

## DISMISSALS AND TRANSFERS

### TRANSFER

Transfer to county of the parent's residence, regardless of where the child was detained. (*In re Jon N.* (1986) 179 Cal.App.3d 156; see *In re R.D.* (2008) 163 Cal.App.4th 679, 687 [county of minor's legal guardian].)

May transfer to the county of the minor's new residence. (*In re Christopher T.* (1998) 60 Cal.App.4th 1282.)

A court cannot reject a transfer in, but it may retransfer out if it is in the minor's best interest. (*In re J. C.* (2002) 104 Cal.App.4th 984, 991-992.) A court cannot transfer in and then transfer out in the same hearing; there must be an appeal or a separate transfer out hearing. (*In re R.D.* (2008) 163 Cal.App.4th 679, 684-685.)

Transfer order must be in the minor's best interest. (*In re R.D.* (2008) 163 Cal.App.4th 679, 687-688.)

Appealability: Intercounty transfer order may be appealed in either court. (*In re Christopher T.* (1998) 60 Cal.App.4th 1282, 1287.)

Standard of review: Transfer order reviewed for abuse of discretion. (*In re R.D.* (2008) 163 Cal.App.4th 679, 685.)

### DISMISSAL

The court generally cannot dismiss a petition at the detention hearing. (*Los Angeles County Dept. of Children and Family Services v. Superior Court* (2008) 162 Cal.App.4th 1408, 1414-1421.)

The court should dismiss the petition if there is a parent available to safely take care of the child. (*In re Janee W.* (2006) 140 Cal.App.4th 1444, 1452-1453; *In re Sarah M.* (1991) 233 Cal.App.3d 1486; *In re Aaron S.* (1991) 228 Cal.App.3d 202, 207-210; *In re Phoenix B.* (1990) 218 Cal.App.3d 787, 794; *In re Venita L.* (1987) 191 Cal.App.3d 1229, 1244; *In re La Shonda B.* (1979) 95 Cal.App.3d 593, 599-600; cf. *In re Jean B.* (2000) 84 Cal.App.4th 1443, 1446 [not because parent kidnapped the child].)

The burden of proof is on the party seeking to terminate dependency jurisdiction. (*In re Robert L.* (1998) 68 Cal.App.4th 789, 793.)

Should not dismiss simply because the dependent keeps running away from

placement. (*In re Natasha H.* (1996) 46 Cal.App.4th 1151, 1155.)

Abuse of discretion to dismiss in order to save money though no finding it would be in the minor's best interest. (*In re Joshua S.* (2003) 106 Cal.App.4th 1341, 1356.)

Should dismiss family maintenance after six months when the parent complied with case plan and no evidence of any of the problems that were a concern. (*In re N. S.* (2002) 97 Cal.App.4th 167, 172-173.)

Must give notice, and if there is an objection, CPS must show why it is in the minor's best interest. (*Allen M. v. Superior Court* (1992) 6 Cal.App.4th 1069.)

CPS cannot unilaterally dismiss petition over minor's objection. (*Kimberly R. v. Superior Court* (2002) 96 Cal.App.4th 1067, 1077-1078.)

Should not dismiss if visitation or other services need to continue because this requires the court's oversight. (*In re K.D.* (2004) 124 Cal.App.4th 1013, 1019; see also *Los Angeles County Dept. of Children & Family Services v. Superior Court (David P.)* (2006) 145 Cal.App.4th 692, 699 [permitting molesting father to come home with order of no unsupervised contact with minor required court oversight]; *In re Austin P.* (2004) 118 Cal.App.4th 1124 [minor still needed services].)

The standard is whether it is in the minor's best interest, not whether there is good cause for continuing jurisdiction. (*In re Tamika C.* (2005) 131 Cal.App.4th 1153, 1130-1161.)

To dismiss at the minor when the minor turns 18, there must be compliance with Welfare and Institutions Code section 391. (See *In re Tamika C.* (2005) 131 Cal.App.4th 1153, 1161.)

