



Judicial Council of California · Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on October 25, 2013

Title	Agenda Item Type
Family and Juvenile Law: Miscellaneous Technical Changes to Judicial Council Forms	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Revise forms ADOPT-200 and JV-618	January 1, 2014
Recommended by	Date of Report
Family and Juvenile Law Advisory Committee	October 11, 2013
Hon. Jerilyn L. Borack, Cochair Hon. Kimberly J. Nystrom-Geist, Cochair	Contact
	Audrey Fancy, 415-865-7706 audrey.fancy@jud.ca.gov

Executive Summary

The Family and Juvenile Law Advisory Committee has identified two Judicial Council forms that require minor changes to accurately reflect the law and to avoid confusion for court users, clerks, and judicial officers.

Recommendation

The Family and Juvenile Law Advisory committee recommends that the Judicial Council, effective January 1, 2014:

1. Revise *Adoption Request* (form ADOPT-200) to add a notice box at the bottom of page 5 as required by Assembly Bill 792 (Stats. 2012 ch.851);
2. Revise item 8 a of the *Adoption Request* form to allow an alternative, legally valid, form of proof (such as the dependency court's ICWA findings or minute order) to be attached as proof of ICWA inquiry as required by rule 5.481 in lieu of the ICWA-10(A) and ICWA-20 forms;
3. Revise the *Adoption Request* form to correct the statutory reference section in the footer portion of page 1 to correct an inadvertent error in the version effective July 1, 2013, that

placed Family Code sections 170, 175, 177, and 180 in the section after “Rules of Court” rather than with the Family Code references;

4. Revise *Waiver of Rights—Juvenile Delinquency* (form JV-618) to add “3. I understand the following consequences of my admission:” which was inadvertently deleted after former item 4 was moved above former item 3 in the Spring 2011 cycle; and
5. Revise both the *Adoption Request* form and *Waiver of Rights—Juvenile Delinquency* to make additional minor typographical and stylistic changes.

The revised forms are attached at pages 5–11.

Previous Council Action

Adoption Request (form ADOPT-200) was first adopted by the Judicial Council in October 1998 as part of a proposal for mandatory uniform adoption forms for all minor children subject to adoption proceedings. The form was revised in 1999, 2000, 2006, and 2010 before a recent proposal, effective July 1, 2013, to implement legislative changes and numerous suggestions from court personnel and court users. Before that proposal went forward with a July 1, 2013, effective date, the Family and Juvenile Law Advisory Committee considered holding the entire proposal for the notice required by AB 792. However, in light of the numerous other changes needed on the form, the committee decided it was best to provide courts and the public with an accurate form as soon as possible and to make a technical change once the notice was available. Therefore, the committee recommended that the Judicial Council adopt the entire proposal effective July 1, 2013.

Waiver of Rights—Juvenile Delinquency (form JV-618) was first approved for use effective January 1, 2012, as part of a comprehensive delinquency forms proposal intended to update the content of numerous forms because of changes in state law and to make other changes and develop new forms in response to suggestions that the Family and Juvenile Law Advisory Committee had received from the courts and their justice partners to make the forms easier to use and more comprehensive, as well as to serve the needs of courts that use electronic versions of the forms. At the April 26, 2013, Judicial Council meeting, the form was included in a technical packet to switch the location of the “Print name” and signature lines. That revision was intended to make the form consistent and avoid confusion and was part of a packet of technical changes for an effective date of January 1, 2014. Making the technical change recommended in this current proposal would provide courts and justice partners with a single updated form as of January 1, 2014.

Rationale for Recommendation

The changes to these forms are technical or are “a minor substantive change that is unlikely to create controversy” under California Rules of Court, rule 10.22 (d)(2).

The committee had intended to include language mandated by AB 792 in the *Adoption Request* form during the Winter 2013 cycle. However, that mandated language, which will provide

specified notice informing the petitioner and respondent that they may be eligible for reduced-cost coverage through the California Health Benefit Exchange or no-cost coverage through Medi-Cal, was available only in draft form in April 2013, with final language—including the telephone number required for inclusion in the notice—unavailable until August 2013.¹ Therefore, adding this mandated notice is only now possible.

