Court Hearings

Several court hearings will occur throughout the case. Below is a brief description of the hearings most likely to take place during the first 60 days.

The Detention Hearing

What is it?

The Detention Hearing is the first court hearing that happens after the social worker files a petition. A petition is a piece of paper that gives a brief summary of the legal basis for the case. It summarizes the social worker's description of why the child is not safe.

When does it happen?

If the child is removed from their parents' care, the social worker must file a petition within 2 court days. Once a petition is filed, a hearing must occur by the end of the next court day.

If the child is not removed from the parents' care, the hearing must occur within 15 court days after the petition is filed.

What happens at the hearing? Why is this hearing so important?

The judge will make sure that each parent and any child over the age of 10 has received a copy of the petition. The court must ensure that the parties have been properly served and have been made aware of the reason for social worker/court's involvement. The judge will appoint attorneys for each parent who attends the hearing, and also for each child who is the subject of a petition. The judge will make findings about paternity, as well as try to determine if the child is eligible for tribal membership so that, if applicable, the tribe can be involved in the case.
The social worker will file a report outlining their investigation. The judge will make temporary orders about where the child lives for the next 3 weeks. If the child is separated from the parents, the judge will also make orders about the frequency of visitation and whether the parents may visit without a visitation supervisor present. The judge can make other orders that are needed for the next few weeks.

Who can attend?

Parents must attend this hearing. By law, any child over the age of 4 must have an opportunity to communicate with their lawyer. If the child has not had contact with

their lawyer prior to the hearing, they will be transported to court so that they can meet their lawyer and provide input about what happens next. They are not required to attend the actual hearing and can choose to wait in the children's waiting room or leave the courthouse after they are done talking to their lawyer. If a child is over the age of 10, they must be offered the opportunity to attend every hearing. If they are not present, the judge must ensure that the child was invited and chose not to attend.
The social worker and their attorney will be present, as well as a tribal representative if the youth is a member, or eligible for membership, in a federally recognized tribe.

Caregivers, relatives, and anyone with a "legitimate interest" in the case may attend the hearing. The hearings are confidential, which means that the public cannot attend and topics that are discussed during the hearing should not be brought up outside of court. If you attend court in person, you will check in with the "Court Officer" who is in charge of checking people in and organizing the morning calendar. A bailiff will also be present in order to keep the courtroom safe.

How are the caregivers and the parents notified?

The social worker will notify the parents, youth over the age of 4, siblings, tribal representative, and current caregivers of the detention hearing.

Are there ways to participate remotely?

Yes. Relatives, caregivers, parents, and youth may attend hearings by phone or MS Teams unless they are ordered to be physically present. The social worker can provide you with the link for MS Teams. If you choose to participate virtually, you will be placed in the "waiting room" until the time your case is called. There are numerous hearings assigned to each courtroom every morning and you may be waiting for several hours before your hearing begins.

Will the judge ask me questions?

If you are a relative of the child, the judge will ask you questions the first time you attend court. The judge will ask you to share any information you have about whether the child is a member or eligible for membership in a Native American tribe. This is required by law. If you are a relative, you can also submit a JV-285 Relative Information Form to share information about how you would like to be involved in supporting the family during the case. JV-285 Relative Information

When will the judge's ruling be available?

The judge will make decisions at the hearing. The written court order will be available in a few days.

How long until the next hearing?

The judge will set the next hearing date at the end of the detention hearing so that everyone knows when to come back. The jurisdiction/disposition hearing is the next hearing and it takes place about 3 weeks later.

Who are the lawyers?

The social worker in the case is represented by County Counsel. The parents and child in the case are represented by nonprofit law offices who are contracted by the state of California to provide court-appointed representation.

Youth are represented by Children's Legal Services of San Diego. Nonprofit providing legal and child advocacy representation. Siblings can be represented by the same attorney as long as there is not a conflict of interest. The attorney for the child is appointed both as the child's lawyer and also the child's guardian ad litem. This means that they tell the court what the child wants, but they are required to advocate for what they believe is in the child's best interest.
Parents are represented by Dependency Legal Services. Dependency Legal Services San Diego Each parent will have their own attorney.

The Jurisdiction/Disposition Hearing

What is it?

The purpose of a jurisdiction/disposition hearing is to determine (1) whether the facts alleged in the social worker's petition are true, and (2) if the facts *are* true, what needs to happen between now and the next hearing in six months so that the child is safe and can be reunified with their parent(s). The outcome of this hearing will be either to dismiss the case or to keep the case open for supervision and services.

When does it happen?

If the child is separated from the parent, this hearing must take place within 15 Court days after the detention hearing.
If the child is not separated from the parent, the hearing must occur within 30 calendar days after the detention hearing.

What happens at the hearing?

