

Protocol: Probate Court Referrals

OVERVIEW

The State of California has several mandates covering referrals received by CFS from Probate Court. This protocol deals with the mandates of the 1513 code section, actions taken, including those made by Screening, Emergency Response, and Out-of-Home Investigators.

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DEFINITIONS

1513(a)- State of California law, under Probate Code. In all guardianship cases where the prospective guardian is a non-relative the Probate Court must make a referral to CFS for an investigation. CFS must prepare a report for Probate Court which must include an investigation and discussion of the child's best interest and the proposed guardian's ability to meet the needs of the child.

1513(b)- State of California law, under Probate Code. If during guardianship proceedings it is determined that the proposed child is or may be a person described by WIC Section 300 the case may be referred to CFS to investigate as a potential dependency action. The role of CFS in this investigation is to assess whether a juvenile dependency action should be initiated. Once a dependency petition is filed the juvenile court has exclusive jurisdiction over the case and the probate matter is suspended until juvenile court jurisdiction is terminated.

Relative- A "relative" means a person who is a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix "grand" or "great," or the spouse of any of these persons, even after the marriage has been terminated by death or dissolution.

Probate Court- A segment of the judicial system that is primarily charged with handling such matters as wills, estates, conservatorships and guardianships, as well as the commitment of persons suffering from mental illness to institutions designed to help them.

CFS receives referrals under two situations within Probate Code §1513 during a pending probate guardianship proceeding. Those situations arise when the prospective guardian is a non-relative, code section 1513a, and/or when the proposed child is or may be described by Welfare and Institutions Code (WIC) §300, code section 1513b.

PROCEDURES

Probate Court 1513(a):

SCREENING PROCESS

STEP 1: Screening unit receives call and email from **Probate Court** with 1513a referral and supporting documents. The email will be sent to the EHSD Screening Unit Inbox ers@ehsd.cccounty.us The screener should receive the below documents-

- GC-140 Order Appointing Temporary Guardianship (pages 18-19 of the packet)
- GC-210(P) Petition for Appointment of Guardian of the Person (pages 31-34 of the packet)
- GC-210(CA) Guardianship Petition- Child Information Packet (pages 35-39 of the packet)
- GC-212 Confidential Guardian Screening Form (pages 40-41 of the packet)
- GC-211 Consent of Proposed Guardian/Nomination of Guardian/Consent to Appointment of Guardian and Waiver of Notice (page 46 of the packet)
- FL-105/GC-120 Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) (pages 42-44 of the packet)
- GC-020 Notice of Hearing- Guardianship or Conservatorship

Screener takes report and follows next steps;

STEP 2: **Screener Assigns 1513a** as a 10-Day;

STEP 3: **Use the proposed guardian's name & address as the case name & address**, as we are investigating the proposed guardian, not the bio parents;

STEP 4: The folder status should be N & No Folder, unless the proposed guardian has been investigated under a previous 1513a;

STEP 5: **If the proposed guardian lives in another county then stop clearing & consult with Screening Sup.** The referral will be sent to that county.

STEP 6: If the proposed guardian has history as a bio parent or Foster Parent cross reference those S1 #'s. Cross reference the bio Mother's S1 # also.

Note- The child/children may or may not be living with the proposed guardian already.

STEP 7: Send referral info, notice of SW assignment and all below documents via email to SWS for *ER Specialized Social Worker (SW). ER Specialized SW investigates all 1513a referrals;

- GC-140 Order Appointing Temporary Guardianship (pages 18-19 of the packet)
- GC-210(P) Petition for Appointment of Guardian of the Person (pages 31-34 of the packet)

- GC-210(CA) Guardianship Petition- Child Information Packet (pages 35-39 of the packet)
- GC-212 Confidential Guardian Screening Form (pages 40-41 of the packet)
- GC-211 Consent of Proposed Guardian/Nomination of Guardian/Consent to Appointment of Guardian and Waiver of Notice (page 46 of the packet)
- FL-105/GC-120 Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) (pages 42-44 of the packet)
- GC-020 Notice of Hearing- Guardianship or Conservatorship

Please contact SOD in the district to determine who the assigning supervisor is.

STEP 8: Email lead investigator, Linda Trias, at Probate Court identifying the SW and SWS that is assigned the referral at LTRIA@contracosta.courts.ca.gov

IMPORTANT ALLEGATION NOTE: When Probate Court is dismissing a guardianship petition and there are allegations of child abuse and/or neglect, probate will call the referral into the hotline. Screening will perform its normal referral assessment to determine the response. Please do not accept a JV-210 or any other method of communication of the allegation (eg. official letter from probate court).

