



advokids

A resource for foster children and their advocates

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GENERAL GUIDELINES FOR FILING OF A § 388 PETITION FOR MODIFICATION

- Any parent or other person having an interest in a child who is a dependent child of the juvenile court or the child himself or herself through a properly appointed guardian may, upon grounds of change of circumstance or new evidence, petition the court in the same action in which the child was found to be a dependent child of the juvenile court or in which a guardianship was ordered pursuant to Section 360 for a hearing to change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court. The petition shall be verified and, if made by a person other than the child, shall state the petitioner's relationship to or interest in the child and shall set forth in concise language any change of circumstance or new evidence which are alleged to require the change of order or termination of jurisdiction.
- A 388 petition is appropriate when an immediate hearing is needed
- With a 388 petition, you are seeking the right to bring only the specific issue/issues raised in the petition to the attention of the court
- To prevail on a 388 petition, you must show not only that circumstances have changed or that there is new evidence, but that it would be **in the child's best interests to modify the order** based on that change or new evidence
- Example: There is a current visitation order allowing a family member to visit with child. Child is upset by the visits and you wish to ask the court to modify the existing visitation order. You have documentation and declarations to support your position that it would be in the best interests of the child to change the order. You proceed with the filing of a 388 motion.
- The petition should include specific information and attachments such as declarations or documents that demonstrate what you will show at a hearing, any department reports that support the allegation of changed circumstances, declarations that support any deficiencies in the department report, any other reports or documentation demonstrating the change of circumstances.
- If the court grants a hearing, it must occur within 30 days of the date the petition is filed.