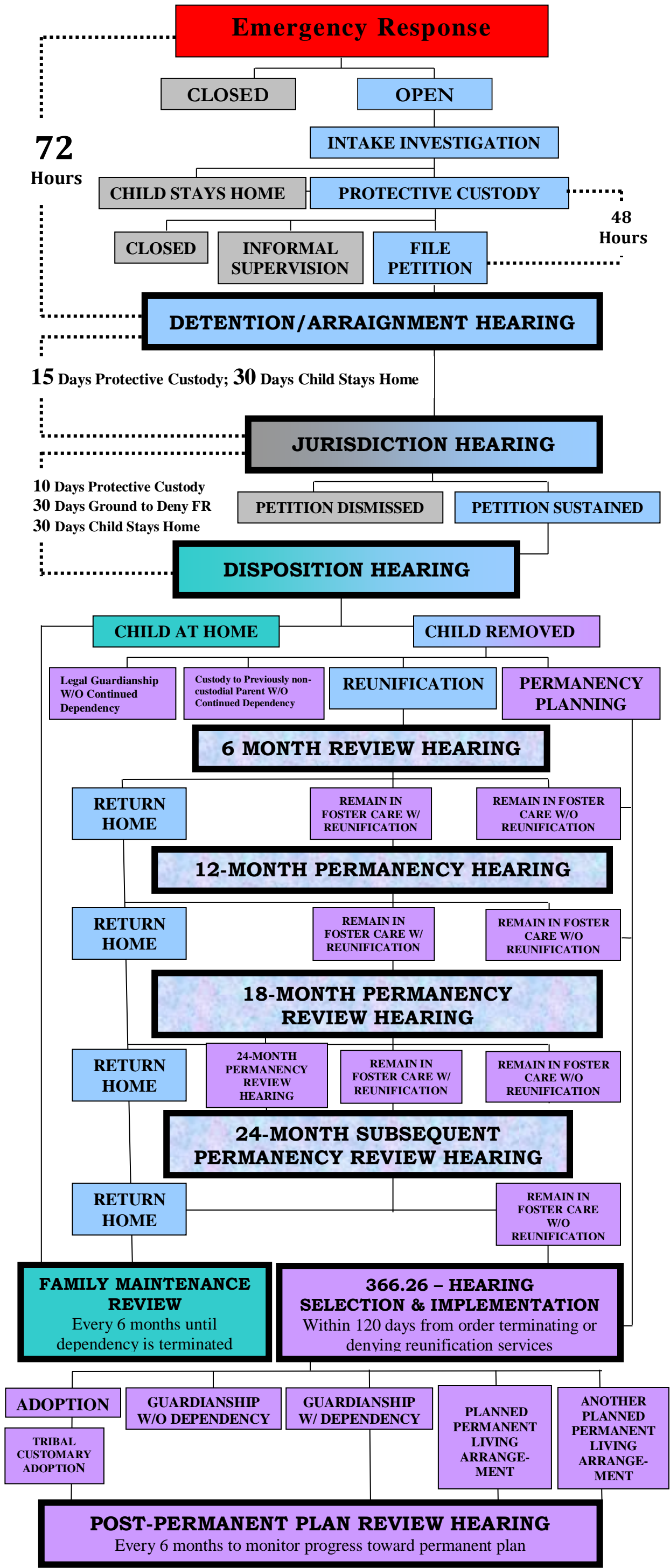


JUVENILE DEPENDENCY PROCESS



JUVENILE COURT DEPENDENCY HEARINGS

DETENTION HEARING: *W&I C §319, CRC 5.667-5.680*

Presumption: The child shall be released to the parents unless continuance in the home of the parent would be contrary to the child's welfare.

Burden of Proof: Prima facie evidence (evidence which suffices until contradicted).

Burden of Production: The government.

Time Lines: Detention hearing must be held the next court day after the petition is filed.

JURISDICTION HEARING: *W&I C §§300, 350, 355.1 CRC 5.682-5.688*

Presumption: Unexplained serious non-accidental injuries while in the care/custody of parent is prima facie evidence of abuse or neglect.

Burden of Proof: Preponderance of evidence that petition is true.

Burden of Production: The government.

Time Lines: 15 court days after the Detention hearing if child is out of home, 30 calendar days if child remains home.

DISPOSITION HEARING: *W&I C §§360-362.7 CRC 5.690-5.705*

Presumption: Finding under W&I C §300(e) is prima facie evidence that child cannot be left safely in custody of parent.