Item 8 of the ADOPT-200 form asks whether the child may have Indian ancestry. Item 8 a. as amended effective July 1, 2013 states:

Whether you answered “Yes” or “No,” you must fill out and attach *Indian Child Inquiry Attachment* (form ICWA-010(A)) and *Parental Notification of Indian Status* (form ICWA-020).

Consistent with Rule 5.481(a), the purpose of Item 8 a. is to ensure that Indian Child Welfare Act (ICWA) inquiry is consistently done at the outset of all case types governed by ICWA. Before the July 1, 2013 amendment to the ADOPT-200 form, the same language that is currently found in item 8 a. had been included in the instructions to the form, but had not been incorporated into the body of the form itself. The decision to incorporate reference to the ICWA-10(A) and ICWA-20 into the body of the form was based on apparent confusion that in some non-dependency adoption cases, these forms were not required. After the revised form took effect, committee staff received comments from multiple courts and justice partners with concerns about the workload implications of this change when an adoption arises in a case which originated in the dependency court. In these cases ICWA inquiry will have been done already by the dependency court and a determination will have been made as to whether or not the case is governed by ICWA. Courts and justice partner agencies stated that before July 1, 2013, their practice had been to attach the ICWA findings from the dependency court rather than attaching the ICWA-10(A) and ICWA-20 forms. The committee notes that in an All County Letter issued by the California Department of Social Services² in June of 2009 concerning ICWA in adoption cases, CDSS acknowledges that ICWA inquiry is required in all adoptions, but as related to the ICWA-010(A) and ICWA-020 forms notes that:

If the case originated in the dependency court and there is proof that inquiry occurred, then inquiry does not need to occur again unless there is new information that provides a reason to know the child is or may be an Indian child.

The committee agrees that where an adoption originates in a dependency case the goal of ensuring that ICWA inquiry is properly completed at an early state of all proceedings can be satisfied by proof that ICWA inquiry was properly completed by the dependency court. The committee therefore proposes making a minor substantive change to item 8 a. of the ADOPT-

¹ Covered California provided the text of the required notice before the Spring 2013 comment cycle, and that text was circulated for comment in the companion proposal SPR13-34, *Family Law: Revisions to Family Law Summons*, which also required inclusion of this notice under AB 792 on *Summons—Family Law* (form FL-110).

² See All County Letter No. 09-28 issued June 4, 2009 at page 3
<<http://www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acl/2009/09-28.pdf>>

200 form by adding the phrase “or other proof that ICWA inquiry has been completed in accordance with rule 5.481 (a)”. This would allow another form of proof, such as the dependency court’s ICWA findings or minute order, to be attached as proof of ICWA inquiry in lieu of the ICWA-10(A) and ICWA-20 forms. When ICWA inquiry has been completed and the issue adjudicated in a proceeding, neither the statute nor the rules require that the inquiry be completed yet again and imposing such a requirement is unnecessarily burdensome and does not provide the court with additional information.

In addition, the *Adoption Request* form contains an error in the statutory reference footer at the bottom left corner of page 1. During the Winter 2013 cycle, Family Code provisions were inadvertently listed in the Rules of Court section. Fixing this error is necessary to avoid any potential confusion.

The *Waiver of Rights—Juvenile Delinquency* form was approved in the Spring 2011 cycle. Following the comment period, the form was revised to incorporate the comments, including the suggestion to move former item 4 up as item 3 and, correspondingly, former item 3 down as item 4. During that process, after the comment period, the number 3 was dropped, as was the introductory text before subitems a. through g. As circulated, it read: “4. I further understand the following consequences of my admission:”. To ensure accuracy and clarity, the current proposal includes the following text: “3. I understand the following consequences of my admission:”.

The committee also proposes additional minor typographical and stylistic changes.