Court should dismiss dependency when minors turns 18 years old and wishes not to receive services. (*In re Holly H.* (2002) 104 Cal.App.4th 1324, 1327.) The minor "consenting" to dismissal, because it was apparently the only way for her to remain in school, was not effective consent. (*In re Tamika C.* (2005) 131 Cal.App.4th 1153, 1163-1165.)

The juvenile court need not dismiss the dependency legal guardianship when the minor becomes 18 years old. (*In re D.R.* (2007) 155 Cal.App.4th 480, 487.)

When court makes exit orders, it must make an informed decision for the best interests of the minor. (*In re John W.* (1996) 41 Cal.App.4th 961, 973; *In re Jennifer R.*

(1993) 14 Cal.App.4th 704; *In re Roger S.* (1992) 4 Cal.App.4th 25, 30-31.)

The court abused its discretion in refusing to schedule a contested hearing concerning a visitation schedule between the parents when neither parent were a danger to the minor at that point. (*In re Alexander M.* (2007) 156 Cal.App.4th 1088, 1096-1097.)

Limits on exit orders. (*In re Katherine M.* (1994) 24 Cal.App.4th 91 [parent continue counseling]; *In re Donovan J.* (1997) 58 Cal.App.4th 1474, 1477 [visitation at the discretion of the therapist].)

“In making ‘exit’ orders, however, it is the best interest of the child, in the context of the peculiar facts of the case before the court, which are paramount.” (*In re John W.* (1996) 41 Cal.App.4th 961, 965; accord, *In re Chantal S.* (1996) 13 Cal.4th 196, 206; *In re Jennifer R.* (1993) 14 Cal.App.4th 704, 712; *In re Roger S.* (1992) 4 Cal.App.4th 25, 30-31.)

It is difficult to change exit orders in family court. (See *In re Chantal S.* (1996) 13 Cal.4th 196, 200-201; *In re Michael W.* (1997) 54 Cal.App.4th 190, 195; *In re Roger S.* (1992) 4 Cal.App.4th 25, 30-31.)

“[O]nce the court dismissed the petition, it had no jurisdiction over the children unless the Department filed a new section 300 petition.” (*In re Joshua G.* (2005) 129 Cal.App.4th 189, 203.)

Parent does not have standing to present evidence to oppose dismissal of the petition. (*In re Eric H.* (1997) 54 Cal.App.4th 955, 969.)

Appealability: Dismissal is appealable. (*In re Lauren P.* (1996) 44 Cal.App.4th 763, 767-768 [dismissed with prejudice]; *In re Sheila B.* (1993) 19 Cal.App.4th 187, 1967 [insufficient evidence at jurisdiction]; but see *In re Tony C.* (1990) 218 Cal.App.3d 694, 698 [voluntary dismissal without prejudice].)

Standing: A parent has standing to contest exit orders. (*In re Michael W.* (1997) 54 Cal.App.4th 190, 194-196; *In re Roger S.* (1992) 4 Cal.App.4th 25, 30-31; but see *In re Elaine E.* (1990) 221 Cal.App.3d 809.)

Standing: Parent does not have standing to contest dismissal of allegations against the other parent. (*In re Paul W.* (2007) 151 Cal.App.4th 37, 60-61, disagreeing with *In re Lauren P.* (1994) 44 Cal.App.4th 763, 770-771; *In re Carissa G.* (1999) 76 Cal.App.4th 731, 736 [jurisdiction against other parent]; *In re Tomi C.* (1990) 218 Cal.App.3d 694, 698, disagreeing with *In re Lauren P.* (1996) 44 Cal.App.4th 763, 770-771; but see *Allen M. v. Superior Court* (1992) 6 Cal.App.4th 1069, 1074.)

Waiver: Not objecting to dismissal waives the issue. (*In re K. D.* (2004) 124 Cal.App.4th 1013, 1018-1019.)

Standard of review: Uphold dismissal order if there was substantial evidence. (*In re Marcus G.* (1999) 73 Cal.App.4th 1008; but see *In re Joshua S.* (2003) 106 Cal.App.4th 1341, 1356 [abuse of discretion standard].)