Placement: The child shall be placed in the custody of the parents unless clear and convincing evidence of detriment. If the Court removes a child from a custodial parent:

- The child will be placed with a previously non-custodial parent unless such placement would be detrimental.
- Preferential consideration for placement will be given to a request by certain relatives.

Reunification: Parents will usually receive reunification services.

Burden of Proof: Clear and convincing evidence of substantial risk of harm to child in order to remove from parent's custody.

Burden of Production: The government.

Time Lines: 10 court days after the Jurisdiction hearing if child is out of home, 30 calendar days if child remains home or if government seeks to deny reunification services.

Family Maintenance Review Hearing: (*§364; CRC 5.706*)

Presumption: Terminate dependency unless continued dependency is necessary.

Burden of Proof: Preponderance of evidence.

Burden of Production: The government.

Timelines: Every six months until case is dismissed

SIX-MONTH REVIEW HEARING: *W&I C §§ 366.21(e), CRC 5.708 & 5.710*

Presumptions: The child shall be returned to the parents unless there is a substantial risk of detriment to the child's safety, protection or physical or emotional well-being.

Burden of Proof: Preponderance of evidence except clear and convincing to terminate reunification services for child under age 3.

Burden of Production: The government.

Time Lines: Six months from Disposition hearing.

TWELVE-MONTH PERMANENCY HEARING: *W&I C §§ 366.21(f) & (g), CRC 5.708 & 5.715*

Presumptions:

- The child shall be returned to the parents unless there is a substantial risk of detriment to the child's safety, protection or physical or emotional well-being.
- When the child is not returned to the parents, services will be terminated unless there is a substantial probability that the child will be returned to the custody of the parents within six months or reasonable services have not been provided.

Burden of Proof: Preponderance of evidence, to determine if detrimental for child to return home. Clear and convincing evidence to determine if reasonable services were provided.

Burden of Production: The government.

Time Lines: Twelve months from "entry into foster care." "Entry into foster care" is the date of the Jurisdiction Hearing or 60 days after initial removal, whichever comes first.

EIGHTEEN-MONTH PERMANENCY REVIEW HEARING: *W&I C §366.22, CRC 5.708 & 5.720*

Presumptions:

- The child shall be returned to the parents unless there is a substantial risk of detriment to the child's safety, protection or physical or emotional well-being.
- A parent who was in a court ordered residential treatment program, a minor parent or NMD parent; recently discharged from incarceration, institutionalization or United States Department of Homeland Security, and is making significant and consistent progress the court may continue services up to six additional months.
- When the child is not returned to the parents, terminate services, except for parents making progress in substance abuse treatment or recently released from incarceration who meet other requirements.

Burden of Proof: Preponderance of evidence.

Burden of Production: The government.

Time Lines: No later than 18 months after the detention hearing unless special considerations are met, then no longer that 24 months after the detention hearing.

24-Month Permanency Review Hearing (*W&I C §366.25; CRC 1462*)

Presumptions:

- The minor shall be returned to the parents unless there is a substantial risk to the minor's physical or emotional wellbeing or when the parents have failed to participate regularly in any Court ordered treatment programs.
- If the minor remained home, terminate the dependency unless supervision is necessary.

Burden of Proof: Clear and Convincing evidence.

Burden of Production: The government.

Time Lines: In no event later than 24 months 24 months after the detention hearing.

SELECTION AND IMPLEMENTATION HEARING: *W&I C §366.26, CRC 5.725-5.735*

Presumption: If the child is likely to be adopted, parental rights will be terminated unless adoption would be detrimental to the child.

Burden of Proof: Clear and convincing evidence that the child is likely to be adopted.

Burden of Production: The government.

Time Lines: Within 120 days from order terminating or denying reunification services.

POST-PERMANENT PLAN REVIEW HEARING: *W&I C §366.3, CRC 5.740*

This hearing determines if progress is being made to find a permanent home for the child and if the case can be dismissed.

Presumption: Continued out-of-home care is in the best interest of the child.

Burden of Proof: Preponderance of evidence.

Burden of Production: Any party proposing a change.

Time Lines: Every six months until case is dismissed.

Fresno County Superior Court, Juvenile Dependency Division

Revised by Laura J. Bakker, J.D., Certified Child Welfare Law Specialist (National Association of Counsel for Children, accredited by State Bar of California Board of Legal Specialization), Revised August 2010 – Revised 032416 by PCWTA CB-TSB