 - [Value 5: A Strong Working Relationship with the Legal System](#), by collaborating with legal partners to ensure the child's best interests and the family's confidentiality and legal rights, and by advocating for the least restrictive placement level and visitation necessary to ensure the child's safety and well-being.
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