Comments, Alternatives Considered, and Policy Implications

This proposal was not circulated for public comment because it “presents a nonsubstantive technical change or correction or a minor substantive change that is unlikely to create controversy,” which is within the Judicial Council’s purview to adopt without circulation. (See Cal. Rules of Court, rule 10.22(d)(2).) However, the need for a change on the *Adoption Request* form under AB 792 was referenced when that form circulated for comment in the Winter 2013 cycle, as was the need for change on *Summons—Family Law* (form FL-110) when it circulated for comment in SPR13-34, *Family Law: Revisions to Family Law Summons*. No concerns were raised about adding the notice or the substance of the notice itself during these circulation periods.

Implementation Requirements, Costs, and Operational Impacts

Operational impacts are expected to be minor. The proposed revisions may result in reproduction costs if courts provide hard copies of any of the forms recommended for revision. Because the proposed changes are technical corrections, no case management systems are likely to need to be updated to implement the corrections.

Attachments

1. Forms ADOPT-200 and JV-618, at pages 5–11

ADOPT-200

Adoption Request

If you are adopting more than one child, fill out an adoption request for each child.

1 Your name(s) (adopting parent(s)):

a. _____

b. _____

Relationship to child: _____

Street address: _____

City: _____ State: _____ Zip: _____

Telephone number: _____

Lawyer (if any): (Name, address, telephone numbers, and State Bar number):

Clerk stamps date here when form is filed.

DRAFT

Not approved by

the Judicial Council

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

2 I/We filed this Adoption Request in this court because it is in the county (check all that apply):

Where the adopting parent(s) reside;

Where the child was born or resides at the time of filing;

Where an office of the agency that placed the child for adoption is located;

Where an office of the department or public adoption agency that is investigating the petition is located;

Where a placing birth parent or parents resided when the adoptive placement agreement, consent, or relinquishment was signed;

Where a placing birth parent or parents resided when the petition was filed;

Where the child was freed for adoption.

(If the child is a dependent of the court, the Adoption Request must be filed in the county where the child was freed for adoption or the county where the adopting parent(s) reside(s). See Fam. Code, § 8714.)

3 Type of adoption (check one):

Agency (name): _____

Relative Nonrelative

Joinder will be filed. Joinder is being filed at same time as this Adoption Request.

Tribal customary adoption (attach tribal customary adoption order)

Independent Relative Nonrelative

Intercountry (name of agency): _____

This adoption may be subject to the Hague Adoption Convention (form ADOPT-216 must be filed with this request).

Stepparent

(To be completed by the clerk of the superior court if a hearing date is available.)

Hearing is set for:

Hearing Date → Date: _____

Time: _____

Dept.: _____ Room: _____

Name and address of court if different from above:

To the person served with this request: If you do not come to this hearing, the judge can order the adoption without your input.



Case Number: _____

Your name: _____

- 4 Information about the child:
- a. The child's new name will be: _____
 - b. Boy Girl
 - c. Date of birth: _____ Age: _____
 - d. Child's address (if different from yours):
Street: _____
City: _____ State: _____ Zip: _____
 - e. Place of birth (if known):
City: _____
State: _____ Country: _____
 - f. If the child is 12 or older, does the child agree to the adoption? Yes No
 - g. Date child was placed in your physical care: _____

5 Child's name before adoption (Fill out ONLY if this is an independent, stepparent, or tribal customary adoption):

- 6 Does the child have a legal guardian? Yes No
(If yes, attach a copy of the Letters of Guardianship and fill out below):
- a. Date guardianship ordered: _____
 - b. County: _____
 - c. Case number: _____

- 7 Is the child a dependent of the court? Yes No
(If yes, fill out below):
- Juvenile case number: _____
County: _____

- 8 Child may have Indian ancestry: Yes No
- a. Whether you answered "Yes" or "No," you must fill out and attach *Indian Child Inquiry Attachment* (form ICWA-010(A)) and *Parental Notification of Indian Status* (form ICWA-020) or other proof that ICWA inquiry has been completed in accordance with rule 5.481(a).
 - b. If you answered "Yes," you must also fill out and attach *Adoption of Indian Child* (form ADOPT-220) if, after notice, it is determined that ICWA does apply to the child.