At this hearing, the court and the parties will receive a lengthy report from the social worker. In the report, the social worker will outline their investigation and make recommendations. The social worker will offer an opinion about whether further court intervention is still necessary, and if so, where the child should live and whether the parents/child should receive services to help fix the safety concerns. If services are recommended, the social worker will propose a case plan that can include things like drug treatment, therapy, domestic violence classes and/or parenting classes. During the hearing, any party who disagrees with the social worker's recommendations can request a trial so that they can present evidence and try to convince the judge to order something different than what the social worker recommended.

If a party requests a trial, the judge will select a different day for the parties to come back and present evidence. If the child is living separately from the parent, the trial should happen within 60 days of the date of separation. It is very common at this early stage for at least one party to disagree with the social worker and to request a trial.

If all parties agree to the petition or the court finds the allegations true after having a trial, the child will be declared a "dependent" of the juvenile court and the judge will "take jurisdiction." This means that the court has found that there is enough evidence to justify the court's involvement in the family's life and gives the judge the authority to make decisions/orders about the family for the duration of time that the case is open.

Who can attend?

Parents must attend or authorize their attorneys to appear on their behalf. Children over the age of 10 must be given the option to attend. They can choose to skip the hearing if they do not want to attend. The social worker and their attorney will be present, as well as a tribal representative if the youth is a member or eligible for membership in a federally recognized tribe.

Anyone who has a "legitimate interest" in the case can attend. This includes caregivers, relatives. If you attend court in person, you will check in with the "Court Officer" who is in charge of checking people in and organizing the morning calendar. A bailiff will also be present in order to keep the courtroom safe.

If a parent is not present: The court can move forward with the hearing when a parent is not present as long as (1) the parent has given their attorney the authority

to appear on their behalf, (2) the parent received notice but chose not to attend, or (3) the parent's whereabouts are unknown and the social worker has completed a diligent search effort to try and locate the parent.

How are the caregivers and parents notified?

The court will mail a notice of hearing to the parties (parents, child over 10, tribe, siblings, legal guardians). and the caregiver. Caregivers can ask the social worker for information about the hearing. As well, a representative from the office representing the child will be visiting the child between the detention hearing and the jurisdiction/disposition hearing and can provide you with information about the upcoming hearing. If you have a cell phone, the lawyer's office can send you automatic text notifications about hearing dates.

Are there ways to participate remotely?

Yes. Relatives, caregivers, parents, and youth may attend hearings by phone or MS Teams unless they are ordered to be physically present. The social worker can provide you with the link for MS Teams. If you choose to participate virtually, you will be placed in the "waiting room" until the time your case is called. There are numerous hearings assigned to each courtroom every morning and you may be waiting for several hours before your hearing begins.

Will the judge ask me questions?

If you are a relative of the child, the judge will ask you questions the first time you attend court. The judge will ask you to share any information you have about whether the child is a member or eligible for membership in a Native American tribe. This is required by law. If you are a relative, you can also submit a JV-285 Relative Information Form to share information about how you would like to be involved in supporting the family during the case. JV-285 Relative Information If you are a caregiver, you can submit a JV-290 form to share information that you have about the child. JV-290 Carefiver Information Form

When will the judge's ruling be available?

The judge will make decisions at the hearing. The written court order will be available in a few days. If a trial is set or the hearing is continued, the decisions will not be made until the next hearing date and any decisions that were made at the first hearing (detention hearing) will remain in effect.

How long until the next hearing?

Most of the time, this type of hearing will be set for trial or continued. This means that the parties will be ordered to return on a different date for the judge to consider

more information before a ruling is made. The length of time until the next hearing will depend on how busy the court is and when the case can fit into the court's calendar.

If a parent consents to the petition and the case is remaining open, the next hearing will be a check-in hearing in six months. If the child is going to be living with a parent during this timeframe, the next hearing is called a "Family Maintenance" hearing. If the child is going to be separated from the parents during this timeframe and at least one parent is receiving services to reunify, then the next hearing will be called a six month review hearing.
If neither parent is receiving reunification services and their whereabouts are known, the court will set a hearing within 120 days to determine a permanent plan for the child.

What is a continuance request?
A continuance or postponement of the hearing can be requested by the attorney or ordered by the court if there is "good cause" to delay the hearing. Reasons for a continuance can include: someone is sick, a party is in the hospital or wasn't brought to court by the jail, a social worker's report was late and copies weren't distributed on time, tribes have not had a chance to respond about whether the child is part of their tribe.

Will lawyers be appointed and when will they contact me?

If the judge did not appoint an attorney for the parents at the detention hearing, an attorney can be appointed at this hearing (or any future hearing) for parents who cannot afford one. Caregivers will not be appointed an attorney unless they are the child's legal guardian pursuant to a court order.

Who are the lawyers?
The social worker in the case is represented by County Counsel. The parents and child in the case are represented by nonprofit law offices who are contracted by the state of California to provide court-appointed representation.

Youth are represented by Children's Legal Services of San Diego. Nonprofit providing legal and child advocacy representation.
Parents are represented by Dependency Legal Services. Dependency Legal Services San Diego