ER INVESTIGATION PROCESS

STEP 1: ER Specialized SW, reviews referral and ensures all necessary clearances from screening have been completed;

Note- If the child or parent of the child has been involved in the CPS system, the worker must request the case from closed files by using form?

STEP 2: Next the SW should see when the hearing is, and if the hearing is too close in order to complete the report. If so, the worker may request a continuance by;

1. Call the court investigator
2. Attorney if one is indicated
3. Guardian

STEP 3: Send a CONSENT TO GUARDIANSHIP form to the parents if their whereabouts are known. (there may already be one included, but still send one so that you may have the parent's consent on file, and you may state that in the report);

STEP 4: Schedule and complete the **Home Study** on the proposed guardian(s). All adults 18 and older **MUST** be present or you **MUST** reschedule another appointment to speak with that particular adult.

-Interview the child and all adults

-Interview other collateral contact, i.e. doctor, teachers, references

STEP 5: Once Home Study is complete and all the other steps above are completed send the report to Probate Court attaching the signed cover letter provided by Probate Court. The cover letter can be found on the CFS Staff Portal. Social Worker and the Supervisor need to sign the letter.

The letter is titled; 'Probate Memo'

Please fax to **(925) 608-1030** OR email the documents to Lead Investigator Linda Trias at ltria@contracosta.courts.ca.gov.

Note- If a Home Study could not be completed for various reasons (eg. identified individuals could not be located, did not respond or did not cooperate, withdraw petition, etc...) then the SW completes the Memo to Probate Court indicating the reason and then submits it to Lead Investigator indicated in Step 5.

Probate Court 1513(b) Referral:

SCREENING PROCESS

STEP 1: Screening unit receives fax/email from **Probate Court** with **1513b referral and JV-210**. Screener takes report; the email will be sent to the EHSD Screening Unit Inbox ers@ehsd.cccounty.us

STEP 2: **Screener Assigns 1513b** as a 10-Day.

STEP 3: **Use the bio mother's name & address as the case name & address**, as we are investigating the bio parents. The proposed guardians usually allege the bio parents of some form of abuse in their petition.

STEP 4: If the proposed guardians have history as bio parents or foster parents cross reference their S1 #'s.

STEP 5: Send referral documents, including the JV-210, to the district where the parent(s) are residing per normal ER process.

Note: If the mother's address is in another county take referral back to one of the Screening Sup's so the 1513b can be sent to that county.

ER INVESTIGATION PROCESS

STEP 1: When assigned ER SW, reviews referral and ensures all necessary clearances from screening have been completed.

Note- If the child or parent of the child has been involved in the CPS system, the worker must request the case from closed files. Ask direct supervisor on process.

STEP 2: Next the SW should see when the hearing is, and if the hearing is too close in order to complete the report. If so, the worker may request a continuance by;

1. Call the court investigator
2. Attorney if one is indicated

STEP 3: Have the parent(s) review CONSENT TO GUARDIANSHIP form. (there may already be one included, but still send one so that you may have the parent's consent on file, and you may state that in the report). The parents are **usually not in favor** of the guardianship, but that may change by the time of the investigation.

STEP 4: Schedule and complete the **Investigation** on the bio parent(s) per normal ER investigation procedure;

STEP 5: **Within 21 calendar days of being assigned send completed Investigation Narrative and page 2 completed of the JV-210 'Decision of Social Worker or Social Services Agency' to Probate Court Lead Investigator Linda Trias at ltria@contracosta.courts.ca.gov.**

If the recommendation is to offer services and promote to court please ensure that is stated in the investigation clearly so probate court knows if CFS is getting involved or not;

STEP 6: Lastly, complete the 'Family Court Letter for Parent,' and send it certified to the parent(s).

Note: The template letter is in CWS under County Documents (green button). It is titled; 'Family Court Letter for Parent.'

RESOURCES

[Consent to Guardianship form](#)

[Probate Court Memo](#)

[Family Court Letter for Parent](#)

[JV-210, Application to Commence Juvenile Court Proceedings & Decision of Social Worker](#)

REFERENCES

Section 1255.7 of the Health and Safety Code.

Section 271.5 of the Penal Code

Senate Bill 136, chapter 824 of 2000

All County Information Notices: I 68-02, 66-02, 57-03, 46-06, 19-10,

88-10 All County Letter: 02-01

AB 260, 01-23