- 9 Names of birth parents, if known:
- a. Mother: _____
 - b. Father: _____

- 10 **If this is an agency adoption:**
- a. I/We have received information about the Adoption Assistance Program, the Regional Center, mental health services available through Medi-Cal or other programs, and federal and state tax credits that might be available.
 Yes No
 - b. All persons with parental rights agree that the child should be placed for adoption by the California Department of Social Services or a county adoption agency or a licensed adoption agency (Fam. Code, § 8700) and have signed a relinquishment form approved by the California Department of Social Services, and the time to revoke the relinquishment has expired or been waived.
 Yes No (If no, list the name and relationship to child of each person who has not signed the relinquishment form or whose time to revoke the relinquishment has not expired or been waived):



Your name: _____

- c. This is a tribal customary adoption under Welfare and Institutions Code section 366.24. Parental rights have been modified under and in accordance with the attached tribal customary adoption order, and the child has been ordered placed for adoption. Yes No
- d. This is an adoption conducted under the requirements of the Hague Adoption Convention and the child will be moving or has already moved with the adopting parent(s) to another Hague Convention member country at the conclusion of this adoption. Yes No If yes, child will be moving or has moved to (*name of country*): _____ and adopting parent(s): seek(s) a California adoption
 will be petitioning for a Hague Adoption Certificate will be seeking a Hague Custody Declaration.

11 If this is an independent adoption:

- a. A copy of the Independent Adoptive Placement Agreement from the California Department of Social Services is attached. (This is required in most independent adoptions; see Fam. Code, § 8802.) Yes No
- b. All persons with parental rights agree to the adoption and have signed the Independent Adoptive Placement Agreement or consent on the appropriate California Department of Social Services form. Yes No
(If no, list the name and relationship to child of each person who has not signed the agreement form):

- c. I/We will file promptly with the department or delegated county adoption agency the information required by the department in the investigation of the proposed adoption. Yes No

12 If this is a stepparent adoption:

- a. The birth parent (*name*): _____ has signed a consent will sign a consent
- b. The birth parent (*name*): _____ has signed a consent will sign a consent
- c. The adopting parents were married on **or** The domestic partnership was registered on
(date): _____ *(For court use only. This does not affect social worker's recommendation. There is no waiting period.)*

- 13** There is no presumed or biological father because the child was conceived by artificial insemination using semen provided to a medical doctor or a sperm bank. (Fam. Code, § 7613.)

14 Contact after adoption

- Contact After Adoption Agreement* (form ADOPT-310) is attached will not be used
 will be filed at least 30 days before the adoption hearing is undecided at this time.
 This is a tribal customary adoption. Postadoption contact is governed by the attached tribal customary adoption order.

15 Consent for adoption is not necessary because (complete all sections that apply to your adoption):

- a. The consent of the birth parent presumed father is not necessary because
(check the applicable reasons under Fam. Code, § 8606):
- (1) The parent has been judicially deprived of the custody and control of the child.
 - (2) The parent has voluntarily surrendered the right to custody and control of the child in a judicial proceeding in another jurisdiction, under a law of that jurisdiction providing for the surrender.
 - (3) The parent has deserted the child without providing information to identify the child.
 - (4) The parent has relinquished the child under Family Code section 8700.
 - (5) The parent has relinquished the child for adoption to a licensed or authorized child-placing agency in another jurisdiction.

Your name: _____

- b.
-
- A court ended the parental rights of:

Name: _____ Relationship to child: _____ on (date): _____

Name: _____ Relationship to child: _____ on (date): _____

(Enter the date of the court order ending parental rights and attach a copy of the order.)

- c.
-
- The child is the subject of a tribal customary adoption order under Welfare and Institutions Code section 366.24, which has modified the parental rights of:

Name: _____ Relationship to child: _____ on (date): _____

Name: _____ Relationship to child: _____ on (date): _____

Name: _____ Relationship to child: _____ on (date): _____

(Attach a copy of the order.)

