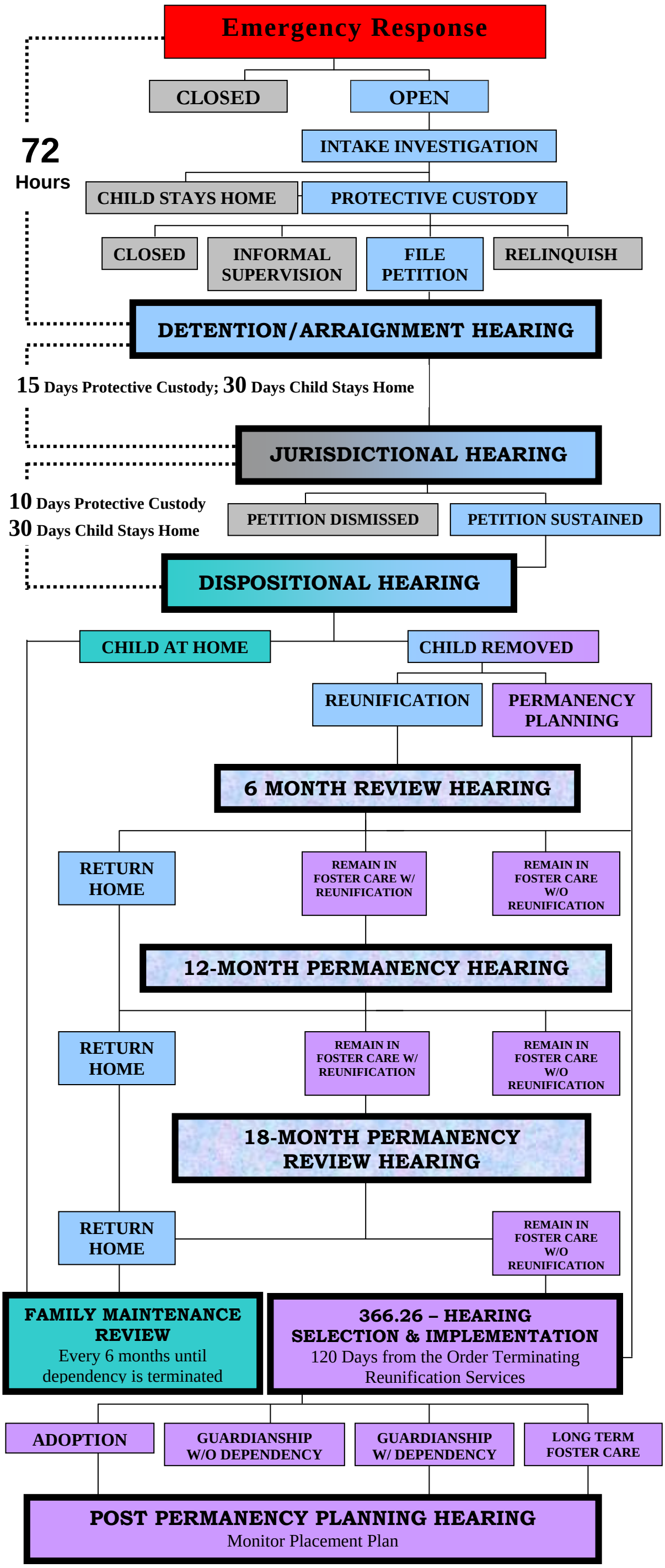
JUVENILE DEPENDENCY PROCESS



300 Flowchart

JUVENILE COURT DEPENDENCY HEARINGS

DETENTION HEARING: *WIC §319, CRC 5.666-5.680*

Presumption: The minor shall be released to the parents unless legal grounds are established to temporarily detain the minor

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

Burden of Production: The government.

Time Lines: A minor may be detained in protective custody for 15 days pending a jurisdictional hearing.

JURISDICTIONAL HEARING: *WIC §§300, 350, 355.1 CRC 5.682-5.684*

Presumption: Unexplained non-accidental serious injuries while in the care/custody of parent are presumed to be the result of abuse or neglect.

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

Burden of Production: The government.

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

DISPOSITIONAL HEARING: *WIC §§360-362.6 CRC 5.690-5.705*

Presumption: None.

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

- The minor 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 danger to child in order to remove from parent's custody.

Burden of Production: The government.

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

SIX-MONTH REVIEW HEARING: *WIC §§364, 366.21, 366.22 CRC 5.710*

Presumptions:

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

Burden of Proof: Preponderance of evidence. (If government wants to terminate Reunification Services, must be clear and convincing evidence).

Burden of Production: The government.

Time Lines: 6 months from the "entry into foster care". "Entry into foster care" is defined as date of Jurisdictional Hearing or 60 days after initial removal, whichever comes first.

TWELVE-MONTH PERMANENCY HEARING: *WIC §§364, 366.21(f)(g), CRC 5.715*

Presumptions:

- The minor shall be returned to the parents unless there is a substantial risk to the minor's physical or emotional well being or when the parents have failed to participate regularly in any Court ordered treatment programs.
- If minor remained home, terminate dependency unless continued supervision is necessary.
- When the minor is not returned to the parents, services will be terminated unless there is a substantial probability that the minor will be returned to the custody of the parents within six months or unless 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: 12 months from the "entry into foster care". "Entry into foster care" is defined as date of Jurisdictional Hearing or 60 days after initial removal, whichever comes first.

EIGHTEEN-MONTH PERMANENCY REVIEW HEARING: *WIC §366.22, CRC 5.720*

Presumptions:

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

Burden of Proof: Preponderance of evidence.

Burden of Production: The government.

Time Lines: In no event later than 18 months after the Detention Hearing.

SELECTION AND IMPLEMENTATION HEARING: *WIC §366.26, CRC 5.725-5.735*

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

Burden of Proof: Clear and convincing evidence that the minor child will be adopted.

Burden of Production: The government.

Time Lines: 120 days from Order Terminating Reunification Services.

POST PERMANENCY PLANNING HEARING: *WIC §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: Usually preponderance of evidence.

Burden of Production: On anyone proposing a change.

Time Lines: Every six months until case is dismissed.

Fresno County Superior Court, Juvenile Dependency Division

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