- d.
-
- I/We will ask the court to end the parental rights of (
- attach copy of Petition to Terminate Parental Rights or Application for Freedom From Parental Custody, if filed*
-):

Name: _____ Relationship to child: _____

Name: _____ Relationship to child: _____

- e.
-
- Adopting parent has custody of the child by court order or by agreement with the other parent, and each of the following persons with parental rights has not contacted the child and has not paid for the child's care, support, and education for one year or more when able to do so. (Fam. Code, § 8604(b).)

Name: _____ Relationship to child: _____

Name: _____ Relationship to child: _____

Name: _____ Relationship to child: _____

- f.
-
- The child has been abandoned as follows:

(1) The child has been left by the child's parent or parents with no way to identify the child.(2) The child has been left in the custody of another person by both parents or the sole parent for six months without providing for the child's support, or without communication from the parent or parents, with the intent to abandon the child.(3) One parent has left the child in the care and custody of the other parent for one year or longer without providing for the child's support or without communication from the parent, with the intent to abandon the child.*(If any of the above boxes were checked, adopting parent must also check item 15(d) and file an Application for Freedom from Parental Custody. See Fam. Code, § 7822(a).)*

- g.
-
- The consent of the presumed father is not required because he did not become a presumed father before the mother's relinquishment or consent became irrevocable or the mother's parental rights were terminated. (Fam. Code, § 8604(a).)

- h.
-
- Each of the following persons with parental rights has died:

Name: _____ Relationship to child: _____

Name: _____ Relationship to child: _____

Case Number: _____

Your name: _____

16 Suitability for adoption

Each adopting parent:

- a. Is at least 10 years older than the child or meets the criteria in Family Code section 8601(b);
- b. Will treat the child as his or her own;
- c. Will support and care for the child;
- d. Has a suitable home for the child; and
- e. Agrees to adopt the child.


17 I/We ask the court to approve the adoption and to declare that the adopting parents and the child have the legal relationship of parent and child, with all the rights and duties of this relationship, including the right of inheritance.

I/We ask the court to date its order approving the adoption as of an earlier date (*date*): _____ for the following reason (Fam. Code, § 8601.5):


(Enter a date no earlier than the date parental rights were ended.)


This is a tribal customary adoption. I/We ask the court to approve the adoption and to declare that the adopting parents and the child have the legal relationship of parent and child, with all of the rights and duties stated in the attached tribal customary adoption order and in accordance with Welfare and Institutions Code section 366.24.

18 If a lawyer is representing you in this case, he or she must sign here:

Date: _____ *Type or print your name*  _____ *Signature of attorney for adopting parent(s)*

19 I declare under penalty of perjury under the laws of the State of California that the information in this form and all its attachments is true and correct to my knowledge. This means that if I lie on this form, I am guilty of a crime.

Date: _____ *Type or print your name*  _____ *Signature of adopting parent*

Date: _____ *Type or print your name*  _____ *Signature of adopting parent*

NOTICE—ACCESS TO AFFORDABLE HEALTH INSURANCE: Do you or someone in your household need affordable health insurance? If so, you should apply for Covered California. Covered California can help reduce the cost you pay toward high-quality affordable health care. For more information, visit www.coveredca.com. Or call Covered California at 1-800-300-1506 (English) or 1-800-300-0213 (Spanish).

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

TELEPHONE NO.: FAX NO. (Optional):

E-MAIL ADDRESS:

ATTORNEY FOR (Name):

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CASE NUMBER:

SUPERIOR COURT OF CALIFORNIA, COUNTY OF

STREET ADDRESS:

MAILING ADDRESS:

CITY AND ZIP CODE:

BRANCH NAME:

CHILD'S NAME:

WAIVER OF RIGHTS—JUVENILE DELINQUENCY

Read this form carefully. The judge will ask you if you understand each right and if you want to give up that right.

1. I am the youth in this case. My attorney's name is
2. I have talked with my attorney about what happened in my case and why I am being charged in this case. I have been told what the District Attorney would have to prove at a trial and the possible ways to fight my case. I want to
 - a. admit the charge(s), which means that I am agreeing that I did what the petition says
 - b. plead no contest, which means that I do not want to fight my case at a trial, but I'm not agreeing that I did what the petition says I did. I am letting the judge decide whether the charges are true and know that the judge will probably find them true.
3. The charge(s) I am admitting or pleading no contest to are:

For the items below, write your initials on each line that applies to your case. If you have a question about an item, ask your attorney or the judge before you initial that item.

4. **I understand the following consequences of my admission:** *Initial*
- a. If I plead no contest or submit the petition on the report, the court will probably find that the petition is true. _____
 - b. The most that I can be punished for my admitting to these charges is a commitment (to be locked up) at the Division of Juvenile Justice or a local confinement facility like juvenile hall or ranch for: _____
 - c. If I am not a United States citizen, my admission or no contest plea may mean that I will have to leave the country (be deported) and never allowed to return (exclusion) and/or never be allowed to become a United States citizen. _____
 - d. If I am declared a ward of the court, a violation of: _____ will prohibit me from owning, possessing, or having in my custody or control any gun or firearm until I am thirty (30) years old. (Penal Code, § 12021(e).) _____
 - e. The court may order that my driver's license be restricted, delayed, or suspended. _____
 - f. I may be required to register pursuant to:
 - Penal Code section 186.30 (gang). _____
 - Penal Code section 290 (sex offender). _____
 - g. My parents or legal guardians and I may have to pay for the things I did that hurt others and caused them to lose money, including paying for things I took, broke, or damaged. We may also have to pay fines or fees. _____

5. **Waiver of Rights.** I understand that I have all of the rights below and that by admitting the charge(s) in the petition, or pleading no contest, I will not have a trial or hearing and I will give up all of these rights: *Initial*
- a. The right to a speedy court trial or hearing where the judge would listen to all the evidence and decide if the district attorney has enough evidence to prove that I did what the petition says I did. _____
 - b. The right to see, hear, and have my attorney question witnesses, including the officer who wrote the report, and any of the people who provided information that is written in the report. _____
 - c. The right to testify or speak up for myself in court. _____
 - d. The right to be silent and not say anything that might hurt myself or my case. _____
 - e. The right to have witnesses come to court, even if they don't want to, and talk to the judge about my case. _____
 - f. The right to appeal, or ask another court to look at, decisions by the judge that I disagree with. _____

CHILD'S NAME:	CASE NUMBER:
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6. My attorney has explained that when I admit to: _____, listed as Count _____, I will have crime(s) on my record that are "Strike" offenses under the Three Strikes Law. I have talked with my attorney about what this could mean in my future and how I may have to spend much more time in jail or prison if I get in trouble again because I am admitting to these offenses today. Initial _____

7. I have talked to my lawyer about the charge(s) in the petition, the facts of what happened, and any possible defenses. We have talked about what could happen if I admit, including what could happen if I break the rules of probation. _____

I declare under penalty of perjury, which means that I am guilty of a crime if I am lying, that my attorney has gone over this form with me, explained what it means, and answered my questions. I understand the rights I am giving up, I know what could happen because of my admission, and I am admitting to doing what the petition says because I want to and not because someone is forcing me to do this.

Date:

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF YOUTH)

DECLARATION OF INTERPRETER

The primary language of the child is

Spanish.
 other (specify): _____

I certify that I interpreted this form for the parent or legal guardian in that person's primary language to the best of my ability.

Date:

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF INTERPRETER)

DECLARATION OF ATTORNEY

I am the attorney for the child. I have explained and discussed with my client the above rights, the facts of his or her case, possible defenses, and the consequences of his or her decision to enter an admission. Based on my conversation with the minor, I am satisfied that his/her admission to the petition is knowingly, intelligently, and voluntarily made, and I consent to the admission.

Date:

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF ATTORNEY)

ORDER AND FINDING

I have spoken with the child, reviewed the waiver form, and find that the child has been fully informed of the constitutional rights and the consequences of the admission in this case and understands them. I further find that the child has knowingly, intelligently, and voluntarily waived his/her rights and that there is a factual basis for the minor's admission.

IT IS ORDERED that the minor's admission be accepted and entered in the minutes of this court. This executed waiver of rights form is filed in the records of this court and incorporated in the above-numbered case by reference.

Date:

▶ _____
JUDICIAL OFFICER